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SCSL-03-01-A  
(2697 - 2703)

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**THE SPECIAL COURT FOR SIERRA LEONE**

**THE APPEALS CHAMBER**

**Before:** Justice Shireen Avis Fisher, Pre-Hearing Judge

**Registrar:** Ms. Binta Mansaray

**Date:** 16 October 2012

**Case No.:** SCSL-2003-01-A

**THE PROSECUTOR**

-v-

**CHARLES GHANKAY TAYLOR**

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**PUBLIC WITH CONFIDENTIAL ANNEX A**

**NOTIFICATION REGARDING THE "DEFENCE RESPONSE TO URGENT PROSECUTION  
MOTION REGARDING THE DEFENCE'S FAILURE TO COMPLY WITH THE PRACTICE  
DIRECTION"**

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**Office of the Prosecutor:**

Ms. Brenda J. Hollis  
Mr. Nicholas Koumjian  
Mr. James Pace

**Counsel for Charles G. Taylor:**

Mr. Morris Anyah  
Mr. Eugene O'Sullivan  
Mr. Christopher Gosnell  
Ms. Kate Gibson  
Ms. Magda Karagiannakis

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*Prosecutor v. Taylor, SCSL-03-01-A*

## I. NOTIFICATION

1. The “Defence Response to *Urgent Prosecution Motion regarding the Defence’s Failure to Comply with the Practice Direction*” was filed yesterday, 15 October 2012.<sup>1</sup>
2. In paragraph 5 of the Response, the Defence voluntarily undertook to provide Microsoft Word “read-only” versions of its Appellant’s Submissions<sup>2</sup> to the Senior Legal Officer of the Chamber for inspection, and in support of the Response that allegations by the Prosecutor of serious misconduct by Defence Counsel were patently false.<sup>3</sup>
3. Confidential Annex A hereto conveys what efforts the Defence made yesterday to provide the USB memory stick containing its Appellant’s Submissions to the Chamber. As of close-of-business yesterday, the Court Management Section (CMS) refused to accept the memory stick, ostensibly because of Article 9 *Ter* of the Practice Direction.<sup>4</sup> That provision mandates that Microsoft Word versions of certain filings by the Chambers of the Court be provided electronically to CMS, and the absence of a correlative provision regarding filings by the parties appears to have been the basis for the refusal by CMS to receive the memory stick from the Defence.<sup>5</sup>
4. As a matter of principle, the Defence respectfully requested in the Motion that the Prosecution not be provided with a copy of the Microsoft Word versions of its Appellant’s Submissions,<sup>6</sup> were the Chamber to receive the same from the Defence. The principles at stake include the axiomatic view that only the Chamber ought to pass on whether or not the Appellant’s Submissions meet the requirements of the Practice Direction.<sup>7</sup> The Defence will not acquiesce to, nor countenance a regime whereby the party that makes serious allegations of misconduct against opposing counsel stands to receive the contested documents and be placed in

<sup>1</sup> *Prosecutor v. Taylor*, SCSL-03-01-A-1337, Defence Response to *Urgent Prosecution Motion regarding the Defence’s Failure to Comply with the Practice Direction*, 15 October 2012 (“Response”).

<sup>2</sup> *Prosecutor v. Taylor*, SCSL-03-01-A-1326, Appellant’s Submissions of Charles Ghankay Taylor, 1 October 2012 and *Prosecutor v. Taylor*, SCSL-03-01-A-1331, Corrigendum to Appellant’s Submissions of Charles Ghankay Taylor, 8 October 2012 (“Appellant’s Submissions”).

<sup>3</sup> See, Response, paras. 4, 5 and 6. See, also, *Prosecutor v. Taylor*, SCSL-03-01-A-1335, Urgent Prosecution Motion regarding the Defence’s Failure to Comply with the Practice Direction, 12 October 2012 (“Motion”), paras. 3, 4, 5 and 8.

<sup>4</sup> Practice Direction on dealing with Documents in The Hague - Sub-Office, as amended on 25 April 2008 (“Practice Direction”).

<sup>5</sup> See, Confidential Annex A, page 1 for the Defence conclusion that “CMS was not prepared to receive the documents on a USB memory stick because it does not deal with electronic documents from Parties,” page 1.

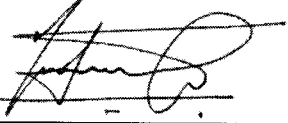



<sup>6</sup> Response, para. 5.

<sup>7</sup> See, Article 4(G) of the Practice Direction on Dealing with Documents in The Hague.

a position to pass judgment on whether or not the documents meet the requirements of the Practice Direction, all as a by-product of efforts to contest the allegations. Neither should the Prosecution obtain the benefit of having the flexibility of working with the Microsoft Word versions of the Defence's Appellant's Submissions as a by-product of having made the serious allegations at issue.

5. Considering that the allegations and averments in the Motion rest entirely on the unsubstantiated words of the Prosecutor, the Response is accordingly submitted to the Chamber for decision, resting on the signed rebuttal by Defence Counsel.

Respectfully submitted,

			
<b>Morris Anyah</b> <b>Lead Counsel for</b> <b>Charles G. Taylor</b>	Eugene O'Sullivan Co-Counsel for Charles G. Taylor	Christopher Gosnell Co-Counsel for Charles G. Taylor	Kate Gibson Co-Counsel for Charles G. Taylor

Dated this 16<sup>th</sup> Day of October 2012, The Hague, The Netherlands

**List of Authorities**

**SCSL**

*Practice Direction on dealing with Documents in The Hague - Sub-Office*, as amended on 25 April 2008

**Prosecutor v. Taylor, SCSL-03-01-A**

*Prosecutor v. Taylor*, SCSL-03-01-A-1337, Defence Response to *Urgent Prosecution Motion regarding the Defence's Failure to Comply with the Practice Direction*, 15 October 2012

*Prosecutor v. Taylor*, SCSL-03-01-A-1335, *Urgent Prosecution Motion regarding the Defence's Failure to Comply with the Practice Direction*, 12 October 2012

*Prosecutor v. Taylor*, SCSL-03-01-A-1331, *Corrigendum to Appellant's Submissions of Charles Ghankay Taylor*, 8 October 2012

*Prosecutor v. Taylor*, SCSL-03-01-A-1326, *Appellant's Submissions of Charles Ghankay Taylor*, 1 October 2012

*Prosecutor v. Taylor*, SCSL-03-01-A-1325, *Public Prosecution Appellant's Submissions with Confidential Sections D & E of the Book of Authorities*, 1 October 2012



**SPECIAL COURT FOR SIERRA LEONE**

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Court Management Section – Court Records

**CONFIDENTIAL DOCUMENT CERTIFICATE**

This certificate replaces the following confidential document which has been filed in the Confidential Case File.

Case Name: **The Prosecutor – v- Charles Ghankay Taylor**  
Case Number: **SCSL-03-01-A**  
Document Index Number: **1341**  
Document Date: **16 October, 2012**  
Filing Date: **16 October, 2012**  
Document Type: **Public with Confidential Annex A**  
Number of Pages: Number from: **2702-2703**

- Application
- Order
- Indictment
- Response**
- Motion
- Correspondence

Document Title:

**Public with confidential annex A , Notification regarding the “Defence response to Urgent Prosecution motion regarding the Defence’s failure to comply with the Practice Direction**

Name of Officer:

Samuel Fornah

Signed: