Dear Mr Vincent,

Appearance of Chief Samuel Hinga Norman before the TRC

We refer to our meeting held with you and your staff on 10th September 2003 and thank you for making time to see us. We refer further to our letter of 9th September 2003 in which we set out our objections to the Practice Direction.

We note your helpful suggestion that the Special Court may wish to view the TRC as a special institution given the particular historical context prevailing in Sierra Leone. We would propose that a specific Practice Direction be drawn up for the express and exclusive purpose of regulating contact between the TRC and detainees held in the custody of the Special Court. Such a document could be titled: “Practice Direction on the procedure governing contact between the TRC and persons in the custody of the Special Court of Sierra Leone.”

As requested by you we set out hereunder our suggestions for such a Practice Direction, which we believe would satisfy the concerns of the TRC and hopefully the Special Court.
References to “National Authorities of a State” should be removed and references to the “the authorities” should be replaced with the “TRC.” References to irrelevant matters such as trial dates and offences should be deleted.

We suggest that the following paragraphs be inserted into the preamble of the Practice Direction:

“ACKNOWLEDGING the unique role of the Truth and Reconciliation Commission (TRC) in promoting healing and reconciliation in Sierra Leone.

NOTING that the Truth and Reconciliation Commission Act 2000 accords the TRC certain powers and functions to create an impartial historical record for Sierra Leone.”

With regard to the body of the Practice Direction we would suggest the following:

1. The deletion of paragraph 2(g) which compels the TRC to list the specific questions it proposes to ask the detainee.

2. The amendment of paragraphs 4(ii) to read as follows:

“In the event that the interview is not conducted on the basis of confidentiality any answer given by the detainee will be transcribed and the record will be made available to the prosecution for potential use at his trial.”

3. The revision of paragraphs 5, 6 and 7 to read as follows:

“5. In the event that the detainee agrees to give the requested interview (such agreement having been signified in writing and confirmed by a lawyer acting on behalf of the detainee) the Registrar shall make appropriate arrangements for the interview to proceed on a date convenient for a lawyer representing a detainee to be present.

6. In the event that the Prosecutor has reasonable grounds to believe that the contact between TRC staff and the detainee may prevent the detainee from standing trial he may request the Registrar to impose conditions on such contact.

7. The TRC and the detainee may, at any time, approach the presiding Judge for a ruling on the conditions requested by the Prosecutor under paragraph 6.”

4. The deletion of 8(b) and (c)
We do not wish to place burdensome time constraints on you but as we are operating under tight timeframes we should be most grateful if you would let us have your feedback by no later than end of business on Tuesday, 16th September 2003.

Yours sincerely

Franklyn Kargbo
Executive Secretary

cc: The Prosecutor of the Special Court, Mr. David M. Crane
Mr Sulaiman Banja Tejan-Sie II,
Chief Samuel Hinga Norman JP