

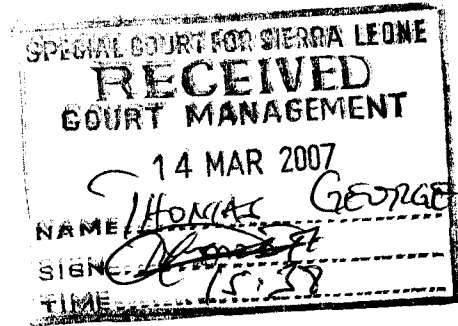
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SCSL - 03 - 01 - PT  
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**SPECIAL COURT FOR SIERRA LEONE  
OFFICE OF THE PROSECUTOR  
Freetown - Sierra Leone**

Before: Hon. Justice George Gelaga King, President  
Registrar: Mr. Lovemore G. Munlo SC  
Date filed: 14 March 2007



**THE PROSECUTOR**

**Against**

**Charles Taylor**

Case No. SCSL-03-01-PT

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**PUBLIC**

**PROSECUTION'S SUBMISSION REGARDING "DEFENCE APPLICATION  
REQUESTING REVIEW OF THE MEMORANDUM OF UNDERSTANDING  
BETWEEN THE INTERNATIONAL CRIMINAL COURT AND THE SPECIAL  
COURT OF SIERRA LEONE DATED 13 APRIL 2006 & MODIFICATION OF  
MR. CHARLES TAYLOR'S CONDITIONS OF DETENTION"**

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Office of the Prosecutor:

Ms. Brenda J. Hollis  
Ms. Ann Sutherland

Defence Counsel for Charles Taylor

Mr. Karim A. A. Khan  
Mr. Roger Sahota

## I. INTRODUCTION

1. The Prosecution wishes to address certain of the matters raised by the Accused,<sup>1</sup> including the alleged *ultra vires* nature of the Memorandum of Understanding between the Special Court of Sierra Leone (“SCSL”) and the International Criminal Court (“ICC”), and certain alleged violations of fundamental rights relating to the Accused’s conditions of detention. The assertions made by the Defence lack merit for the reasons set out below.

## II. STANDING TO PROVIDE SUBMISSIONS

2. The Prosecution, as a party in this case, has the right to file submissions on matters raised with the President, which may later be raised at trial or on appeal.

## III. STANDING OF THE REGISTRY TO PROVIDE SUBMISSIONS

3. Rule 33(A) of the Rules of Procedure and Evidence (“Rules”), provides that “[u]nder the authority of the President, [the Registrar] shall be responsible for the administration and servicing of the Special Court....” Matters relating to detention of accused persons fall within the purview of the Registrar. Complaints about conditions of detention concern the manner in which the Registrar is carrying out his responsibilities.<sup>2</sup> *Ergo*, the Registrar must have a right to be heard on issues relating to the performance of his duties, including complaints which can be construed to relate to the performance of his duties.
4. The President must also have the right to receive submissions from the Registrar, under whose authority the Registrar is acting,<sup>3</sup> regarding issues within the responsibility of the Registrar.

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<sup>1</sup> See *Prosecutor v Taylor*, SCSL-03-01-PT-146, “Defence Application Requesting Review of the Memorandum of Understanding Between the International Criminal Court and the Special Court of Sierra Leone dated 13 April 2006 & Modification of Mr. Charles Taylor’s Conditions of Detention”, 14 December 2006 (“Application”).

<sup>2</sup> The Registrar issued the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Special Court for Sierra Leone or Otherwise Detained on the Authority of the Special Court for Sierra Leone (“Rules of Detention”).

<sup>3</sup> Rule 33(A) states that “[t]he Registrar shall assist the Chambers, the Plenary Meetings of the Special Court, the Council of Judges, the Judges and the Prosecutor, the Principal Defender and the Defence in the performance of their functions. ...”

#### IV. ULTRA VIRES

5. Paragraph 8 of the Registrar's Submissions filed on 20 February 2007<sup>4</sup> makes reference to paragraphs 8–16 of the Registrar's Response<sup>5</sup> to the second Defence motion regarding video surveillance.<sup>6</sup> The Prosecution agrees with the submissions of the Registrar in paragraphs 8-16 of the Registrar's Response in that that there has been no *ultra vires* delegation of authority by the Special Court. The SCSL has simply delegated the day-to-day management of the Accused's detention to the ICC; the SCSL retains ultimate authority over the Accused's conditions of detention.<sup>7</sup>

#### V. ALL ACCUSED SHALL BE EQUAL BEFORE THE COURT

6. The assertions by the Defence that the Accused is being deprived of his right to equal treatment under the Rules and in practice<sup>8</sup> lack merit. Article 17(1) of the Statute of the SCSL,<sup>9</sup> which concerns fair trial principles in relation to criminal proceedings, is not directed *per se* toward administrative matters. "Equal before the Special Court", to the extent that it does refer to administrative matters, simply means that all accused must have the same fundamental guarantees.

#### VI. CONDITIONS OF CONFINEMENT

7. The fundamental question raised by the Defence application is whether the conditions of confinement for this Accused violate fundamental international requirements for confinement, not whether the implementation of international standards may differ from detention facility to detention facility. The Defence

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<sup>4</sup> *Prosecutor v Taylor*, SCSL-03-01-PT-188, "Registrar's Submissions Pursuant to Rule 33(B) in Relation to Issues Raised in the Defence Motion Requesting Review of the Memorandum of Understanding Between the International Criminal Court and the Special Court of Sierra Leone dated 13 April 2006 & Modification of Mr. Charles Taylor's Conditions of Detention", 20 February 2007 ("Registrar's Submissions").

<sup>5</sup> *Prosecutor v Taylor*, SCSL-03-01-PT-169, "Registrar's Response to the Defence Reply to the Registrar's Submissions on the Corrigendum to the Second Defence Motion Requesting Cessation of Video Surveillance of Legal Consultations, filed on 23 January 2007," 29 January 2007.

<sup>6</sup> *Prosecutor v Taylor*, SCSL-03-01-PT-149, "Second Defence Motion Requesting Cessation of Video Surveillance of Legal Consultations", filed on 15 December 2006 with Trial Chamber II and subsequently re-filed on 8 January 2006 with the President.

<sup>7</sup> *Contra* Registrar's Response, para. 14.

<sup>8</sup> Application, paras. 3 and 14.

<sup>9</sup> Art. 17(1) provides that "[a]ll accused shall be equal before the Special Court."

has made no showing that the ICC Detention Facility conditions violate international requirements. In regard to the manner in which a detainee's complaints are dealt with, the requirement is that there be a mechanism in place by which an Accused may voice concerns and complaints, and by which those concerns and complaints may be reviewed. Regardless whether the Accused agrees with the resolution of his complaints, he does have such a mechanism in place.

(a) *Regime consistent with the culture of the detainee*

8. The Defence has failed to show that there is an international requirement that an accused be detained in a regime consistent with his culture.<sup>10</sup> The SCSL Rules of Detention contain no requirement that such regime be provided. It is of note that Rule 4 of the SCSL Rules of Detention, regarding ICRC inspections, makes no mention of such a requirement.

(b) *Account shall also be taken of the habitual diet of the prisoners: Convention (III) Relative to the Treatment of Prisoners of War, Geneva, 12 August 2949, Part III, Article 26 ("Article 26 of the Third Geneva Convention"),*

9. The Defence argument with respect to the habitual diet of prisoners<sup>11</sup> is misconceived: it incorrectly transforms a factor to be considered into an "absolute minimum guarantee."

10. The SCSL Rules of Detention make no mention of a right to have food that is "culturally appropriate."<sup>12</sup> Rather, Rule 18 requires that detainees be provided "... **food which is well prepared and served, and which satisfies in quality and quantity** the standards of dietetics and modern hygiene and takes into account, as far as is practicable, the age, health and religious requirements of the Detainee." (emphasis added) This provision accords with Article 26 of the Third Geneva Convention and Rule 20(1) of the UN Standard Minimum Rules for the

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<sup>10</sup> Application, para. 14.

<sup>11</sup> Application, para. 15.

<sup>12</sup> *Ibid.*

Treatment of Prisoners<sup>13</sup> Art. 26 of the Third Geneva Convention states, in part that “[t]he basic daily food rations shall be **sufficient in quantity, quality and variety** to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. **Account** shall also be taken of the habitual diet of the prisoners.” (emphasis added).

11. Rule 20(1) of the UN Minimum Rules states that “[e]very prisoner shall be provided by the administration at the usual hours with **food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.**” (emphasis added). Rule 87 of the UN Minimum Rules states that “[w]ithin the limits compatible with the good order of the institution, **untried prisoners may, if they so desire, have their food procured at their own expense** from the outside, either through the administration or through their family or friends. Otherwise, the administration shall provide their food.” (emphasis added).
12. Moreover, the ICRC inspections, provided for pursuant to Rule 4 of the SCSL Rules of Detention, do not include inspection to ensure “culturally appropriate” food, but rather focus on the quantity, quality, preparation and serving of food.

## VII. ICC DETENTION FACILITY CONDITIONS

13. The Defence arguments also ignore the reality that in some ways the detention conditions at the ICC offer more amenities than those at the SCSL Detention Facility.

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<sup>13</sup> Adopted August 30, 1955, by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, Annex I, E.S.C. Res. 663C, 24 U.N. ESCOR Supp. (No. 1) at 11, U.N. Doc. E/3048 (1957), amended E.S.C. Res. 2076, 62 U.N. ESCOR Supp. (No. 1) at 35, U.N. Doc. E/5988 (1977) (“UN Minimum Rules”).

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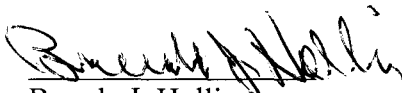
### VIII. CONCLUSION

14. The Prosecution submits there has been no improper delegation of authority regarding detention of this Accused. Nor has the Defence made a showing of the denial of any right of equality, or that the Accused's conditions of confinement violate fundamental international requirements for requirements. Therefore, no further review of the Memorandum of Understanding is required; nor is any further modification<sup>14</sup> to the Accused's conditions of detention required.

Filed in Freetown,

14 March 2007

For the Prosecution,



Brenda J. Hollis  
Senior Trial Attorney

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<sup>14</sup> See *Prosecutor v Taylor*, SCSL-03-01-PT-189, "Decision of the President on Urgent and Public Defence Motion Requesting Cessation of Video Surveillance of Legal Consultations", 21 February 2007.

Index of AuthoritiesSCSL Authorities

1. *Prosecutor v Taylor*, SCSL-03-01-PT-146, “Defence Application Requesting Review of the Memorandum of Understanding Between the International Criminal Court and the Special Court of Sierra Leone dated 13 April 2006 & Modification of Mr. Charles Taylor’s Conditions of Detention”, 14 December 2006.
2. *Prosecutor v Taylor*, SCSL-03-01-PT-149, “Second Defence Motion Requesting Cessation of Video Surveillance of Legal Consultations”, filed on 15 December 2006 with Trial Chamber II and subsequently re-filed on 8 January 2006 with the President.
3. *Prosecutor v Taylor*, SCSL-03-01-PT-169, “Registrar’s Response to the Defence Reply to the Registrar’s Submissions on the Corrigendum to the Second Defence Motion Requesting Cessation of Video Surveillance of Legal Consultations, filed on 23 January 2007,” 29 January 2007.
4. *Prosecutor v Taylor*, SCSL-03-01-PT-188, “Registrar’s Submissions Pursuant to Rule 33(B) in Relation to Issues Raised in the Defence Motion Requesting Review of the Memorandum of Understanding Between the International Criminal Court and the Special Court of Sierra Leone dated 13 April 2006 & Modification of Mr. Charles Taylor’s Conditions of Detention”, 20 February 2007.
5. *Prosecutor v Taylor*, SCSL-03-01-PT-189, “Decision of the President on Urgent and Public Defence Motion Requesting Cessation of Video Surveillance of Legal Consultations”, 21 February 2007.

Other

6. *Convention (III) Relative to the Treatment of Prisoners of War*, Geneva, 12 August 2949, Part III, Article 26.
7. *UN Standard Minimum Rules for the Treatment of Prisoners*, adopted August 30, 1955, by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, Annex I, E.S.C. Res. 663C, 24 U.N. ESCOR Supp. (No. 1) at 11, U.N. Doc. E/3048 (1957), amended E.S.C. Res. 2076, 62 U.N. ESCOR Supp. (No. 1) at 35, U.N. Doc. E/5988 (1977) (<http://hrw.org/advocacy/prisons/un-smrs.htm>)