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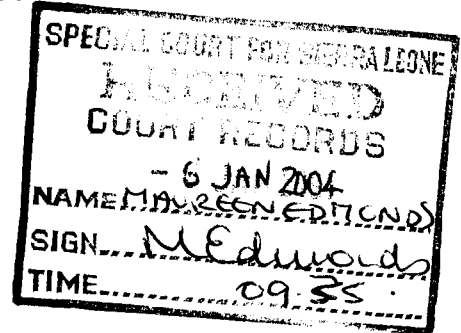
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SCSL-2003-06-PT
 (1502-1716)
SPECIAL COURT FOR SIERRA LEONE
 FREETOWN - SIERRA LEONE

Before: Trial Chamber of the Special Court for Sierra Leone
 OR the designated Judge

Registrar: Robin Vincent

Date Filed: 5th January 2004



BETWEEN:

TAMBA ALEX BRIMA
 DETAINEE AT THE SPECIAL COURT
 DETENTION CENTRE
 JOMO KENYATTA ROAD
 NEW ENGLAND
 FREETOWN

- APPLICANT

AND

SYLVAIN ROY
 ACTING PRINCIPAL DEFENDER
 SPECIAL COURT FOR SIERRA LEONE
 JOMO KENYATTA ROAD
 NEW ENGLAND
 FREETOWN

- 1ST RESPONDENT

AND

THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
 SIERRA LEONE, MR. ROBIN VINCENT
 JOMO KENYATTA ROAD
 NEW ENGLAND
 FREETOWN

AND
 THE DEPUTY REGISTRAR OF THE SPECIAL COURT
 FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
 JOMO KENYATTA ROAD, NEW ENGLAND, FREETOWN

APPLICANT'S MOTION AGAINST DENIAL BY THE ACTING PRINCIPAL DEFENDER TO ENTER A LEGAL SERVICE CONTRACT FOR THE ASSIGNMENT OF COUNSEL FOR AND ON BEHALF OF THE ACCUSED TAMBA ALEX BRIMA THE APPLICANT HEREIN PURSUANT TO RULE 72(B) (IV) OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE AND PURSUANT TO ARTICLE 12(A) - OF THE DIRECTIVE ON THE ASSIGNMENT OF COUNSEL OF THE SPECIAL COURT FOR SIERRA LEONE, AND UNDER THE INHERENT JURISDICTION OF THE TRIAL CHAMBER OF THE SPECIAL COURT FOR SIERRA LEONE.

The Accused the Applicant herein Tamba Alex Brima brings this Motion before the Trial Chamber seeking specific remedies referred to below against the Acting Principal Defender Sylvain Roy for the latter's refusal to enter into

a Legal Service Contract with his duly appointed Provisional Counsel Terence Michael Terry. The Applicant hereby moves the Trial Chamber for an Order directing the Registrar and/OR the Deputy Registrar the 2nd and 3rd Respondents respectively to enter into a Legal Service Contract with the Applicant's duly appointed Provisional Counsel the said Terence Michael Terry based on the several remedies sought below.

INTRODUCTION:

In the light of Article 17 of the Special Court for Sierra Leone, Rule 72 (B) (IV) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone and Article 12(A) of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone; and the inherent jurisdiction of the Trial Chamber of the Special Court for Sierra Leone, the Applicant submits a Motion to move the Trial Chamber OR a Single Judge of the Trial Chamber of the Special Court for Sierra Leone to direct the 2nd and/OR the 3rd Respondents herein of the Special Court for Sierra Leone OR any other appropriate authority envisaged under the said Directive on the assignment of Counsel to enter into a Legal Service Contract with the Applicant's duly appointed Provisional Counsel – Terence Michael Terry on the grounds canvassed below.

ARGUMENT

RULES

Rule 72 (B) (IV) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone.

ARTICLES

Article 17 of the Special Court for Sierra Leone and Article 12(A) of the Directive on the Assignment of Counsel under the Special Court for Sierra Leone.

The Inherent Jurisdiction of the Trial Chamber of the Special Court for Sierra Leone:

The Accused the Applicant herein Tamba Alex Brima is currently been detained on a 17 Count Indictment at the Special Court Detention Facility at Jomo Kenyatta Road, New England, Freetown, Sierra Leone for charges relating to Terrorising the civilian population and collective punishments, unlawful killings, sexual violence, physical

violence, use of child soldiers, abductions and forced labour, looting and burning and attacks on UNAMSIL Personnel.

Based on a Power of Attorney duly signed by the Accused Tamba Alex Brima the Applicant herein whilst at the Special Court Detention Facility in Bonthe in the Southern Province of Sierra Leone dated 24th March 2003, the Applicant appointed Terence Michael Terry as his Defence Counsel at the Special Court for Sierra Leone. And since March 26th 2003 Terence Michael Terry the latter has been acting and performing his duties faithfully and non-stop as Counsel for the Accused the Applicant herein to the knowledge and concurrence of the Registrar, the then Acting Chief of Defence Office John Jones and the Acting Principal Defender Sylvain Roy of the Special Court for Sierra Leone despite the fact that the Registrar and/OR Acting Principal Defender has not as yet concluded a Legal Service Contract with the said Terence Michael Terry on behalf of the Accused the Applicant herein being an indigent Accused.

FACTUAL BASIS FOR THE MOTION

The factual basis for this motion arose from the lack of appropriate steps yet to be taken by the Registrar of the Special Court for Sierra Leone and/OR the refusal by the Acting Principal Defender of the Special Court for Sierra Leone Sylvain Roy to enter into a Legal Service Contract with Terence Michael Terry the duly appointed Assigned Counsel of the Applicant herein eventhough the latter has already presented to the Acting Principal Defender the final drafts of the stage plan and the case plan for the Accused, the Applicant herein for necessary action.

The reasons for the refusal by the Acting Principal Defender to enter into the Legal Service Contract with Counsel Terence Michael Terry are as follows:-

- (i) That Terence Michael Terry must undergo a medical examination and
- (ii) That Terence Michael Terry is presently representing Mr. Charles Ghankay Taylor and that Article 14(C) of the Directive on Assignment of Counsel preclude Counsel to represent more than one Accused.

Counsel for the Applicant will rely on the index of attachment – 1 that is: the affidavit of Tamba Alex Brima the Applicant herein currently detained at the Special Court Detention Centre at Jomo Kenyatta Road New England Freetown sworn to on the 18th day of December, 2003 at 9:55 o'clock in the Forenoon and its attached exhibits; but will rely particularly on the facts deposed to in paragraphs 2 to 19 respectively of the said affidavit and/OR any other Supplemental and additional affidavit(s) sworn to by the Applicant or by any other deponent(s) in support of the Orders prayed for in support of this application herein by way of Motion dated the 18th day of December 2003.

LEGAL BASIS FOR THE MOTION

Counsel for the Applicant herein submits that Article 1(A) of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone refers to the head of the Defence Office of the Special Court for Sierra Leone as the “Principal Defender” and not Acting Principal Defender. In the light of the above-mentioned Article 1 (A), it is further submitted that there is yet to be appointed a Principal Defender and therefore the Acting Principal Defender of that office cannot perform the functions of the Principal Defender contemplated by Article 1(A) of the Directive on the Assignment of Counsel.

But assuming without conceding that the above submission in the immediate preceding paragraph of this Motion is not upheld, it is further submitted by Counsel for the Applicant that the two reasons canvassed by the Acting Principal Defender for his refusal to exercise his discretion to enter into a Legal Service Contract with Counsel for the Applicant are unsustainable on the ground that the purported discretion exercised by the Acting Principal Defender in refusing to enter a Legal Service Contract with Terence Michael Terry Counsel for and on behalf of the Applicant herein are without merit based on the following reasons:-

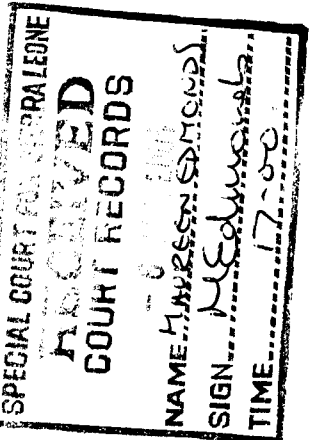
- (i) First, it is submitted by Counsel for the Applicant that the position taken by the Acting Principal Defender relating to the fact that Mr. Terence Michael Terry was ill long ago does not with respect warrant any finding

by the Acting Principal Defender to the effect that Mr. Terence Michael Terry will not be able to complete the case for the Accused Tamba Alex Brima the Applicant herein. In any event it is further submitted that the Acting Principal Defender is not a Doctor and therefore cannot be seen to make judgments and/OR express opinions on medical matters however strongly he may feel regarding the future state of health of the Counsel for the Applicant herein. The discretion therefore exercised by the Acting Principal Defender in this regard it is submitted was not only arbitrary at best but also contrary to all known principles and cannons of fundamental fairness.

- (ii) As regard the second reason postulated by the Acting Principal Defender for refusing to enter into a Legal Service Contract with the Applicant's Counsel namely that the latter is presently representing Mr. Charles Ghankay Taylor as well as the Applicant himself and that Article 14(C) of the Directive on Assignment of Counsel precludes Counsel to represent more than one Accused, it is submitted that the aforesaid reasoning and position canvassed by the Acting Principal Defender with respect is at best premature and unmeritorious for the simple reason that the proceedings involving Ex-President Charles Ghankay Taylor case referred to by the Acting Principal Defender is limited to a procedural bar, and does not as yet extend to the actual Trial if at all the matter gets to that stage. In addition Counsel in the Charles Taylor case has not even been served with any Prosecution Witnesses Statements nor with any other matters which go to the trial proper of the said Ex-President Charles Ghankay Taylor. It is further submitted that as far as Ex-President Charles Ghankay Taylor is concerned, the question of funding his Legal representation could only have arisen if he could properly be described as an indigent Accused; which is not the case here. In addition it is also submitted that the said Ex-President Charles Taylor has not even been served with either the indictment OR the Warrant of Arrest to warrant him taking his plea before the said Trial Chamber of the Special Court for Sierra Leone. Hence it is submitted that any reference to likely conflict of interest as of now is premature at best.

(iii) Counsel for the applicant further submits that the purported exercise of powers by the Acting Principal Defender Sylvain Roy under the provisions of Articles 13(A) and 14(C) of the said Directive on the Assignment of Counsel of the Special Court for Sierra Leone is “discriminatory” at best; wholly inappropriate and totally unjustified on the ground that no other Lead Counsel and/OR Co-Counsel have been subjected to any medical examination before entering into any Legal Service Contract.

It is further submitted by Counsel for the Applicant that the Acting Principal Defender wrongly referred to Article 16(C) which said Article does not exist within the four corners of the Directive on Assignment of Counsel of the Special Court for Sierra Leone, and in consequence the Acting Principal Defender’s purported refusal to enter the necessary Legal Service Contract with the said Mr. Terence Michael Terry Counsel for the accused the Applicant herein is devoid of any legal basis based on the very non-existing Article 16(C) which he relied upon in the said purported exercise of his discretion.



Counsel for the Applicant will further rely on the following provisions of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone namely: Article 2(A) & (B): Right to Counsel, Article 3: Right to Counsel if indigent, Article 4 (A): Indigence and partial indigence, PART II: PROCEDURE FOR THE ASSIGNMENT OF COUNSEL, Article 5: Request for assignment of Counsel, Article 11 (A) & (B): Notification of the Decision, Article 12 (A) & (B): Remedy against a Decision not to assign Counsel, Article 14(A), (B), (C), (D) & (E): Scope of the Assignment, PART III: PAYMENT OF COUNSEL: Articles (A), (B), (C), (D)(i) to (vii), (E) & (F), Article 17(A) and Article 21 respectively.

INHERENT JURISDICTION

On the question of inherent jurisdiction Counsel for the Applicant submits that this doctrine is applicable both in Civil and Criminal cases, although in the latter case opinions differ as to whether limitations exist. See in this connection I.H. Jacob: “The inherent Jurisdiction of the Court” (1970) 23 current legal problems, page 23; Cohen:

Due process of law (1977), Chapter 6, page 343; Connelly v. Director of Public Prosecutions (1964) 2 AER 401; and R v Jefferies (1968) 3 All ER 238.

In his Article on the subject Master Jacob had this to say at pages 27, 28, under the rubric “Juridical Basis of Inherent Jurisdiction”:

“...the essential character of a superior Court of law necessarily involves that it should be invested with a power to maintain its authority and to prevent its process being obstructed and abused. Such a power is intrinsic in a superior Court; it is its very life-blood, its very essence, its imminent attribute. Without such a power, the Court would have form but would lack substance. The jurisdiction which is inherent in a Superior Court of law is that which enables it to fulfil itself as a Court of law. The juridical basis of this jurisdiction is therefore the authority of the judiciary to uphold, to protect and to fulfil the judicial function of administering justice according to law in a regular, orderly and effective manner.

Based on the foregoing reasons canvassed above, Counsel for the Applicant herein submits that the refusal by the Acting Principal Defender based on Articles 13(A) and 14(C) of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone and the non-existing Article 16(C) is not only premature and unmeritorious, but also devoid of any legal basis.

ORDERS SOUGHT

In the light of the afore-mentioned serious complaints, the Applicant herein requests the Designated Judge OR the Trial Chamber of the Special Court for Sierra Leone to issue the following Orders:-

- (1) A declaration to the effect that the holder of the position of Principal Defender is clearly the creature envisaged to warrant the exercise of powers contemplated under Articles 13A and 14(c) respectively of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone and not under a non-existing directive referred to by the Acting

Principal Defender as Article 16(C) of the said Directive on the Assignment of Counsel of the Special Court for Sierra Leone.

- (2) A declaration that the Acting Principal Defender in the person of Sylvain Roy is NOT the creature contemplated under the provisions of Articles 13(A) and 14(C) respectively for the purpose of entering into Legal Service Contract with the Counsel for the applicant herein Terence Michael Terry.

Further and/OR in the alternative for the following Orders:-

- (3) That the purported exercise of powers by the Acting Principal Defender Sylvain Roy which culminated in his letter of the 12th December 2003 addressed to Mr. Terence Michael Terry Lead Counsel for the Applicant herein was clearly null and void, invalid at its inception on the ground that the said Acting Principal Defender lacked powers purportedly reflected and allegedly contained in the contents of his aforesaid letter having regard particularly to the combined effect of the provisions of Articles 13(A) and 14(C) respectively of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone.
- (4) That the exercise of the discretion of the Acting Principal Defender the said Sylvain Roy in refusing to enter into a Legal Service Contract with the said Counsel Terence Michael Terry for the applicant the accused herein constitute not only a violation of the letter and spirit of the rights guaranteed to the accused the applicant herein under the provisions of Article 17 of the Special Court for Sierra Leone, but is also contrary to the right already accorded to Counsel for the indigent accused person OR his right as a detainee OR an accused person under international law.
- (5) That the Acting Principal Defender the said Sylvain Roy wrongly exercised his discretion in that the two (2) reasons alluded to by him and which formed the basis for his refusal to exercise his discretion to enter

into a legal service contract with Counsel for the applicant herein Terence Michael Terry were premature at best, unmeritorious and contrary to the letter and spirit of the provisions of Articles 13(A) and 14(C) of the said Directive on the Assignment of Counsel of the Special Court for Sierra Leone.

- (6) That the purported exercise of powers by the Acting Principal Defender Sylvain Roy under the provisions of Articles 13(A) and 14(C) of the said Directive on the assignment of Counsel of the Special Court for Sierra Leone was “discriminatory” at best, wholly inappropriate and totally unjustified on the ground that no other Counsel in any of the other pending criminal cases before the Trial Chamber of the Special Court for Sierra Leone has been required so far to undergo medical clearance and/OR examination by the said Acting Principal Defender as the basis for entering into and concluding a Legal Service Contract on behalf of their respective clients.
- (7) That an Order be graciously granted by the said Trial Chamber directing the 2nd and/OR the 3rd Respondents the Registrar and Deputy Registrar of the Special Court for Sierra Leone “in the interest of justice” to take immediate steps to conclude a Legal Service Contract with Counsel for the Applicant herein Terence Michael Terry to enable the latter to continue with his defence of the accused the applicant herein Tamba Alex Brima within the letter and spirit of the four corners of the Special Court Agreement, 2002 (Ratification) Act 2002, the Rules of Procedure and Evidence of the Special Court for Sierra Leone and the combined effect of the provisions of Articles 13(A) and 14(C) of the said Directive on the Assignment of Counsel of the Special Court for Sierra Leone.
- (8) That an Interim Order be graciously granted for all professional fees due to Counsel for the Applicant Terence Michael Terry to be presented by the latter and approved by the said Registrar and/OR the Deputy Registrar of the Special Court for Sierra Leone and for same to be paid forthwith by

either the said 2nd and/OR 3rd Respondent to the said Terence Michael Terry pending the hearing and final determination of this application.

- (9) That the purported exercise of powers by the said Acting Principal Defender Sylvain Roy which culminated in his letter dated the 12th December 2003 and addressed to Counsel for the applicant herein Terence Michael Terry constitute both an “abuse of power” and “an abuse of process” based on the facts and circumstances of this instant case.
- (10) Any other order OR orders as may be just.

PRAYER

In view of the foregoing the Applicant herein prays that the Trial Chamber do graciously grant the Orders as set out and sought in this motion above and hereby request an Oral Hearing initially in Chambers before the Trial Chamber of the Special Court for Sierra Leone, and thereafter for the latter in its wisdom if it is so inclined to adjourn the hearing of this Motion to open Court.

Done at Freetown this 18th day of December 2003

For the Applicant



TERENCE M. TERRY

Counsel for the Accused/Applicant herein.

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge

Registrar: Robin Vincent

Date Filed: 5th January 2004

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND, FREETOWN

APPLICANT’S MOTION AGAINST DENIAL BY THE ACTING PRINCIPAL DEFENDER TO ENTER A LEGAL SERVICE CONTRACT FOR THE ASSIGNMENT OF COUNSEL FOR AND ON BEHALF OF THE ACCUSED TAMBA ALEX BRIMA THE APPLICANT HEREIN PURSUANT TO RULE 72(B) (IV) OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE AND PURSUANT TO ARTICLE 12(A) – OF THE DIRECTIVE ON THE ASSIGNMENT OF COUNSEL OF THE SPECIAL COURT FOR SIERRA LEONE, AND UNDER THE INHERENT JURISDICTION OF THE TRIAL CHAMBER OF THE SPECIAL COURT FOR SIERRA LEONE.

Prosecutor Against TAMBA ALEX BRIMA SCSL-2003-06-PT

APPLICANT'S INDEX OF ATTACHMENT

1. Affidavit of Tamba Alex Brima in support of Applicant's Motion sworn to at the Special Court Detention Centre at Jomo Kenyatta Road, New England, Freetown on the 18th day of December, 2003 at 9:55 o'clock in the forenoon and its attached exhibits.

INDEX OF ATTACHMENT

1515

INDEX OF ATTACHMENT - 1

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

Date Filed: 5th January, 2004

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR.ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

AFFIDAVIT IN SUPPORT

I, TAMBA ALEX BRIMA presently detained at the Special Court Detention Centre at Jomo Kenyatta Road, New England Freetown in the Western Area of the Republic of Sierra Leone Retired Military Officer make oath and say as follows:-

- (1) That I am the applicant herein in the above criminal proceedings instituted against my person.

- (2) That on the Monday the 17th March, 2003, I pleaded not guilty before His Honour Judge Benjamin Mutanga Itoe to a 17 Count Indictment brought against me. A copy of the said 17 Count Indictment is exhibited hereto and marked as Exhibit "TAB 1".

- (3) That a Power of Attorney was issued by me on the 24th day of March 2003 appointing Terence Michael Terry my Counsel to defend me in the above criminal proceedings. A photocopy of the said Power of Attorney is exhibited and marked as Exhibit "TAB 2"
- (4) That I know for a fact that my said Counsel accepted the appointment and since then has been acting as such and has appeared on my behalf in a number of Pre-Trial hearings before the Trial Chamber and has also made a number of written submissions to that Court on my behalf which include among others a Bail and Writ of Habeas Corpus applications.
- (5) That I know for a fact that my said Counsel Terence Michael Terry was assigned as my provisional Counsel following a decision of 14th April 2003 by the Registrar of the Special Court for Sierra Leone. A photocopy of the said decision of the Registrar of the Special Court for Sierra Leone is exhibited hereto and marked as Exhibit "TAB 3".
- (6) That I know for a fact that my said Counsel Terence Michael Terry has been working conscientiously non stop since he was briefed by me and following his aforesaid appointment as my provisional assigned Counsel by the Registrar of the Special Court for Sierra Leone Mr. Robin Vincent. A photocopy of the said letter of appointment of my Counsel as my provisional assigned Counsel by the Registrar of the Special Court for Sierra Leone Mr. Robin Vincent.
- (7) That I also know for a fact that my said Counsel has been engaged with negotiations with the Acting Principal Defender Sylvain Roy for sometime now designed ultimately to conclude a Legal Service Contract with the latter on behalf of me as I am informed by my Counsel Terence Michael Terry and I verily believe that he dealt with the said Acting Principal Defender in good faith under what has now turned out to be a mistaken belief on his part that the said Acting Principal Defender had the necessary authority in the eyes of the law to enter into a Legal Service Contract with him on my behalf.

- (8) That I am informed by my Counsel and Solicitor Terence Michael Terry and I verily believe that since Mr. Sylvain Roy assumed the position of Acting Principal Defender, he has not concerned himself with the interest of the accused but he has from day one put all kinds of hurdles in the way of my Counsel purportedly and wrongly relying on the provisions of Articles 13(A) and 14(C) of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone and the non-existing Article 16(C).
- (9) That I have absolute confidence in my Solicitor and Counsel Terence Michael Terry and I do not intend to change his representation for any other Counsel for that matter.
- (10) That I am advised by my Solicitor and Counsel Terence Michael Terry and I verily believe that the two reasons proffered by the Acting Principal Defender for his stalling and/or refusing to sign the said legal service contract are at best premature wholly unjustified and without any merit whatsoever.
- (11) That I know for a fact that the previous illness of my Counsel Terence Michael Terry which the Acting Principal Defender has made a heavy issue of is now a thing of the past and it is no business of his to concern himself with my potential OR likely illness of my client in the future a matter which is at best only speculative.
- (12) That I am informed by my said Counsel Terence Michael Terry and I very believe that he has been engaged in a series of exchange of correspondence with the Acting Principal Defender relating to the conditions and terms to be agreed upon for the case and stage plans relating to my above case which include among others letters written by him to the former dated the 11th November, 11th December and 17th day of December 2003 respectively and exhibited hereto and marked as Exhibits "TAB 4", "TAB 5" and "TAB 6" respectively. Further I am informed by my

Counsel Terence Michael Terry that the first case and stage plans accordingly amended by the Acting Principal Defender in his own handwriting and the final draft case and stage plans have been forwarded to the Acting Principal Defender Sylvain Roy although the latter case and stage plans are yet to be concluded with my Counsel Terence Michael Terry – a photocopy of both the amended case and stage plan yet to be concluded are exhibited hereto by me and marked respectively as Exhibits “TAB 7”, “TAB 8” and “TAB 9” respectively.

- (13) That I have been shown the Directive on the Assignment of Counsel of the Special Court for Sierra Leone – a photocopy of which is exhibited by me and marked Exhibit “TAB 10”.
- (14) That I am also shown the Special Court Agreement, 2002 (Ratification) Act, 2002 – a photocopy of which is exhibited by me and marked Exhibit “TAB 11”.
- (15) That I have been shown 3 letters written by Sylvain Roy dated the 10th day of November, the 11th day of December and the 12th day of December 2003 which were addressed to my Counsel Terence Michael Terry exhibited herewith and marked as Exhibits “TAB 12”, “TAB 13” and “TAB 14” respectively.
- (16) That I exhibit a breakdown of the total professional fees for services so far carried out till date by Lead Counsel Terence Michael Terry which is exhibited by me and marked as Exhibit “TAB 15”.
- (17) That I am advised by my Counsel Terence Michael Terry and I verily believe that the facts and circumstances of this particular case dictate that the Orders sought herein both interim and substantive and otherwise ought with respect to be granted by the Trial Chamber of the Special Court for Sierra Leone.
- (18) That in the light of the foregoing matters, I am further advised by my Counsel Terence Michael Terry and I verily believe that this is a proper

case warranting the exercise of the discretion of the Trial Chamber by graciously granting all the Orders prayed for in the Motion herein inclusive of the declaratory, interim and substantive Orders prayed for in support of this Motion herein.

(19) That I swear to this affidavit in support of all the Orders prayed for in support of this application by way of Motion.

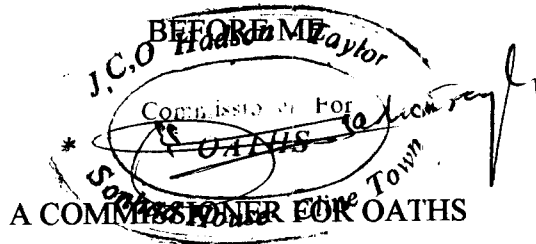
(20) That the contents of this affidavit are true to the best of my knowledge, information and belief.

This affidavit was read over and explained to the Deponent herein Tamba Alex Brima in the Creole language by a witness interpreter ENSMON NGAKU I...and he seemed perfectly to understand its contents before affixing his right thumbprint to same.

SWORN TO AT THE SPECIAL COURT
DETENTION CENTRE AT JOMO
KENYATTA ROAD NEW ENGLAND, FREETOWN
ON THE 18th DAY OF December 2003
AT 9.55 O'CLOCK IN THE Fore NOON



DEPONENT
TAMBA ALEX BRIMA



THIS AFFIDAVIT IS FILED BY TERENCE MICHAEL TERRY OF 4TH FLOOR, MARONG HOUSE, 11 CHARLOTTE STREET, FREETOWN SOLICITOR AND COUNSEL FOR AND ON BEHALF OF THE APPLICANT HEREIN.

EXHIBIT TAB 15211

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN - SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

- APPLICANT

AND

SYLVAIN ROY
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

- 1ST RESPONDENT

AND

THE REGISTRAR OF THE SPECIAL COURT FOR -
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

2ND RESPONDENT

AND

THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD -
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

3RD RESPONDENT

This is a photocopy of the 17 Count Indictment referred to in paragraph (2) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB 1".

BEFORE ME
J.C.O. Hudson Taylor
Commissioner for Oaths
A COMMISSIONER FOR OATHS.

EXHIBIT SCSL-ROD3-106-711
7 March 2003

W. Vincent 4
07 MAR 2003 1522
17.00 hrs.

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL - 03 -

- I

THE PROSECUTOR

Against

**ALEX TAMBA BRIMA, also known as TAMBA ALEX BRIMA
also known as GULLIT**

INDICTMENT

The Prosecutor, Special Court for Sierra Leone, under Article 15 of the Statute of the Special Court for Sierra Leone (the Statute) charges:

**ALEX TAMBA BRIMA also known as (aka) TAMBA ALEX BRIMA
aka GULLIT**

with **CRIMES AGAINST HUMANITY, VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II and OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW**, in violation of Articles 2, 3 and 4 of the Statute as set forth below:

THE ACCUSED

1. **ALEX TAMBA BRIMA aka TAMBA ALEX BRIMA aka GULLIT** (the **ACCUSED**) was born 23 November 1971 at Yaryah Village, Kono District, Republic of Sierra Leone.
2. The **ACCUSED** joined the Sierra Leone Army (SLA) in April 1985 and rose to the rank of Staff Sergeant.

GENERAL ALLEGATIONS

3. At all times relevant to this Indictment, a state of armed conflict existed within Sierra Leone. For the purposes of this Indictment, organized armed factions involved in this conflict included the Revolutionary United Front (RUF), the Civil Defence Forces (CDF) and the Armed Forces Revolutionary Council (AFRC).
4. A nexus existed between the armed conflict and all acts or omissions charged herein as Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II and as Other Serious Violations of International Humanitarian Law.
5. The organized armed group that became known as the RUF, led by FODAY SAYBANA SANKOH aka POPAY aka PAPA aka PA, was founded about 1988 or 1989 in Libya. The RUF, under the leadership of FODAY SAYBANA SANKOH, began organized armed operations in Sierra Leone in March 1991. During the ensuing armed conflict, the RUF forces were also referred to as "RUF", "rebels" and "People's Army".
6. The CDF was comprised of Sierra Leonean traditional hunters, including the Kamajors, Gbethis, Kapras, Tamaboros and Donsos. The CDF fought against the RUF and AFRC.
7. On 30 November 1996, in Abidjan, Ivory Coast, FODAY SAYBANA SANKOH and Ahmed Tejan Kabbah, President of the Republic of Sierra Leone, signed a peace agreement which brought a temporary cessation to active hostilities. Thereafter, the active hostilities recommenced.
8. The AFRC was founded by members of the Armed Forces of Sierra Leone who seized power from the elected government of the Republic of Sierra Leone via a coup d'état on 25 May 1997. Soldiers of the Sierra Leone Army (SLA) comprised the majority of the AFRC membership. On that date JOHNNY PAUL KOROMA aka JPK became the leader and Chairman of the AFRC. The AFRC forces were also referred to as "Junta", "soldiers", "SLA", and "ex-SLA".
9. Shortly after the AFRC seized power, at the invitation of JOHNNY PAUL KOROMA, and upon the order of FODAY SAYBANA SANKOH, leader of the RUF, the RUF joined with the AFRC. The AFRC and RUF acted jointly thereafter. The AFRC/RUF

Junta forces (Junta) were also referred to as “Junta”, “rebels”, “soldiers”, “SLA”, “ex-SLA” and “People’s Army”.

10. After the 25 May 1997 coup d’état, a governing body, the Supreme Council, was created within the Junta. The governing body included leaders of both the AFRC and RUF.
11. The Junta was forced from power by forces acting on behalf of the ousted government of President Kabbah about 14 February 1998. President Kabbah’s government returned in March 1998. After the Junta was removed from power the AFRC/RUF alliance continued.
12. On 7 July 1999, in Lomé, Togo, FODAY SAYBANA SANKOH and Ahmed Tejan Kabbah, President of the Republic of Sierra Leone, signed a peace agreement. However, active hostilities continued.
13. The **ACCUSED** and all members of the organized armed factions engaged in fighting within Sierra Leone were required to abide by International Humanitarian Law and the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 12 August 1949, and Additional Protocol II to the Geneva Conventions, to which the Republic of Sierra Leone acceded on 21 October 1986.
14. All offences alleged herein were committed within the territory of Sierra Leone after 30 November 1996.
15. All acts and omissions charged herein as Crimes Against Humanity were committed as part of a widespread or systematic attack directed against the civilian population of Sierra Leone.
16. The words civilian or civilian population used in this Indictment refer to persons who took no active part in the hostilities, or who were no longer taking an active part in the hostilities.

INDIVIDUAL CRIMINAL RESPONSIBILITY

17. Paragraphs 1 through 16 are incorporated by reference.

18. At all times relevant to this Indictment, **ALEX TAMBA BRIMA** was a senior member of the AFRC, Junta and AFRC/RUF forces.
19. The **ACCUSED** was a member of the group which staged the coup and ousted the government of President Kabbah. **JOHNNY PAUL KOROMA**, Chairman and leader of the AFRC, appointed the **ACCUSED** a Public Liaison Officer (PLO) within the AFRC. In addition, the **ACCUSED** was a member of the Junta governing body.
20. Between mid February 1998 and about 30 April 1998, **ALEX TAMBA BRIMA** was in direct command of AFRC/RUF forces in the Kono District. In addition, the **ACCUSED** was in direct command of AFRC/RUF forces which conducted armed operations throughout the northeastern and central areas of the Republic of Sierra Leone, including, but not limited to, attacks on civilians in Bombali District between about May 1998 and 31 July 1998. As of about 22 December 1998, the **ACCUSED** was in command of AFRC/RUF forces which attacked Freetown on 6 January 1999.
21. In the positions referred to in paragraphs 18 through 20, **ALEX TAMBA BRIMA**, individually, or in concert with **JOHNNY PAUL KOROMA**, **FODAY SAYBANA SANKOH**, **ISSA HASSAN SESAY** aka **ISSA SESAY**, **SAM BOCKARIE** aka **MOSQUITO** aka **MASKITA**, **MORRIS KALLON** aka **BILAI KARIM** and/or other superiors in the AFRC, Junta and AFRC/RUF forces, exercised authority, command and control over all subordinate members of the AFRC, Junta and AFRC/RUF forces.
22. At all times relevant to this Indictment, the **ACCUSED**, through his association with the RUF, acted in concert with **CHARLES GHANKAY TAYLOR** aka **CHARLES MACARTHUR DAPKANA TAYLOR**.
23. The AFRC, including the **ACCUSED**, and the RUF shared a common plan, purpose or design (joint criminal enterprise) which was to take any actions necessary to gain and exercise political power and control over the territory of Sierra Leone, in particular the diamond mining areas. The natural resources of Sierra Leone, in particular the diamonds, were to be provided to persons outside Sierra Leone in return for assistance in carrying out the joint criminal enterprise.
24. The joint criminal enterprise included gaining and exercising control over the population of Sierra Leone in order to prevent or minimize resistance to their

geographic control, and to use members of the population to provide support to the members of the joint criminal enterprise. The crimes alleged in this Indictment, including unlawful killings, abductions, forced labour, physical and sexual violence, use of child soldiers, looting and burning of civilian structures, were either actions within the joint criminal enterprise or were a reasonably foreseeable consequence of the joint criminal enterprise.

25. **ALEX TAMBA BRIMA**, by his acts or omissions, is individually criminally responsible pursuant to Article 6.1. of the Statute for the crimes referred to in Articles 2, 3 and 4 of the Statute as alleged in this Indictment, which crimes the **ACCUSED** planned, instigated, ordered, committed or in whose planning, preparation or execution the Accused otherwise aided and abetted, or which crimes were within a joint criminal enterprise in which the **ACCUSED** participated or were a reasonably foreseeable consequence of the joint criminal enterprise in which the **ACCUSED** participated.
26. In addition, or alternatively, pursuant to Article 6.3. of the Statute, **ALEX TAMBA BRIMA**, while holding positions of superior responsibility and exercising effective control over his subordinates, is individually criminally responsible for the crimes referred to in Articles 2, 3 and 4 of the Statute. The **ACCUSED** is responsible for the criminal acts of his subordinates in that he knew or had reason to know that the subordinate was about to commit such acts or had done so and the **ACCUSED** failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

CHARGES

27. Paragraphs 17 through 26 are incorporated by reference.
28. At all times relevant to this Indictment, members of the RUF, AFRC, Junta and/or AFRC/RUF forces (AFRC/RUF), subordinate to and/or acting in concert with **ALEX TAMBA BRIMA**, conducted armed attacks throughout the territory of the Republic of Sierra Leone, including, but not limited, to Bo, Kono, Kenema, Bombali and Kailahun Districts and Freetown. Targets of the armed attacks included civilians and humanitarian assistance personnel and peacekeepers assigned to the United Nations Mission in Sierra Leone (UNAMSIL), which had been created by United Nations Security Council Resolution 1270 (1999).

- 29. These attacks were carried out primarily to terrorize the civilian population, but also were used to punish the population for failing to provide sufficient support to the AFRC/RUF, or for allegedly providing support to the Kabbah government or to pro-government forces. The attacks included unlawful killings, physical and sexual violence against civilian men, women and children, abductions and looting and destruction of civilian property. Many civilians saw these crimes committed; others returned to their homes or places of refuge to find the results of these crimes – dead bodies, mutilated victims and looted and burnt property.

- 30. As part of the campaign of terror and punishment the AFRC/RUF routinely captured and abducted members of the civilian population. Captured women and girls were raped; many of them were abducted and used as sex slaves and as forced labour. Some of these women and girls were held captive for years. Men and boys who were abducted were also used as forced labour; some of them were also held captive for years. Many abducted boys and girls were given combat training and used in active fighting. AFRC/RUF also physically mutilated men, women and children, including amputating their hands or feet and carving “AFRC” and “RUF” on their bodies.

COUNTS 1 – 2: TERRORIZING THE CIVILIAN POPULATION AND COLLECTIVE PUNISHMENTS

- 31. Members of the AFRC/RUF subordinate to and/or acting in concert with **ALEX TAMBA BRIMA** committed the crimes set forth below in paragraphs 32 through 57 and charged in Counts 3 through 13, as part of a campaign to terrorize the civilian population of the Republic of Sierra Leone, and did terrorize that population. The AFRC/RUF also committed the crimes to punish the civilian population for allegedly supporting the elected government of President Ahmed Tejan Kabbah and factions aligned with that government, or for failing to provide sufficient support to the AFRC/RUF.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 1: Acts of Terrorism, a VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II, punishable under Article 3.d. of the Statute;

And:

Count 2: Collective Punishments, a VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II, punishable under Article 3.b. of the Statute.

COUNTS 3 – 5: UNLAWFUL KILLINGS

32. Victims were routinely shot, hacked to death and burned to death. Unlawful killings included, but were not limited to, the following:

Be District

33. Between 1 June 1997 and 30 June 1997, AFRC/RUF attacked Tikonko, Telu, Sembehun, Gerihun and Mamboma, unlawfully killing an unknown number of civilians;

Kenema District

34. Between about 25 May 1997 and about 19 February 1998, in locations including Kenema town, members of AFRC/RUF unlawfully killed an unknown number of civilians;

Kono District

35. About mid February 1998, AFRC/RUF fleeing from Freetown arrived in Kono District. Between about 14 February 1998 and 30 June 1998, members of AFRC/RUF unlawfully killed several hundred civilians in various locations in Kono District, including Koidu, Tombodu, Foindu, Willifeh, Mortema and Biaya;

Lombali District

36. Between about 1 May 1998 and 31 July 1998, in locations including Karina, members of AFRC/RUF unlawfully killed an unknown number of civilians;

Freetown

37. Between 6 January 1999 and 31 January 1999, AFRC/RUF conducted armed attacks throughout the city of Freetown. These attacks included large scale unlawful killings of civilian men, women and children at locations throughout the city, including the State House, Parliament building, Connaught Hospital, and the Kissy, Fourah Bay, Uppun, Calaba Town and Tower Hill areas of the city.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 3: Extermination, a **CRIME AGAINST HUMANITY**, punishable under Article 2.b. of the Statute;

In addition, or in the alternative:

Count 4: Murder, a **CRIME AGAINST HUMANITY**, punishable under Article 2.a. of the Statute;

In addition, or in the alternative:

Count 5: Violence to life, health and physical or mental well-being of persons, in particular murder, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.a. of the Statute.

COUNTS 6 – 8: SEXUAL VIOLENCE

38. Widespread sexual violence committed against civilian women and girls included brutal rapes, often by multiple rapists. Acts of sexual violence included, but were not limited to, the following:

Kono District

39. Between about 14 February 1998 and 30 June 1998, members of AFRC/RUF raped hundreds of women and girls at various locations throughout the District, including Koidu, Tombodu, Kissi-town (or Kissi Town), Foendor (or Foendu), Tomendeh, Fokoiya, Wonedu and AFRC/RUF camps such as "Superman camp" and Kissi-town (or Kissi Town) camp. An unknown number of women and girls were abducted from various locations within the District and used as sex slaves;

Bombali District

40. Between about 1 May 1998 and 31 July 1998, members of AFRC/RUF raped an unknown number of women and girls in locations such as Mandaha. In addition, an unknown number of abducted women and girls were used as sex slaves;

Kailahun District

41. At all times relevant to this Indictment, an unknown number of women and girls in various locations in the District were subjected to sexual violence. Many of these victims were captured in other areas of the Republic of Sierra Leone, brought to AFRC/RUF camps in the District, and used as sex slaves;

Freetown

42. Between 6 January 1999 and 31 January 1999, members of AFRC/RUF raped hundreds of women and girls throughout the Freetown area, and abducted hundreds of women and girls and used them as sex slaves.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 6: Rape, a **CRIME AGAINST HUMANITY**, punishable under Article 2.g. of the Statute;

And:

Count 7: Sexual slavery and any other form of sexual violence, a **CRIME AGAINST HUMANITY**, punishable under Article 2.g. of the Statute;

In addition, or in the alternative:

Count 8: Outrages upon personal dignity, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.e. of the Statute.

COUNTS 9 – 10: PHYSICAL VIOLENCE

43. Widespread physical violence, including mutilations, was committed against civilians. Victims were often brought to a central location where mutilations were carried out. These acts of physical violence included, but were not limited to, the following:

Kono District

44. Between about 14 February 1998 and 30 June 1998, AFRC/RUF mutilated an unknown number of civilians in various locations in the District, including Tombodu, Kaima (or Kayima) and Wonedu. The mutilations included cutting off limbs and carving “AFRC” and “RUF” on the bodies of the civilians;

Freetown

45. Between 6 January 1999 and 31 January 1999, AFRC/RUF mutilated an unknown number of civilian men, women and children in various areas of Freetown, including the northern and eastern areas of the city, and the Kissy area, including the Kissy mental hospital. The mutilations included cutting off limbs.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 9: Violence to life, health and physical or mental well-being of persons, in particular mutilation, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.a. of the Statute;

In addition, or in the alternative:

Count 10: Other inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under Article 2.i. of the Statute.

COUNT 11: USE OF CHILD SOLDIERS

46. At all times relevant to this Indictment, throughout the Republic of Sierra Leone, AFRC/RUF routinely conscripted, enlisted and/or used boys and girls under the age of 15 to participate in active hostilities. Many of these children were first abducted, then trained in AFRC/RUF camps in various locations throughout the country, and thereafter used as fighters.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 11: Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities, an **OTHER SERIOUS VIOLATION OF INTERNATIONAL HUMANITARIAN LAW**, punishable under Article 4.c. of the Statute.

COUNT 12: ABDUCTIONS AND FORCED LABOUR

47. At all times relevant to this Indictment, AFRC/RUF engaged in widespread and large scale abductions of civilians and use of civilians as forced labour. Forced labour included domestic labour and use as diamond miners. The abductions and forced labour included, but were not limited to, the following:

Kenema District

48. Between about 1 August 1997 and about 31 January 1998, AFRC/RUF forced an unknown number of civilians living in the District to mine for diamonds at Cyborg Pit in Tongo Field;

Kano District

49. Between about 14 February 1998 and 30 June 1998, AFRC/RUF forces abducted hundreds of civilian men, women and children, and took them to various locations outside the District, or to locations within the District such as AFRC/RUF camps, Tombodu, Koidu, Wonedu, Tomendeh. At these locations the civilians were used as forced labour, including domestic labour and as diamond miners in the Tombodu area;

Bombali District

50. Between about 1 May 1998 and 31 July 1998, in Bombali District, AFRC/RUF abducted an unknown number of civilians and used them as forced labour;

Kailahun District

51. At all times relevant to this Indictment, captured civilian men, women and children were brought to various locations within the District and used as forced labour;

Freetown

52. Between 6 January 1999 and 31 January 1999, in particular as the AFRC/RUF were being driven out of Freetown, the AFRC/RUF abducted hundreds of civilians, including a large number of children, from various areas within Freetown, including Peacock Farm and Calaba Town. These abducted civilians were used as forced labour.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 12: Enslavement, a **CRIME AGAINST HUMANITY**, punishable under Article 2.c. of the Statute.

COUNT 13: LOOTING AND BURNING

53. At all times relevant to this Indictment, AFRC/RUF engaged in widespread unlawful taking and destruction by burning of civilian property. This looting and burning included, but was not limited to, the following:

Bo District

54. Between 1 June 1997 and 30 June 1997, AFRC/RUF forces looted and burned an unknown number of civilian houses in Telu, Sembehun, Mamboma and Tikonko;

Keno District

55. Between about 14 February 1998 and 30 June 1998, AFRC/RUF engaged in widespread looting and burning in various locations in the District, including Tombodu, Foindu and Yardu Sando, where virtually every home in the village was looted and burned;

Bombali District

56. Between 1 March 1998 and 30 June 1998, AFRC/RUF forces burnt an unknown number of civilian buildings in locations such as Karina;

Freetown

57. Between 6 January 1999 and 31 January 1999, AFRC/RUF forces engaged in widespread looting and burning throughout Freetown. The majority of houses that were destroyed were in the areas of Kissy and eastern Freetown; other locations included the Fourah Bay, Uppun, State House and Pademba Road areas of the city.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 13: Pillage, a VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II, punishable under Article 3.f. of the Statute.

COUNTS 14 – 17: ATTACKS ON UNAMSIL PERSONNEL

58. Between about 15 April 2000 and about 15 September 2000, AFRC/RUF engaged in widespread attacks against UNAMSIL peacekeepers and humanitarian assistance workers within the Republic of Sierra Leone, including, but not limited to locations within Bombali, Kailahun, Kambia, Port Loko, and Kono Districts. These attacks

17 1535

included unlawful killing of UNAMSIL peacekeepers, and abducting hundreds of peacekeepers and humanitarian assistance workers who were then held hostage.

By his acts or omissions in relation, but not limited to these events, **ALEX TAMBA BRIMA**, pursuant to Article 6.1. and, or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crimes alleged below:

Count 14: Intentionally directing attacks against personnel involved in a humanitarian assistance or peacekeeping mission, an **OTHER SERIOUS VIOLATION OF INTERNATIONAL HUMANITARIAN LAW**, punishable under Article 4.b. of the Statute;

In addition, or in the alternative:

Count 15: For the unlawful killings, Murder, a **CRIME AGAINST HUMANITY**, punishable under Article 2.a. of the Statute;

In addition, or in the alternative:

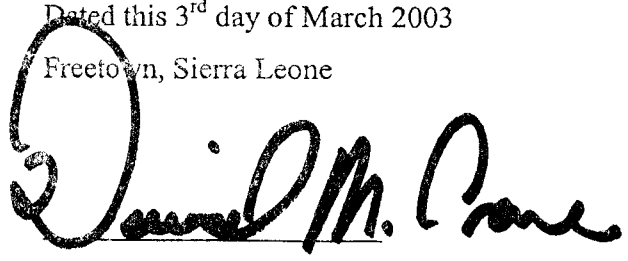
Count 16: Violence to life, health and physical or mental well-being of persons, in particular murder, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.a. of the Statute;

In addition, or in the alternative:

Count 17: For the abductions and holding as hostage, Taking of hostages, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.c. of the Statute.

Dated this 3rd day of March 2003

Freetown, Sierra Leone



David M. Crane

The Prosecutor

EXHIBIT TAB 21536

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Power of Attorney issued on the 24th March, 2003 referred to in paragraph (3) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB 2".

J.C. BEFORE ME Taylor
COMMISSIONER FOR
OATHS
Somhad Herson Cline Town
A COMMISSIONER FOR OATHS.

EXHIBIT TAB 2 1537



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995

FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

CASE NO.: SCSL-03-061

PROSECUTOR VS. Alex Tamba Brima

Power of Attorney

Made this 24th day of March (Month) 2003 (Year)

1. I, Mr Tamba Alex Brima (insert name and address of Principal) hereby appoint: Mr Terence Terry (insert name and address of agent) as my attorney-in-fact (my "agent") to act for me and in my name (in any way I could act in person) with respect to all initial matters arising out of and incidental to my detention under the authority of the Special Court of Sierra Leone as per Rules 45 of the Rules of Procedure and Evidence.

2. This Power of Attorney is revocable at any time in writing and subject to the approval by a Trial Judge of the Special Court for Sierra Leone.

3. I am fully informed as to all the contents of this form and understand the full import of this grant of powers to my agent.

Signed

[Handwritten signature of Alex Tamba Brima]

(Principal)

In witness thereof,

Name: RONALD BARRY WALLACE

[Handwritten signature of Ronald Barry Wallace]
Signature

In witness thereof,

Name: Sam Scotland

[Handwritten signature of Sam Scotland]
Signature

Court Officer: Musa D. Kamara

[Handwritten signature of Musa D. Kamara]

Signature

EXHIBIT TAB 31538

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Decision of 14th April, 2003 by the Registrar of the Special Court for Sierra Leone assigning Terence Michael Terry as Provisional Counsel referred to in paragraph (5) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB3".

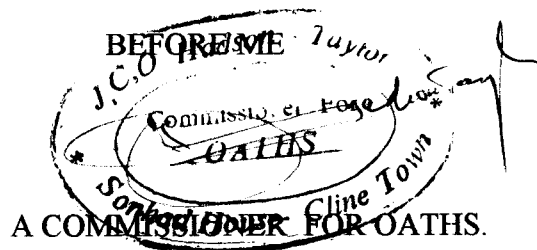


EXHIBIT "TAB 3" 1539
SCSL-2003-06-I
(227-228)



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995
FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

Case No. SCSL-2003-06-I
The Prosecutor v. Alex Tamba BRIMA

DECISION

THE REGISTRAR,

| | |
|--------------------------------|---------------|
| SPECIAL COURT FOR SIERRA LEONE | |
| COURT RECORDS | |
| RECEIVED | |
| NAME: D. Inyang | |
| SIGNATURE: [Signature] | |
| DATE: 15-04-2003 | TIME: 9:45 AM |

CONSIDERING the Power of Attorney signed by the accused Alex Tamba Brima on 24 March 2003 seeking the appointment of Mr. Terrence Terry as counsel for the accused;

CONSIDERING the Statute of the Special Court for Sierra Leone and in particular Article 17 thereof;

CONSIDERING the Rules of Procedure and Evidence as adopted by the Plenary meeting of the Special Court for Sierra Leone on 11 March 2003 and in particular Rules 44 and 45 thereof;

CONSIDERING the accused's request for the appointment of counsel;

CONSIDERING the Order of Judge Itoe of the Special Court for Sierra Leone dated 19 March 2003 requiring the appointment of counsel to the accused pending investigation of his means;

CONSIDERING that the Registrar may, in the interests of justice, assign a counsel to represent the accused on a provisional basis;

CONSIDERING that Mr. Terry meets the requirements for the provisional assignment of counsel to an indigent accused;

CONSIDERING that the accused does not have sufficient means at the present time to retain counsel on his own;

CONSIDERING that Mr. Terry has agreed to represent the accused provisionally for a period of two (2) months or until such time as Mr. Terry enters into a legal services contract with the Defence Office of the Special Court for Sierra Leone for the provision of services to the accused, whichever event occurs first; and

CONSIDERING that Mr. Terry has agreed to represent the accused provisionally and for the period set out above for the sum of US\$5,000.00;

| | |
|--------------------------------|----------|
| SPECIAL COURT FOR SIERRA LEONE | |
| TRUE COPY OF THE ORIGINAL | |
| SEEN BY ME | |
| NAME: [Signature] | 14/04/03 |
| SIGNATURE: [Signature] | |

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DIRECTS the assignment of Mr. Terrence Terry as provisional counsel to the accused effective 14 April 2003 for a period of two (2) months or until such time as Mr. Terry enters into a legal services contract with the Defence Office of the Special Court for Sierra Leone for the provision of services to the accused, whichever event occurs first.

Dated at Freetown this 14th day of April, 2003.

Robin Vincent
Robin Vincent
Registrar

| | |
|-------------------------------------|-----------------------|
| SPECIAL ATTORNEY GENERAL | |
| CERTIFIED TRUE COPY OF THE ORIGINAL | |
| SEEN BY ME | |
| NAME: <i>Robin Vincent</i> | <i>15/04/03</i> |
| SIGNATURE: <i>Robin Vincent</i> | DATE: <i>15/04/03</i> |

EXHIBIT 'TAB 4' 1541

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

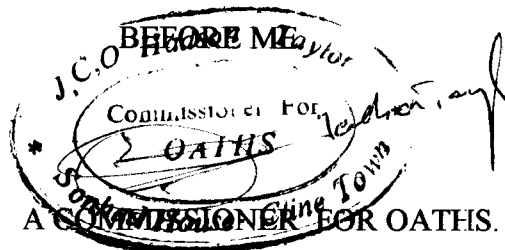
Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Letter dated 11th November, 2003 referred to in paragraph (12) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB 4".



TERENCE TERRY

Barrister-at-Law & Solicitor
Marong House, 4th Floor
11 Charlotte Street
Freetown, Sierra Leone
email: theodora@sierratel.sl

1542

EXHIBIT "TABLE"

11th November 2003

WITHOUT PREJUDICE

Mr. Sylvain Roy
A/Principal Defender
Special Court for Sierra Leone
New England
Freetown

Dear Sir,

RE: LEGAL SERVICE CONTRACT – PROSECUTOR VS.
ALEX TAMBA BRIMA AKA TAMBA ALEX BRIMA

On receipt of your letter of the 10th November 2003 at exactly 3 p.m. on 11th November 2003, I was inclined to ignore some of the issues raised by you. But on reflection, it will be remiss of me not to respond albeit if only to put the records straight.

You mentioned that I omitted to include certain information in the template provided to me without you as I would have expected to descend into particulars. Perhaps you can clarify the information you require that I have omitted as requested in the template to enable me to furnish you with same.

I will in due course include the anticipated cost for Travel and DLA/DSA. On receiving same, I hope you will proceed to do the correct thing by accepting the case plan as submitted by me.

It is strange to say the least that you have used my earlier health problems albeit without justification to seek to buttress your construction of Article 13(A) of the Directive. You then had the temerity to suggest that before a legal service contract is signed I should undergo a medical examination. What a posture to take. Such a suggestion is not only misplaced, but smacks of lack of certain basic ethics in the profession and the standards I have been accustomed to covering a span of approximately 28 years practice at the bar. Perhaps you need to be told that I am not a staff of the Special Court and would not subject myself to any medical doctor with any promptings from you OR anyone else for that matter. Indeed your appreciation of my state of health during the hearing of both the Habeas Corpus and the Bail applications for my client Tamba Alex Brima and thereafter is not only misplaced, but leaves me with the impression that you have not read the files to even begin to

.../2....

understand the extent of the work done by me for and on behalf of my client. If you had taken the pains to check the files thoroughly you would have discovered that I was the first among all the temporary assigned – Counsel who filed papers before the Trial Chamber. For your information, as a result of those proceedings a number of your Caucasian brothers who hailed from abroad requested not only my precedents, but the skeleton arguments as well. You have tempted me to put such matters in writing which is totally out of my character.

It is my view however, that Article 14(c) when properly construed will only give you locus to raise the question of representation of more than one accused person if you were required to fund my representation of Charles Taylor. I find your construction of Article 14(c) of the Directive totally wrong, unsupportable and misplaced at best. I really cannot understand how my representation of Tamba Brima can be of any real concern to you. Indeed all attempts by you and others over a considerable period of time to cajole my client to dispense with my services out of spite for me and professional jealousy have yielded no fruit. You now seek by the backdoor what you failed to achieve by the front door. Keep on trying, and see how far that will get you. You are not alone in this reason. A conspiracy of some sort was hatched long ago.

This is not the first time you have mentioned to me the possibility of a conflict of interest arising out of the fact that I am representing both Mr. Charles Taylor and Alex Brima. However you personally did not see any possible conflict of interest when you and other members of the Defence Section before the ink was dry on Taylor's indictment wrote directly to then President Charles Taylor soliciting to act on his behalf at the time when some members of the Defence Team were representing Foday Sankoh now deceased and at least one other Indictee. How come you failed to acknowledge any conflict of interest then but now seek to raise one when neither you nor any member of the defence team is involved. If indeed you now want either Mr. Taylor's brief which you initially solicited for in a totally unprofessional manner, you are more than welcome to step into my shoes and see whether you can cope with the legal complexity of his case. As far as Alex Brima is concerned, despite your earlier attempts to convince him to terminate my services with him, you are equally welcome to try to convince him to engage your services OR any member of the defence team. Good luck to you.

However let me clarify the issue of likely conflict of interest and hope that you now listen carefully from someone who is undoubtedly your senior at the Bar. For the moment Mr. Taylor has only raised a procedural Bar to the indictment, and unless you tell me that you presently know the thinking of the Judges of the Appeals Chamber, (which I very much doubt) it is now premature for you to seek to pontificate on any concept of likely conflict of interest however conceived by you. If indeed Charles Taylor had taken his plea before the Trial Chamber and it had been ordered that he be jointly tried with Alex Tamba Brima, then at that particular time, I would have to advise myself, and certainly not with any prompting from you. So you may now appreciate that you have blown this concept of conflict of interest totally out of proportions and in a manner that has regrettably led me to the conclusion that you really do not understand what you are doing. I am sorry if I have to put it that way, but there is no other way I can drum home certain basic facts to you. Your arrogance will get you nowhere.

Who are you to suggest that I renounce the power of Attorney pertaining to Mr. Taylor which you failed to secure from him when you and the rest of the defence team solicited from him in writing for you to represent him. I have the documents in my possession but up till now I have advised myself not to make any issue out of them. But my patience is running out and due to the high moral ground you seem to be claiming, I will soon release those documents and you may have to decide whether you can continue to keep your job. Again you have exceeded the bounds of your powers to even suggest that I should in the alternative decide not to enter a legal service contract in regard (and not as you put in regards) to Mr. Brima. Such

liberty coming as it does from one who has done things and acted in a totally unprofessional manner to my two clients to that extent I can safely say that you forfeit any right to make such unwarranted demand from me.

I want to now make it abundantly clear to you that neither you nor any member of your defence section should seek an audience with Tamba Brima without clearance from me. And let me tell you in passing that legal service contract OR not my services were directly engaged by Alex Tamba Brima, and whether you okay a legal service contract OR not unless my client dispenses with my services, nothing will stop me from defending him come what may let the heavens fall. Therefore be my guest. You can keep your funding if it pleases you. Hold on to your Legal Service Contract as long as you see fit. I know my remedies and be assured I shall invoke them at the appropriate time.

Indeed by you refusing to okay my travel request only goes to show how vindictive a person you are and now that you have signalled to me that you want a fight with me, be assured you will get your just reward. For now gratuitous though it may sound I ask of you to hasten slowly.

What I find rather disturbing and has caused me considerable disquiet is your failure to invite me to the recent meeting of the respective defence Counsel held with the Registrar. When I approached you on the matter, you were apparently flustered and gave some excuse which I now in hindsight find totally unacceptable.

I have accordingly instructed my pupil in chambers Mr. Easmon Ngakui to process the travel application forms to enable the 2 Co-Counsel of Alex Tamba Brima to proceed to Freetown on OR about the first week in December 2003 OR thereabout.

For now I prefer not to meet with you as I find you not only a totally unpleasant person, but one that is hell-bent on seeking unnecessary confrontation with me. This unfortunate situation is no doubt of your own creation and the earlier you see it fit to restore appropriate respect for your colleague and atone for what I can only describe from a distance as a voltage of animus, which on all accounts and however conceived was totally unprovoked.

Believe me to be,

Yours without bitterness

Terence M. Terry

- Cc:
- (1) Mr. Robin Vincent
Registrar, Special Court, Freetown
 - (2) Mr. Karim Khan
 - (3) Mrs. Natacha Fauveau Ivanovic
 - (4) Alex Tamba Brima
 - (5) Other members of the Defence Section

EXHIBIT 'TAB 5' 1545

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

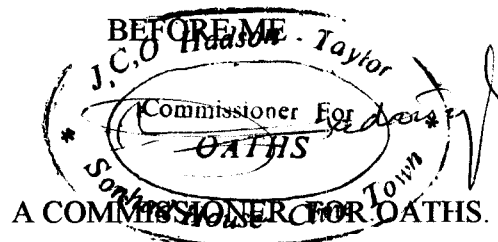
Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Letter dated 11th December, 2003 referred to in paragraph (12) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB5".



~~TERENOB DERRY~~
Barrister-at-Law & Solicitor
Marong House, 4th Floor
11 Charlotte Street
Freetown, Sierra Leone
email: theodora@sierratel.sl

TAB 1546
5

11th Decēber 2003

Mr. Sylvain Roy
Acting Principal Defender
Special Court for Sierra Leone
New England
Freetown

WITHOUT PREJUDICE

Dear Sir,

RE: **LEGAL SERVICE CONTRACT – PROSECUTOR VS. ALEX
TAMBA BRIMA (aka) TAMBA ALEX BRIMA**

I am in receipt of your letter of 11th of December 2003. The two issues which you continue to raise I find not only totally out of Order, premature at best, do border on vindictiveness and smacks at “discrimination” however disguised by you.

Let me first of all deal with the issue of my ill health which you have seen fit to have apparently buttressed by reference to the context of documents submitted to the Court as you put it as having the potential to still prevent me from been available to deal with the case to its finality. Perhaps you need to clarify that you are now a “doctor” rather than an acting Principal Defender to determine the state of my present health. Indeed it is my respectful view that whatever documents were disclosed before the Trial Chamber at the time of my ill health then and not **now** can by no stretch of imagination be used by you albeit without merit as an excuse to carry your vendetta against me in a manner that smacks of “racial hatred and indeed totally unmeritorious.” That I am not prepared to accept and no amount of funding from the Special Court will let me cease to hold the principles that I have held dear throughout my career. I regret to state that you sound like a sick young man who is apparently arrogating to himself powers that are not vested in you. I have no doubt in my mind that from your conduct so far, you are hell-bent in seeking a

confrontation with me in circumstances wherein you have been the provoking spirit throughout. To hell with your funding. You can proceed if you so wish as has always been your intention to appoint one of your Caucasian brothers to act as Lead Counsel for Alex Tamba Brima and see how far that will get you. For my part and at a risk of repeating myself, neither you nor the Registrar of the Special Court for Sierra Leone can prevent me from defending my client Tamba Alex Brima. All you can do is to refuse to honour the wishes of my client of Counsel of his choice by withholding the funding for his legal representation although without good cause, and in this respect only the Special Court itself would be in the position to determine the validity or otherwise of the rather two vexed issues raised by you. Let me proceed now to illustrate how your medical argument falls to the ground due to the following reasons:

- (i) First, it is no business of yours to form an impression about my health condition, how much more to come to the conclusion that the previous state of my health is a factor to enable you to determine the state of my health presently to warrant you unilaterally deciding not to sanction the legal service contract with me in respect of my said client.
- (ii) Secondly, you may care to know that during the period of one of the applications made by me on behalf of my client, a particular Judge of the Trial Chamber could not attend a particular hearing on a particular day due to ill-health at the time and rightly so. Are we to say OR assume as you may want us to believe that due to his ill health at that time he is not a fit and proper person thereafter to sit in other proceedings as a Judge on the bench of Judges that constitute the Trial Chamber? Certainly NOT.

You will perhaps now understand how your reasoning is not only with respect lopsided but smacks of discrimination to say the least.

The second issue regarding my explanation about the issue of my representation of what you described as conflict of interest, I intend to say no more about but simply to rely on the reasoning contained in my letter of the 11th of November 2003 to you.

Once again I advise you to carefully peruse that said letter of mine of 11th of November 2003 and you may see the folly of the position held by you.

It seems to me all round that your attitude and the stance taken by you so far has now left me with the impression that you are safely on the side of the "Prosecution" rather than the Defence and you no doubt continue to see shadows where none exist in a simple matter like this where you are enjoined by the Special Court Agreement, 2002 (Ratification) Act, 2002 and Rules of procedure and Evidence of the Special Court for Sierra Leone and the relevant practice direction if properly construed by you to ensure that you do nothing contrary to the spirit and letter of according to my client the kind of representation he will wish in all the circumstances of this particular case. That being the case, unlike you, I prefer to do the right thing to continue to defend my client Tamba Alex Brima in the true tradition of our profession. If as it is looking the Legal Service contract with Lead Counsel will not be concluded soonest, I dare say this is bound to adversely affect my strategy of getting all 2 Co-Counsel on board soonest to enable us to strategise the defence of our client within the letter and spirit of the Special Court Agreement 2002, (Ratification) Act, 2002 and the four corners of the Rules of Procedure & Evidence of the Special Court for Sierra Leone. The blame in this regard will squarely rest on your shoulders.

In the light of the foregoing, I believe that the time is now ripe for you to put aside bureaucratic bottlenecks designed ultimately to see your way clear to conclude the Legal Service Contract in the interest of all concerned. In this respect I have already forwarded to you the final draft case and stage plan for your perusal and amendments as you may consider necessary.

If however you are not prepared to do the right thing by fixing a date for signing I now demand that within the next 48 hours that I be paid professional fees due me up to today's date for work already carried out by me for my client Tamba Alex Brima, and the question of conclusion of the Legal Service Contract will await the determination of the appropriate authority at the choosing of my client.

If I may return to the issue of conflict of interest, I now enclose a letter dated 3rd July 2003 written by Haddijatou Kah-Jallow of the Defence Office of the Special

Court for Sierra Leone addressed to Ex-President Charles Taylor which is self-explanatory and also enclosed you will find the proposed motion to quash Ex-President Charles Taylor's indictment in which said Motion your name Sylvain Roy as Acting Chief of the Defence Office appeared and to the naked eye featured top of the list under Defence Office. It seems to me you did not consider any conflict of interest at that time when the Defence Office was at one and same time representing other indictees including no less a person than Foday Sankoh now deceased. On that alone you forfeit any right to prematurely accuse me of a likely conflict of interest. Your position is even worse for reasons which are best left undisclosed.

I understand from good authority however that you will very soon be embarking upon one of your "jamboree trips" abroad at the Special Court expense in circumstances wherein you previously refused to approve my own trip which related to professional work to be carried out by me on behalf of my client abroad. What justice is that? Little wonder that the Special Court continues to complain about lack of funds.

Please therefore indicate to me as of now whether you are prepared to go ahead to sign the legal service contract with me so that I can embark upon the next progressive step on behalf of my client, and if need be to enable my client to seek appropriate remedies before the Trial Chamber of the Special Court for Sierra Leone. If you are so sure of yourself I challenge you to say to me in no uncertain terms that you are not prepared to enter into a Legal Service Contract based on the 2 grounds you have canvassed.

I have reason to believe that a number of others and your goodself are indeed obsessed with the Taylor case as if it is the only case that will ultimately give the Special Court its credibility at the end of the day and keep you in gainful employment. For now I prefer to keep my powder dry. However if you provoke me any further I will not hesitate to name your Co-Conspirators. In this regard, gratuitous though it may sound, I advise you to hasten slowly as I do not want you to be caught up in a "comedy of errors" in an attempt to satisfy your "masters" OR the "Prosecution" as the case may be in circumstances wherein your position as Acting Principal Defender puts you in an unenviable position to do what is right and just. You have been advised!

I have taken the liberty of copying this letter to the Registrar of the Court seeking a meeting in which my client, yourself, the Registrar and myself will be present at the precincts of his cell or any other place to be indicated by the Registrar of the Court to resolve this pressing issue, and I do so out of an abundance of caution, and for it not to be said that I failed to exhaust the administrative steps open to my client to resolve this matter amicably in the interest of all concerned.

To be frank I refuse to be censored or insulted by someone who is not only my junior at the Bar but who needs a little bit of lesson on the ethics at the Bar. For now however, you can take it from me that unless a Court Order is made restraining me from representing both Alex Brima and Charles Taylor on the grounds of a likely conflict of interest, I dare say you cannot arrogate to yourself both the role of a Judge and Juror on the afore-mentioned two (2) particular issues.

I remain,

Yours faithfully,

Terence M. Terry

Cc: (1) The Registrar
Special Court for Sierra Leone
New England, Freetown

(2) Alex Tamba Brima

(3) Mr. Karim Khan
Co-Counsel 1

EXHIBIT TAB 6 1551

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Letter dated 17th December, 2003 referred to in paragraph (12) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB6".

BEFORE ME
Commissioner For
OATHS
FREETOWN
A COMMISSIONER FOR OATHS.

TERENCE TERRY

Barrister-at-Law & Solicitor
Marong House, 4th Floor
11 Charlotte Street
Freetown, Sierra Leone
email: theodora@sierratel.sl

1552
Exhibit "TAB6"

17th December, 2003

Mr. Sylvain Roy
Acting Principal Defender
Special Court for Sierra Leone
New England
Freetown

Dear Sir,

**RE: LEGAL SERVICE CONTRACT – PROSECUTOR VS. ALEX
TAMBA BRIMA (aka) TAMBA ALEX BRIMA**

I acknowledge with thanks your letter of 12th December, 2003 addressed to me and duly signed by you in your capacity as Acting Principal Defender and **NOT** I repeat **NOT** as the duly appointed Principal Defender which you personally handed over to me in the Defence office in rage followed by your remarks to me in the presence of my Managing Clerk Ayo Max-Dixon that you will not be threatened by me. I have never threatened you nor do I intend to do so now OR at any other time whatsoever. I merely mentioned the bare facts which you could hardly controvert having regard to the special facts and circumstances of this case. Let me now state that based upon the express provisions of Article 13(A) of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone, it seems to me that your status as Acting Principal Defender is unknown to that particular directive you seek to rely upon nor are you the particular creature contemplated under that aforesaid Article 13(A) of the said Directive on the assignment of Counsel under which you have purported to act. I therefore with the greatest respect to you consider your said letter of the 12th December, 2003 of no moment, invalid, null and void at its inception, and have accordingly advised myself to ignore its contents. Put simply you seem to have arrogated to yourself powers which are not vested in an Acting Principal Defender however conceived by you. If I am right so far in my construction and appreciation of the said Article 13(A) of the Directive on the Assignment of Counsel,

it follows as a necessary corollary that it will indeed serve no useful purpose to respond to the purported reason proffered by you on the vexed question of Article 14(C) of the Directive on the Assignment of Counsel regarding more than one Defendant for the same reasons canvassed above in this my letter as you are NOT empowered in the eyes of the law to exercise any powers under Article 14(C) of the Directive on the Assignment of Counsel. Without prejudice to a clear excess of jurisdiction on your part already referred to by me, I need only mention in passing that you have apparently failed to understand that my representation of Ex. President Charles Ghankay Taylor who for the moment can hardly be said to be a Defendant before the Special Court for Sierra Leone as he has for now only raised a procedural bar against the issue of the Indictment and consequential Warrant of Arrest and to set aside same against his person on 2 grounds namely:

- (1) Violation of the criminal immunity of the Head of the Sovereign State of the Republic of Liberia President Charles Ghankay Taylor contrary to customary international law and as recognized by the jurisprudence of the International Court of Justice.
- (2) Violation of the principle that a State may not exercise (its authority) on the territory of another State and of the principle of sovereign equality – among all members of the United Nations as laid down in Article 2, paragraph 1, of the Charter of the United Nations.

The matter is presently pending for Ruling before the Appeals Chamber of the Special Court for Sierra Leone, and true to form and rather precipitously you have unilaterally and without any authority whatsoever proceeded to act in excess of your powers on a matter which I dare say you are not empowered to take any decision which may tangentially border on matters relating to him qua Defendant under protest for the purposes of any determination by you regarding Tamba Alex Prima an Accused qua accused and properly so before the Special Court for Sierra Leone.

If I be brutally frank, the second ground for your decision is indeed baseless, premature at best and I regret to state constitute a lack of understanding of the issues at stake. Once again I invite you to read the response contained in my letter to you of the 11th November, 2003 in respect of the above matter.

May I therefore suggest that you get your employers if you are so inclined to promote you to the position and status of Principal Defender before you have the temerity to pontificate OR take any decision relating to any of the provisions of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone. You may recall that I warned you to hasten slowly, but with respect you apparently failed to heed my advice, gratuitous though it may have sounded to you at the time. My dear Sylvain the law is not all logic: experience counts for most of it – if I must remind you of what that great Jurist Oliver Wendell Holmes once remarked. Speaking for myself, there is certainly a ring of truth in that statement.

I have reason to believe however, that once the turbulence and temporary waves have settled, you will eventually come round to accept that in this instant case, you have erred and hopefully seek to correct what in my respectful view is a simple matter that has been blown out of proportions by you, all things considered. Indeed you will never gain my support if by your acts and conduct you seek to harangue OR browbeat me, but by presenting the position you hold in such a way that I cannot avoid coming to the conclusion you favour. This I submit is the skill and hallmark of a great lawyer not to overwhelm his adversary by argumentative force – not even necessarily to achieve success on every point you argue, but to present your case in such a way that your hearers cannot prevent themselves from being carried along to the desired destination. That you have not done in this case. Rather you have sought unnecessary confrontation with me from day one. You even mentioned recently to a third party well before you took your eventual decision that you were not going to enter into a Legal Service Contract with me. If you want to deny this, I will reluctantly have to name the individual you spoke to and get him to depose to the matter on affidavit evidence. But for now I prefer to spare you the embarrassment.

You will perhaps recall that since your assignment to the office you presently hold, from the very beginning you went out on a tangent to accuse me of a conflict of interest because I was representing Tamba Alex Brima and Ex-President Charles Gihankay Taylor. The mind boggles now you arrived at such a conclusion. I took pains to reason with you that the position taken by you was unsustainable and at best premature and I thought that was the end of the matter.

Your purported withdrawal of my Provisional Assignment to represent Mr. Tamba Alex Brima under the Legal Assistance program of the Special Court for Sierra Leone is again misplaced and baseless as no such Article 16 (C) of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone exist within the four corners of the said assignment of Counsel of the Special Court for Sierra Leone. To that extent I consider your reference to powers you have arrogated to yourself under the said non-existing Article 16(C) of the Directive on the Assignment of the Special Court for Sierra Leone – is a non sequitur in whatever way you chose to look at it. Please read carefully the said Directive on the Assignment of Counsel, and you will soon come to realise that no such Article exist.

That aside, I can only hope and pray that you do not embark upon any internal vendetta against lesser mortals in the defence office who were on all accounts performing their duties and instructions from their immediate superiors and in good faith. Let the buck stop with you so far as the unfortunate Taylor saga is concerned which you have seen fit to spill over to the case of Tamba Alex Brima. For my part, I shall let sleeping dogs lie, and do not intend to press that matter any further and for good reason. That is the difference between you and me. You are from the look of things apparently vindictive judging from my encounters with you and I have a forgiven spirit on the other hand.

In the circumstances therefore my invoice for work done up to date you can take it from me will in due course be submitted to the Registrar and/OR Deputy Registrar of the Special Court for Sierra Leone for approval and eventual settlement as I very much doubt whether based on your present nomenclature and status, you are indeed the proper person vested with powers to approve any professional invoice as and when submitted for work already done by me in the light of the very Directive on the Assignment of Counsel of the Special Court for Sierra Leone which you have apparently but mistakenly sought to rely upon to give your actions the necessary imprimatur. Remember I observed in passing in one of my earlier correspondence with you that you and some others are indeed obsessed by the Taylor case. Your behaviour so far I have

reason to believe has proved me right although I believe you are not acting alone, and now find yourself a victim of circumstances. Take it easy and please do not allow your blood pressure to get to unacceptable levels, as unlike you, I would not like that to happen to you. I still want you to continue enjoying the hospitality of the people of Sierra Leone. Therefore be my guest.

As you have stated that you will soon be embarking on your holiday abroad in this season of goodwill the least I can do is to wish you a Merry Christmas and a Happy New Year to you and the rest of your family with the hope that all the unresolved matters relating to the purported powers exercised by you hopefully will be addressed soonest and at the proper time by the Trial Chamber of the Special Court for Sierra Leone having particularly to the rights of the accused the applicant herein.

Permit me, therefore, to state in conclusion that the defence of my client Tamba Alex Brima regardless of any funding is for me a total and irrevocable commitment, and I dare say is now elevated to almost a CREED with the hope that justice will not only be done but will be seen to be done.

ENOUGH IS ENOUGH!

I remain,

Yours without Bitterness.

Yours faithfully,

Terence M. Terry

C.c.

(1) Registrar

of the Special Court for Sierra Leone

(2) The Deputy Registrar of the Special

Court for Sierra Leone, Mr. Robert Kirkwood.

(3) Tamba Alex Brima

(4) All other members of the Defence Section.

EXHIBIT TAB 7^{155,7}

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Amended Case Plan accordingly amended by the Acting Principal Defender in his own handwriting referred to in paragraph (12) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB 7".

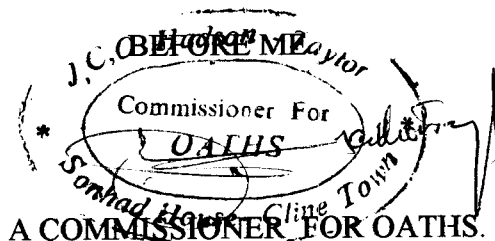


EXHIBIT TAB 71538

STRICTLY PRIVATE & CONFIDENTIAL

CASE PLAN

CASE NO: SCSL-2003-06-PT

**PROSECUTOR-V-ALEX BRIMA also known as
TAMBA ALEX BRIMA (aka) GULLIT**

This case plan is strictly confidential save as between the Defence office and Contracting/Assigned Counsel and, upon written request, the Registrar and the Judges.

This case plan will be regularly reviewed and updated to reflect case developments.

I. CONTRACTING COUNSEL

ASSIGNED COUNSEL

Terence Michael Terry
4th Floor Marong House
11 Charlotte Street
Freetown
Tel:00232-22-222605,00232-22-226662 and 00232-22-229972

CASE MANAGER

Terence Michael Terry
4th Floor Marong House
11 Charlotte Street
Freetown.

Tel:00232-22-222605,00232-22-226662 and 00232-22-229972
Fax: Freetown 232-22-222605
E-mail – theodora@Sierratel.sl.

PAY THROUGH:

NATIONAL WESTMINSTER BANK PLC
CHEQUE CENTRE
5TH FLOOR PRIORY HOUSE
BIRMINGHAM, WESTMIDLANDS
B4 6DJ-UK

ACCOUNT NAME: GUARANTY TRUST BANK (SL) LTD

US DOLLAR ACCOUNT NO: 08093954

GBP ACCOUNT NO: 04480929

SORT CODE: 60 00 04

FOR THE BENEFIT OF:

ACCOUNT: TERENCE MICHAEL TERRY

ACCOUNT NO: 2012881 2/1/0

2. DEFENCE TEAM

LEAD COUNSEL

Terence Michael Terry

Sierra Leonean – 28 years experience in Criminal Procedure, Civil Procedure, Constitutional Law, International Criminal Law and Human Rights Law.

ROLE IN DEFENCE TEAM

To lead Supervise and direct the Defence Team and to designate the respective role of each member of the team, to prepare, evaluate and analyse the case and where need be to embark upon and conduct a considerable part of the advocacy that will be involved through out in these proceedings.

CO-COUNSEL 1

KARIM A.A. KHAN – BRITISH

11 years experience as practicing Criminal Barrister, National and Internationally.

ROLE IN DEFENCE TEAM:

To analyse and prepare the case, to summarise the evidence, to identify legal issues in particular those of an International Criminal Law dimension, to prepare Legal applications, draft Legal Motions and to conduct advocacy in relation to International Criminal Law as appropriate, to prepare the case plan and stage plans if need be.

CO-COUNSEL -2

NATACHA FAUVEAU IVANOVIC – FRENCH AND CROATIAN

13 years as Barrister, has served as Legal Counsel for several Humanitarian Organizations and she has vast experience in International Criminal and Humanitarian Laws.

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To analyze and prepare the case together with Co-Counsel 1, to summarise the evidence to identify legal issues in particular those of an International Criminal Law dimension, draft Legal Motions and to conduct advocacy in relation to International Criminal Law as appropriate, to prepare the stage and case plans together with Co-Counsel 1.

LEGAL ASSISTANT 1**MARCO A. BELOKU-SESAY – SIERRA LEONEAN**

7 years experienced in Criminal and Civil Procedures.

ROLE IN DEFENCE TEAM:

To conduct research on legal issues, case preparation and case analysis as directed by other team members.

LEGAL ASSISTANT 2**OSMAN KEH KAMARA – SIERRA LEONE**

3 years experience in Criminal & Civil Practice.

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To conduct research on legal issues, case preparation and case analyses as directed by other team members.

3 DESCRIPTION OF THE CASE

The indictment against the accused was confirmed on 7th March, 2003 on which said date the accused was arrested and transferred to the Special Court Detention facility in

Bonthe. At his initial appearances on the 15th March and 17th March, 2003 respectively before Judge Benjamin Mutanga Itoe, the accused pleaded not guilty of all Counts in the Indictment.

The Accused is charged on an indictment with the following crimes under the statute of the Special Court for Sierra Leone (the statute):-

COUNTS 1 – 2: TERRORISING THE CIVILIAN POPULATION AND COLLECTIVE PUNISHMENTS

COUNT 1: Acts of Terrorism, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II, Punishable under Article 3d of the statute.

COUNT 2: Collective punishments, a violation of Article 3 Common to the Geneva Conventions and of Additional Protocol II, Punishable under Article 3.b of the Statute.

COUNTS 3-5: - UNLAWFUL KILLINGS

COUNT 3: Extermination, a crime against humanity, punishable under Article 2b of the statute; in addition or in the alternative.

COUNT 4: Murder, a crime against humanity, punishable under article 2a of the statute,; in addition as in the alternative.

COUNT 5: Violence to life, health and physical or mental well-being of persons, in particular murder, a violation of article 3 common to the Geneva

Conventions and of additional protocol II, punishable under article 3a of the statute.

COUNTS 6 – 8 SEXUAL VIOLENCE

COUNT 6: Rape, a crime against humanity, punishable under Article 2g of the statute.

COUNT 7: Sexual slavery and any other form of sexual violence, a crime against humanity, punishable under article 2g of the statute; In addition or in the alternative.

COUNT 8: Outrage upon personal dignity, a violation of article 3 common to the Geneva Conventions and of addition protocol II. Punishable under article 3e of the statute.

COUNTS 9-10: PHYSICAL VIOLENCE

COUNT 9: Violence to life, health and physical or mental well-being of persons, in particular mutilation, a violation of Article 3 common to the Geneva Conventions and of additional protocol II, punishable under Article 3a of the statute; in addition, or in the alternative.

COUNT 10: Other inhuman acts, a crime against humanity punishable under article 2i of the statute.

COUNT 11: USE OF CHILD SOLDIERS

COUNT 11: Conscripting or enlisting children under the age of 5 years into armed forces or groups, or using them to participate actively in hostilities, or

other serious violation of International Humanitarian Law, Punishable under Article 4c of the statute.

COUNT 12: ABDUCTIONS AND FORCED LABOUR

COUNT 12: Enslavement, a crime against humanity, punishable under Article 2c of the statute.

COUNT 13: LOOTING AND BURNING

COUNT 13: Pillage, a violation of article 3 common to the Geneva Conventions and of additional protocol II, punishable under Article 3e of the statute.

COUNT 14 – 17: ATTACKS ON UNAMSIL PERSONEL

COUNT 14: Intentionally directing attacks against personnel involved in a humanitarian assistance or peacekeeping mission, or other serious violation of International Humanitarian Law punishable under Article 4.b of the statute; In addition , or in the alternative.

COUNT 15: For the unlawful killings, murder, a crime against Humanity, punishable under Article 2a of the statute; in addition, or in the alternative.

COUNT 16: Violence to life, health and physical or mental well-being of persons, in particular mutilation, a violation of Article 3 common to the Geneva Conventions and of additional protocol II, punishable under Article 3a of the statute; in addition, or in the alternative.

COUNT 17: For the abductions and holding as hostage, taking of hostages, a violation of article 3 common to the Geneva Conventions and of additional protocol II, punishable under Article 3c of the statute.

4. **NATURE OF THE DEFENCE**

No criminal liability for events described in the Indictment.

5. **NATURE OF THE WORK TO BE UNDERTAKEN AND TIMETABLE**
PRE-TRIAL PERIOD

STAGE ONE:- 14 April 2003 to September, 2003. Examining 153 Prosecution witnesses summary of statements by Lead Counsel requiring him to identify legal issues and devising case strategy for which he will spend the total of 200 hours. The Lead Counsel in co-ordinating the work of the defence team is required at this stage to obtain detailed instructions from the Accused by holding regular conferences with the Accused and to report result of such conferences at Counsel to Counsel meetings for which he will spend a total of 30 hours. Lead Counsel will consider drafting and filing two preliminary motions namely:- (a) Writ of Habeas Corpus ad Subjucendum application seeking the release of the Accused as he is not the proper person described in the Indictment and (b) A Bail application seeking a provisional release of the Accused since the trial is not expected to begin until around April 2004. Defence motion for Leave to Appeal against refusal for both Bail and Habeas Corpus. Perusal of Prosecution's Response and preparation of Defence written Reply. The total hours required for the preparation of these Motions' will be 60 hours. The Legal Assistant 2 will undertake substantial research of authorities which will be relevant in support of these Motions for which he will be required to spend 60 hours. The Lead Counsel

will be required to respond to any Prosecution Preliminary Motion such Motion includes Prosecution's Motion for Protective Measures for Witnesses and Victims for which he needs 40 hours. Preliminary Investigation into Potential Witnesses in Liberia, Sierra Leone, Ghana and the United Kingdom will be required of the Lead Counsel – 60 hours. Preparation and hearing of oral arguments before the Trial Chambers on the two (2) Motions will be conducted by the Lead Counsel for which he will be required to spend 30 hours.

| | | |
|--------------------------------------|---|------|
| Percentage of work for: Lead Counsel | - | 80% |
| Co-Counsel 1 | - | NONE |
| Co-Counsel 2 | - | NONE |
| Legal Assistant 1 | - | NONE |
| Legal Assistant 2 | - | 20% |

STAGE TWO: OCTOBER – DECEMBER 2003.

Investigative and Pre-Trial Stage:-

Detailed case preparation based on the allegations contained in the Prosecution's Witnesses Summary Statements will be required at this stage by Lead Counsel and Co-Counsel 1 for which 150 hours collectively is required. Further research by Legal Assistant 1 and Legal Assistant 2 will be necessary at this stage for which 80 hours collectively will be spent. Filing of additional Motions, preparation and hearing of Oral arguments before the Appeals Chamber on Preliminary Motions by Lead Counsel will be necessary at this stage – 30 hours. The Investigator will also at this stage be required to peruse the Prosecution Witness Summary Statements and have conferences with the Accused on allegations alleged against the Accused in those Statements for which he will be require to spend a total of 300 hours. The bulk of the investigation will take

place at this stage; the Investigator will undertake the task of identifying and interviewing witnesses and taking statements from them. Therefore at this stage the Investigator will be required to travel throughout Sierra Leone to interview potential factual witnesses. Analysis of evidence collection of relevant materials, further interviewing of witnesses drafting of Motions will be undertaken by Co-Counsel 1 based in UK – 25 hours. Where need be an expert in Military and Political disciplines/studies) from the UK or any other country will be instructed by Lead Counsel to advise on specific Military and Political issues and case strategy. Expert opinions may be required from additional expert witnesses in relevant areas. It is anticipated that the Lead Counsel will file Motions concerning, inter alia, subpoenaing State documents and other exculpatory material held in both local and foreign government archives, and material held in domestic and foreign press houses, radio stations, television networks and news web sites – 25 hours.

The Legal Assistants will conduct further research for case preparation directed by the Lead Counsel for they require 20 hours collectively..

Traveling to Sierra Leone by Co-Counsel 1 based in UK will be necessary at this stage. Preparation for the hearing before the Appeals Chamber if at all will involve further research and preparations and it is anticipated that the hearing will last approximately a week – 25 hours. Further travel to the provinces by the Investigator is envisaged – 30 hours.

| | | | |
|-------------------------|---------------|---|------|
| Percentage of work for: | Lead Counsel | - | 50% |
| | Co-Counsel | - | 30% |
| | Co-Counsel 1 | - | NONE |
| | Legal Asst. 1 | - | 10% |
| | Legal Asst. 2 | - | 10% |

STAGE THREE: - JANUARY TO FEBRUARY 2004

PREPARATION FOR TRIAL: - Travel by Co-Counsel 2 from France to Sierra Leone will be required at this stage. Further travel by the Investigator within Sierra Leone to ensure that witnesses are still available and willing to testify – 40 hours. The Investigator proposes to appoint a roving witnesses protection team during the investigating stage due to the sensitive nature of this case and the inevitable weight of media interest – provided by the Court.

It is envisaged that further trips to the Provinces by the Investigator will be required to contract further witnesses and conduct further research work – 80 hours.

Lead Counsel, Co-Counsel 1 and Co-Counsel 2 will be expected to draft further statements obtained from witnesses by the Investigator and prepare report of further conferences with the Accused and Witnesses for which they will spend collectively 150 hours.

During the trial stage, subject of course to the discretion of the Trial Chamber, the defence anticipates spending between 25 – 30 hours in court weekly, 30 – 35 hours on research and 10 hours conferences during proceedings, weekly.

As the trial commences more frequent conferences will be expected between Counsels and Accused, Accused and Investigator. Thirty (30) conferences are anticipated between Counsels and Accused. Accused and Investigator and Twenty-Five (25) conferences between Counsels. It is anticipated that further Pre-Trial Motions will be filed and it will be necessary to respond to any filed by the Prosecution – 20 hours. The Legal Assistants will be required to do extensive research on case law and relevant materials requiring 100 hours collectively.

the part

by the lead counsel

Considering the number of witnesses, statements and possible prosecution witnesses already indicated by the Prosecutor at disclosure, the defence is of the opinion that the trial itself will take 8 (eight) months from commencement. Further conferences will be required and extensive travel by the Investigator (and possibly Co-Counsel) is anticipated to obtain materials and rebutted evidence for use in cross-examination and in preparing the case for the defence. Further research and drafting of submissions on substantive legal and evidential issues are anticipated.

It is anticipated that substantial time will be spent after court everyday by the team based on the evidence that will be adduced by the Prosecution. The team will engage in preparing and conducting legal and factual research and conferring with the Accused. Witnesses will continue to be interviewed as fresh facts are adduced requiring further explanation during trial. The Investigator is to be retained on a full time basis.

| | | | |
|-------------------------|---------------|---|-----|
| Percentage of work for: | Lead Counsel | - | 30% |
| | Co-Counsel | - | 25% |
| | Co-Counsel 1 | - | 25% |
| | Legal Asst. 1 | - | 10% |
| | Legal Asst. 2 | - | 10% |

TRIAL PERIOD

STAGE ONE: MARCH TO JUNE 2004

It is anticipated that the Prosecution will close its case during the course of proceedings at this stage. Thereafter extensive research will be undertaken by the defence team for legal arguments in the likely event it is decided to file a motion of judgment of acquittal. In this event, Counsels would spend an additional 100 hours collectively and the Legal Assistants will collectively spend 50 hours on research and preparation for Motion and

Oral arguments. The Investigator is expected to spend approximately 200 hours over three months in undertaking the substantial task of collating documentary evidence and preparing testimonies for trial. In addition to time to be spent in court, it is anticipated that Counsel will conduct further conferences, final preparation of witnesses together with increased research work for possible legal arguments.

STAGE TWO: - JULY TO OCTOBER 2004

This stage will involve the final stages of the defence case together with preparation for closing statements; again, involving extensive research on the law and the totality of evidence adduced requiring Counsels to spend 120 hours collectively and the Legal Assistants 40 hours collectively.

6. CASE MANAGEMENT PROPOSALS

Pre-Trial rates and hours of work for Defence Team Members.

TEAM MEMBERS

STAGE ONE

| Team Member | Rates | Maximum Hours per stage | \$ |
|-------------------|-------|-------------------------|--------|
| If Applicable | | | |
| Lead Counsel | \$110 | 420 | 46,200 |
| Co-Counsel 1 | \$90 | NONE | NONE |
| Co-Counsel 2 | \$90 | NONE | NONE |
| Legal Assistant 1 | \$35 | NONE | NONE |
| Legal Assistant 2 | \$35 | 60 | 2,100 |
| Investigator | SSA | | |
| | | TOTAL | 48,300 |

STAGE TWO

| Team Member | Rates | Maximum Hours per stage | \$ |
|-------------------|-------|-------------------------|--------|
| If Applicable | | | |
| Lead Counsel | \$110 | 230 | 25,300 |
| Co-Counsel 1 | \$90 | 200 | 18,000 |
| Co-Counsel 2 | \$90 | NONE | NONE |
| Legal Assistant 1 | \$35 | 100 | 3,500 |
| Legal Assistant 2 | \$35 | 100 | 3,500 |
| Investigator | SSA | 30 | |
| | | TOTAL | 50,300 |

STAGE THREE

| Team Member | Rates | Maximum Hours per stage | \$ |
|-------------------|-------|-------------------------|--------------------------|
| If Applicable | | | |
| Lead Counsel | \$110 | 150 - 170 | 16,500 18,700 |
| Co-Counsel 1 | \$90 | 150 | 13,500 |
| Co-Counsel 2 | \$90 | 150 | 13,500 |
| Legal Assistant 1 | \$35 | 60 100 | 2,800 3,500 |
| Legal Assistant 2 | \$35 | 60 100 | 2,800 3,500 |
| Investigator | SSA | 60 | |
| | | TOTAL | 49,100 52,700 |

1571

TOTAL PROFESSIONAL FEES PER STAGE:

| STAGE NUMBER | PERIOD | |
|--|--|--------------------------------------|
| STAGE ONE | - APRIL 2003 TO SEPTEMBER 2003 | \$48,300 |
| STAGE TWO | - OCTOBER 2003 TO DECEMBER 2003 | \$50,300 |
| STAGE THREE | - JANURAY 2004 TO FEBRUARY 2004 <i>(Paris)</i> | \$49,100 <i>52,200</i> |
| TOTAL PROFESSIONAL FEES FOR PRE-TRIAL – 8 MONTHS | | -\$147,700 <i>151,300</i> |

TOTAL ADDITIONAL EXPENSES

| | | |
|--------------|--|------------|
| TRAVEL | - Co-Counsel 1 (One) London to Freetown | - \$1,500 |
| | Co-Counsel 2 (Two) Paris to Freetown | - \$1,500 |
| DLA | Co-Counsel 1 (One) - (\$115 x 4 days) | - \$ 460 |
| | Co-Counsel 2 (Two) - (\$115 x 4days) | - \$ 460 |
| Lead Counsel | (One trip) – Freetown, Europe, West Africa, Freetown | \$7,249.00 |

TOTAL ADDITIONAL EXPENSES - \$11,169.00

TOTAL FOR PRE-TRIAL - \$158,869 *162,469*

1572

TRIAL RATES AND HOURS OF WORKS FOR DEFENCE TEAM MEMBERS -
8 MONTHS

| Team Member | Rate per day in Court (Refresher) <i>Per G.M.C.E</i> | Rate for Additional preparation per day | Max Hours of Additional preparation per stage (3 months) | Total per Stage |
|---------------|---|---|--|---------------------------|
| If Applicable | | | If Applicable | |
| Lead Counsel | <i>60</i> \$ 500 x 120- | \$110 | <i>60</i> 220 | -\$84,200 - <i>36,600</i> |
| Co-Counsel 1 | \$ 350 x 60 <i>30</i> | \$90 | <i>60</i> 220 | -\$40,800 <i>15,900</i> |
| Co-Counsel 2 | \$ 350 x 60 <i>30</i> | \$90 | <i>60</i> 220 | -\$40,800 <i>15,900</i> |
| Legal Asst. 1 | | \$35 | <i>40</i> 80 | -\$2,800 <i>1,400</i> |
| Legal Asst. 2 | | \$35 | <i>40</i> 80 | -\$2,800 <i>1,400</i> |
| Investigator | | | | |
| | | | TOTAL | \$171,400- <i>71,200</i> |

TOTAL PROFESSIONAL FEES FOR TRIAL - 8 MONTHS - ~~\$171,400~~ *228,533* **189,866**

STAGE 3 *MARCH 2004 (PARTIAL)* *20,500* **23,733 - STAGE**

STAGE 4 *MAY 2004 - JUNE 2004* *85,700* **71,200 - STAGE**

TOTAL ADDITIONAL EXPENSES *85,700* **71,200 - STAGE**

STAGE 5 *JULY 2004 - SEPT 2004* *23,566* **23,733 - STAGE**

STAGE 6 *OCTOBER 2004 (PARTIAL)*

TRAVEL - CO-COUNSEL ONE - LONDON TO FREETOWN - \$1,500 x 4 = \$6,000

- CO-COUNSEL TWO - PARIS TO FREETOWN - \$1,500 X 4 = \$6,000

- DLA/DSA -- CO-COUNSEL ONE - \$12,075

- CO-COUNSEL TWO - \$12,075

LEAD COUNSEL TO UK - \$1,500 X 2 - \$3,000

DSA - \$334 X 6 days - \$2,004

TOTAL FOR TRIAL ~~\$200,554~~ **269** **TOTAL FOR TRIAL**

| | | | | |
|-------------------------|---|---------------|--------------------|---------|
| TOTAL FOR COMPLETE CASE | = | \$ 359,423.00 | 428,556 | 393,449 |
| PRE-TRIAL | = | \$ 158,869.00 | 102,429 | |
| TRIAL PERIOD | = | \$200,554.00 | 26,967 | 231,020 |

Prepared block fee on guilty plea
 (Compensation for early termination of Legal Service Contract)
 During Pre Trial - \$50,000
 During Trial - \$25,000

7. ASSUMPTIONS:

The above total amount is based on the assumption that trial ends in October 2004 and takes into consideration additional or exceptional expenses. Otherwise the total for complete case will fall under the capped figure of \$400,000. The figure is a rough estimate which will of course be subject to possible review on a regular basis depending on the progress of the case.

8. EXPERTS:

An expert in Military and Political disciplines/studies from the U.K. OR any other country will be consulted to advise on specific Military and Political issues on this case. The expert is expected to do at least 25 hours for the whole trial. Hourly rate to be confirmed by the Acting Chief of Defence Office.

1574

9. **Signature and Date of Submission**

| | | |
|------|-----------|------|
| Name | Signature | Date |
|------|-----------|------|

10. **Approval Decision**

Comments:

| | | |
|------------------------|-----------|------|
| The Principal Defender | Signature | Date |
|------------------------|-----------|------|

| | | |
|---------------------|-----------|------|
| Contracting Counsel | Signature | Date |
|---------------------|-----------|------|

EXHIBIT TAB 1575
8

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the final draft case plan referred to in paragraph (12) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB 8".

BEFORE ME
J.C.O. Haason - Taylor
Commissioner For
OATHS
A COMMISSIONER FOR OATHS

EXHIBIT TAB

J1576

**STRICTLY PRIVATE & CONFIDENTIAL
CASE PLAN
CASE NO: SCSL – 2003 – 06 – PT**

**PROSECUTOR -V- ALEX TAMBA BRIMA also known as
TAMBA ALEX BRIMA. (aka) GULLIT.**

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ASSIGNED COUNSEL

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Freetown.
Tel: 00232-22-222605, 00232-22-226662 and 00232-22-229972
Fax: Freetown 232-22-222605
E-mail – theodora @Sierratel. sl.

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11 Charlotte Street
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Tel: 00232-22-222605, 00232-22-226662 and 00232-22-229972
Fax: Freetown 232-22-222605
E-mail – theodora @Sierratel. sl.

PAY THROUGH:

**NATIONAL WESTMINSTER BANK PLC
CHEQUE CENTRE
5TH FLOOR PRIORY HOUSE
38 COLMORE CIRCUS
BIRMINGHAM, WESTMIDLANDS
B4 6DJ-UK**

ACCOUNT NAME: GUARANTY TRUST BANK (SL) LTD

US DOLLAR ACCOUNT NO: 08093954

GBP ACCOUNT NO: 04480929

SORT CODE: 60 00 04

FOR THE BENEFIT OF:

ACCOUNT: TERENCE MICHAEL TERRY

ACCOUNT NO: 2012881 2/1/0

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LEAD COUNSEL

Terence Michael Terry

Sierra Leonean – 28 years experience in Criminal Procedure, Civil Procedure, Constitutional Law, International Criminal Law and Human Rights Law.

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KARIM A. A. KHAN - BRITISH

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To analyse and prepare the case, to summarise the evidence, to identify legal issues in particular those of an International Criminal Law dimension, to prepare Legal applications, draft Legal Motions and to conduct advocacy in relation to International Criminal Law as appropriate, to prepare the case plan and stage plans if need be.

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NATACHA FAUVEAU IVANOVIC – FRENCH AND CROATIAN

13 years as Barrister, has served as Legal Counsel for several Humanitarian Organizations and she has vast experience in International Criminal and Humanitarian Laws.

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To conduct research on legal issues, case preparation and case analysis as directed by other team members.

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3 years experience in Criminal & Civil Practice.

ROLE IN DEFENCE TEAM:

To conduct research on legal issues, case preparation and case analyses as directed by other team members.

Percentage of work to be carried out by this team member: Pre-trial 80% and Trial 20%.

3. DESCRIPTION OF THE CASE:-

The indictment against the accused was confirmed on 7th March, 2003 on which said date the accused was arrested and transferred to the Special Court Detention facility in Bonthe. At his initial appearances on the 15th March and 17th March 2003 respectively before Judge Benjamin Mutanga Itoe, the accused pleaded not guilty of all Counts in the Indictment.

The Accused is charged on an indictment with the following crimes under the statute of the Special Court for Sierra Leone (the statute):-

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COUNT 2: Collective punishments, a violation OR Article 3 Common to the Geneva Conventions and of Additional Protocol II, Punishable under Article 3.b of the Statute.

COUNTS 3- 5: - UNLAWFULL KILLINGS

COUNT 3: Extermination, a crime against humanity, punishable under Article 2b of the statute; in addition as in the alternative.

COUNT 4: Murder, a crime against humanity, punishable under article 2a of the statute; in addition as in the alternative.

COUNT 5: Violence to life, health and physical or mental well-being of persons, in particular murder, a violation of article 3 common to the Geneva Conventions and of additional protocol II, punishable under article 3a of the statute.

COUNTS 6 – 8 SEXUAL VIOLENCE

COUNT 6: Rape, a crime against humanity, punishable under Article 2g of the statute.

COUNT 7: Sexual slavery and any other form of sexual violence, a crime against humanity, punishable under article 2g of the statute; In addition or in the alternative.

COUNT 8: Outrage upon personal dignity, a violation of article 3 common to the Geneva Conventions and of additional protocol II. Punishable under article 3e of the statute.

COUNTS 9-10: PHYSICAL VIOLENCE

COUNT 9: Violence to life, health and physical or mental well-being of persons, in particular mutilation, a violation of Article 3 common to the Geneva Conventions and of additional protocol II, punishable under Article 3a of the statute; in addition, as in the alternative.

COUNT 10: Other inhuman acts, a crime against humanity, punishable under article 2i of the statute.

COUNT 11: USE OF CHILD SOLDIERS

COUNT 11: Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities, on other serious violation of International Humanitarian Law, Punishable under Article 4c of the statute.

COUNT 12: ABDUCTIONS AND FORCED LABOUR

COUNT 12: Enslavement, a crime against humanity, punishable under Article 2c of the statute.

COUNT 13: LOOTING AND BURNING

COUNT 13: Pillage, a violation of article 3 common to the Geneva Conventions and of additional protocol II, punishable under Article 3e of the statute.

COUNT 14 – 17: ATTACKS ON UNAMSIL PERSONEL

COUNT 14: Intentionally directing attacks against personnel involved in a humanitarian assistance or peacekeeping mission, on other serious violation of International Humanitarian Law punishable under Article 4.6 of this statute; In addition, or in the alternative.

COUNT 15: For the unlawful killings, murder, a crime against Humanity, punishable under Article 2a. of the statute; in addition, or in the alternative.

COUNT 16: Violence to life, health and physical or mental well being of person, in particular murder, a violation of article 3 common to the Geneva Conventions and of Additional Protocol II, punishable under Article 3a of the statute; in addition, or in the alternative.

COUNT 17: For the abductions and holding as hostage, taking of hostages, a violation of article 3 common to the Geneva Conventions and of additional protocol II, punishable under Article 3c of the statute.

4. **NATURE OF THE DEFENCE**

No criminal liability for events described in the Indictment.

5. **NATURE OF THE WORK TO BE UNDERTAKEN AND TIMETABLE**

PRE-TRIAL PERIOD

STAGE ONE: -June 2003 to September 2003. Examining 153 Prosecution witnesses summary of statements by Lead Counsel requiring him to identify legal issues and devising case strategy for which he will spend the total of 200 hours. The Lead Counsel in co-ordinating the work of the defence team is required at this stage to obtain detailed instructions from the Accused by holding regular conferences with the Accused and to report result of such conferences at a Counsel to Counsel meetings for which he will spend a total of 30 hours. Lead Counsel will

consider drafting and filing two preliminary motions namely: (a) Writ of Habeas Corpus ad Subjucendum application seeking the release of the Accused as he is not the proper person described in the Indictment and (b) A Bail application seeking a provisional release of the Accused since the trial is not expected to begin until around April 2004. Defence motion for Leave to Appeal against refusal for both Bail and Habeas Corpus. Perusal of Prosecution's Response and preparation of Defence written Reply. The total hours required for the preparation of this Motions' will be 60 hours. The Legal Assistant 2 will undertake substantial research of authorities which will be relevant in support of these Motions for which he will be required to spend 60 hours. The Lead Counsel will be required to respond to any Prosecution preliminary Motion such Motion includes Prosecution's Motion for Protective Measures for Witness for which he needs 40 hours. Preliminary investigation into Potential Witnesses in Liberia, Sierra Leone, Ghana and the United Kingdom will be required of the Lead Counsel - 60 hours. Preparation and hearing of oral arguments before the Trial Chambers on the two (2) Motions will be conducted by the Lead Counsel for which he will be required to spend 30 hours.

| | | |
|--------------------------------------|---|------|
| Percentage of work for: Lead Counsel | - | 80% |
| Co-Counsel 1 | - | NONE |
| Co-Counsel 2 | - | NONE |
| Legal Assistant 1 | - | NONE |
| Legal Assistant 2 | - | 20% |

STAGE TWO: OCTOBER-DECEMBER 2003

Investigative and Pre-Trial Stage:-

Detailed case preparation based on the allegations contained in the Prosecution's Witnesses Summary Statements will be required at this stage by Lead Counsel and Co-Counsel 1 for which 150 hours collectively is required. Further research by Legal Assistant 1 and Legal Assistant 2 will be necessary at this stage for which 80 hours collectively will be spent. Filing of additional motions, preparation and hearing of oral arguments before the Appeals Chamber on Preliminary Motions will

be necessary at this stage. The Investigator will also at this stage be required to peruse the Prosecution Witness Summary Statements and have conferences with the Accused on allegations alleged against the Accused in those Statements for which he will be require to spend a total of 300 hours. That the bulk of the investigation will take place at this stage; the investigator will undertake the task of identifying and interviewing witnesses and taking statements from them. Therefore at this stage the investigator will be required to travel throughout Sierra Leone to interview potential factual witnesses. Analysis of evidence, collection of relevant materials, further interviewing of witnesses drafting of Motions will be undertaken by Co-Counsel 1 based in U.K – 25 hours. Where need be an expert in Military and Political Disciplines/Studies from the U.K. or any other country will be instructed by the Lead Counsel to advise on specific Military and Political issues and Case Strategy. Expert opinions may be required from additional expert witnesses in relevant areas. It is anticipated that the Lead Counsel will file motions concerning inter alia, subpoenaing State documents and other exculpatory material held in both local and foreign government archives, and material held in domestic and foreign press houses, radio stations, television networks and news web sites – 25 hours.

The Legal Assistants will conduct further research and preparation directed by the Lead Counsel for which they require 20 hours collectively.

Traveling to Sierra Leone by Co-Counsel 1 based in U.K will be necessary at this stage. Preparation for the hearing before the Appeals Chamber if at all will involve further research and preparations and it is anticipated that the hearing will last approximately a week – 25 hours. Further travel to the provinces is envisaged – 30 hours.

| | | | |
|-------------------------|-------------------|---|------|
| Percentage of work for: | Lead Counsel | - | 50% |
| | Co-Counsel 1 | - | 30% |
| | Co-Counsel 2 | - | NONE |
| | Legal Assistant 1 | - | 10% |
| | Legal Assistant 2 | - | 10% |

STAGE THREE: - JANUARY TO FEBRUARY 2004.

PREPARATION FOR TRIAL: Travel by Co-Counsel 2 from France to Sierra Leone will be required at this stage. Further travel by the Investigator within Sierra Leone to ensure that witnesses are still available and willing to testify – 40 hours.

It is envisaged that further trips to the Provinces by the investigator will be required to contact further witnesses and conduct further research work – 80 hours.

Lead Counsel, Co-Counsel 1 and Co-Counsel 2 will be expected to draft further statements obtained from witnesses by the investigator and prepare report of further conferences with the Accused and Witnesses for which they will spend collectively 150 hours.

It is anticipated that further Pre-trial Motions will be filed by Lead Counsel and it will be necessary to respond to any filed by the prosecution – 20 hours. The Legal Assistants will be required to do extensive research on case law and relevant materials requiring 100 hours collectively.

Considering the number of witnesses' statements and possible prosecution witnesses already indicated by the Prosecutor at disclosure, the defence is of the opinion that the trial itself will take eight (8) months from commencement. Further conferences will be required and extensive travel by the investigator (and possibly Co-Counsel) is anticipated to obtain materials and rebutted evidence for use in cross-examination and in preparing the case for the defence. Further research and drafting of submissions on substantive legal and evidential issues are anticipated.

It is anticipated that substantial time will be spent after court everyday by the team based on the evidence that will be adduced by the Prosecution. The team will engage in preparing and conducting legal and factual research and conferring with the Accused. Witnesses will continue to be interviewed as fresh facts are adduced requiring further explanation during trial. The Investigator is to be retained on a full time basis.

| | | | |
|-------------------------|-------------------|---|-----|
| Percentage of work for: | Lead Counsel | - | 30% |
| | Co-Counsel 1 | - | 25% |
| | Co-Counsel 2 | - | 25% |
| | Legal Assistant 1 | - | 10% |
| | Legal Assistant 2 | - | 10% |

TRIAL PERIOD

STAGE ONE: - APRIL TO JUNE 2004.

As the Trial commences more frequent conferences will be expected between Counsels and Accused, Accused and Investigator. Thirty (30) Conferences are anticipated between Counsels and the Accused, and Investigator and Twenty-five 25 hours conferences between Counsels.

During the trial stage, subject of course to the discretion of the Trial Chamber, the defence anticipates spending between 25 – 30 hours in court weekly, 30 – 35 hours on research and 10 hours conferences during proceedings, weekly

It is anticipated that the Prosecution will close its case during the course of proceedings at this stage. Thereafter extensive research will be undertaken by the defence team for legal arguments in the likely event it is decided to file a motion of judgment of acquittal. In this event, Counsels would spend an additional 100 hours collectively and the Legal Assistants will collectively spend 50 hours on research and preparation for motion and oral arguments. The investigator is expected to spend approximately 200 hours over three months in undertaking the substantial task of collating documentary evidence and preparing testimonies for trial. In addition to time to be spent in court, it is anticipated that Counsel will conduct further conferences, final preparation of witnesses together with increased research work for possible legal arguments.

STAGE TWO: - JULY TO OCTOBER 2004

This stage will involve the final stages of the defence case together with preparation for closing statements; again, involving extensive research on the law and the totality of evidence adduced requiring Counsels to spend 120 hours collectively and the Legal Assistants 40 hours collectively. Depending on the outcome of the case Counsels may be required to prepare grounds of appeal if so instructed by Accused after judgment at this stage.

6. CASE MANAGEMENT PROPOSALS

Pre-Trial rates and hours of work for Defense Team Members.

TEAM MEMBERS

STAGE ONE

| Team Member | Rate | Maximum Hours Per stage (4 months) | \$ |
|-------------------|-------|------------------------------------|-----------------|
| If Applicable | | | |
| Lead Counsel | \$110 | 420 | 46,200 |
| Co-Counsel 1 | \$90 | NONE | |
| Co-Counsel 2 | \$90 | NONE | |
| Legal Assistant 1 | \$35 | NONE | |
| Legal Assistant 2 | \$35 | 60 | 2,100 |
| Investigator | SSA | | |
| Total | | | \$48,300 |

STAGE TWO

| Team Member | Rate | Maximum Hours Per stage (3 months) | \$ |
|-------------------|-------|------------------------------------|-----------------|
| If Applicable | | | |
| Lead Counsel | \$110 | 230 | 25,300 |
| Co-Counsel 1 | \$90 | 200 | 18,000 |
| Co-Counsel 2 | \$90 | NONE | |
| Legal Assistant 1 | \$35 | 100 | 3,500 |
| Legal Assistant 2 | \$35 | 100 | 3,500 |
| Investigator | SSA | 30 | |
| Total | | | \$50,300 |

STAGE THREE

| Team Member | Rate | Maximum Hours Per stage (3 months) | \$ |
|-------------------|-------|---------------------------------------|-----------------|
| If Applicable | | | |
| Lead Counsel | \$110 | 170 | 18,700 |
| Co-Counsel 1 | \$90 | 150 | 13,500 |
| Co-Counsel 2 | \$90 | 150 | 13,500 |
| Legal Assistant 1 | \$35 | 100 | 3,500 |
| Legal Assistant 2 | \$35 | 100 | 3,500 |
| Investigator | SSA | | |
| Total | | | \$52,700 |

TOTAL PROFESSIONAL FEES PER STAGE:

| STAGE NUMBER | PERIOD | TOTAL |
|--------------|--|----------|
| STAGE ONE | - APRIL 2003 TO SEPTEMBER 2003 | \$48,300 |
| STAGE TWO | - OCTOBER 2003 TO DECEMBER 2003 | \$50,300 |
| STAGE THREE | - JANUARY 2004 TO FEBRUARY 2004 (PARTIAL) | \$52,700 |

TOTAL PROFESSIONAL FEES FOR PRE-TRIAL – 8 MONTHS - \$151,300

TOTAL ADDITIONAL EXPENSES

| | | |
|---------|---|------------|
| TRAVEL: | Co-Counsel 1 (One) London to Freetown - | \$1,500 |
| | Co-Counsel 2(Two) Paris to Freetown - | \$1,500 |
| DLA: | Co-Counsel 1(One) - (\$115 x 4 days) | \$460 |
| | Co-Counsel 2 (Two) - (\$115 x 4 days) - | \$460 |
| | Lead Counsel (one trip) – Freetown, Europe, West Africa, Freetown | \$7,249.00 |

TOTAL ADDITIONAL EXPENSES - \$11,169.00

TOTAL FOR PRE-TRIAL - \$162,469.00

TRIAL RATES AND HOURS OF WORKS FOR DEFENCE TEAM MEMBERS

STAGE ONE

| Team Member | Rate per day in Court (refresher) | Rate for Additional preparation per day | Max Hours of additional preparation per stage (3 months) | Total per Stage |
|-------------------|-----------------------------------|---|--|------------------|
| If Applicable | | | If applicable | |
| Lead Counsel | \$500 x 60 | \$110 | 60 | \$36,600 |
| Co-Counsel 1 | \$350 x 30 | \$ 90 | 60 | \$15,900 |
| Co-Counsel 2 | \$350 x 30 | \$90 | 60 | \$15,900 |
| Legal Assistant 1 | | \$35 | 40 | \$ 1,400 |
| Legal Assistant 2 | | \$ 35 | 40 | \$ 1,400 |
| Investigator | | | | |
| SSA | | | | |
| Total | | | | \$ 71,200 |

TOTAL PROFESSIONAL FEES PER STAGE

STAGE NUMBER PERIOD

| | | | | |
|-------------|---|----------------------------|---|----------|
| STAGE THREE | - | MARCH 2004 (PARTIAL) | - | \$23,733 |
| STAGE FOUR | - | APRIL 2004 to JUNE 2004 | - | \$71,200 |
| STAGE FIVE | - | JULY 2004 – SEPTEMBER 2004 | - | \$71,200 |
| STAGE SIX | - | OCTOBER 2004 (PARTIAL) | - | \$23,733 |

TOTAL PROFESSIONAL FEES FOR TRIAL 7 MONTHS - \$189,666

TOTAL ADDITIONAL EXPENSES

| | | |
|--|----------------------|---------------------|
| TRAVEL – CO-COUNSEL ONE – LONDON to FREETOWN - | \$1,500 x 4 = | \$6,000 |
| - CO-COUNSEL TWO – PARIS to FREETOWN - | \$1,500 x 4 = | \$6,000 |
| - DLA/DSA – CO-COUNSEL ONE | - | \$12,075 |
| - CO-COUNSEL TWO | - | \$12,075 |
| LEAD COUNSEL to U.K. - | \$1,500 x 2 | \$3,000 |
| DLA/DSA in U.K. | DSA - \$334 x 6 days | \$2,004 |
| | | \$41,454 |
| TOTAL FOR TRIAL | | \$231,020.00 |
| TOTAL FOR COMPLETE CASE | = | \$393,449.00 |
| PRE-TRIAL PERIOD | = | \$162,469 |
| TRIAL PERIOD | = | \$231,020 |

Proposed block fee on guilty plea
(Compensation for early termination of Legal Service Contract)
During Pre-Trial \$50,000
During Trial \$25,000

7. ASSUMPTIONS:

The above total amount is based on the assumption that trial ends in October 2004 and takes into consideration additional or exceptional expenses. Otherwise the total for complete case will fall under the capped figure of \$400,000. This figure is a rough estimate which will of course be subject to possible review on a regular basis depending on the progress of the case.

8. EXPERTS:

An expert in military and political disciplines/studies from the U.K. OR any other country will be consulted to advise on specific military and political issues on this case. The expert

is expected to do at least 25 hours for the whole trial. Hourly rate to be confirmed by the Acting Chief of Defence Office.

9. **Signature and Date of Submission:**

| Name | Signature | Date |
|------|-----------|------|
|------|-----------|------|

10. **Approval Decision**

Comments:

| The Principal Defender | Signature | Date |
|------------------------|-----------|------|
|------------------------|-----------|------|

| Contracting Counsel | Signature | Date |
|---------------------|-----------|------|
|---------------------|-----------|------|

EXHIBIT TAB

15971
9

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the final draft stage plan referred to in paragraph (12) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB 9".

BEFORE *J. C. O. Johnson - Taylor*
J. C. O. Johnson - Taylor
Commissioner For
OATHS
*
S. O. M. A. S. S. I. O. N. E. S. I. E. R. R. A. L. E. O. N. E.
A COMMISSIONER FOR OATHS.

EXHIBIT TAB 9.1592

**STRICTLY PRIVATE & CONFIDENTIAL
STAGE PLAN
CASE NO: SCSL-2003-06-PT**

**PROSECUTOR-VS-ALEX TAMBA BRIMA also known as TAMBA ALEX
BRIMA (aka) GULLIT**

This stage plan is strictly confidential save as between the Defence office and Contracting/Assigned Counsel and, upon written request, the Registrar and the Judges.

This stage plan will be regularly reviewed and updated to reflect stage developments.

1. STAGE PLAN NUMBER: 2003
2. Start/Termination Dates: April 2003 - December, 2003
3. Phase of the proceedings: (a) Pre-Trial - April to December 2003
TRIAL – MARCH 2004 – OCTOBER 2004
(b) MARCH 2004 – OCTOBER 2004
4. CASE MANAGER: TERENCE MICHAEL TERRY
5. TEAM MEMBERS, ROLE WITHIN THE TEAM, HOURLY RATE CHARGED AND HOURS ALLOCATION FOR THE STAGE:-

PHASE I – APRIL – JULY, 2003

| Name | Nationality | Role | Rate | Hours Allocation |
|--------------------------|-------------------|----------------|-------|------------------|
| Terence M. Terry | Sierra Leonean | Lead Counsel | \$110 | 286 |
| Karim A.A. Khan | British | Co-Counsel I | \$90 | - |
| Natacha Fauveau Ivanovic | French & Croatian | Co-Counsel II | \$90 | - |
| Marco A. Beloku-Sesay | Sierra Leonean | Legal Asst. I | \$35 | |
| Osman Keh Kamara | Sierra Leonean | Legal Asst. II | \$35 | 74 |
| Mohamed Dumbuya | Sierra Leonean | Investigator | SSA | - |

COSTS OF PHASE - I \$34,054

PHASE II – AUGUST – DECEMBER, 2003

| Name | Nationality | Role | Rate | Hours Allocation |
|--------------------------|-------------------|----------------|-------|------------------|
| Terence M. Terry | Sierra Leonean | Lead Counsel | \$110 | 311 |
| Karim A.A. Khan | British | Co-Counsel I | \$80 | 240 |
| Natacha Fauveau Ivanovic | French & Croatian | Co-Counsel II | \$80 | 200 |
| Marco A. Beloku-Sesay | Sierra Leonean | Legal Asst. I | \$35 | 150 |
| Osman Keh Kamara | Sierra Leonean | Legal Asst. II | \$35 | 150 |
| Mohamed Dumbuya | Sierra Leonean | Investigator | SSA | 200 |

COSTS OF PHASE – II - \$88,310**LEAD COUNSEL****TERENCE M. TERRY**

Sierra Leonean. Basically to head the defence team and essentially to designate the respective role of each member of the defence team, in collaboration with Co-Counsel, to evaluate and analyse the case and where need be to embark upon strategic decisions relating to the case and to embark upon and conduct a considerable part of the advocacy that will be involved throughout in these proceedings. The hourly rate charged for this member is \$110

CO-COUNSEL - 1**KARIM A. A. KHAN**

British. His role in the team is to analyse the case, summarise the evidence, identify legal issue in particular those of an International Criminal Law dimension, prepare legal applications, draft legal Motions, conduct some of the advocacy in relation to International Criminal Law as appropriate. The hourly rate charged for this member is \$90

CO-COUNSEL - 2**NATACHA FAUVEAU IVANOVIC**

French & Croatian. Her role in the team is to analyze the case, summarise the evidence, identify legal issues in particular those of an International Criminal Law dimension, draft Legal Motions, conduct some of the advocacy in relation to International Criminal Law as appropriate. The hourly rate charged for this member is \$90.

LEGAL ASSISTANT - I**MARCO A. BELOKU SESAY**

Sierra Leonean. His role in the team is to conduct research of cases and legal issues relevant to these proceedings. The hourly rate charged for this member is \$35.

LEGAL ASSISTANT - 2**OSMAN KEH KAMARA**

Sierra Leonean. His role in the team is to conduct research of cases and legal issues relevant to these proceedings. The hourly rate charged for this member is \$35.

INVESTIGATOR

MOHAMED DUMBUYA – Retired Detective Inspector of the Sierra Leone Police Force.

Sierra Leonean. His role in the team is to identify and interview potential witnesses for the accused. This he will do by taking statements and will be required to travel to such areas of Sierra Leone as may necessary and obtain rebuttal and exculpatory evidence. The fees for the Investigator will be paid on a monthly basis by the Defence office. The hourly allocation for the Investigator is 600.

6. A. FAMILIARIZATION WITH THE HISTORY AND BACKGROUND TO THE CONFLICT

The nature of the alleged crimes contained in the indictment against the Accused and their context requires that at least the core team members – Lead Counsel, Co-Counsel I and Co-Counsel II will do extensive research to help them become thoroughly familiar with the political background to this long and complicated conflict.

B. STAGE ONE: APRIL 2003 TO JULY 2003

Lead Counsel visited the Accused at the Special Court Detention Facility in Bonthe, Southern Province of the Republic of Sierra Leone - 8 hours. Legal Assistant II also visited the Accused at the Special Court Detention Facility in Bonthe on two other occasions - 16 hours.

Lead Counsel received, perused and responded to the Prosecution Motion for immediate protective measures for Witnesses and Victims and for non-public disclosure - 40 hours. Lead Counsel received and perused Prosecution reply to Defence response to Prosecution Motion for immediate protective measures for Witnesses and Victims and for non-public disclosure - 5 hours.

Lead Counsel received, perused and responded to the Prosecution Motion captioned "Prosecution extremely urgent motion to allow disclosure to the Registry and to keep disclosed material under seal until appropriate measure are in place" – 35 hours. Lead Counsel received and perused Prosecution reply to Defence response to Prosecution Motion "Prosecution extremely urgent motion to allow disclosure to the Registry and to keep disclosed material under seal until appropriate measure are in place" 5 hours. Lead Counsel upon disclosure received 153 Prosecution witnesses summary statements – 3 hours. Lead Counsel prepared and filed two Pre-Trial Motions with their supported affidavits namely: Defence Motion for Leave to issue a Writ of Habeas Corpus ad Subjiciendum as well as for the Order of the Writ of Habeas Corpus ad Subjiciendum pursuant to Rule 54 of the Rules of Procedure and Evidence of the Special Court and Defence Motion

for Bail or Provisional Release of the Accused pursuant to Rule 65 of the Rules of Procedure and Evidence of the Special Court – 60 hours. Lead Counsel received perused and replied to Prosecution responses in respect of the above-mentioned Motions – 45 hours. Further visit by Legal Assistant II, a Commissioner for Oaths and a Witness interpreter to the Accused at the Special Court Detention facility at Bonthe for him to thumb print the affidavits in Support of the above two Motions – 8 hours.

Lead Counsel prepared and filed two Memoranda or brief arguments for the two Motions and conducted oral arguments at the Bonthe Court house in Bonthe – 30 hours. Relevant research for cases and relevant authorities for both Motions was done by the Legal Assistant two – 50 hours.

Lead Counsel traveled to Europe and West Africa to contact Co-Counselors and an international investigator.

Lead Counsel attended the occasion of the delivering of the Rulings on the above two Motions – 5 hours.

Total time allocated by Lead Counsel at this stage was 286 hrs and Legal Assistant two was 74 hours.

STAGE TWO - AUGUST TO DECEMBER, 2003

Lead Counsel received and perused the Rulings on the Bail or Provisional Release and the Habeas Corpus ad Subjiciendum Motions – 2 hours. Due to delay but not of willful non-compliance to appeal against the Rulings within time, Lead Counsel filed two applications for extension of time for leave to be granted to appeal against the two Rulings of Judge Benjamin Mutanga Itoe of 22nd July, 2003 in which said Rulings he refused the Reliefs Sought – 20 hours.

Lead Counsel received, perused and responded to the Prosecution Motion for joinder – 50 hours.

Lead Counsel received, perused and replied to the Prosecution Responses opposing the grants of extension of time to defence Applications – 35 hours.

Co-Counsel 1 traveled to Sierra Leone and had two conferences with the Accused and then attend Court for the hearing of the Prosecution Motion for joint trial of the Accused with five other Accused persons – 4 hours.

Lead Counsel and Co-Counsel 1 (one) Co-Counsel 2 (two) and the investigator are presently perusing and analyzing about 265 Prosecution Witnesses Summary Statements – 200 hours collectively. The Legal Assistants are researching for the necessary authorities for the trial – 150 hours collectively.

- | | | |
|-----|---|------------------|
| 7. | Total Professional Fee Costs: | \$124,324 |
| 8. | Total Travel Expenses and DLA: | \$ 1,960 |
| 9. | Total Cost of Proposed Stage Plan: | \$124,324 |
| 10. | Banking Details: | |

Bank Name: PAY THROUGH:

**NATIONAL WESTMINSTER BANK PLC
CHEQUE CENTRE
5TH FLOOR PRIORY HOUSE
38 COLMORE CIRCUS
BIRMINGHAM, WESTMIDLANDS
B4 6DJ-UK**

ACCOUNT NAME: GUARANTY TRUST BANK (SL) LTD

US DOLLAR ACCOUNT NO: 08093954

GBP ACCOUNT NO: 04480929

SORT CODE: 60 00 04

FOR THE BENEFIT OF:

ACCOUNT: TERENCE MICHAEL TERRY

ACCOUNT NO: 2012881 2/1/0

11. **Signature and Date of Submission:**

| | | |
|------|-----------|------|
| Name | Signature | Date |
|------|-----------|------|

12. **Approval Decision:**

Comments:

| | | |
|------------------------|-----------|------|
| The Principal Defender | Signature | Date |
|------------------------|-----------|------|

| | | |
|---------------------|-----------|------|
| Contracting Counsel | Signature | Date |
|---------------------|-----------|------|

EXHIBIT "TAB" 10¹⁵⁹⁹

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Directive on the assignment of Counsel of the Special Court for Sierra Leone referred to in paragraph (13) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB10".

BEFORE ME Taylor
Commissioner For
Sierra Leone
A COMMISSIONER FOR OATHS.

EXHIBIT TAB 1600
10"

0

SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +39 0831 257000 or +232 22 297000 or +1 212 963 9915 Ext:178 7000

FAX: +39 0831 257001 or +232 22 297001 or +1 212 963 9915 Ext: 178 7001

DIRECTIVE ON THE ASSIGNMENT OF COUNSEL

PREAMBLE

The Registrar of the Special Court for Sierra Leone,

Considering the rights guaranteed all individuals appearing before the Special Court for Sierra Leone under Article 17 of the Statute of the Special Court for Sierra Leone, in particular the right to counsel, and the rights of a suspected or accused person or detainee under international law;

Considering the Rules of Procedure and Evidence of the Special Court for Sierra Leone adopted pursuant to Article 14 of the Statute of the Special Court for Sierra Leone on 7 March 2003, and as subsequently amended, and in particular Rules 44, 45, 45 *bis* and 46;

Considering the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone signed in Freetown on 16 January 2002; and

Considering the Statute of the Special Court for Sierra Leone annexed to that Agreement;

Issues this Directive laying down the conditions and arrangements for the assignment of Defence Counsel to an Accused or Suspect.

PART I: BASIC PRINCIPLES

Article 1: Use of Terms

(A) For the purposes of this Directive the following terms are defined as:

Accused: Any individual against whom an indictment of the Special Court for Sierra Leone has been confirmed in accordance with Rule 47 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone.

Agreement: The Agreement between the United Nations and the Government for Sierra Leone on the Establishment of the Special Court for Sierra Leone signed in Freetown on 16 January 2002.

Assigned Counsel: An individual licensed or otherwise permitted to practice law in any State who has been engaged, in accordance with this Directive, to provide legal services to a Suspect or Accused before the Special Court for Sierra

Leone, either by virtue of having been provisionally assigned to a Suspect or Accused or by virtue of having entered into a Legal Services Contract with the Principal Defender.

| | |
|--------------------------------|--|
| Contract Specification: | The Special Court for Sierra Leone Contract Specification as Issued by the DOSCSL on [date] and as amended. |
| Contracting Counsel: | Counsel entering into a Legal Services Contract with the Principal Defender and who is responsible for supervising the provision of all services to a Suspect or Accused before the Special Court for Sierra Leone by the Defence Team. |
| Counsel: | An individual licensed or otherwise permitted to practice law in any State, as defined in Rule 44 and 45 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone. |
| Defence Office: | The office set up by the Registrar of the Special Court for Sierra Leone pursuant to Rule 45 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone responsible for ensuring the rights of Suspects and Accused. |
| Defence Team: | The individuals providing services to a Suspect or Accused in accordance with a Provisional Assignment Agreement or Legal Services Contract described in Article 17 of this Directive. |
| Lead Counsel: | The individual appointed by the Assigned Counsel to lead the defence of the Accused at Trial and who possesses more than 15 years of experience. |
| Legal Services Contract: | The agreement between Contracting Counsel and the Principal Defender for the representation of a Suspect or Accused before the Special Court for Sierra Leone outlined in Article 17 of this Directive. |
| List of Qualified Counsel: | The list contemplated by Rule 45(C) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone and kept by the Principal Defender for the purposes of assigning counsel to Suspects or Accused. |
| President: | The President of the Special Court for Sierra Leone elected pursuant to Article 12(3) of the Statute of the Special Court for Sierra Leone and exercising the functions set out in Part III, Section 2 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone. |
| Principal Defender: | The head of the Defence Office of the Registry described in Rule 45 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone. |
| Provisional Assignment period: | The period after the assignment of Counsel to a Suspect or Accused in accordance with this Directive and before agreement to the Legal Services Contract between the Contracting Counsel for the Suspect or Accused and the Principal Defender. |
| Provisional Assignment | The agreement between Assigned Counsel and the Principal Defender for the representation of a Suspect or Accused during provisional assignment. |

Agreement:

- Registrar: The head of the Registry of the Special Court for Sierra Leone as set out in Article 16 of the Statute of the Special Court for Sierra Leone and exercising the functions set out in Part III, Section 5 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone.
- Rules: The Rules of Procedure and Evidence of the Special Court for Sierra Leone as approved by the Special Court for Sierra Leone at its first Plenary Session on 7 March 2003 and as subsequently amended.
- Special Court: The Special Court for Sierra Leone established by the Agreement between the United Nations and the Government of Sierra Leone on 16 January 2002 and the Special Court Agreement, 2002 Ratification Act, 2002.
- Statute: The Statute of the Special Court for Sierra Leone as amended.
- Suspect: Any individual held under the authority Rules 40 or 40 *bis* of the Rules of Procedure and Evidence of the Special Court for Sierra Leone.

- (B) The masculine shall include the feminine and the singular the plural and vice-versa.

Article 2: Right to Counsel

- (A) Any person detained on the authority of the Special Court has the right to Counsel.
- (B) All references in this Directive to Suspects or Accused shall also be understood to apply to any persons detained on the authority of the Special Court.

Article 3: Right to Counsel if Indigent

If a Suspect or Accused cannot engage counsel by his own means and he wishes to be represented by counsel, he shall be assigned a Counsel in accordance with this Directive.

Article 4: Indigence and Partial Indigence

- (A) A person shall be considered to be indigent if he does not have the means to engage Counsel of his choice to represent him at proceedings before the Special Court.
- (B) A person shall be considered to be partially indigent if he does not have sufficient means to engage Counsel of his choice to represent him at proceedings before the Special Court but has means to contribute to the payment of Counsel for such representation.

PART II: PROCEDURE FOR THE ASSIGNMENT OF COUNSEL

Article 5: Request for Assignment of Counsel

Subject to the provisions of Article 16, a Suspect or Accused who wishes to be assigned a Counsel shall make a request to the Defence Office by means of the appropriate form established by the Principal Defender in consultation with the Registrar. A request shall be lodged with the Defence Office, or transmitted to it, by the Suspect or Accused himself or by a person authorised by him to do so on his behalf.

Article 6: Applicant's Financial Situation

(A) A Suspect or Accused who requests the assignment of Counsel, must fulfil the requirement of indigence or partial indigence defined in Article 4 in order to have Counsel assigned to him.

(B) In order to determine whether the Suspect or Accused is indigent or partially indigent, there shall be taken into account means of all kinds of which he has direct or indirect enjoyment or freely disposes, including any family or social benefits to which he may be entitled. In assessing such means, account shall also be taken of the means of the spouse of a Suspect or Accused, as well as those of persons with whom he habitually resides.

(C) Account shall also be taken of the apparent lifestyle of a Suspect or Accused, and of his enjoyment of any property, movable or immovable, and whether or not he derives income from it.

Article 7: Declaration of Means

(A) For the purposes of Article 6, the Principal Defender shall invite a Suspect or Accused requesting the assignment of counsel to make a declaration of his means on the appropriate form established by the Principal Defender in consultation with the Registrar.

(B) Any information about a Suspect or Accused's financial situation shall be kept confidential by the Principal Defender and members of the Defence Office but the foregoing shall not prevent the Principal Defender or individuals acting under his authority from investigating the declaration of means or gathering information about the Suspect or Accused for the purposes of Article 9.

Article 8: Investigation

For the purpose of establishing whether the Suspect or Accused satisfies the requisite conditions for assignment of Counsel, the Principal Defender may request the gathering of any information, hear the Suspect or Accused, consider any representation, or request the production of any documents, in whatever form, likely to support the request.

Article 9: Decision by the Principal Defender

(A) After examining the declaration of means laid down in Article 7 and relevant information obtained pursuant to Article 8, the Principal Defender shall determine if the Suspect or Accused is indigent, partially indigent or not, and shall decide:

- (i) in the case of an indigent Suspect or Accused but without prejudice to Article 24, either provisionally to assign counsel and, after consultation with the Suspect or Accused, choose for this purpose a name from the List of Qualified Counsel; or
- (ii) in the case of a partially indigent Accused or Suspect but without prejudice to Article 24, provisionally to assign Counsel upon the Accused or Suspect paying such amount at such times as the Principal Defender may demand from the Accused or Suspect in trust for the payment of Counsel and, after consultation with the Suspect or Accused, to choose for this purpose a name from the List of Qualified Counsel in which case the decision shall be accompanied by a written explanation giving reasons for the demand; or
- (iii) not to grant the request for assignment of Counsel, in which case the decision shall be accompanied by a written explanation giving reasons therefore.

(B) To ensure that the right to counsel is not affected while the Principal Defender examines the declaration of means laid down in Article 7 and the information obtained pursuant to Article 8, the Principal Defender may assign counsel provisionally in accordance with Article 17 for a period not exceeding 90 days.

Article 10: Assignment of Counsel in the Interests of Justice

Without prejudice to Article 24, the Principal Defender may assign Counsel to a Suspect or Accused in the interests of justice in accordance with Rule 45(C) of the Rules regardless of whether a Suspect or Accused has complied with Articles 5 to 9 of this Directive.

Article 11: Notification of the Decision

(A) The Principal Defender shall notify the Suspect or Accused of his decision whether or not provisionally to assign Counsel or to demand payment in accordance with Article 9(A)(ii).

(B) The Principal Defender shall also notify the Assigned Counsel of his decision.

Article 12: Remedy Against a Decision Not to Assign Counsel

(A) The Suspect or Accused whose request for assignment of counsel has been denied or who is subject to a demand under Article 9(A)(ii) may bring a Preliminary Motion before the Trial Chamber objecting to the Principal Defender's decision in accordance with Rule 72(B)(iv) of the Rules.

(B) The Suspect or Accused whose request for assignment of Counsel has been denied or who is subject to a demand under Article 9(A)(ii) shall be informed of his right to seek review of the decision of the Principal Defender and, should he seek such review, shall be assisted by Duty Counsel in pursuing such review.

Article 13: Placement of Counsel on the List of Qualified Counsel

(A) Any person may be assigned as Counsel if his name appears on the list maintained by the Principal Defender in accordance with Rule 45(C) and the Principal Defender has determined he is available to deal with the case of a particular Accused or Suspect.

(B) To be eligible to be included by the Principal Defender in the List of Qualified Counsel an individual must have the following qualifications:

- (i) speak fluent English;
- (ii) be admitted to the practice of law in any State;
- (iii) have at least 7 years of experience as Counsel;
- (iv) possess reasonable experience in criminal law, international law, international humanitarian law or international human rights law;
- (v) have indicated their willingness and availability to be assigned by the Special Court to an Accused or Suspect; and
- (vi) have no record of professional or other misconduct, which may include criminal convictions.

(C) Before being considered by the Principal Defender for inclusion on the List of Qualified Counsel applicant Counsel shall file:

- (i) A duly completed Application Form for Defence Counsel wishing to be considered by the Registrar for assignment to indigent Suspects or Accused;
- (ii) Proof of current qualification to practice law in any State which shall include copies of a certificate of registration with a bar association, a certificate of admission to the practice of law, a certificate of current practice or good standing and the highest law degree obtained;
- (iii) A detailed *curriculum vitae* showing qualification for the List of Qualified Counsel in accordance with (B) above and setting out, among other things, all degrees awarded and all criminal, human rights and international law experience;
- (iv) The names and addresses of two referees, including contact information for the referees;
- (v) A photocopy of passport or other valid identification;
- (vi) A letter setting out applicant counsel's schedule for eighteen months from the date of application and stating, as much as possible, his availability to represent an Accused or Suspect within that time period;

- (vii) Upon request, a copy of the code(s) of professional conduct from the jurisdiction(s) in which the applicant counsel is admitted to practice;
- (D) The Principal Defender may verify Counsel's qualification for the List of Qualified Counsel by any means including, but not limited to,
- (i) seeking original or certified copies of documents submitted;
 - (ii) consulting referees provided by the applicant counsel;
 - (iii) interviewing the applicant counsel; or
 - (iv) demanding such other information from the applicant counsel or other parties as the Principal Defender deems necessary to assess counsel's qualification for the List of Qualified Counsel.
- (E) Where the Principal Defender refuses to place the name of an applicant Counsel on the List of Qualified Counsel the Principal Defender shall notify counsel of his decision in writing and briefly set out his reasons for refusing to include the name of the applicant Counsel on the list.
- (F) Where the Principal Defender refuses to place counsel's name on the List of Qualified Counsel, the applicant Counsel may seek review by the Registrar of the Principal Defender's refusal. An application for review shall be in writing and the Principal Defender shall be given the opportunity to respond to it in writing.

Article 14: Scope of the Assignment

- (A) The scope of the assignment of Counsel shall be set out in the Legal Services Contract signed between Contracting Counsel and the Principal Defender.
- (B) Each indigent or partially indigent Suspect or Accused shall be entitled to have one Defence Team assigned to him.
- (C) No Counsel shall be assigned to more than one Suspect or Accused unless the concerned Suspects or Accused have received independent legal advice and have waived their right to be represented by separate Counsel. [Is this sufficient? Discuss in light of possible requests for representation of multiple Accused and conflict of interest]
- (D) The Legal Services Contract may provide for the appointment, as part of the Defence Team, of Counsel to assist the Assigned Counsel in appearances before the Special Court.
- (E) Under the authority of Assigned Counsel, who has primary responsibility for the Defence, other Counsel may deal with any appearance before the Special Court. The Assigned Counsel shall sign all the documents submitted to the Special Court unless he authorises co-Counsel, in writing, to sign on his behalf.
- (F) Any reference to Counsel in this Directive shall apply to both the Lead Counsel and the co-Counsel.

Article 15: Assignment of Counsel Away from the Seat of the Tribunal

[Suggest that all this Article be taken out as covered by Rule 45 (A)]

- (A) Away from the seat of the Tribunal, and in a case of urgency, a Suspect who, during the investigation, requests assignment of Counsel, may indicate the name of Counsel if he knows one who may be assigned provisionally in accordance with this Directive.
- (B) Where the Suspect fails to indicate a name, and none of the Counsel on the list maintained by the Principal Defender resides in the area or the country in question, the Principal Defender or a person authorised by him or acting under his direction, may contact the local Bar Association and obtain the name of Counsel who may be assigned in accordance with the provisions of this Directive.
- (C) In the situations envisaged in paragraphs (A) and (B), the procedure for assignment of Counsel as set out in this Directive shall apply *mutatis mutandis* but shall be accelerated where necessary.

Article 16: Applicable Law

In the performance of their duties assigned counsel shall be subject to the relevant provisions of the Statute, of the Agreement, of the Rules, of any other rules, regulations or Codes of Conduct adopted by the Special Court, of the Host Country Agreement, of this Directive and of the codes of practice and ethics governing their profession.

PART III: PAYMENT OF COUNSEL**Article 17: Provisional Assignment Agreement and Legal Services Contract**

- (A) No Counsel or any other member of the Defence Team shall be paid for any service to a Suspect or Accused or expense incurred in the course of representing a Suspect or Accused except in accordance the Provisional Assignment Agreement referred to in (B) below, the Legal Services Contract and with the Contract Specification referred to in (C) below or by the written authorization of the Principal Defender in consultation with the Registrar.
- (B) Upon assignment Counsel and the Principal Defender shall agree upon the terms of payment for the period of the Counsel provisional assignment and the length of that provisional assignment. Provisional assignment shall cease upon agreement to a Legal Services Contract.
- (C) Counsel and the Principal Defender shall agree upon the terms of the Legal Services Contract as soon as practicable after assignment. If Counsel and the Principal Defender cannot agree upon the terms of a Legal Services Contract within 90 days of provisional assignment of Counsel, the provisional assignment of Counsel may be withdrawn by the Principal Defender and other Counsel shall be assigned to the Suspect or Accused.
- (D) The Legal Services Contract shall be in accordance with the Contract Specification and shall include agreement as to

- (i) the members of the Defence Team;
 - (ii) the amounts to be paid to Lead Counsel, co-Counsel, legal assistants, or other specified members of the Defence Team for their work for the Accused or Suspect;
 - (iii) any consultation with experts necessary for the defence of the Suspect or Accused and the amount authorized for the retainer of such expert or experts by the Defence Team;
 - (iv) any other categories of expenses, including travel costs or Daily Living/Subsistence Allowances (DLA/DSA), for which the Principal Defender will pay Counsel or other members of the Defence Team;
 - (v) tasks which the Defence Team must complete in order to represent the Suspect or Accused and the dates upon which such tasks must be completed;
 - (vi) the period during which the Legal Services Contract shall have effect; and
 - (vii) when payments under the Legal Services Contract or for travel expenses and DLA/DSA shall be made.
- (E) The Legal Services Contract may include agreement as to any other aspect of the representation of an Accused or Suspect by Counsel or other members of the Defence Team.
- (F) The Principal Defender may require that the membership of the Defence Team include individuals with qualifications the Principal Defender deems necessary for the competent defence of a particular Suspect or Accused.

Article 18: Statement of Remuneration

(A) Subject to the provisions of Article 24 and the Contract Specification, payment according to a Provisional Assignment Agreement shall be made in accordance with the Agreement or the Decision on the Provisional Assignment of Counsel and as soon as practicable. Payment under the Legal Services Contract, including travel expenses and DLA/DSA, shall be made in accordance with the terms set out in this Directive, the Legal Services Contract and the Contract Specification.

(B) When required by the Principal Defender, the Contract Specification or the Legal Services Contract, Counsel shall provide as much information as possible, including the nature of the services rendered; and, as appropriate, the relation between these services and the case pending before the Special Court.

Article 19: Provisional Payment

(A) When the engagement of Assigned Counsel outside his place of residence lasts more than two weeks, the Principal Defender may authorize a provisional payment of the Daily Living/Subsistence Allowance (DLA/DSA), set out in Article 21 below be made.

Article 20: Payment *pro rata temporis*

When, during a Provisional Assignment Agreement, an Assigned Counsel is replaced in the same capacity by another Assigned Counsel for whatever reason, the remuneration shall be paid to each of them *pro rata temporis*.

Article 21: Travel Expenses

(A) Travel expenses shall be included within the expenses set out in the Legal Services Contract, but shall be separately itemised.

(B) Air travel expenses shall be reimbursed for a member of the Defence Team who does not usually reside in city where the particular stage of the procedure is being conducted, on the basis of one economy or equivalent class round trip air ticket by the shortest route or within limits laid down by the Principal Defender in consultation with the Registrar, on presentation of a statement of travel expenses using the appropriate form established by the Principal Defender accompanied by the original counterfoil of the ticket, as well as the original of the invoice and any receipt including receipt showing payment by credit card.

(C) Travel expenses shall be reimbursed to a member of the Defence Team residing in the territory of the country but not in the town where he is serving, on the basis of either first class public transportation tickets or fixed rates as established by the United Nations Schedule of Rates of Reimbursement for Travel by Private Motor Vehicle applicable to different groups of Countries and Territories, per kilometre travelled on the outward and return journeys by the shortest route, on presentation of a statement of travel expenses using the appropriate form established by the Principal Defender in consultation with the Registrar and supporting receipts.

(D) Notwithstanding paragraphs (A) and (B), the Principal Defender shall assess, after consulting the Registrar and depending on the circumstances of the case, whether the Special Court, in the interests of justice and in order to ensure the full exercise of a Suspect or Accused's rights, is required to meet other travel expenses of a member of the Defence Team.

(E) Members of the Defence Team who do not usually reside in city where the particular stage of the procedure is being conducted shall be paid a Daily Living/Subsistence Allowance (DLA/DSA) based on the United Nations Schedule of Daily Subsistence Allowance Rates or the Daily Living Allowance Rate for Sierra Leone in force at the time when work was done. The Daily Living/Subsistence Allowance (DLA/DSA) shall be paid for each day that a member of the Defence Team spends in the city where the particular stage of the procedure is being conducted in accordance with the Legal Services Contract, the Contract Specification or with the prior written approval of the Principal Defender.

(F) Travel expenses, and Daily Living/Subsistence Allowance payable under this Article, shall only be reimbursed when authorisation for travel by member of the Defence Team has been sought by the Assigned Counsel and authorised by the Principal Defender.

Article 22: Approval of Remunerations and expenses

All sums payable to members of the Defence Team under the provisions of the Legal Services Contract, this Directive or the Contract Specification shall be paid by the Registry.

Article 23: Settlement of Disputes

In the event of disagreement on questions relating to the calculation and payment in accordance with the Legal Services Contract, this Directive or the Contract Specification, or to the reimbursement of travel expenses and DLA/DSA, the procedure spelled out in the Legal Service Contract or the Contract Specification shall be applied [Principal Defender shall make a decision after consulting the Registrar and, if necessary, the President, on an equitable basis].

PART IV: WITHDRAWAL AND REPLACEMENT OF COUNSEL

Article 24: Withdrawal of Assignment When the Suspect or Accused is No Longer Indigent

(A) Assignment of Counsel may be withdrawn by the Principal Defender if, after his decision, the Suspect or Accused comes into means which, if available at the time the request in Article 5 was made, would have caused the Principal Defender not to grant the request.

(B) Assignment of Counsel may be withdrawn if information obtained according to Article 8 establishes that the Suspect or Accused has sufficient means to allow him to pay for the cost of his Defence.

(C) Where the Principal Defender receives information that establishes that an Accused or Suspect has become partially indigent he may demand that individual pay such amount as he deems necessary to the Registrar in trust for the payment of Counsel.

(D) The decision to withdraw the assignment or demand payment in the case of a partially indigent Suspect or Accused shall be accompanied by a written explanation giving reasons for such decision and the Suspect or Accused and the Assigned Counsel shall be so notified. Such withdrawal or demand shall take effect from the date of receipt of the notification.

(E) After the notification of the withdrawal of the assignment of Counsel, all the costs and expenses incurred by the representation of the Suspect or Accused shall cease to be met by the Tribunal.

(F) Where a Suspect or Accused who has become partially indigent fails to comply with the demand made pursuant to (C) above the assignment of Counsel may be withdrawn until such time as the Suspect or Accused complies with the demand.

(G) The provisions of Article 12 shall apply *mutatis mutandis* where there is dissatisfaction with the decision withdrawing the assignment of counsel or, in the case of a partially indigent Suspect or Accused, demanding payment to the Registrar.

Article 25: Withdrawal of Assignment in Other Situations

(A) The Principal Defender may:

- (i) in exceptional circumstances, at the request of the Suspect or Accused, or his Counsel, withdraw the assignment of Counsel;
 - (ii) in exceptional circumstances, at the request of the Assigned Counsel withdraw the assignment of other Counsel;
- (B) The Principal Defender shall withdraw the assignment of Counsel:
- (i) in the case of a serious violation of the Code of Conduct [sufficient? Any other documents];
 - (ii) upon the decision by a Chamber to refuse audience to Assigned Counsel for misconduct under Rule 46 of the Rules;
 - (iii) where the name of Counsel has been removed from the list kept by the Principal Defender under Rule 45(C) and Article 13 of this Directive.
- (C) The Accused, the Counsel concerned and his respective professional or governing body shall be notified of the withdrawal.
- (D) The Principal Defender shall immediately assign a new Counsel to the Suspect or Accused, and where appropriate, a co-Counsel. The Legal Service Contract resulting from the assignment of a new Counsel shall be limited to funds remaining in the allocation for the defence of the Suspect or Accused.
- (E) Where a request for withdrawal, made pursuant to paragraph (A), has been denied, the person making the request may seek review of the decision of the Principal Defender by a Judge appointed pursuant to Rule 28 or, where it is already seized of the matter, the Trial Chamber or a Judge thereof.

Article 26: Replacement

- (A) Where the assignment of Counsel is withdrawn by the Principal Defender or where the services of Assigned Counsel are discontinued, Duty Counsel of the Defence Office, including the Principal Defender, shall give the Suspect or Accused legal assistance until other Counsel is assigned unless the Suspect or Accused waives the right to such assistance in which case he shall represent himself until other Counsel is assigned.
- (B) Where the assignment of Counsel is withdrawn by the Principal Defender or where the services of Assigned Counsel are discontinued, said Counsel must deliver within 15 days of withdrawal all the original documents in the file to the Counsel who succeeds him, to the Defence Office who will then forward the materials to new Assigned Counsel or, where the Suspect or Accused has chosen to represent himself, to the Suspect or Accused.
- (C) In the case of the withdrawal of the assignment of co-Counsel, such delivery of documents shall be made to Assigned Counsel within 7 days.
- (D) Failure by Counsel to comply with the requirement of this article may result in withholding of payment, notification of the professional body regulating the conduct of counsel in

the State in which he is qualified to practice law or such other action as the Principal Defender may deem appropriate.

(E) If Lead Counsel is not available for any appearance on behalf of his client before the Special Court, co-Counsel shall assume responsibility for the appearance and carriage of the client's case for such time as Lead Counsel is unavailable. In exceptional circumstances, if co-Counsel is also unavailable for the appearance, Duty Counsel may appear to advise the Suspect or Accused upon receiving instructions from the Assigned Counsel.

PART V: FACILITIES

Article 27: Provision of Facilities

(A) Assigned Counsel and members of the Defence Team who do not have professional facilities close to the seat of the Special Court shall be provided with reasonable facilities and equipment such as access to photocopiers, computer equipment, various types of office equipment, and telephone lines.

(B) At the seat of the Special Court, members of the Defence Team may use the libraries and the documentation centre used by the Judges of the Tribunal.

(C) Assigned Counsel shall be entitled to request the assistance of the Defence Office for the preparation of any motion or other matter provided said preparation will not create a lawyer-client relationship between the Suspect or Accused and the Defence Office personnel carrying out such preparation or otherwise create a conflict of interest between the Suspect or Accused and Defence Office personnel.

(D) Assigned Counsel shall make all reasonable efforts to use the personnel and facilities of the Defence Office in the preparation of a Suspect or Accused's case.

(E) The Principal Defender may refuse to approve a statement of remuneration or portion thereof where Assigned Counsel fails to make such reasonable efforts to use the personnel and facilities of the Defence Office in the preparation referred to in (C).

Article 28: Amendment of the Directive

(A) This Directive may be amended by the Registrar in consultation with the Principal Defender. The Registrar may consult any other body or individual in the course of considering amendments to this Directive.

(B) An amendment shall enter into force upon adoption, but without prejudice to the rights of the Accused in any pending case.

Article 29: Entry into Force

This directive shall enter into force on _____ 2003.

EXHIBIT TAB 1613

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Special Court Agreement, 2002 (Ratification) Act, 2002 referred to in paragraph (14) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB11".

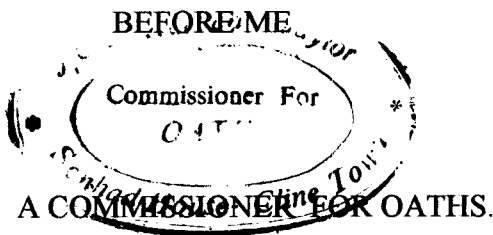


EXHIBIT 'TAB 77'

ACT

Supplement to the Sierra Leone Gazette Vol. CXXXIII, No. 22

dated 25th April, 2002

SPECIAL COURT AGREEMENT, 2002 (RATIFICATION) ACT, 2002

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

1. Interpretation.

PART II—ADMINISTRATION OF SPECIAL COURT

2. Legal capacity of Special Court.
3. Administration of Special Court.
4. Application of funds of Special Court.
5. Accounts and audit of funds.
6. Annual report of Special Court.
7. Property of Special Court.
8. Financial arrangements of Special Court.
9. Premises of Special Court.

PART III—EXERCISE OF JURISDICTION OF SPECIAL COURT

10. Jurisdiction, procedure and evidence.
11. Special Court may sit in Sierra Leone.
12. Special Court may administer oaths.
13. Offences before Special Court.
14. Request for deferral or discontinuance of proceedings.

PART IV—MUTUAL ASSISTANCE BETWEEN SIERRA LEONE AND SPECIAL COURT

15. Request by Special Court for assistance.
16. Execution of request for assistance.
17. Confidentiality of request.
18. Response to request.
19. Request by Attorney-General for assistance.

1615

WHEREAS the Agreement for the Special Court which was, for the part of the Government of Sierra Leone, signed under the authority of the President and is by the proviso to subsection (4) of section 40 of the Constitution of Sierra Leone, 1991 required to be ratified by an Act of Parliament:

AND WHEREAS it is desirable that provision be also made for the implementation of all elements of the Agreement that are not self-executing as well as those which need to be supplemented.

Now, THEREFORE, it is enacted by the President and Members of Parliament in this present Parliament assembled as follows:—

PART I—PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires:—

“Agreement” means the Agreement between the Government of Sierra Leone and the United Nations for the establishment of a Special Court, signed on the 16th January, 2002, including the Statute of the Special Court for Sierra Leone, annexed thereto, and both as set out in the Schedule;

“arresting officer” means a person authorised under this Act to arrest another person;

“Attorney-General” means the Attorney-General and Minister of Justice of Sierra Leone;

“Constitution” means the Constitution of Sierra Leone 1991;

“Director of Prisons” has the same meaning as in the Prisons Act, 1960;

“indictee” means a person indicted before the Special Court;

“indictment” means an indictment brought before the Special Court;

“Management Committee” means the Management Committee referred to in Article 7 of the Agreement;

1616

SIGNED this 29th day of March, 2002.

ALHAJI AHMAD TEJAN KABBAH,
President.

LS

No. 9



2002

Sierra Leone

**The Special Court Agreement, 2002
(Ratification) Act, 2002**

Short title.

Being an Act to ratify an Agreement between the Government of Sierra Leone of the one part and the United Nations of the other part signed on 16th January, 2002 for the establishment of a Special Court for Sierra Leone, to provide for the implementation of the Agreement and for other related matters.

Date of commencement.

PART II—ADMINISTRATION OF SPECIAL COURT.

Legal capacity of Special Court.

2. (1) The Special Court shall have the capacity to do the following acts in Sierra Leone—

- (a) contract;
- (b) acquire and dispose of moveable and immovable property;
- (c) institute legal proceedings;
- (d) enter into agreements with States or such other bodies possessing international legal personality as may be necessary for the exercise of its functions and for the furtherance of its operations; and
- (e) any other act a company may perform pursuant to the Companies Act.

Cap. 249.

(2) The Special Court shall have a common seal, the affixing of which shall be authenticated by the signatures of—

- (a) the President of the Court, and
- (b) the Registrar, or another member of the staff of the Special Court designated in that behalf by the President of the Court after consultation with the Management Committee.

Administration of Special Court.

3. The Registrar shall be responsible immediately to the President of the Special Court for—

- (a) the servicing of the Chambers of the Special Court and the Office of the Prosecutor;
- (b) the recruitment, administration and discipline of the support staff; and
- (c) the day-to-day administration of the financial and staff resources of the Special Court.

Application of funds of Special Court.

4. The funds of the Special Court shall be applied to meet the expenses of—

- “Minister of Internal Affairs” means the Minister for internal affairs of Sierra Leone;
- “officer in charge” has the same meaning as in the Prisons Act, 1960;
- “official” in relation to the Special Court, means the Prosecutor, Deputy Prosecutor, Registrar or any other personnel of the Special Court;
- “order of the Special Court” means any order, summons, subpoena, warrant, transfer order or any other order issued by a judge of the Special Court;
- “prisoner of Sierra Leone” means a person who is in the lawful custody of the Director of Prisons or officer in charge of any prison, whether or not that person has been convicted of an offence;
- “prison officer” has the same meaning as in the Prisons Act, 1960;
- “Prosecutor” means the Prosecutor of the Special Court;
- “Sierra Leone Court” has the same meaning as in the Constitution;
- “Sierra Leone prison” or “prison” means a prison as defined in section 2 of the Prisons Act, 1960;
- “Sierra Leone sentence” means any sentence of imprisonment imposed by a Sierra Leone court;
- “Special Court” means the Special Court established by the Agreement and includes any organ of the Special Court;
- “Special Court prisoner” means a person who is for the time being detained under an order of, or sentence imposed by the Special Court.

(2) Without prejudice to the generality of subsection (1), the property of the Special Court shall not be subject to any laws regarding any of the following:—

- (a) search and seizure;
- (b) requisition;
- (c) confiscation; or
- (d) expropriation.

(3) The Special Court shall exercise exclusive and free enjoyment of its property, in whole or in part, and shall not be dispossessed of any real property unless the President of the Special Court gives express consent otherwise.

(4) Without prejudice to the generality of subsection (3), any real property owned or occupied by the Special Court or any of its organs shall not be subject to any laws or executive or administrative action regarding compulsory acquisition of property.

Financial arrangements of Special Court.

8. (1) The Special Court, its funds, assets or property, wherever located and by whomsoever held, shall be immune from every form of legal process in Sierra Leone, unless the President of the Special Court expressly waives this immunity.

(2) Notwithstanding an express waiver of immunity, no funds, assets or property of the Special Court may be subject to any measure of execution.

(3) The Special Court shall be exempt from any financial controls, regulations or moratoriums.

(4) Without prejudice to the generality of subsection (3), the Special Court may—

- (a) hold and use funds, or negotiable instruments of any kind;
- (b) maintain and operate accounts in any currency;
- (c) convert any currency held by it into any other currency; and
- (d) transfer its funds or currency from Sierra Leone, or within Sierra Leone, or to the United Nations or any other agency, free of any charges or restrictions.

- (a) servicing the Chambers of the Special Court;
- (b) the salaries, allowances and other costs of the support staff;
- (c) the administrative costs of the Special Court other than those specified in paragraphs (a) and (b).

5. (1) The Special Court shall keep proper books of account and other records in relation to the activities, property and finances of the Special Court and shall prepare in respect of each financial year of the Special Court a statement of accounts in a form designed to ensure the correct use of the finances of the Special Court. Accounts and audit of funds.

(2) The accounts of the Special Court kept under subsection (1) shall be audited every six months by an auditor appointed by the Management Committee.

6. (1) The Registrar shall, within three months after the end of each financial year of the Special Court, submit for the approval of the Management Committee, after consultation with the President of the Special Court, an annual report of the activities, operation, property and finances of the Special Court for that year. Annual report of Special Court.

(2) Subject to subsection (1), an annual report shall include—

- (a) a copy of the audited accounts of the Special Court together with the audit report thereon;
- (b) the semi-annual summary financial reports of the Special Court for the preceding year approved by the Management Committee.

(3) After the approval of the annual report, the President of the Special Court shall send copies to the President and the Secretary-General not later than six months after the end of the year to which the report relates and the President shall, as soon as possible but not later than one month after the receipt of the report, cause the report to be laid before Parliament.

7. (1) The property of the Special Court shall be inviolable, whether by executive, administrative, judicial or legislative action. Property of Special Court.

(2) A request for assistance made by the Special Court may include, but shall not be limited to—

- (a) identification and location of persons;
- (b) service of documents;
- (b) arrest or detention of persons; and
- (d) transfer of an indictee to the Special Court.

(3) Nothing in this Act shall—

- (a) limit the type of assistance the Special Court may request under the Agreement; or
- (b) prevent co-operation with the Special Court otherwise than pursuant to this Act, including co-operation of an informal nature.

Execution of request for assistance.

16. (1) Subject to subsection (2), if the Special Court makes a request for assistance, it shall be dealt with in accordance with the relevant procedure.

(2) If the request for assistance specifies that it should be executed in a particular manner or by using a particular procedure that is not prohibited by Sierra Leone law, the Attorney-General shall use his best endeavours to ensure that the request is executed in that manner or using that procedure.

Confidentiality of request.

17. A request for assistance and any supporting documents shall be kept confidential by the Sierra Leone authorities who deal with any aspect of the request, whenever the request includes a stipulation that it shall be kept confidential, except to the extent that disclosure is necessary for execution of the request.

Response to request.

18. (1) The Attorney-General shall notify the Special Court, without undue delay, of his response to a request for assistance and the outcome of any action that has been taken in relation to it.

(2) If the Attorney-General decides to refuse or postpone the assistance requested, in whole or in part, he shall notify the Special Court accordingly and shall set out the reasons for that decision.

(3) If the request for assistance cannot be complied with for any other reason, the notification to the Special Court shall set out the reasons for the inability or failure to comply with the request.

9. The Government shall endeavour to provide to the premises of the Special Court such utilities, facilities and other services as may be necessary for the operation of the Special Court and shall ensure that the Special Court is not dispossessed of all or any part of the premises of the Special Court without the express consent of the President of the Special Court. Premises of Special Court.

PART III—EXERCISE OF JURISDICTION OF SPECIAL COURT

10. The Special Court shall exercise the jurisdiction and powers conferred upon it by the Agreement in the manner provided in the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda in force at the time of the establishment of the Special Court as adapted for the purposes of the Special Court by the judges of the Special Court as a whole. Jurisdiction, procedure and evidence.

11. (1) The Special Court may sit in Sierra Leone in such place as may be determined by the President of the Special Court after consultation with the Attorney-General for the purpose of performing its functions under the Agreement. Special Court may sit in Sierra Leone.

(2) The Special Court shall not form part of the Judiciary of Sierra Leone.

12. The Special Court may, at any of its sittings, administer an oath or affirmation giving an undertaking as to truthfulness. Special Court may administer oaths.

13. Offences prosecuted before the Special Court are not prosecuted in the name of the Republic of Sierra Leone. Offences before Special Court.

14. Where, pursuant to Article 8 of the Statute of the Special Court, the Attorney-General receives any request for deferral or discontinuance in respect of any proceedings, he shall grant the request, if in his opinion there are sufficient grounds for him to do so. Request for deferral or discontinuance of proceedings.

PART IV—MUTUAL ASSISTANCE BETWEEN SIERRA LEONE AND SPECIAL COURT

REQUEST TO SIERRA LEONE FOR ASSISTANCE

15. (1) The Attorney-General shall, upon receiving from the Special Court a request for assistance, including an urgent request for assistance, consider such request without any undue delay. Request by Special Court for assistance.

(2) Notwithstanding any other law, every natural person, corporation, or other body created by or under Sierra Leone law shall comply with any direction specified in an order of the Special Court.

(3) Without prejudice to the generality of subsection (1), any person executing an order of the Special Court shall deliver forthwith any books, documents, photographs, tangible objects or other physical objects seized during the execution of that order into the custody of the Special Court.

(4) If a person to whom an order of the Special Court is directed is unable to execute that order, he shall report forthwith the inability to the Special Court and give the reasons therefor.

Forfeiture orders of Special Court.

22. (1) When a forfeiture order issued by the Special Court is executed and property, proceeds or assets are delivered to the State, the Minister of Internal Affairs shall—

- (a) if a use is specified in the forfeiture order, use the property, proceeds or assets according to that use; or
- (b) if no use is specified in the order, either—
 - (i) use the property, proceeds or assets for a purpose aimed at addressing the consequences of the armed conflict in Sierra Leone between 1991 and 2002; or
 - (ii) sell such property, proceeds or assets as may be sold and deposit the amount realised together with any money forfeited under the forfeiture order into the War Victims Fund established under the Lomé Agreement.

(2) The Minister of Internal Affairs shall make such regulations as are necessary to give effect to subsection (1).

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(4) If the request for assistance relates to material that may be prejudicial to the national security of Sierra Leone, the Attorney-General shall, without undue delay, notify the Special Court of that fact together with the reasons therefor.

(5) If—

- (a) the Special Court has been notified under subsection (4); and
- (b) a judge of the Special Court nevertheless orders disclosure of the material;

that material shall be transferred to the Special Court.

(6) The disclosure of material to the Special Court under subsection (5) shall be deemed to be an authorised disclosure for the purposes of the *Treason and State Offences Act, 1963*.

Act No. 19 of 1963.

REQUEST TO SPECIAL COURT FOR ASSISTANCE

19. (1) The Attorney-General may make a request for assistance to the Special Court for the purposes of any investigation into or trial in respect of any act or omission that may constitute a crime within the jurisdiction of the Special Court.

Request by Attorney-General for assistance.

(2) A request for assistance by the Attorney-General may include, but shall not be limited to—

- (a) the transmission of statements, documents or other types of evidence obtained in the course of an investigation or trial conducted by the Special Court; and
- (b) the questioning of any person detained by order of the Special Court.

PART V—ORDERS OF SPECIAL COURT

20. For the purposes of execution, an order of the Special Court shall have the same force or effect as if it had been issued by a Judge, Magistrate or Justice of the Peace of a Sierra Leone court.

Orders of Special Court.

21. (1) Any person executing an order of the Special Court shall comply with any direction specified in that order.

Execution of orders.

Official position of accused no bar to prosecution, etc.

29. The existence of an immunity or special procedural rule attaching to the official capacity of any person shall not be a bar to the arrest and delivery of that person into the custody of the Special Court.

PART VII—JUDGEMENTS AND SENTENCES

JUDGEMENTS

Proof of orders or judgments.

30. (1) Any order or judgement of the Special Court purporting to bear the seal of the Special Court, or to be signed by a person in his capacity as a judge or official of the Special Court, shall be deemed to have been duly sealed or signed by that person, as the case may be.

(2) A document, duly authenticated, which purports to be a copy of any order made or judgement given by the Special Court shall be deemed to be a true copy.

Evidence regarding Special Court procedure and orders.

31. (1) For the purposes of this Act, a statement contained in a document, duly authenticated, which purports to have been received in evidence or to be a copy of a document so received, or to set out or summarise evidence given, in proceedings before the Special Court shall be admissible as evidence of any fact stated in it.

(2) Nothing in this section shall be taken to affect the admission of any evidence, whether contained in a document or otherwise, which is admissible apart from this section.

SENTENCES

Enforcement of sentences of imprisonment.

32. (1) Where a sentence of imprisonment imposed by the Special Court is to be served in Sierra Leone, it shall be served in accordance with the terms of the imprisonment.

(2) Subject to subsection (1), the conditions of imprisonment shall be governed by the relevant laws of Sierra Leone.

Modification of sentences.

33. (1) The length of a sentence shall only be modified or altered by the Special Court.

PART VI—ARREST AND DELIVERY OF PERSONS

23. For the purposes of execution, a warrant of arrest issued by the Special Court shall have the same force or effect as if it had been issued by a Judge, Magistrate or Justice of the Peace of a Sierra Leone court. Warrant of arrest.

24. Where a warrant of arrest issued under section 23 is executed, the arresting officer shall serve on the person against whom the warrant is issued certified copies of— Execution of warrant of arrest.

- (a) the warrant of arrest issued by the Special Court;
- (b) where appropriate, the indictment;
- (c) a statement of the rights of the accused; and
- (d) if necessary, a translation thereof into a language understood by the accused.

25. Where a warrant of arrest is executed, the person arrested shall be delivered forthwith into the custody of the Special Court. Delivery of persons arrested.

26. Notwithstanding formal delivery of a person into the custody of the Special Court, a Sierra Leone prison may continue to detain that person on behalf of the Special Court if so requested or ordered by the Special Court. Detention after delivery.

27. (1) Where a warrant of arrest is issued against a prisoner of Sierra Leone, the arresting officer shall present the warrant of arrest to the Director of Prisons or the officer in charge, who shall deliver the prisoner into the custody of the arresting officer. Execution of warrant of arrest.

(2) After delivery of the prisoner of Sierra Leone into the custody of an arresting officer under subsection (1), the arresting officer shall deal with the prisoner in accordance with sections 24 and 25.

28. Where a person against whom a warrant of arrest is issued under section 23 escapes or is unlawfully at large, he may be arrested without warrant by an arresting officer and, if so arrested, shall be delivered into the custody of the Special Court. Arrest without warrant.

Concurrent
Sierra Leone
sentences.

36. (1) Where a Special Court prisoner is also subject to a Sierra Leone sentence imposed before his sentence of imprisonment is imposed by the Special Court, any sentence of imprisonment imposed by the Special Court shall be deemed to run concurrently with the Sierra Leone sentence, unless the Special Court orders otherwise.

(2) Where a Special Court prisoner is also subject to a Sierra Leone sentence imposed after his sentence of imprisonment is imposed by the Special Court, any sentence of imprisonment imposed by the Special Court shall be deemed to run concurrently with the Sierra Leone sentence, unless the Sierra Leone court orders otherwise.

PART VIII—OFFENCES AGAINST ADMINISTRATION OF JUSTICE AND OTHER OFFENCES

OFFENCES AGAINST ADMINISTRATION OF JUSTICE

Obstructing
justice.

37. (1) Any person who wilfully obstructs, perverts or defeats the course of justice in relation to the Special Court commits an offence and shall be liable, on conviction to a fine not exceeding two million leones or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

(2) Without prejudice to the generality of subsection (1), a person is deemed wilfully to obstruct, pervert or defeat the course of justice who, in any existing or proposed proceeding of the Special Court—

- (a) dissuades or attempts to dissuade a person by threats, bribes or other corrupt means from giving evidence; or
- (b) accepts, obtains, agrees to accept or attempts to obtain a bribe or other corrupt consideration to abstain from giving evidence.

Obstructing
officials.

38. Any person who resists or wilfully obstructs—

- (a) an official of the Special Court in the execution of his duty, or any person lawfully acting in aid of such an official; or
- (b) any person executing an order of the Special Court,

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No. 9 Special Court Agreement, 2002 (Ratification) Act 2002

(2) If the length of the sentence is modified or altered by the Special Court, upon notification of the modification or alteration to the Director of Prisons, the length of the sentence of a Special Court prisoner serving his sentence in a Sierra Leone prison shall be modified or altered accordingly.

34. (1) The imprisonment being served by a Special Court prisoner in a Sierra Leone prison shall be subject to supervision by the Special Court. Supervision of sentences.

(2) In allowing the Special Court to supervise the conditions of imprisonment, the Director of Prisons shall ensure--

- (a) the facilitation of communication between the Special Court prisoner and the Special Court, including the confidentiality of that communication; and
- (b) the provision of any information, report or expert opinion as requested by the Special Court about the imprisonment of the Special Court prisoner; and
- (c) the access of a judge or other official of the Special Court to a Special Court prisoner without the presence of any other person, except with the consent of the Special Court prisoner.

(3) Nothing in this section shall prevent the Director of Prisons from complying with any other request of the Special Court in relation to the supervision of sentences.

35. (1) A Special Court prisoner may only be pardoned or have his sentence commuted by order of the Special Court. Pardon or commutation of sentences.

(2) If it appears to the President of the Republic of Sierra Leone that a Special Court prisoner is eligible for pardon or commutation of sentence under the relevant laws of Sierra Leone, he shall notify the Special Court of that fact together with the reasons therefor.

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Special Court, causes the other person reasonably, in all the circumstances, to fear for his safety or the safety of any other person commits an offence and shall be liable on conviction to a fine not exceeding two million leones or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Fabricating evidence.

41. Any person who, with intent to mislead the Special Court in an existing or proposed proceeding, by any means other than perjury or incitement to perjury—

- (a) fabricates anything with intent that it be used as evidence before the Special Court; or
- (b) knowingly makes use of fabricated evidence;

commits an offence and shall be liable on conviction to a fine not exceeding two million leones or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Offences outside Sierra Leone.

42. Any person who commits outside Sierra Leone any act or omission in relation to the Special Court that, if committed in Sierra Leone, would be an offence under this Act, may be tried as if he had committed the act or omission in Sierra Leone.

OTHER OFFENCES

Illegal possession of property.

43. (1) Any person who possesses any property or any proceeds of property knowing that all or part of the property or proceeds were obtained or derived directly or indirectly as a result of—

- (a) any act or omission that constitutes a crime within the jurisdiction of the Special Court; or
- (b) the commission of any offence under this Act;

commits an offence and shall be liable on conviction to a fine not exceeding thirty million leones or to a term of imprisonment not exceeding ten years or to both such fine and imprisonment.

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commits an offence and shall be liable, on conviction, to a fine not exceeding two million leones or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

39. Subject to articles 12 and 13 of the Agreement, any person who— Bribery of judges and officials.

(a) being a judge or an official of the Special Court, corruptly accepts, obtains, agrees to accept or attempts to obtain for himself or any other person any money, valuable consideration, office, place or employment—

(i) in respect of anything done or omitted to be done in his official capacity; or

(ii) with intent to interfere in any other way with the administration of justice of the Special Court; or

(b) gives or offers, corruptly, to a judge or an official of the Special Court any money, valuable consideration, office, place or employment—

(i) in respect of anything done or omitted to be done in his official capacity; or

(ii) with intent to interfere in any other way with the administration of justice by the Special Court,

commits an offence and shall be liable on conviction to a fine not exceeding thirty million leones or to a term of imprisonment not exceeding ten years or to both such fine and imprisonment.

40. Any person who, wrongfully or without lawful authority, for the purpose of compelling another person to abstain from doing anything that he has a lawful right to do, or to do anything that he has a lawful right to abstain from doing, in relation to a proceeding of the Intimidation of officials and witnesses.

- (a) executing an order of the Special Court;
- (b) complying with a request by the Special Court; or
- (c) otherwise acting for the purpose of a lawful investigation.

PART IX—MISCELLANEOUS

Compensation of victims.
Act No. 32 of 1965.

45. Any person who has been a victim of a crime within the jurisdiction of the Special Court, or persons claiming through him, may claim compensation in accordance with the Criminal Procedure Act, 1965 if the Special Court has found a person guilty of that crime.

Obligations imposed by Agreement.

46. Unless this Act provides otherwise, for the purposes of any provision of the Agreement that confers a power, or imposes a duty or function on the State, that power, duty or function may be exercised or carried out on behalf of the Government of Sierra Leone by the Attorney-General.

Regulations.

47. The Attorney-General may, after consultation with the Special Court, make regulations to give effect to this Act.

SCHEDULE

AGREEMENT BETWEEN THE UNITED NATIONS AND THE GOVERNMENT OF SIERRA LEONE ON THE ESTABLISHMENT OF A SPECIAL COURT FOR SIERRA LEONE

WHEREAS the Security Council, in its resolution 1315 (2000) of 14 August 2000, expressed deep concern at the very serious crimes committed within the territory of Sierra Leone against the people of Sierra Leone and United Nations and associated personnel and at the prevailing situation of impunity;

WHEREAS by the said resolution, the Security Council requested the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent special court to prosecute persons who bear the greatest responsibility for the commission of serious violations of international humanitarian law and crimes committed under Sierra Leonean law;

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(2) A person is not guilty of an offence under this section by reason only that he possesses property or the proceeds of property mentioned in subsection (1) for the purpose of—

- (a) executing an order of the Special Court;
- (b) complying with a request by the Special Court; or
- (c) otherwise acting for the purpose of a lawful investigation.

44. (1) Any person who—

Money
laundering

- (a) knowingly uses, transfers the possession of, sends or delivers to another person or to any place, transports, transmits, alters, disposes of or otherwise deals with, in any manner or by any means, any property or any proceeds of property with intent to conceal or convert the property or proceeds; or
- (b) knowing or believing that all or part of the property or proceeds referred to in paragraph (a) was obtained or derived directly or indirectly as a result of—
 - (i) any act or omission that constitutes a crime within the jurisdiction of the Special Court; or
 - (ii) the commission of any offence under this Act,

commits an offence and shall be liable on conviction to a fine not exceeding thirty million leones or to a term of imprisonment not exceeding ten years or to both such fine and imprisonment.

(2) A person is not guilty of an offence under this section by reason only that he is in possession of property or the proceeds of property mentioned in subsection (1) for the purpose of—

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- (b) In the event of the creation of a second Trial Chamber, that Chamber shall be likewise composed in the manner contained in subparagraph (a) above;
 - (c) Five judges shall serve in the Appeals Chamber, of whom two shall be appointed by the Government of Sierra Leone and three judges shall be appointed by the Secretary-General upon nominations forwarded by States, and in particular the member States of the Economic Community of West African States and the Commonwealth, at the invitation of the Secretary-General.
3. The Government of Sierra Leone and the Secretary-General shall consult on the appointment of judges.
 4. Judges shall be appointed for a three-year term and shall be eligible for re-appointment.
 5. If, at the request of the President of the Special Court, an alternate judge or judges have been appointed by the Government of Sierra Leone or the Secretary-General, the presiding judge of a Trial Chamber or the Appeals Chamber shall designate such an alternate judge to be present at each stage of the trial and to replace a judge if that judge is unable to continue sitting.

ARTICLE 3

APPOINTMENT OF A PROSECUTOR AND A DEPUTY PROSECUTOR

1. The Secretary-General, after consultation with the Government of Sierra Leone, shall appoint a Prosecutor for a three-year term. The Prosecutor shall be eligible for re-appointment.
2. The Government of Sierra Leone, in consultation with the Secretary-General and the Prosecutor, shall appoint a Sierra Leonean Deputy Prosecutor to assist the Prosecutor in the conduct of the investigations and prosecutions.
3. The Prosecutor and the Deputy Prosecutor shall be of high moral character and possess the highest level of professional competence and extensive experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor and the Deputy Prosecutor shall be independent in the performance of their functions and shall not accept or seek instructions from any Government or any other source.

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WHEREAS the Secretary-General of the United Nations (hereinafter "the Secretary-General") and the Government of Sierra Leone (hereinafter "the Government") have held such negotiations for the establishment of a Special Court for Sierra Leone (hereinafter "the Special Court");

NOW, THEREFORE, the United Nations and the Government of Sierra Leone have agreed as follows:

ARTICLE 1

ESTABLISHMENT OF THE SPECIAL COURT

1. There is hereby established a Special Court for Sierra Leone to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November, 1996.

2. The Special Court shall function in accordance with the Statute of the Special Court for Sierra Leone. The Statute is annexed to this Agreement and forms an integral part thereof.

ARTICLE 2

COMPOSITION OF THE SPECIAL COURT AND APPOINTMENT OF JUDGES

1. The Special Court shall be composed of a Trial Chamber and an Appeals Chamber with a second Trial Chamber to be created if, after the passage of at least six months from the commencement of the functioning of the Special Court, the Secretary-General, the Prosecutor or the President of the Special Court so request. Up to two alternate judges shall similarly be appointed after six months if the President of the Special Court so determines.

2. The Chambers shall be composed of no fewer than eight independent judges and no more than eleven such judges who shall serve as follows: —

(a) Three judges shall serve in the Trial Chamber where one shall be appointed by the Government of Sierra Leone and two judges appointed by the Secretary-General, upon nominations forwarded by States, and in particular the member States of the Economic Community of West African States and the Commonwealth, at the invitation of the Secretary-General;

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- (b) In the event of the creation of a second Trial Chamber, that Chamber shall be likewise composed in the manner contained in subparagraph (a) above;
 - (c) Five judges shall serve in the Appeals Chamber, of whom two shall be appointed by the Government of Sierra Leone and three judges shall be appointed by the Secretary-General upon nominations forwarded by States, and in particular the member States of the Economic Community of West African States and the Commonwealth, at the invitation of the Secretary-General.
3. The Government of Sierra Leone and the Secretary-General shall consult on the appointment of judges.
 4. Judges shall be appointed for a three-year term and shall be eligible for re-appointment.
 5. If, at the request of the President of the Special Court, an alternate judge or judges have been appointed by the Government of Sierra Leone or the Secretary-General, the presiding judge of a Trial Chamber or the Appeals Chamber shall designate such an alternate judge to be present at each stage of the trial and to replace a judge if that judge is unable to continue sitting.

ARTICLE 3

APPOINTMENT OF A PROSECUTOR AND A DEPUTY PROSECUTOR

1. The Secretary-General, after consultation with the Government of Sierra Leone, shall appoint a Prosecutor for a three-year term. The Prosecutor shall be eligible for re-appointment.
2. The Government of Sierra Leone, in consultation with the Secretary-General and the Prosecutor, shall appoint a Sierra Leonean Deputy Prosecutor to assist the Prosecutor in the conduct of the investigations and prosecutions.
3. The Prosecutor and the Deputy Prosecutor shall be of high moral character and possess the highest level of professional competence and extensive experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor and the Deputy Prosecutor shall be independent in the performance of their functions and shall not accept or seek instructions from any Government or any other source.

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4. The Prosecutor shall be assisted by such Sierra Leonean and international staff as may be required to perform the functions assigned to him or her effectively and efficiently.

ARTICLE 4

APPOINTMENT OF A REGISTRAR

1. The Secretary-General, in consultation with the President of the Special Court, shall appoint a registrar who shall be responsible for the servicing of the Chambers and the Office of the Prosecutor, and for the recruitment and administration of all support staff. He or she shall also administer the financial and staff resources of the Special Court.

2. The Registrar shall be a staff member of the United Nations. He or she shall serve a three-year term and shall be eligible for re-appointment.

ARTICLE 5

PREMISES

The Government shall assist in the provision of premises for the Special Court and such utilities, facilities and other services as may be necessary for its operation.

ARTICLE 6

EXPENSES OF THE SPECIAL COURT

The expenses of the Court shall be borne by voluntary contributions from the international community. It is understood that the Secretary-General will commence the process of establishing the Court when he has sufficient contributions in hand to finance the establishment of the Court and 12 months of its operations plus pledges equal to the anticipated expenses of the following 24 months of the Court's operation. It is further understood that the Secretary-General will continue to seek contributions equal to the anticipated expenses of the Court beyond its first three years of operation. Should voluntary contributions be insufficient for the Court to implement its mandate, the Secretary-General and the Security Council shall explore alternate means of financing the Court.

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ARTICLE 7
MANAGEMENT COMMITTEE

It is the understanding of the Parties that interested States may wish to establish a management committee to assist the Special Court in obtaining adequate funding and be available as appropriate to provide advice on matters of Court administration and consult on other non-judicial matters. The management committee will include representatives of interested States that contribute voluntarily to the Special Court as well as representatives of the Government of Sierra Leone and the Secretary-General.

ARTICLE 8
INVIOIABILITY OF PREMISES, ARCHIVES AND ALL OTHER DOCUMENTS

1. The premises of the Special Court shall be inviolable. The competent authorities shall take whatever action may be necessary to ensure that the Special Court shall not be dispossessed of all or any part of the premises of the Court without its express consent.
2. The property, funds and assets of the Special Court, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.
3. The archives of the Court, and in general all documents and materials made available, belonging to or used by it, wherever located and by whomsoever held, shall be inviolable.

ARTICLE 9
FUNDS, ASSETS AND OTHER PROPERTY

1. The Special Court, its funds, assets and other property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except insofar as in any particular case the Court has expressly waived its immunity. It is understood, however, that no waiver of immunity shall extend to any measure of execution.
2. Without being restricted by financial controls, regulations or moratoriums of any kind, the Special Court:

4. The Prosecutor shall be assisted by such Sierra Leonean and international staff as may be required to perform the functions assigned to him or her effectively and efficiently.

ARTICLE 4

APPOINTMENT OF A REGISTRAR

1. The Secretary-General, in consultation with the President of the Special Court, shall appoint a registrar who shall be responsible for the servicing of the Chambers and the Office of the Prosecutor, and for the recruitment and administration of all support staff. He or she shall also administer the financial and staff resources of the Special Court.

2. The Registrar shall be a staff member of the United Nations. He or she shall serve a three-year term and shall be eligible for re-appointment.

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PREMISES

The Government shall assist in the provision of premises for the Special Court and such utilities, facilities and other services as may be necessary for its operation.

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The expenses of the Court shall be borne by voluntary contributions from the international community. It is understood that the Secretary-General will commence the process of establishing the Court when he has sufficient contributions in hand to finance the establishment of the Court and 12 months of its operations plus pledges equal to the anticipated expenses of the following 24 months of the Court's operation. It is further understood that the Secretary-General will continue to seek contributions equal to the anticipated expenses of the Court beyond its first three years of operation. Should voluntary contributions be insufficient for the Court to implement its mandate, the Secretary-General and the Security Council shall explore alternate means of financing the Court.

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- (a) Personal inviolability, including immunity from arrest or detention;
- (b) Immunity from criminal, civil and administrative jurisdiction in conformity with the Vienna Convention;
- (c) Inviolability for all papers and documents;
- (d) Exemption, as appropriate from immigration restrictions and other alien registrations;
- (e) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents by the Vienna Convention;
- (f) Exemption from taxation in Sierra Leone on their salaries, emoluments and allowances.

2. Privileges and immunities are accorded to the Judges, the Prosecutor and the Registrar in the interest of the Special Court and not for the personal benefit of the individuals themselves. The right and the duty to waive the immunity, in any case where it can be waived without prejudice to the purpose for which it is accorded, shall lie with the Secretary-General, in consultation with the President.

ARTICLE 13

PRIVILEGES AND IMMUNITIES OF INTERNATIONAL AND SIERRA LEONEAN PERSONNEL

1. Sierra Leonean and international personnel of the Special Court shall be accorded:

- (a) Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue to be accorded after termination of employment with the Special Court;
- (b) Immunity from taxation on salaries, allowances and emoluments paid to them.

2. International personnel shall, in addition thereto, be accorded:

- (a) immunity from immigration restriction;
- (b) the right to import free of duties and taxes, except for payment for services, their furniture and effects at the time of first taking up their official duties in Sierra Leone.

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- (a) May hold and use funds, gold or negotiable instruments of any kind and maintain and operate accounts in any currency and convert any currency held by it into any other currency;
- (b) Shall be free to transfer its funds, gold or currency from one country to another, or within Sierra Leone to the United Nations or any other agency.

ARTICLE 10
SEAT OF THE SPECIAL COURT

The Special Court shall have its seat in Sierra Leone. The Court may meet away from its seat if it considers it necessary for the efficient exercise of its functions, and may be relocated outside Sierra Leone, if circumstances so require, and subject to the conclusion of a Headquarters Agreement between the Secretary-General of the United Nations and the Government of Sierra Leone, on the one hand, and the Government of the alternative seat, on the other.

ARTICLE 11
JURIDICAL CAPACITY

The Special Court shall possess the juridical capacity necessary for:

- (a) Contract;
- (b) Acquire and dispose of movable and immovable property;
- (c) Institute legal proceedings;
- (d) Enter into agreements with States as may be necessary for the exercise of its functions and for the operation of the Court.

ARTICLE 12
PRIVILEGES AND IMMUNITIES OF THE JUDGES, THE PROSECUTOR AND THE REGISTRAR

1. The Judges, the Prosecutor and the Registrar, together with their families forming part of their household, shall enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic agents in accordance with the 1961 Vienna Convention on Diplomatic Relations. They shall, in particular, enjoy —

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ARTICLE 16

SECURITY, SAFETY AND PROTECTION OF PERSONS REFERRED TO IN THIS AGREEMENT

Recognizing the responsibility of the Government under international law to ensure the security, safety and protection of persons referred to in this Agreement and its present incapacity to do so pending the restructuring and rebuilding of its security forces, it is agreed that the United Nations Mission in Sierra Leone shall provide the necessary security to premises and personnel of the Special Court, subject to an appropriate mandate by the Security Council and within its capabilities.

ARTICLE 17

COOPERATION WITH THE SPECIAL COURT

1. The Government shall cooperate with all organs of the Special Court at all stages of the proceedings. It shall, in particular, facilitate access to the Prosecutor to sites, persons and relevant documents required for the investigation.

2. The Government shall comply without undue delay with any request for assistance by the Special Court or an order issued by the Chambers, including, but not limited to:

- (a) Identification and location of persons;
- (b) Service of documents;
- (c) Arrest or detention of persons;
- (d) Transfer of an indictee to the Court.

ARTICLE 18

WORKING LANGUAGE

The official working language of the Special Court shall be English.

ARTICLE 19

PRACTICAL ARRANGEMENTS

1. With a view to achieving efficiency and cost-effectiveness in the operation of the Special Court, a phased-in approach shall be adopted for its establishment in accordance with the chronological order of the legal process.

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3. The privileges and immunities are granted to the officials of the Special Court in the interest of the Court and not for their personal benefit. The right and duty to waive the immunity in any particular case where it can be waived without prejudice to the purpose for which it is accorded shall lie with the Registrar of the Court.

ARTICLE 14
COUNSEL

1. The Government shall ensure that the counsel of a suspect or an accused who has been admitted as such by the Special Court shall not be subjected to any measure which may affect the free and independent exercise of his or her functions.

2. In particular, the counsel shall be accorded:

- (a) Immunity from personal arrest or detention and from seizure of personal baggage;
- (b) Inviolability of all documents relating to the exercise of his or her functions as a counsel of a suspect or accused;
- (c) Immunity from criminal or civil jurisdiction in respect of words spoken or written and acts performed in his or her capacity as counsel. Such immunity shall continue to be accorded after termination of his or her functions as a counsel of a suspect or accused.
- (d) Immunity from any immigration restrictions during his or her stay as well as during his or her journey to the Court and back.

ARTICLE 15
WITNESSES AND EXPERTS

Witnesses and experts appearing from outside Sierra Leone on a summons or a request of the Judges or the Prosecutor shall not be prosecuted, detained or subjected to any restriction on their liberty by the Sierra Leonean authorities. They shall not be subjected to any measure which may affect the free and independent exercise of their functions. The provisions of article 13, paragraph 2(a) and (d), shall apply to them.

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IN WITNESS WHEREOF, the following duly authorized representatives of the United Nations and of the Government of Sierra Leone have signed this Agreement.

DONE at Freetown, on 16 January 2002 in two originals in the English language.

Hans Corell
For the United Nations

Solomon Berewa
For the Government of Sierra Leone

STATUTE OF THE SPECIAL COURT FOR SIERRA LEONE

Having been established by an Agreement between the United Nations and the Government of Sierra Leone pursuant to Security Council resolution 1315 (2000) of 14 August 2000, the Special Court for Sierra Leone (hereinafter "the Special Court") shall function in accordance with the provisions of the present Statute.

ARTICLE 1

COMPETENCE OF THE SPECIAL COURT

1. The Special Court shall, except as provided in subparagraph (2) have the power to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996, including those leaders who, in committing such crimes, have threatened the establishment of and implementation of the peace process in Sierra Leone.

2. Any transgressions by peacekeepers and related personnel present in Sierra Leone pursuant to the Status of Mission Agreement in force between the United Nations and the Government of Sierra Leone or agreements between Sierra Leone and other Governments or regional organizations, or, in the absence of such agreement, provided that the peacekeeping operations were undertaken with the consent of the Government of Sierra Leone, shall be within the primary jurisdiction of the sending State.

3. In the event the sending State is unwilling or unable genuinely to carry out an investigation or prosecution, the Court may, if authorized by the Security Council on the proposal of any State, exercise jurisdiction over such persons.

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2. In the first phase of the operation of the Special Court, Judges, the Prosecutor and the Registrar will be appointed along with investigative and prosecutorial staff. The process of investigations and prosecutions of those already in custody shall be initiated.

3. In the initial phase, judges of the Trial Chamber and the Appeals Chamber shall be convened on an *ad hoc* basis for dealing with organizational matters, and serving when required to perform their duties.

4. Judges of the Trial Chamber shall take permanent office shortly before the investigation process has been completed. Judges of the Appeals Chamber shall take permanent office when the first trial process has been completed.

ARTICLE 20
SETTLEMENT OF DISPUTES

Any dispute between the Parties concerning the interpretation or application of this Agreement shall be settled by negotiation, or by any other mutually agreed-upon mode of settlement.

ARTICLE 21
ENTRY INTO FORCE

The present Agreement shall enter into force on the day after both Parties have notified each other in writing that the legal requirements for entry into force have been complied with.

ARTICLE 22
AMENDMENT

This Agreement may be amended by written agreement between the Parties.

ARTICLE 23
TERMINATION

This Agreement shall be terminated by agreement of the Parties upon completion of the judicial activities of the Special Court.

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- (c) Taking of hostages;
- (d) Acts of terrorism;
- (e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- (f) Pillage;
- (g) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples;
- (h) Threats to commit any of the foregoing acts.

ARTICLE 4

OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

The Special Court shall have the power to prosecute persons who committed the following serious violations of international humanitarian law:

- (a) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- (b) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (c) Conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities.

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ARTICLE 2
CRIMES AGAINST HUMANITY

The Special Court shall have the power to prosecute persons who committed the following crimes as part of a widespread or systematic attack against any civilian population:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation;
- (e) Imprisonment;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence;
- (h) Persecution on political, racial, ethnic or religious grounds;
- (i) Other inhumane acts.

ARTICLE 3
VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL
PROTOCOL II

The Special Court shall have the power to prosecute persons who committed or ordered the commission of serious violations of article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include:

- (a) Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- (b) Collective punishments;

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3. The fact that any of the acts referred to in articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior had failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him or her of criminal responsibility, but may be considered in mitigation of punishment if the Special Court determines that justice so requires.

5. Individual criminal responsibility for the crimes referred to in article 5 shall be determined in accordance with the respective laws of Sierra Leone.

ARTICLE 7

JURISDICTION OVER PERSONS OF 15 YEARS OF AGE

1. The Special Court shall have no jurisdiction over any person who was under the age of 15 at the time of the alleged commission of the crime. Should any person who was at the time of the alleged commission of the crime between 15 and 18 years of age come before the Court, he or she shall be treated with dignity and a sense of worth, taking into account his or her young age and the desirability of promoting his or her rehabilitation, reintegration into and assumption of a constructive role in society, and in accordance with international human rights standards, in particular the rights of the child.

2. In the disposition of a case against a juvenile offender, the Special Court shall order any of the following: care guidance and supervision orders, community service orders, counselling, foster care, correctional, educational and vocational training programmes, approved schools and, as appropriate, any programmes of disarmament, demobilization and reintegration or programmes of child protection agencies.

ARTICLE 8

CONCURRENT JURISDICTION

1. The Special Court and the national courts of Sierra Leone shall have concurrent jurisdiction.

2. The Special Court shall have primacy over the national courts of Sierra Leone. At any stage of the procedure, the Special Court may formally request a national court to defer to its competence in accordance with the present Statute and the Rules of Procedure and Evidence.

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ARTICLE 5
CRIMES UNDER SIERRA LEONEAN LAW

The Special Court shall have the power to prosecute persons who have committed the following crimes under Sierra Leonean law:

- (a) Offences relating to the abuse of girls under the Prevention of Cruelty to Children Act, 1926 (Cap. 31):
 - (i) Abusing a girl under 13 years of age; contrary to section 6;
 - (ii) Abusing a girl between 13 and 14 years of age, contrary to section 7;
 - (iii) Abduction of a girl for immoral purposes, contrary to section 12.
- (b) Offences relating to the wanton destruction of property under the Malicious Damage Act, 1861:
 - (i) Setting fire to dwelling-houses, any person being therein, contrary to section 2;
 - (ii) Setting fire to public buildings, contrary to sections 5 and 6;
 - (iii) Setting fire to other buildings, contrary to section 6.

ARTICLE 6
INDIVIDUAL CRIMINAL RESPONSIBILITY

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 4 of the present Statute shall be individually responsible for the crime.
2. The official position of any accused persons, whether as Head of State or Government or as a responsible government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

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ARTICLE 12
COMPOSITION OF THE CHAMBERS

1. The Chambers shall be composed of not less than eight (8) or more than eleven (11) independent judges, who shall serve as follows:
 - (a) Three judges shall serve in the Trial Chamber, of whom one shall be a judge appointed by the Government of Sierra Leone, and two judges appointed by the Secretary-General of the United Nations (hereinafter "the Secretary-General").
 - (b) Five judges shall serve in the Appeals Chamber, of whom two shall be judges appointed by the Government of Sierra Leone, and three judges appointed by the Secretary-General.
2. Each judge shall serve only in the Chamber to which he or she has been appointed.
3. The judges of the Appeals Chamber and the judges of the Trial Chamber, respectively, shall elect a presiding judge who shall conduct the proceedings in the Chamber to which he or she was elected. The presiding judge of the Appeals Chamber shall be the President of the Special Court.
4. If, at the request of the President of the Special Court, an alternate judge or judges have been appointed by the Government of Sierra Leone or the Secretary-General, the presiding judge of a Trial Chamber or the Appeals Chamber shall designate such an alternate judge to be present at each stage of the trial and to replace a judge if that judge is unable to continue sitting.

ARTICLE 13
QUALIFICATION AND APPOINTMENT OF JUDGES

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. They shall be independent in the performance of their functions, and shall not accept or seek instructions from any Government or any other source.
2. In the overall composition of the Chambers, due account shall be taken of the experience of the judges in international law, including international humanitarian law and human rights law, criminal law and juvenile justice.
3. The judges shall be appointed for a three-year period and shall be eligible for reappointment.

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ARTICLE 9
NON BIS IN IDEM

1. No person shall be tried before a national court of Sierra Leone for acts for which he or she has already been tried by the Special Court.
2. A person who has been tried by a national court for the acts referred to in articles 2 to 4 of the present Statute may be subsequently tried by the Special Court if:
 - (a) The act for which he or she was tried was characterized as an ordinary crime; or
 - (b) The national court proceedings were not impartial or independent, were designed to shield the accused from international criminal responsibility or the case was not diligently prosecuted.
3. In considering the penalty to be imposed on a person convicted of a crime under the present Statute, the Special Court shall take into account the extent to which any penalty imposed by a national court on the same person for the same act has already been served.

ARTICLE 10
AMNESTY

An amnesty granted to any person falling within the jurisdiction of the Special Court in respect of the crimes referred to in articles 2 to 4 of the present Statute shall not be a bar to prosecution.

ARTICLE 11
ORGANIZATION OF THE SPECIAL COURT

The Special Court shall consist of the following organs:

- (a) The Chambers, comprising one or more Trial Chambers and an Appeals Chamber;
- (b) The Prosecutor; and
- (c) The Registry.

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5. In the prosecution of juvenile offenders, the Prosecutor shall ensure that the child rehabilitation programme is not placed at risk and that, where appropriate, resort should be had to alternative truth and reconciliation mechanisms to the extent of their availability.

ARTICLE 16

THE REGISTRY

1. The Registry shall be responsible for the administration and servicing of the Special Court.

2. The Registry shall consist of a Registrar and such other staff as may be required.

3. The Registrar shall be appointed by the Secretary-General after consultation with the President of the Special Court and shall be a staff member of the United Nations. He or she shall serve for a three-year term and be eligible for re-appointment.

4. The Registrar shall set up a Victims and Witnesses Unit within the Registry. This Unit shall provide, in consultation with the Office of the Prosecutor, protective measures and security arrangements, counselling and other appropriate assistance for witnesses, victims who appear before the Court and others who are at risk on account of testimony given by such witnesses. The Unit personnel shall include experts in trauma, including trauma related to crimes of sexual violence and violence against children.

ARTICLE 17

RIGHTS OF THE ACCUSED

1. All accused shall be equal before the Special Court.

2. The accused shall be entitled to a fair and public hearing, subject to measures ordered by the Special Court for the protection of victims and witnesses.

3. The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.

4. In the determination of any charge against the accused pursuant to the present Statute, he or she shall be entitled to the following minimum guarantees, in full equality:

ARTICLE 14
RULES OF PROCEDURE AND EVIDENCE

1. The Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda obtaining at the time of the establishment of the Special Court shall be applicable *mutatis mutandis* to the conduct of the legal proceedings before the Special Court.

2. The judges of the Special Court as a whole may amend the Rules of Procedure and Evidence or adopt additional rules where the applicable Rules do not, or do not adequately, provide for a specific situation. In so doing, they may be guided, as appropriate, by the Criminal Procedure Act, 1965, of Sierra Leone.

ARTICLE 15
THE PROSECUTOR

1. The Prosecutor shall be responsible for the investigation and prosecution of persons who bear the greatest responsibility for serious violations of international humanitarian law and crimes under Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996. The Prosecutor shall act independently as a separate organ of the Special Court. He or she shall not seek or receive instructions from any Government or from any other source.

2. The Office of the Prosecutor shall have the power to question suspects, victims and witnesses, to collect evidence and to conduct on-site investigations. In carrying out these tasks, the Prosecutor shall, as appropriate, be assisted by the Sierra Leonean authorities concerned.

3. The Prosecutor shall be appointed by the Secretary-General for a three-year term and shall be eligible for re-appointment. He or she shall be of high moral character and possess the highest level of professional competence, and have extensive experience in the conduct of investigations and prosecutions of criminal cases.

4. The Prosecutor shall be assisted by a Sierra Leonean Deputy Prosecutor, and by such other Sierra Leonean and international staff as may be required to perform the functions assigned to him or her effectively and efficiently. Given the nature of the crimes committed and the particular sensitivities of girls, young women and children victims of rape, sexual assault, abduction and slavery of all kinds, due consideration should be given in the appointment of staff to the employment of prosecutors and investigators experienced in gender-related crimes and juvenile justice.

ARTICLE 19

PENALTIES

1. The Trial Chamber shall impose upon a convicted person, other than a juvenile offender, imprisonment for a specified number of years. In determining the terms of imprisonment, the Trial Chamber shall, as appropriate, have recourse to the practice regarding prison sentences in the International Criminal Tribunal for Rwanda and the national courts of Sierra Leone.

2. In imposing the sentences, the Trial Chamber should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.

3. In addition to imprisonment, the Trial Chamber may order the forfeiture of the property, proceeds and any assets acquired unlawfully or by criminal conduct, and their return to their rightful owner or to the State of Sierra Leone.

ARTICLE 20

APPELLATE PROCEEDINGS

1. The Appeals Chamber shall hear appeals from persons convicted by the Trial Chamber or from the Prosecutor on the following grounds:

- (a) A procedural error;
- (b) An error on a question of law invalidating the decision,
- (c) An error of fact which has occasioned a miscarriage of justice.

2. The Appeals Chamber may affirm, reverse or revise the decisions taken by the Trial Chamber.

3. The judges of the Appeals Chamber of the Special Court shall be guided by the decisions of the Appeals Chamber of the International Tribunals for the former Yugoslavia and for Rwanda. In the interpretation and application of the laws of Sierra Leone, they shall be guided by the decisions of the Supreme Court of Sierra Leone.

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- (a) To be informed promptly and in detail in a language which he or she understands of the nature and cause of the charge against him or her;
- (b) To have adequate time and facilities for the preparation of his or her defence and to communicate with counsel of his or her own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing; to be informed, if he or she does not have legal assistance, of this right; and to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her;
- (f) To have the free assistance of an interpreter if he or she cannot understand or speak the language used in the Special Court;
- (g) Not to be compelled to testify against himself or herself or to confess guilt.

ARTICLE 18
JUDGEMENT

The judgement shall be rendered by a majority of the judges of the Trial Chamber or of the Appeals Chamber, and shall be delivered in public. It shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended.

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ARTICLE 24
WORKING LANGUAGE

The working language of the Special Court shall be English.

ARTICLE 25
ANNUAL REPORT

The President of the Special Court shall submit an annual report on the operation and activities of the Court to the Secretary-General and to the Government of Sierra Leone.

PASSED in Parliament this *19th* day of *March*, in the year of our Lord two thousand and two.

J. A. CARPENTER,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

J. A. CARPENTER,
Clerk of Parliament.

Note:—(This Act No. 9 of 2002 supersedes the Act No. 7 of 2002 by the same title published in Government Notice No. 122 as supplement to the Sierra Leone Gazette No. 17 dated 4th April, 2002).

ARTICLE 21
REVIEW PROCEEDINGS

1. Where a new fact has been discovered which was not known at the time of the proceedings before the Trial Chamber or the Appeals Chamber and which could have been a decisive factor in reaching the decision, the convicted person or the Prosecutor may submit an application for review of the judgement.

2. An application for review shall be submitted to the Appeals Chamber. The Appeals Chamber may reject the application if it considers it to be unfounded. If it determines that the application is meritorious, it may, as appropriate:

- (a) Reconvene the Trial Chamber;
- (b) Retain jurisdiction over the matter.

ARTICLE 22
ENFORCEMENT OF SENTENCES

1. Imprisonment shall be served in Sierra Leone. If circumstances so require, imprisonment may also be served in any of the States which have concluded with the International Criminal Tribunal for Rwanda or the International Criminal Tribunal for the former Yugoslavia an agreement for the enforcement of sentences, and which have indicated to the Registrar of the Special Court their willingness to accept convicted persons. The Special Court may conclude similar agreements for the enforcement of sentences with other States.

2. Conditions of imprisonment, whether in Sierra Leone or in a third State, shall be governed by the law of the State of enforcement subject to the supervision of the Special Court. The State of enforcement shall be bound by the duration of the sentence, subject to article 23 of the present Statute.

ARTICLE 23
PARDON OR COMMUTATION OF SENTENCES

If, pursuant to the applicable law of the State in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the Special Court accordingly. There shall only be pardon or commutation of sentence if the President of the Special Court, in consultation with the judges, so decides on the basis of the interests of justice and the general principles of law.

EXHIBIT³ TAB 1657
12

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Letter dated 10th November, 2003 referred to in paragraph (15) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB12".

BEFORE ME
Commissioner for
OATHS
Somhad House, Cline Town
A COMMISSIONER FOR OATHS.

EXHIBIT TAB 1658
17



SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE
PHONE: +39 0831 257000 or +232 22 297000 or +39 083125 (+Ext)
UN Intermission 178 7000 or 178 (+Ext) FAX: +232 22 297001 or UN Intermission: 178 7001

10 November 2003

Mr. Terrence Terry
Barrister
Marong House, 4 th floor
11 Charlotte Street
Freetown, Sierra Leone

RE: Prosecutor vs Alex Tamba Brima aka Tamba Alex Brima

Subject: Legal Service Contract

Dear Mr. Terry,

I hereby acknowledge having received, on 4 November 2003, the document you submitted, as a Case Plan, in the context of our discussions towards the signing of a Legal Service Contract to provide for the legal representation of Mr. Brima before the Special Court for Sierra Leone.

This follows on from the Defence Office sending you, on 3 October 2003, the documents contained in the Contracting Package and a message inviting you to prepare a Case Plan and, at least, the initial Stage Plan for the case. On 2 October 2003, you were also served with the Directive on the Assignment of Counsel (the Directive), as adopted by the Registrar on 1 October 2003.

As a preliminary remark, I would like to point out that, while I have received a Case Plan, I have yet to receive your Stage Plan for the period up to 30 September 2003.

Turning to the Case Plan you have submitted, I note that you have omitted to include certain information requested in the template that was provided to you and, more importantly, have yet to include the anticipated cost for travel and DLA/DSA. Both the Directive and the Contract Specification specify that these expenses are to be included in both the Case Plan and Stage Plans, in addition to legal fees. I will therefore need those details before I can accept your Case Plan as currently presented.

On a more fundamental note, I would like to draw your attention to the provisions of the Directive and of the Contract Specification that require the Principal Defender to ascertain a number of issues before a Legal Service Contract is signed and Counsel is assigned, as opposed to provisionally assigned, to represent an indigent accused.

In relation to article 13 (A) of the Directive, the Principal Defender has to determine that Counsel is and remains available to represent an accused. Whilst at the time of your provisional assignment this matter was dealt with through your written engagement of availability, it has now been put into question by the fact that you have raised, as an issue for a motion you earlier submitted (Application for Extension of time – Habeas Corpus) and subsequent Decision of the Trial Chamber, that health

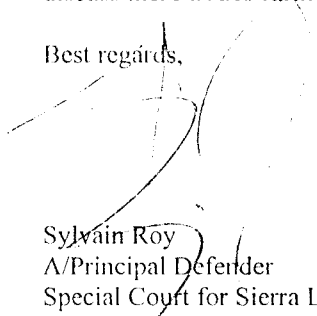
concerns had prevented and, according to the affidavit contained in your motion, could still prevent you from being available to deal with the case. Given this particular sets of circumstances, I feel that it would be in the best interest of all concerned, before a Legal Service Contract can be signed, if you underwent a medical examination. My intention would be that such an examination would be carried out by a doctor approved by the Special Court, covering the same elements as the Special Court staff pre-hiring medical exams. The cost of the examination would be borne by the Defence Office, but from a budget other than that for the defence of Mr. Brima.

Turning to another issue, article 14 (C) of the Directive states that the representation of more than one accused requires the approval by the Presiding Judge of the appropriate Chamber of the Special Court, after an application has been made through the Principal Defender. Whilst the Defence Office recognises its limited role with regards to those Counsel being retained privately, as in the case of your representation of Mr. Taylor, your possible appointment, under a Legal Service Contract to represent Mr. Brima, is clearly an area of concern to the Principal Defender. As I have mentioned to you in the past, I believe that there is a possibility of a conflict of interest arising out of the fact that you are representing both Mr. Taylor and Mr. Brima. In addition, the fact that you are representing both an indigent accused, Mr. Brima, and a privately represented accused, Mr. Taylor, creates, in my opinion, severe practical difficulties in trying to determine those expenses which will be incurred on behalf of one or the other and, as a result, if such expenses should be paid under the legal assistance scheme. It follows that, unless you are able to adhere to the provision of article 14 of the Directive, my request is that you renounce your Power of Attorney pertaining to Mr. Taylor and the Republic of Liberia or decide not to enter into a Legal Service Contract in regards to Mr. Brima.

Finally, in relation to the Contract Specification, there is a specific requirement that each indigent accused be represented by a team of Counsel possessing expertise in Criminal Law (serious offences), International Criminal Law and Sierra Leonean Law. Again, we have discussed this issue in the past and it is my understanding that you have contacted at least two persons who could meet the requirement of expertise in International Criminal Law. It is also my understanding that your previous trip to Europe (June-July 2003) was partly authorised for that purpose. It has been a practice of the Defence Office to authorise such Counsel to travel to Freetown in order to meet with their potential client and discuss their participation in the Defence Team with the Principal Defender. In your particular circumstances, this has not been the case and I have yet to receive any confirmation from either Mr. Khan or Mrs. Fauveau-Ivanovic that either is willing and, particularly, available to join your Defence Team. Furthermore, neither of them have met Mr. Brima. It is therefore my position that, prior to signing a Legal Service Contract, I would expect Mr. Khan or Mrs Fauveau-Ivanovic to travel to Freetown, for that purpose, under the provision of a Travel Authorisation to be issued by myself.

I understand that my response may well raise several questions on your part and I stand ready to discuss these issues further.

Best regards,


Sylvain Roy
A/Principal Defender
Special Court for Sierra Leone

cc: Mr. Robin Vincent
Registrar, SCSL

EXHIBIT TAB 13¹⁶⁶⁰

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Letter dated 11th December, 2003 referred to in paragraph (15) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB13".

BEFORE ME
Commissioner for Oaths
Somhad House, Cline Town
A COMMISSIONER FOR OATHS.

EXHIBIT TAB 13¹⁶⁶¹



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +39 0831 257000 or +232 22 297000 or +39 083125 (+Ext)

UN Intermission 178 7000 or 178 (+Ext) FAX: +232 22 297001 or UN Intermission: 178 7001

11 December 2003

Mr. Terrence Terry
Barrister
Marong House, 4 th floor
11 Charlotte Street
Freetown, Sierra Leone

RE: Prosecutor vs Alex Tamba Brima aka Tamba Alex Brima

Subject: Legal Service Contract

Dear Mr. Terry,

I hereby acknowledge having received your letter of 9 December 2003. This followed on earlier exchange of letters, in November 2003, in the context of our discussions towards the signing of a Legal Service Contract to provide for the legal representation of Mr. Brima, before the Special Court for Sierra Leone.

As a preliminary remark, I would like to indicate having received and reviewed the Case Plan you have submitted and believe that, with some additional point being clarified, this document could be finalised shortly.

I would also like to thank you for inviting Mr. Karim Khan to join your Defence Team and indicate that I very much welcomed the opportunity of meeting Mr. Khan and, more importantly, the opportunity for Mr. Brima to be acquainted with a member of his Defence Team. As indicated in earlier correspondence, this was a concern for the Defence Office and you have now offered an appropriate response to that concern.

On the other hand, you will recall that my last letter raised three issues. While, as indicated, one issue has been put to rest, there are unfortunately still two more concerns that have to be addressed before I can contemplate signing a Legal Service Contract assigning Special Court funds for you to represent Mr. Brima. To that effect, I would again want to remind you of the provisions of the Directive on the Assignment of Counsel and of the obligations placed on the Principal Defender as to the assignment of Counsel to indigent, or partially indigent, accused.

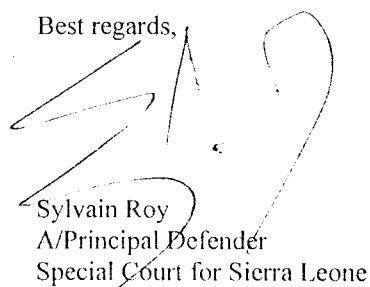
According to article 13 (A) of the Directive, the Principal Defender has to determine that Counsel is and remains available to represent an accused. It is my understanding of the Directive that an assignment can not be given to a Counsel that does not meet this requirement. Whilst at the time of your provisional assignment this matter was dealt with through your written engagement of availability, the issue has now been raised, in the context of documents submitted to the court, as having the potential to still prevent you from being available to deal with the case to its finality. This uncertainty places me in a position that can not be reconciled with my obligations under the Directive

and, unless the situation is clarified, prevents me from giving you the assignment. Given this particular sets of circumstances, I feel that my earlier solution of a medical examination would still be the most appropriate way of dealing with this uncertainty.

According to article 14 (C) of the Directive, the representation of more than one accused by one Counsel requires the approval by the Presiding Judge of the appropriate Chamber of the Special Court, after an application has been made through the Principal Defender. Furthermore, before such an application is presented to the Presiding Judge, the procedure described under article 14 would have to be followed. This has not been done and, as I have mentioned to you in the past, I continue to believe that there is a possibility of a conflict of interest arising out of the fact that you are representing both Mr. Taylor and Mr. Brima. Whilst the Defence Office recognises its limited role with regards to Counsel being retained privately, as in the case of your representation of Mr. Taylor, your possible appointment, under a Legal Service Contract to represent Mr. Brima, is clearly an area of concern to the Principal Defender. In addition, there are practical difficulties associated with this, which I have indicated to you in earlier correspondence. This situation again places me in a position that can not be reconciled with my obligations under the Directive and, again unless the situation is resolved, prevents me from giving you the assignment. It follows that my earlier suggestion that you renounce your Power of Attorney pertaining to Mr. Taylor and the Republic of Liberia continues to be the only option that would allow me to contemplate entering into a Legal Service Contract with you, for the legal representation of Mr. Brima.

I understand that my response may well raise several questions on your part and will continue to stand ready to discuss these issues further in an effort to find some resolution.

Best regards,



Sylvain Roy
A/Principal Defender
Special Court for Sierra Leone

cc: Mr. Robin Vincent
Registrar, SCSL

EXHIBIT TAB 1663, 14

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Letter dated 12th December, 2003 referred to in paragraph (15) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB14".

BEFORE ME
Commissioner for
OATHS
A COMMISSIONER FOR OATHS.

EXHIBIT "TAB" 1664
14



SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE
PHONE: +39 0831 257000 or +232 22 297000 or +39 083125 (+Ext)
UN Intermission 178 7000 or 178 (+Ext) FAX: +232 22 297001 or UN Intermission: 178 7001

12 December 2003

Mr. Terrence Terry
Barrister
Marong House, 4 th floor
11 Charlotte Street
Freetown, Sierra Leone

RE: Prosecutor vs Alex Tamba Brima aka Tamba Alex Brima

Subject: Legal Service Contract

Sir,

I hereby acknowledge having received your letter of 11 December 2003, in reply to my letter of the same day and earlier exchange of correspondences, in November 2003, this in the context of our discussions towards the signing of a Legal Service Contract, to provide for the legal representation of Mr. Brima before the Special Court for Sierra Leone.

I do not intend to respond to the insults, some of racial nature, nor to the unfounded accusations made against me or the threats you have proffered towards me but, as you requested, want to inform you of my decision concerning your appointment under a Legal Service Contract.

In no uncertain terms, and given your position, your responses to my requests and statement by yourself that this is your final position, I am not prepared to enter into a Legal Service Contract with you, this based on the following reasons:

- You are not willing to have the issue of your health status clarified and, therefore, I can not ensure that you will remain available to continue to represent Mr. Brima to the finality of the proceedings before the Special Court, this in accordance with Article 13 (A) of the Directive on the Assignment of Counsel.
- You continue to refuse to follow the procedure indicated in Article 14 (C) of the Directive on the Assignment of Counsel, regarding representing more than one defendant before the Special Court.

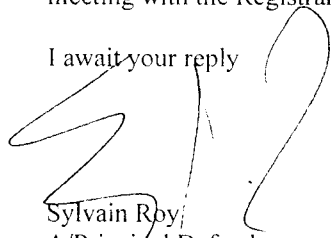
Given these facts, I hereby inform you that, in accordance with Article 16 (C) of the Directive on the Assignment of Counsel, I am withdrawing your Provisional Assignment to represent Mr. Brima under the Legal Assistance program of the Special Court.

Since Mr. Brima has the right to choose his own Counsel, he can decide to continue having you as his Counsel but, this will not be under the auspices of the Legal Assistance program provided by the Special Court. You will have to be retained privately.

I would therefore request that you present, to the Defence Office, your invoice for legal work done, to this day, under your Provisional Assignment. Payment of said invoice will be made in due course, once your invoice has been reviewed and approved.

As to your request for a meeting between the Registrar, Mr. Brima, you and myself, please note that the Registrar will only be back in Freetown on 4 January, while I will be on leave with my family from 18 December until 19 January. My absence from Freetown should not deter you from seeking a meeting with the Registrar, once he has returned.

I await your reply



Sylvain Roy,
A/Principal Defender
Special Court for Sierra Leone

cc: Mr. Robin Vincent
Registrar, SCSL

EXHIBIT TAB 1666 15

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

BETWEEN:

| | | |
|--|---|----------------------------|
| TAMBA ALEX BRIMA DETAINEE AT THE SPECIAL COURT DETENTION CENTRE JOMO KENYATTA ROAD NEW ENGLAND FREETOWN | - | APPLICANT |
| AND SYLVAIN ROY ACTING PRINCIPAL DEFENDER SPECIAL COURT FOR SIERRA LEONE JOMO KENYATTA ROAD NEW ENGLAND FREETOWN | - | 1 ST RESPONDENT |
| AND THE REGISTRAR OF THE SPECIAL COURT FOR SIERRA LEONE, MR. ROBIN VINCENT JOMO KENYATTA ROAD NEW ENGLAND FREETOWN | - | 2 ND RESPONDENT |
| AND THE DEPUTY REGISTRAR OF THE SPECIAL COURT FOR SIERRA LEONE, MR. ROBERT KIRKWOOD JOMO KENYATTA ROAD, NEW ENGLAND FREETOWN | - | 3 RD RESPONDENT |

This is a photocopy of the breakdown of the total professional fees for services so far carried out till date by Lead Counsel Terence Michael Terry referred to in paragraph (16) of the affidavit of TAMBA ALEX BRIMA sworn to at the Special Court Detention centre at Jomo Kenyatta Road Freetown on the 18th day of December, 2003 and marked Exhibit "TAB15".

BEFORE ME
 J.C.O. Commissioner For
 OATHS
 FREETOWN
 A COMMISSIONER FOR OATHS.

EXHIBIT TAB 1667-11
15

**PROSECUTOR -V- ALEX TAMBA BRIMA also known as TAMBA
ALEX BRIMA (aka) GULLIT**

**WORK SO FAR DONE BY LEAD COUNSEL – TERENCE M. TERRY
AND LEGAL ASSISTANT TWO – OSMAN KEH KAMARA**

APRIL 2003 TO DECEMBER- 2003.

Lead Counsel visited the Accused at the Special Court Detention Facility in Bonthe, Southern Province of the Republic of Sierra Leone in April 2003 - 8 hours. Legal Assistant II also visited the Accused at the Special Court Detention Facility in Bonthe on two other occasions - 16 hours.

Lead Counsel received, perused and responded to the Prosecution Motion for immediate protective measures for Witnesses and Victims and for non-public disclosure - 40 hours. Lead Counsel received and perused Prosecution reply to Defence response to Prosecution Motion for immediate protective measures for Witnesses and Victims and for non-public disclosure - 5 hours.

Lead Counsel received, perused and responded to the Prosecution Motion captioned "Prosecution extremely urgent motion to allow disclosure to the Registry and to keep disclosed material under seal until appropriate measure are in place" – 35 hours. Lead Counsel received and perused Prosecution reply to Defence response to Prosecution Motion "Prosecution extremely urgent motion to allow disclosure to the Registry and to keep disclosed material under seal until appropriate measure are in place" 5 hours. Lead Counsel received and have perused 153 Prosecution Witnesses Summary Statements for - 203 hours. Lead Counsel prepared and filed two Pre-Trial Motions with their supported affidavits namely: Defence Motion for Leave to issue a Writ of Habeas Corpus ad Subjiciendum as well as for the Order of the Writ of Habeas Corpus ad Subjiciendum pursuant to Rule 54 of the Rules of Procedure and Evidence of the Special Court and Defence Motion for Bail or Provisional Release of the Accused pursuant to Rule 65 of the Rules

-2-

of Procedure and Evidence of the Special Court -- 60 hours. Lead Counsel received perused and replied to Prosecution responses in respect of the above-mentioned Motions -- 45 hours. Further visit by Legal Assistant II, a Commissioner for Oaths and a Witness interpreter to the Accused at the Special Court Detention facility at Bonthe for him to thumb print the affidavits in Support of the above two Motions -- 8 hours.

Lead Counsel prepared and filed two Memoranda or brief arguments for the two Motions and conducted oral arguments at the Bonthe Court house in Bonthe -- 30 hours. Relevant research for cases and relevant authorities for both Motions was done by the Legal Assistant two -- 50 hours.

Lead Counsel traveled to Europe and West Africa to contact Co-Counsels and an international investigator.

Lead Counsel attended the occasion of the delivering of the Rulings on the above two Motions at Freetown temporary Court House -- 5 hours.

Lead Counsel received and perused the Rulings on the Bail or Provisional Release and the Habeas Corpus ad Subjiciendum Motions -- 2 hours. Due to delay but not of willful non-compliance to appeal against the Rulings within time, Lead Counsel filed two applications for extension of time for leave to be granted to appeal against the two Rulings of Judge Benjamin Mutanga Itoe of 22nd July, 2003 in which said Rulings he refused the Reliefs Sought -- 20 hours.

Lead Counsel received, perused and responded to the Prosecution Motion for Joinder -- 50 hours.

by written submissions
^

Lead Counsel received and perused Prosecution Reply to the Defence response to the Prosecution Motion for Joinder -- 2 hours.

Legal

~~Lead~~ Assistant Two researched for the authorities against the Prosecution Motion for Joinder – 40 hours.

Lead Counsel received, perused and replied to the Prosecution Responses opposing the ~~grants~~ *application for* of extension of time to defence Applications – 35 hours.

Lead Counsel argued against the Prosecution Motion for Joinder – 5 hours.

Total time allocated by Lead Counsel was 550 hours.

Total time allocated by Legal Assistant 2 was 114 hours.

NOTE: HOURLY RATE FOR LEAD COUNSEL IS \$110 PER HOUR.

HOURLY RATE FOR LEGAL ASSISTANT IS \$35 PER HOUR

TOTAL NUMBER OF HOURS AND RATE APRIL 2003 TO DECEMBER, 2003

| | | |
|--|---|-----------------|
| TERENCE M. TERRY - Lead Counsel - 550 x \$110 per hour | - | \$60,500 |
| OSMAN KEH KAMARA - Legal Assistant 2 - 114 x \$35 per hour | - | <u>3,990</u> |
| | | <u>\$64,490</u> |

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge

Registrar: Robin Vincent

Date Filed: 5th January 2004

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR.ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND, FREETOWN

ADDITIONAL AFFIDAVIT

I, AYO MAX-DIXON of 25 Pownall Street, Freetown in the Western Area of the Republic of Sierra Leone Managing Clerk in the office of Terence Michael Terry Counsel for the Applicant herein make oath and say as follows:-

1. That I am the Managing Clerk in the office of Terence Michael Terry Counsel for the Applicant herein and I am duly authorized to make this affidavit for and on behalf of the Applicant herein.

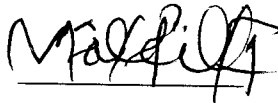
2. That I am shown a letter dated 3rd July, 2003 written by one Haddijatou Kah-Jallow of the Defence Office of the Special Court for Sierra Leone addressed to the Ex-President of the Republic of Liberia Charles Taylor – a photocopy of which said letter is exhibited hereto by me and marked Exhibit “AMD 1”.

3. That I am shown a copy of a Motion to quash Indictment in the matter entitled The Prosecutor vs. Charles Ghankay Taylor – SCSL – 2003- 01-1 prepared by the Defence office of the Special Court for Sierra Leone – a photocopy of which said Motion is exhibited hereto by me and marked Exhibit “A M D 2”.

4. That I make this additional affidavit in support of all the Orders prayed for in support of this application by way of Motion.

5. That the contents of this affidavit are true to the best of my knowledge, information and belief.

SWORN TO AT LAW COURTS BUILDING
 SIAKA STEVENS STREET, FREETOWN
 ON THE 5th DAY OF JANUARY 2004
 AT 10.00 O’CLOCK IN THE fore NOON


 DEPONENT
 AYO MAX-DIXON



THIS ADDITIONAL AFFIDAVIT IS FILED BY TERENCE MICHAEL TERRY OF 4TH FLOOR, MARONG HOUSE, 11 CHARLOTTE STREET, FREETOWN COUNSEL FOR AND ON BEHALF OF THE APPLICANT HEREIN.

EXHIBIT 'A' AND 1672

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge

Registrar: Robin Vincent

Date Filed: January 2004

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND

FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND, FREETOWN

This is a photocopy of the letter dated 3rd July 2003 referred to in paragraph (2) of the affidavit of Ayo Max-Dixon sworn to at the Law Courts Building, Siaka Stevens Street, Freetown on the 5th day of January 2004 and marked Exhibit "A M D 1".

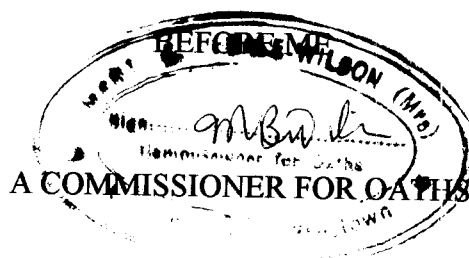




EXHIBIT AMD 1673

SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +39 0831 257000 or +232 22 297000 or +1 212 963 9915 Ext: 178 7000

FAX: +39 0831 257001 or +232 22 297001 or +1 212 963 9915 Ext: 178 7001

3 July 2003

His Excellency President Charles Taylor
President of Liberia
c/o Ambassador Kawah
Liberian Mission to the United Nations
820 2nd Avenue, 13th Floor
New York, NY

Your Excellency President Taylor:

RE: Challenging your indictment by the Special Court for Sierra Leone

I write on behalf of the Defence Office of the Special Court for Sierra Leone to seek your instructions regarding a motion to quash your indictment by the Court which the office has drafted and which it is eager to file.

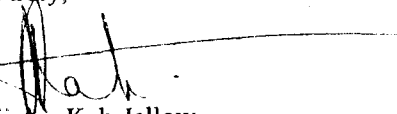
The Defence Office has been set up as an independent office within the Registry of the Special Court to provide advice, assistance and representation to suspects and accused before the Court. While suspects and accused are given a choice as to who will represent them before the Court, the Defence Office is in place to assist counsel for a suspect or accused in any way possible and to represent a suspect or accused at any time where he does not have counsel.

In order to fulfill its mandate the Defence Office has filed motions (e.g. contesting the lawfulness of arrest) on behalf of accused or suspects who have yet to retain, or be assigned, their own counsel. As a result of this aspect of our mandate, the office has prepared a motion challenging the legality of your indictment. As you will see from the attached draft motion (which does not include the annexes referred to), there is a strong argument that a court simply cannot indict a serving Head of State. We therefore believe it is our duty to challenge the legality of your indictment and seek an order quashing it and any related orders.

Before filing the motion, however, the Office seeks your instructions. We would therefore be grateful if you or your representative could contact us regarding the motion we propose to file at your earliest opportunity.

We thank you for your attention to this matter.

Yours truly,


Haddijatou Kah-Jallow

The Defence Office
Special Court for Sierra Leone

EXHIBIT 'AMD' 1674 2'

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge

Registrar: Robin Vincent

Date Filed: January 2004

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND, FREETOWN

This is a photocopy of the Motion to quash Indictment in the matter entitled The Prosecutor vs. Charles Ghankay Taylor – SCSL – 2003-01-1 referred to in paragraph (3) of the affidavit of Ayo Max-Dixon sworn to at the Law Courts Building, Siaka Stevens Street, Freetown on the 5th day of January 2004 and marked Exhibit "AMD 2".

BEFORE ME
JAN 5 2004
SIGNATURE: [Handwritten Signature]
A COMMISSIONER FOR OATHS

EXHIBIT 'AMD' 1675
2

SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER

Before: Judge Thompson, Presiding
Judge Boutet
Judge Itoe

Registrar: Mr. Robin Vincent

Date filed:

THE PROSECUTOR

v.

CHARLES GHANKAY TAYLOR

SCSL-2003-01-1

MOTION TO QUASH INDICTMENT

Office of the Prosecutor

David Crane, Prosecutor
Luc Côté, Chief of Prosecution

Defence Office

Sylvain Roy, Acting Chief of the Defence Office
Haddijatou Kah-Jallow, Defence Associate
Claire Carlton-Hancilles, Defence Associate
Ibrahim Sorie Yillah, Defence Associate
Sam Scratch, Defence Intern

I. INTRODUCTION

1. The Defence Office applies to the Trial Chamber on behalf of the accused, Charles Taylor, pursuant to Rules 47 and 54 of the Rules of Procedure and Evidence for an order quashing the indictment issued against him as well as the warrant of arrest for him and related orders.

II. FACTS

2. On 7 March 2003 Judge Bankole Thompson approved an indictment against the accused which charged him with 17 counts contrary to Articles 2, 3 and 4 of the Statute of the Special Court. Judge Thompson issued a warrant of arrest, transfer and detention for the accused and further ordered that “there be no public disclosure of the Indictment or any part thereof or information pertaining to the Indictment, the Warrant of Arrest, the transfer and detention until further order by the Special Court”. On 12 June 2003, 8 days after the publication of the indictment and warrant of arrest by the Prosecutor, Judge Pierre Boutet ordered the public disclosure of the indictment, warrant of arrest and decision approving the indictment.

3. Charles Taylor has been the President of Liberia, its Head of State¹, since his election to that post in 1997².

III. ARGUMENT

4. The Defence Office submits that, as a serving Head of State at the time of his indictment, Mr. Taylor was immune from prosecution by this Court under international law. The Defence Office takes this position despite the provisions of Article 6.2 of the Statute of the Special Court which will likely be cited by the Prosecution in support of Mr. Taylor’s indictment³. The Defence Office advances two arguments in relation to Mr. Taylor’s indictment: A) international law grants a serving Head of State immunity from prosecution by a court which would otherwise have jurisdiction over his or her person. Any indictment of a serving Head of State by this Court violates this internationally-recognized immunity and therefore violates the legality principle;

¹ See Constitution of Liberia, Chapter VI, Article 50 – attached as annex 1.

² The Defence Office submits Mr. Taylor’s status as President of Liberia is notorious and therefore amenable to judicial notice under Rule 94.

³ For the reasons set out in footnote 11, *infra*, the Defence Office submits Article 6.2 does not apply to the immunity at issue in this motion.

and, should this Court reject argument A, B) the only courts capable of overriding Head-of-State immunity are international criminal tribunals who would otherwise have the power to arrest the individual in question. The Special Court has no such arrest powers and therefore is not one of those international tribunals with the power to override the immunity at issue. Furthermore, the parties to the Agreement which created the Special Court lacked the power to confer such jurisdiction over serving Heads of State on the Court. The Defence Office therefore submits the accused's indictment and the related orders were void *ab initio* and that this indictment and related orders must be quashed.

5. With respect to the two issues raised below, the accused submits that immunity is a unique concept related to jurisdiction but not synonymous with it. A valid plea of immunity bars an otherwise valid exercise of a court's jurisdiction over the person (*rationae personae*), over the offence – or acts of a person – (*rationae materiae*), or both. The Defence Office submits that a serving Head of State has both personal immunity, affecting a court's power to arrest him, and a state immunity, affecting whether he may be held criminally responsible for official acts. The present motion deals primarily with the former form of immunity – i.e. personal immunity.

6. The accused emphasizes that his motion to quash his indictment and related orders is not recognition of this Court's jurisdiction over him in any way. The accused challenges this Court's power to indict him and order his arrest. In so doing he is not waiving any right to challenge the Court's jurisdiction in any of its forms.

A. HEAD-OF-STATE IMMUNITY UNDER INTERNATIONAL LAW

7. While related to other forms of status-based immunity, such as the immunity from prosecution of a serving foreign minister recognized in the International Court of Justice's judgment in *Congo v. Belgium*⁴, Head-of-State immunity is unique. The Defence Office submits that state practice, academic opinion and simple logic support the proposition that Head-of-State immunity is the highest form of status immunity recognized under international law and thus applies to any criminal process issued against a serving Head of State whether that process is issued by a national or international tribunal.

⁴ *Democratic Republic of Congo v. Belgium*, International Court of Justice, 14 February 2002 – attached as annex 2.

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8. Municipal courts in the world's major legal systems have consistently confirmed the absolute nature of the immunity of a serving Head of State. For instance, American courts, such as the District Court of the State of New York in *Tachiona v. Mugabe*⁵, have repeatedly refused to assert their jurisdiction over serving Heads of State. Similarly, the French Cour de Cassation, in the *Qaddafi Case*, ruled that a serving Head of State cannot be prosecuted even for complicity in terrorist acts. In West Africa, the Senegalese Cour de Cassation has recently ruled that a former head of state was immune from criminal prosecution.

9. While more mixed than the practice of municipal courts, academic opinion certainly recognizes the existence of Head-of-State immunity. Thus *Oppenheim's International Law* states,

a Head of State who goes abroad . . . is exempt . . . from criminal and civil jurisdiction, except where he himself is the plaintiff or otherwise submits to the jurisdiction. The same applies where the Head of State, although not visiting another state, is sued in its courts.⁶

10. Head-of-State immunity rests on the same foundation as diplomatic immunity, recognized by treaty and customary international law in order "to ensure the efficient performance of the functions of diplomatic missions as representing States"⁷. Like the immunity of a serving foreign minister described by the ICJ in *Congo v. Belgium*, the immunity enjoyed by a serving Head of State is also directly related to his functions and the generally-recognized need for him to be able to fulfil such functions without let or hindrance. A serving Head of State's functions, however, are myriad and thus the immunity granted to him must be broader than that accorded his foreign minister. In addition, a Head of State, unlike a foreign minister, is also an embodiment of the nation her or she leads. The immunity granted him must therefore protect the sovereignty of the nation at the same time as it facilitates his duties of office. While national sovereignty may not be as inviolable a concept as it was once considered under international law, it remains a fundamental consideration in determining and interpreting the laws which govern all nations.

⁵ 169 F.Supp. 2d 259 (S.D.N.Y.) – attached as annex 3.

⁶ Sir Robert Jennings & Sir Arthur Watts, *Oppenheim's International Law*, 9th Ed., (London, 1996) at p.1036-38.

⁷ Preamble to the *Vienna Convention on Diplomatic Relations of 18 April 1961* – attached as annex 6.

11. On the basis of the three factors set out above, the Defence Office submits that a serving Head of State's immunity to prosecution is sufficiently broad to include immunity for the crimes charged against Mr. Taylor by the indictment issued by this Court. Admittedly, the ICJ has held that "an incumbent or former Minister of Foreign Affairs may be subject to criminal proceedings before certain international criminal courts, where they have jurisdiction"⁸. That ruling obviously applies only to ministers of foreign affairs. As outlined above, the difference between a minister of foreign affairs and a Head of State is significant. A foreign minister acquires immunity from prosecution under customary international law solely in order to facilitate the performance of a limited number of functions. It thus stands to reason that the immunity itself will be limited in the way the ICJ envisions. A serving Head of State, on the other hand, performs a wider variety of functions and, much more so than any minister who may serve under him or her, embodies the nation and its sovereignty⁹. The immunity granted to him or her during his or her term of office must therefore be broader than that granted to any subordinate. The Defence Office submits such Head-of-State immunity must encompass any process issued against a serving Head of State.

12. This Court is, of course, bound by customary international law. Where customary international law recognizes immunity to prosecution this Court must respect such immunity. To do otherwise would violate the principle of legality which binds all international tribunals. The Defence Office therefore respectfully submits the indictment issued against Mr. Taylor was illegal and ought to be quashed. A more detailed discussion of remedy is set out in section IV below.

B. THE SPECIAL COURT'S STATUS AND ITS JURISDICTION OVER SERVING HEADS OF STATE

⁸ *Congo v. Belgium, op cit.* footnote 3 at paragraph 61.

⁹ [a] Head of State's immunity is enjoyed in recognition of his very special status as holder of his State's highest office. It also secures to him, if he is at the time engaged upon an official visit, the freedom from harassment which is necessary if he is to be able to perform properly the functions of his visit; and even if he is not visiting the forum State, he still stands in need of a degree of protection from harassment since his position as Head of State is one which he has *erga omnes*, at all times and wherever he is

- Sir Arthur Watt, *The Legal Position in International Law of Heads of States, Heads of Governments and Foreign Ministers*, Recueil des Cours: Collected Courses of the Hague Academy of International Law 13 (Hague: Martinus Nijhoff Publishers, 1995) at p.40.

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13. Even if the “international tribunal” exception to a serving foreign minister’s immunity from prosecution in *Congo v. Belgium* also applies to a Head of State, the Defence Office submits that this Court lacks the necessary status to indict Mr. Taylor. The exception to a Head of State’s immunity applies, if it applies at all, to “certain international criminal courts, where they have jurisdiction”. The ICJ identified three such courts: the ICTY, the ICTR and the ICC. Despite its existence on 14 February 2002 when the ICJ released its judgment in *Congo v. Belgium*, that court did not identify the Special Court as an international court capable of overriding the normal rule of Head-of-State immunity. The Defence Office respectfully submits that the Special Court is not one of those “certain international criminal courts” capable of overriding Head-of-State immunity.

14. In the view of the ICJ, only an international criminal court which has jurisdiction over the person of the individual pleading immunity would be able to trump such a claim. The Defence Office submits that the power to arrest and detain an individual with immunity thus becomes the *sine qua non* of that immunity’s validity before the international tribunal seeking to assert its jurisdiction. If the international tribunal has the power to arrest the accused in the State of which he is the Head, it also has the power to override any plea of immunity. If, on the other hand, the tribunal’s powers of arrest are more limited a claim of immunity will prevail.

15. An international tribunal may acquire extra-territorial arrest powers and therefore jurisdiction over the person of an accused in one of two ways. It can be granted powers under Chapter VII of the *Charter of the United Nations* or it can be granted those powers via treaty. In either case the arrest power arises as a matter of the consent of the State in whose territory the arrest is sought. In the case of the ICTY and ICTR, created by a resolution of the UN Security Council exercising its powers to protect international peace and security under Chapter VII, the consent is indirect. By virtue of Article 49 of the *Charter* all members of the UN undertake to “join in affording mutual assistance in carrying out the measures decided upon by the Security Council”. All members of the United Nations are therefore obligated to assist in the arrest and transfer of suspects and accused sought by the ICTY or ICTR. Under Rule 56 of both tribunals’ Rules of Procedure and Evidence States “shall act promptly and with all due diligence to ensure

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proper and effective execution” of court orders and arrest warrants. The tribunals are empowered to call upon States to afford such assistance because of their Chapter VII mandate.

16. In the case of State parties to the *Rome Statute* of the ICC, the consent is direct. Article 86 of the *Statute* creates a general obligation on the part of States parties to “cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court”. Article 59 of the *Statute* obligates a State party to arrest and detain persons sought by the Court. The Court thereby gains a power of arrest within the territory, but only within the territory, of the parties to the treaty which created it. It should also be noted that Article 27 of the *Statute* expressly abolishes any immunity a Head of State might assert in matters before the ICC¹⁰. This abolition is possible, as the ICJ noted in *Congo v. Belgium*¹¹, because States, rather than the individual claiming immunity, may waive the immunity of their officials.

17. In contrast with the ICTY, the ICTR and the ICC, the Special Court, as Prof. Michael Scharf has observed, is

a treaty-based court established by the Agreement between the United Nations and Sierra Leone. *As a consequence*, while it has primacy over domestic prosecutions in Sierra Leone and can issue binding orders to the government of Sierra Leone, *the Special Court lacks the power of the ICTY and ICTR to assert primacy over national courts of third States or to order the surrender of an accused located in any third State* [emphasis added].¹²

¹⁰ Article 27 of the *Rome Statute* reads:

1. This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.

2. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.

The inclusion of sub-article 2 in the *Rome Statute* indicates that sub-article 1, whose language is similar to that of Article 6.2 of the Statute of the Special Court, does not apply to a plea of Head-of-State immunity. Given the absence of any article in this Court’s Statute which echoes the language of sub-article 2, the Defence Office submits that Article 6.2, even if valid, does not affect the validity of an accused’s plea this Court lacks jurisdiction over his or her person because he or she enjoys immunity as a serving Head of State.

¹¹ at paragraph 53.

¹² M. Scharf, *The Special Court for Sierra Leone*, American Society of International Law website (www.asil.org/insights/insigh53.htm), February 2000 – attached as annex 4.

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This Court clearly lacks to power to compel the cooperation of third States – hence Articles 8(C) and 58 of its Rules of Procedure and Evidence¹³. This lack of power to compel arrests by third States in turn affects the availability of Head-of-State immunity in proceedings before it. The only State to consent to the exercise of the Court’s personal jurisdiction is Sierra Leone. The Court therefore lacks the necessary jurisdiction over any individual in a third State which is a prerequisite to defeating a claim to immunity such as that advanced in *Congo v. Belgium*. Absent the waiver of Mr. Taylor’s immunity by the government of Liberia he retains its benefit.

18. In addition, the parties to the Agreement creating the Special Court, the UN Secretary-General and the government of Sierra Leone, did not have the power to override the traditional customary international law rule granting immunity from prosecution to serving Heads of state. Under the *Charter of the United Nations*, the Secretary-General lacks the power to act against threats to international peace and security which the Security Council holds exclusively. He thus lacks the power to command the cooperation (and consent) of member States. The government of Sierra Leone, obviously, lacks the power to compel the cooperation or consent of any State but Sierra Leone. The parties to the treaty lacked the ability to grant the Court jurisdiction over persons in third States and thereby lacked the *sine qua non* of the power to override the immunity discussed in *Congo v. Belgium* and, by extension, Head-of-State immunity. Any provision of the Statute of the Court which indicates otherwise is *ultra vires* the power of the parties to the Agreement creating the Court.

IV. REMEDY

19. Like the applicant Democratic Republic of Congo in *Congo v. Belgium* the Defence Office submits the arrest warrant and indictment which supported it issued against Mr. Taylor is void *ab initio* and therefore ought to be quashed¹⁴. In *Congo v. Belgium* the ICJ ruled that the

¹³ Rule 8(C) reads:

The Court may invited third States not party to the Agreement to provide assistance on the basis of an ad hoc arrangement, an agreement with such State or any other appropriate basis.

Rule 58 reads:

The Special Court may invite third States to enter into agreements and or ad hoc arrangements which may facilitate arrest and transfer to the Special Court.

¹⁴ at paragraph 25.

issuance of criminal process against the then serving foreign minister of the DRC constituted an illegal act which could only be rectified by the cancellation of the arrest warrant. The ICJ came to this conclusion despite the fact that the foreign minister whose arrest was sought had ceased to hold any position in the Congolese government by the time of judgment. That court nonetheless concluded it was

bound, however, to find that, given the nature and purpose of the warrant, its mere issue violated the immunity which Mr. Yerodia [the former foreign minister] enjoyed as the Congo's incumbent Minister for Foreign Affairs. The Court accordingly concludes that the issue of the warrant constituted a violation of an obligation of Belgium towards the Congo, in that it failed to respect the immunity of that Minister and, more particularly, infringed the immunity from criminal jurisdiction and the inviolability then enjoyed by him under international law. [emphasis added]

20. In addition and on the issue of remedy the ICJ also ruled that as the Permanent Court of International Justice stated in its Judgment of 13 September 1928 in the case concerning the *Factory at Chorzów*:

“[t]he essential principle contained in the actual notion of an illegal act – a principle which seems to be established by international practice and in particular by the decisions of arbitral tribunals – is that reparation must, as far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed”
[citation omitted]

In the present case, “the situation which would, in all probability, have existed if [the illegal act] had not been committed” cannot be re-established merely by a finding by the Court that the arrest warrant was unlawful under international law. The warrant is still extant, and remains unlawful, notwithstanding the fact that Mr. Yerodia has ceased to be Minister for Foreign Affairs. The Court accordingly considers that Belgium must, by means of its own choosing, cancel the warrant in question and so inform the authorities to whom it was circulated.

21. The mere issuance of criminal process against an official with immunity to such process is an illegal act. The illegality of the act means that any order or warrant that issues as a result is invalid from its inception. This principle of international law, as stated by the ICJ above, means that the indictment and arrest warrant issued against Mr. Taylor on 7 March 2003, at a time when he was immune from prosecution by any court, were void *ab initio*. As a result the indictment and related orders must be quashed.

V. PRAYER

22. The Defence Office respectfully requests that the Trial Chamber declare his indictment, warrant of arrest and order for transfer and detention void *ab initio* and further requests that the

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Trial Chamber order that all relevant persons and agencies be notified of this declaration by the Registrar.

Dated at Freetown this _____ day of July 2003.

Sylvain Roy
Haddijatou Kah-Jallow
Claire Carlton-Hancilles
Ibrahim Sorie Yillah
Sam Scratch

For the Defence Office

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge.

Registrar: Robin Vincent

Date Filed: 5th January, 2004

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND

SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND

THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN
AND

THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

SUPPLEMENTAL AFFIDAVIT

I, TAMBA ALEX BRIMA presently detained at the Special Court Detention Centre at Jomo Kenyatta Road, New England Freetown in the Western Area of the Republic of Sierra Leone Retired Military Officer make oath and say as follows:-

- (1) That I am the applicant herein in the above criminal proceedings instituted against my person.
- (2) That I swore to an affidavit on the 18th day of December, 2003 at 9:55 o'clock in the forenoon in the above matter.

- (3) That I am shown a letter dated 3rd July, 2003 written by one Haddijatou Kah-Jallow of the Defence Office of the Special Court for Sierra Leone addressed to the Ex-President of the Republic of Liberia Charles Taylor – a photocopy of which said letter is exhibited hereto by me and marked Exhibit “A”.
- (4) That I am also shown a letter dated 1st October, 2003 written by Sylvain Roy – Acting Chief of Defence and Legal Advisor addressed to my Counsel Terence Michael Terry – a photocopy of which said letter is exhibited hereto by me and marked Exhibit “B”.
- (5) That I am further shown the Investigation service Contract No. 2003/D0/1/02 made the 8th December 2003 between the Principal Defender of the Defence Office of the Special Court for Sierra Leone hereinafter referred to as the “DOSCSL” and Kareem K. Yansane hereinafter referred to as the “Investigator” – a photocopy of which said Investigation Service Contract is exhibited hereto by me and marked Exhibit “C”.
- (6) That I am further shown a letter dated the 13th of December 2003 written by my Counsel Terence Michael Terry addressed to Mr. Sylvain Roy, Acting Principal Defender of the Special Court for Sierra Leone – a photocopy of which said letter is exhibited hereto by me and marked Exhibit “D”.
- (7) That I am further shown a letter dated 23rd December, 2003 written by my Counsel Terence Michael Terry addressed to the Registrar of the Special Court for Sierra Leone – a photocopy of which said letter is exhibited hereto by me and marked Exhibit “E”
- (8) That I am further shown a letter dated 29th December, 2003 written by my Counsel Terence Michael Terry addressed to Mr. Antonio Salles Chief of Communication and Information Technology of the Special Court for

Sierra Leone – a photocopy of which said letter is exhibited hereto by me and marked Exhibit “F”.

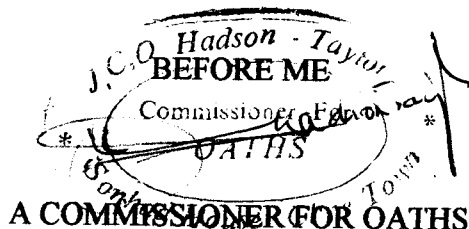
- (9) That I make this affidavit as a Supplemental affidavit to that sworn to by me on the 18th day of December, 2003 at 9:55 o'clock in the forenoon in support of all the orders prayed for in support of this application by way of Motion.
- (10) That the contents of this affidavit are true to the best of my knowledge, information and belief.

This affidavit was read over and explained to the Deponent herein Tamba Alex Brima in the Creole language by a witness interpreter Martin Sefon S. and he seemed perfectly to understand its contents before affixing his right thumbprint to same.

SWORN TO AT THE SPECIAL COURT
DETENTION CENTRE AT JOMO
KENYATTA ROAD NEW ENGLAND, FREETOWN
ON THE 30th DAY OF December 2003
AT 12.35 O'CLOCK IN THE After NOON



DEPONENT
TAMBA ALEX BRIMA



THIS SUPPLEMENTAL AFFIDAVIT IS FILED BY TERENCE MICHAEL TERRY OF 4TH FLOOR, MARONG HOUSE, 11 CHARLOTTE STREET, FREETOWN SOLICITOR AND COUNSEL FOR AND ON BEHALF OF THE APPLICANT HEREIN.

EXHIBIT "A"

1688

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN - SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the letter dated 3rd July 2003 referred to in paragraph (3) of the affidavit of Tamba Alex Brima sworn to at the Special Court Detention Centre at Jomo Kenyatta Road, New England Freetown on the 30th day of December, 2003 and marked Exhibit "A".

J.C. OBEFORE ME
Commissioner For Oaths
Somhad House, Cline Town

A COMMISSIONER FOR OATHS

EXHIBIT A

1689



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE
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FAX: +39 0831 257001 or +232 22 297001 or +1 212 963 9915 Ext: 178 7001

3 July 2003

His Excellency President Charles Taylor
President of Liberia
c/o Ambassador Kawah
Liberian Mission to the United Nations
820 2nd Avenue, 13th Floor
New York, NY

Your Excellency President Taylor:

RE: Challenging your indictment by the Special Court for Sierra Leone

I write on behalf of the Defence Office of the Special Court for Sierra Leone to seek your instructions regarding a motion to quash your indictment by the Court which the office has drafted and which it is eager to file.


The Defence Office has been set up as an independent office within the Registry of the Special Court to provide advice, assistance and representation to suspects and accused before the Court. While suspects and accused are given a choice as to who will represent them before the Court, the Defence Office is in place to assist counsel for a suspect or accused in any way possible and to represent a suspect or accused at any time where he does not have counsel.

In order to fulfill its mandate the Defence Office has filed motions (e.g. contesting the lawfulness of arrest) on behalf of accused or suspects who have yet to retain, or be assigned, their own counsel. As a result of this aspect of our mandate, the office has prepared a motion challenging the legality of your indictment. As you will see from the attached draft motion (which does not include the annexes referred to), there is a strong argument that a court simply cannot indict a serving Head of State. We therefore believe it is our duty to challenge the legality of your indictment and seek an order quashing it and any related orders.

Before filing the motion, however, the Office seeks your instructions. We would therefore be grateful if you or your representative could contact us regarding the motion we propose to file at your earliest opportunity.

We thank you for your attention to this matter.

Yours truly,


Haddijafou Kah-Jallow

The Defence Office
Special Court for Sierra Leone

EXHIBIT 'B' 1690

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge

Registrar: Robin Vincent

BETWEEN:

| | | |
|--|---|----------------------------|
| TAMBA ALEX BRIMA DETAINEE AT THE SPECIAL COURT DETENTION CENTRE JOMO KENYATTA ROAD NEW ENGLAND FREETOWN | - | APPLICANT |
| AND SYLVAIN ROY ACTING PRINCIPAL DEFENDER SPECIAL COURT FOR SIERRA LEONE JOMO KENYATTA ROAD NEW ENGLAND FREETOWN | - | 1 ST RESPONDENT |
| AND THE REGISTRAR OF THE SPECIAL COURT FOR SIERRA LEONE, MR.ROBIN VINCENT JOMO KENYATTA ROAD NEW ENGLAND FREETOWN | - | 2 ND RESPONDENT |
| AND THE DEPUTY REGISTRAR OF THE SPECIAL COURT FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - JOMO KENYATTA ROAD, NEW ENGLAND FREETOWN | - | 3 RD RESPONDENT |

This is a photocopy of the letter dated 1st October 2003 written by Sylvain Roy – Acting Chief of Defence and Legal Advisor addressed to Applicant’s Counsel Terence Michael Terry referred to in paragraph (4) of the affidavit of Tamba Alex Brima sworn to at the Special Court Detention Centre at Jomo Kenyatta Road, New England Freetown on the 30th day of December, 2003 and marked Exhibit “ B”.

A COMMISSIONER FOR OATHS

EXHIBIT "B"

1691



SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE
PHONE: +39 0831 257000 or +232 22 297000 or +1 212 963 9915 Ext:178 7000
FAX: +39 0831 257001 or +232 22 297001 or +1 212 963 9915 Ext: 178 7001

1st October 2003

Mr. Terrence M. Terry
Counsel

Dear Colleague,

The Library Unit of the Management Section of the Special Court for Sierra Leone is in the process of compiling a list of books, online Databases, CD-ROMs and other materials for the SCSL library in order to provide quality research resources.

The Library will constitute part of the legacy of the Special Court for Sierra Leone for the citizens of this country, particular members of the legal community.

The Defence office of the Special Court for Sierra Leone invites you to contribute to the attainment of an efficient effective and quality library service by filling and submitting to the Defence Office the attached library questionnaire by October 7th 2003.

Sylvain Roy.
Acting Chief of Defence and Legal Advisor.

EXHIBIT C

1692

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the Investigation Service Contract No.2003/DO/1/02 referred to in paragraph (5) of the affidavit of Tamba Alex Brima sworn to at the Special Court Detention Centre at Jomo Kenyatta Road, New England, Freetown on the 30th day of December 2003 and marked Exhibit " C".

J.C. Davidson
Mayor
BEFORE ME
Commissioner For
OATHS
20 Dec 2003
Sonhad House, Cline Town
A COMMISSIONER FOR OATHS

**SPECIAL COURT FOR SIERRA LEONE**

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +39 0831 257000 or +232 22 297000 or +1 212 963 9915 Ext:178 7000

FAX: +39 0831 257001 or +232 22 297001 or +1 212 963 9915 Ext: 178 7001

INVESTIGATION SERVICE CONTRACT**No 2003/DO/I/02**

Made this **8 December 2003** between the **Principal Defender** of the **Defence Office of the Special Court for Sierra Leone**, in Freetown, Sierra Leone, hereinafter referred to as the "DOSCSL", and **Kareem K Yansane** of **2 Waterside Road, Freetown, Sierra Leone**, hereinafter referred to as the "Investigator",

WHEREAS the DOSCSL, acting pursuant to Rule 45 of the Rules of Procedure and Evidence and Article 10 of the Directive on the Assignment of Counsel to the Special Court for Sierra Leone, desires to engage the services of an Investigator on behalf of Mr. **Terence M Terry**, hereinafter referred to as the "Assigned Counsel" providing legal representation to Mr. **Alex T. Brima**, an indigent or partially indigent accused before the Special Court for Sierra Leone, hereinafter referred to as the "Accused", in case number **SCSL-03-06**, on the terms and conditions hereinafter set forth in this Investigation Service Contract, hereinafter referred to as the "Agreement",

WHEREAS the Investigator is willing and able to perform the services on said terms and conditions and have confirmed their availability,

The DOSCSL and the Investigator have agreed as follows:

1. Nature of Services

The Investigator shall be assigned to provide investigation services, as described in the attached Terms of Reference, for the sole benefit of the Defence Team of Mr. **Brima**.

2. Provision of Information to the Investigator

The DOSCSL shall provide the Investigator with such information as may be required for the discharge of obligations under this Agreement.

3. Duration of Agreement

This Agreement shall be for a period of **6 months** taking effect on **8 December 2003 2003**, and shall expire on **8 June 2004** without any advance notice between the Parties hereto.

This Agreement may be terminated by the DOSCSL on five days notice in the following circumstances:

1. Any act or omission that constitutes a breach of the obligations contained in any part of this agreement shall provide grounds for the Principal Defender to terminate this agreement.
2. Any act or omission by an Investigator that constitutes a crime under the laws of Sierra Leone shall be grounds for termination of this agreement.
3. Any act or conduct by the Investigator constituting intimidation, threats, undue pressure, undue influence or coercion shall be grounds for termination of this agreement.
4. Any act or omission by the Investigator that places the Assigned Counsel, the Defence Team, the DOSCSL or any other section of the Special Court in disrepute shall be grounds for termination of this agreement.
5. Where the Principal Defender receives a complaint from the Assigned Counsel, or his designated representative, as to the Investigator competence, efficiency or integrity, the Principal Defender, if satisfied with the well founded nature of the complaint, shall terminate this agreement.
6. Where an Investigator is absent from duties for period of ten days, as a result of illness, within a three month period, the Principal Defender may terminate this agreement.

In lieu of the notice period, the Principal Defender may authorise compensation calculated on the basis of the remuneration that the Investigator would have received had the date of termination been at the end of the notice period.

This Agreement may be terminated by the Investigator on 10 days notice in any circumstances.

On termination of this agreement, the Investigator shall relinquish to a member of the Defence Team, designated by the Assigned Counsel, all documents, statements recordings cassettes and other items that were obtained during his service or as a result of this agreement. Final payments, to be made under this agreement, will be retained until the Assigned Counsel notifies the Principal Defender that all the material collected by the Investigator has been transferred to the Defence Team.

In the event of the Agreement being terminated prior to its expiry date, the Investigator shall be compensated for no more than the actual amount of work performed to the satisfaction of the DOSCSL. Additional costs incurred by the DOSCSL resulting from the early termination of the Agreement may be withheld from any amount otherwise due to the Investigator by the DOSCSL.

4. Consideration

In full consideration for the complete and satisfactory performance by the Investigator under the terms of this Agreement, the DOSCSL through the Registry of the Special Court for Sierra Leone shall pay the Investigator **Le1,500,000.00** (One Million Five Hundred Thousand Leone), per month, as service fees.

In addition, the Investigator shall receive a Transportation and Living Allowance to cover all expenses incurred in the performance of this Agreement (such as travel, accommodation and meals) if approved by the Assigned Counsel, and upon submission of all relevant documentation to the DOSCSL, for an amount of **Le75,000.00** (Seventy Five Thousand Leone) per working day, on the basis of 20 working days per month.

The Investigator shall not be entitled to any benefits, allowances or payments other than the ones expressly provided for in this Agreement. The Investigator shall not seek or receive any other benefits, allowances or payments for work performed on behalf of the Accused. The Investigator shall not share any benefits, allowances or payments received under this agreement.

5. Status of Investigator

The Investigator shall serve in his personal capacity on behalf and under instruction for the Assigned Counsel for the Accused and not as a representative of a Government or any other authority.

The Investigator is not an employee of the DOSCSL or the Special Court for Sierra Leone and, as such, do not benefit from any protection, privileges and immunities provided by the Special Court for Sierra Leone to its employees, except in so far as provided under the Statute, the Rules of Procedure and Evidence of the Special Court for Sierra Leone, the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone and the Host Country Agreement.

6. Obligation

The Investigator shall neither seek nor accept instructions regarding the services to be performed for the benefit of the Accused from any Government or from any authority external to the Assigned Counsel or, as to financial matters, the DOSCSL. The information gathered by the Investigator shall be kept confidential and only communicated to the Assigned Counsel or persons designated by him. During the period of their service for the Assigned Counsel, the Investigator may not engage in any activity that is incompatible with the discharge of his duties as the Investigator for the Accused. The actions, words and conduct of the Investigator shall be governed at all time by the Statute, the Rules of Procedures and Evidence, the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone, the DOSCSL Contract Specification, this Agreement and instructions received by the Assigned Counsel. These obligations do not lapse upon termination of this Agreement.

7. Title Right

All rights, title and interest, including, without limitation, all copyrights and patents, in and to any material produced and developed by the Investigator in the performance of their services under this Agreement, except for any material covered by lawyer-client privileges, shall be vested exclusively in the DOSCSL.

8. Insurance

The Investigator are fully responsible for arranging, at their own expense, for appropriate life, health and other forms of insurance, covering the period of their service for the DOSCSL.

9. Sub-contracting and Assignment

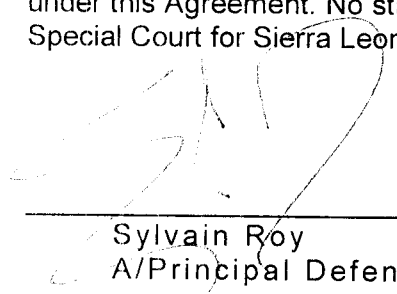
The Investigator shall not sub-contract, assign, transfer, pledge or make other disposition of this Agreement or any part thereof, or of rights, claims or obligations under this Agreement, unless so authorised by the DOSCSL, after consultation with the Assigned Counsel.

10. Settlement of Disputes

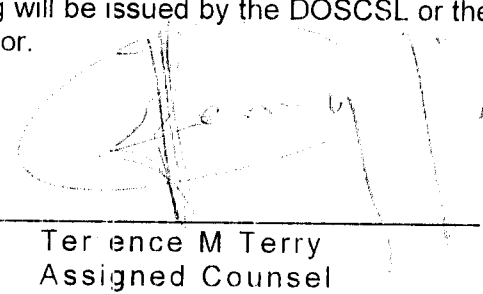
Any dispute between the DOSCSL and the Investigator arising out of the interpretation or application of this Agreement which is not settled by negotiation can be the subject of an appeal to the Registrar of the Special Court. The appeal shall be made in writing, within fourteen days of the DOSCSL final decision. The Assigned Counsel and the DOSCSL shall be given an opportunity to respond, in writing, within seven days of the notification of an appeal being made. The Registrar decision shall operate as a final decision.

11. Taxation

The DOSCSL and the Special Court for Sierra Leone undertake no liability for taxes, duty or other contribution that may be payable by the Investigator on payments made under this Agreement. No statement of earning will be issued by the DOSCSL or the Special Court for Sierra Leone to the Investigator.

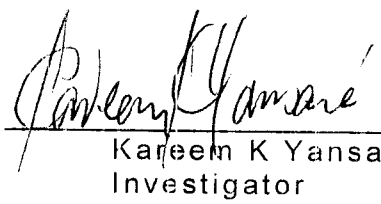


Sylvain Roy
A/Principal Defender



Terence M Terry
Assigned Counsel

Jeanne-Wendy Woodroffe
Chief of Personnel



Kareem K Yansane
Investigator



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +39 0831 257000 or +232 22 297000 or +1 212 963 9915 Ext: 178 7000

FAX: +39 0831 257001 or +232 22 297001 or +1 212 963 9915 Ext: 178 7001

DEFENCE OFFICE

TERMS OF REFERENCE

POST TITLE AND LEVEL
POST NUMBER
DUTY STATION
ORGANIZATIONAL UNIT

INVESTIGATOR, GSL-7
SSA Contract – 6 Months (11 posts)
SIERRA LEONE (FREETOWN)
DEFENCE OFFICE
SPECIAL COURT FOR SIERRA LEONE

DUTIES AND RESPONSIBILITIES:

Under the direction of the Assigned Counsel to an Accused, the incumbent is responsible for conducting interviews and interrogations in cases of war crimes and other crimes provided for under the Statute of the Special Court, record statements and gather evidence for the preparation of investigation reports and testimony before the Special Court. More specifically, the incumbent:

1. Undertakes investigations at the direction of the Assigned Counsel to an individual Accused and under the general supervision of the Assigned Counsel or members of the Defence Team designated by the Assigned Counsel.
 - (a) Conduct interviews and interrogations in cases of crimes against humanity, war crimes, rape and sexual assault. Obtain signed statements from survivors and victims of such crimes, throughout the territory of Sierra Leone. Review and analyze documents and determine information necessary for inclusion in interviews/interrogation. Coordinate as necessary with government officials for the conduct of interviews.
 - (b) Participates in briefing and planning conferences/meetings with Assigned Counsel and members of the Defence Team.
 - (c) Search for, identify, collect, record and preserve physical evidence ensuring all potential or relevant evidence is gathered and secured, and all necessary evidence chains are established and maintained. Assist in the presentation of evidence in proceedings of the Special Court as required.
 - (d) Prepare complete and concise investigation reports and briefs.
 - (e) Conduct additional inquiries requested by the Assigned Counsel.
2. Participate in the preparation, and when appropriate, the presentation of defence briefs.
3. Secure the attendance of witnesses at formal proceedings of the Court.
4. In co-ordination with the Special Court Victims and Witness Unit, participate in arranging and maintain witness protection measures for witnesses for the Defence, as required.
5. Testify in formal proceedings of the Court if requested.

COMPETENCIES AND SKILLS:

Diploma in Criminal Investigations or relevant education, and at least 10 years of progressive experience conducting investigations that involve serious crimes, including murders.

Ability to think clearly and act logically and objectively. Ability to analyze complex and voluminous sets of records, gather facts, evidence, and arrive at sound conclusions, and make realistic and supportable recommendations. Skills in planning assigned work by defining clear objectives, prioritizing tasks, and meeting objectives. Ability to obtain the cooperation and confidence of others. Knowledge of criminal investigation techniques and procedures.

Experience in testifying and in preparing witnesses and documents for official proceedings.

Experience in witness protection.

Computer skills to include Windows 95, Microsoft Word, Excel, or equivalent software programs.

Ability and willingness to work with people of different national and cultural backgrounds.

Excellent physical condition with no chronic health problems that limit physical activity.

LANGUAGES:

Excellent written and oral working knowledge of English, written and oral working knowledge of Krio, written and oral working knowledge of either Temne or Mende an asset.

Handwritten signature and initials in black ink. The initials 'PP' are at the top left, and a larger, more complex signature is below it.



SPECIAL COURT FOR SIERRA LEONE

REQUEST FOR INVESTIGATOR

| | | | |
|--|---------------------------|---|--|
| The Prosecutor versus ALEX TAMBA BRIMA | | Date of request: 4-12-03 | |
| Case no.: SCSL-03-06 | | Stage in the proceedings: PRE-TRIAL | |
| Name and signature of applicant: <i>(If the applicant is not the Assigned Counsel, the request must be approved by the latter)</i> KAREEM K YANSANE | | | |
| Assigned Counsel Signature: <i>[Signature]</i> | | Length of Assignment requested: SIX MONTHS | |
| Indicate the reasons for your request. Provide a brief description of the tasks to be performed and a detailed description on a separate sheet of paper. | | | |
| First choice First name: KAREEM YANSANE | Last name: YANSANE | | |
| Reasons for choice: | | | |
| Second choice First name: --- | Last name: --- | | |
| Reasons for choice: | | | |
| Third choice First name: --- | Last name: --- | | |
| Reasons for choice: EXTREMELY SERIOUSLY ILL NATURE AND AN APPLICABLE RECORDS ON | | | |
| Section below reserved for DOSCSL | | | |
| Recommendation | | Authorisation of the Principal Defender | |
| Signature: <i>[Signature]</i> | | Signature: <i>[Signature]</i> | |

| Attachments: | First choice | | Second choice | | Third choice | |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | Yes | No* | Yes | No* | Yes | No* |
| Nature | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Curriculum vitae | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Envisaged Work Schedule | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Description of tasks with as much detail as possible | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Estimate of expenses for travel and accommodation during the length of assignment | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other documents (specify) | CURRICULUM VITAE | | | | | |

Assigned Counsel must approve requests for payment of fees and reimbursement of expenses incurred by the investigator, before submission to the DOSCSL.



INSTRUCTIONS
Please answer each question clearly and completely.
TYPE OR PRINT IN BLACK INK.
Read carefully and follow all directions.

ATTACH 2 PASSPORT SIZE
PHOTOGRAPHS HERE WITH A STAPLE

PERSONAL HISTORY FORM

| | | | | | |
|--|-------------------------------|---|--|---|----------------------------|
| 1. Family name YANSANE | | First name: KAREEM | Middle name: KARIEM | Maiden name, if any | |
| 2. Date of Birth: JAN 3 - 51 | | 3. Place of birth: MAKENI | 4. Nationality(ies) at birth: SILSKA LEONEAN | 5. Present nationality(ies) S. LEONEAN | 6. Sex M |
| 7. Father's Name: LATA NOAH YANSANE | | 8. Place of birth: MAKENI | 9. Nationality(ies) at birth: S. LEONEAN | 10. Present nationality(ies) S. LEONEAN | |
| 11. Mother's Name: LITA ISATA KABBA | | 12. Place of birth: KAMAKWIE | 13. Nationality(ies) at birth: S. LEONEAN | 14. Present nationality(ies) S. LEONEAN | |
| 15. Height 5'11" | 16. Weight 185 LBS. | 17. Martial status: Single <input type="checkbox"/> Married <input checked="" type="checkbox"/> Separated <input type="checkbox"/> Widow(er) <input type="checkbox"/> Divorced <input type="checkbox"/> | | | 18. Tribe: SILSU |
| 19. Your assignment might require travel to any area of the world (a) Are there any limitations on your ability to perform in your prospective field of work? NO (b) Are there any limitations on your ability to travel to any particular country? NO | | | | | |
| 20. Permanent address 2. WATERSIDE RD. WILBERFORCE FREETOWN | | 21. Present address AS IN # 20 | | 22. Home Telephone No. 233418 Mobile Telephone No. 096615710 23. Office Telephone No. Office FAX No. 222605 24. Email address: | |
| 25. List your full addresses covering the last 15 years 1996 - 2033 2 WATERSIDE RD. WILBERFORCE FREETOWN 21 BAILEY ST BROOKFIELD FREETOWN. 1995 - 1990 10813 GREENASH LN BELTSVILLE MD. 20814 USA | | | | | |
| 26. Have you taken up legal permanent residence status in any countries other than that of your nationality? If answer is "yes", list the countries and relevant dates: USA YES | | | | | |
| 27. Have you taken any legal steps towards changing your present nationality? If answer is "yes", explain fully: NO | | | | | |
| 28. Are any of your relatives employed by a public international organization? If answer is "yes", give the following information: | | | | | |
| NAME | | Relationship | | Name of International Organization | |
| NO | | N/A | | N/A | |

28. Are any of your relatives employed in public service by the Government of Sierra Leone?
 If answer is "yes", give the following information:

| NAME | Relationship | Position |
|------|--------------|----------|
| | | |
| | | |
| | | |

N/O

29. What is your preferred field of work?
 INVESTIGATOR

30. Would you accept employment for less than six months?
 YES

31. Have you previously submitted an application for employment with U.N. or SCSL? If so, when?
 N/O

32. Knowledge of Languages:

What is your mother tongue?
 SUI SUI

| Other Languages: | READ | | WRITE | | SPEAK | | UNDERSTAND | |
|------------------|--------|------------|--------|------------|--------|------------|------------|------------|
| | Easily | Not Easily | Easily | Not Easily | Easily | Not Easily | Easily | Not Easily |
| KRIE | YES | | | ✓ | ✓ | | ✓ | |
| SUI SUI | ✓ | | | ✓ | ✓ | | ✓ | |
| | | | | | | | | |
| | | | | | | | | |

33. EDUCATION. Give full details - N.B. Please give exact titles of degrees in original language. Please do not translate or equate to other degrees.

A. University or equivalent.

| NAME, FULL ADDRESS AND TELEPHONE NO. | ATTENDED FROM/TO | | DEGREES and ACADEMIC DISTINCTIONS OBTAINED | MAIN COURSE OF STUDY |
|--------------------------------------|------------------|----------|--|--|
| | Mo./Year | Mo./Year | | |
| AMERICAN UNIVERSITY | 1974 | 1978 | B.S. ADMIN. OF JUSTICE | CRIMINAL JUSTICE CRIMINAL & CIVIL JUSTICE - JUVENILE CORRECTION IN THE COMMUNITY. PSYCHOLOGY SOCIOLOGY ETC. |
| | | | | |
| | | | | |

B. SCHOOLS OR OTHER FORMAL TRAINING OR EDUCATION FROM AGE 14 (e.g. high school, technical school or apprenticeship)

| NAME, FULL ADDRESS AND TELEPHONE NO. | TYPE | YEARS ATTENDED | | CERTIFICATES OR DIPLOMAS OBTAINED |
|--------------------------------------|------|----------------|----|-----------------------------------|
| | | FROM | TO | |
| | | | | |
| | | | | |
| | | | | |

| | | | |
|--|--|--|--|
| | | | |
|--|--|--|--|

34. LIST PROFESSIONAL SOCIETIES AND ACTIVITIES IN CIVIC, PUBLIC OR INTERNATIONAL AFFAIRS

NONE

35. LIST ANY SIGNIFICANT PUBLICATIONS YOU HAVE WRITTEN (DO NOT ATTACH)

NONE

36. EMPLOYMENT RECORD: Starting with your present post, list IN REVERSE ORDER every employment you have had. Use a separate block for each post. Include all public service, service in international organizations, also service in the armed forces and note any period during which you were not gainfully employed. If you need more space, attach additional pages of the same size. Give both gross and net salaries per annum for your last or present post.

A. PRESENT POST (LAST POST, IF NOT PRESENTLY IN EMPLOYMENT)

| FROM | TO | SALARIES PER ANNUM | | EXACT TITLE OF YOUR POST: |
|--------------------------------------|----------------|--------------------|--|--------------------------------|
| MONTH/YEA R | MONTH/YEA R | STARTING | FINAL | |
| 1995 | PRESENT | | | PERMANENT RESIDENT DIRECTOR |
| NAME OF EMPLOYER: | | | TYPE OF BUSINESS: | |
| ADDRESS & TEL / FAX OF EMPLOYER: | | | NAME OF SUPERVISOR: | |
| 31 LIGHTHOUSE BOSTON ST FREETOWN | | | TRAVEL AGCY. | |
| | | | NO. and kind of employees supervised by you: | REASON FOR LEAVING |
| | | | | CURRENT |
| DESCRIPTION OF YOUR DUTIES | | | | |
| ALL SUPERVISORY MANAGEMENT DECISIONS | | | | |

B. PREVIOUS POSTS (IN REVERSE ORDER)

| FROM | TO | SALARIES PER ANNUM | | EXACT TITLE OF YOUR POST: |
|--|----------------|--------------------|---|-----------------------------------|
| MONTH/YEA R | MONTH/YEA R | STARTING | FINAL | |
| 1991 | 1994 | \$400 /wk | \$600 /wk | COUNSELLOR / CORRECTIONAL OFF. |
| NAME OF EMPLOYER: | | | TYPE OF BUSINESS | |
| ADDRESS & TEL / FAX OF EMPLOYER: | | | NAME OF SUPERVISOR | |
| DISTRICT OF COLUMBIA YOUTH SERVICES ADMIN. WASH. D.C. USA | | | MAXIMUM DETENTION CR | |
| | | | NO. and kind of employees supervised by you | REASON FOR LEAVING |
| | | | 40 INMATES | RESIGNED |
| DESCRIPTION OF YOUR DUTIES | | | | |
| CASE REVIEW OF ALL INMATES - IN THE WASH HOUSE ORIENTATION OF INMATES. MAXIMUM PRISON INDIVIDUAL CASE REVIEW ETC. | | | | |

| | | | | |
|--|------------------------|--------------------|---|--|
| FROM | TO | SALARIES PER ANNUM | | EXACT TITLE OF YOUR POST: CASE MANAGEMENT |
| MONTH/YEA R 1988 | MONTH/YEA R 1991 | STARTING | FINAL | |
| NAME OF EMPLOYER: HOPE VILLAGE JOSEPH WILMER | | | TYPE OF BUSINESS HALFWAY HOUSE | |
| ADDRESS & TEL / FAX OF EMPLOYER: STRATON STREET NE WASH. D.C. | | | NAME OF SUPERVISOR MR. JOSEPH WILMER | |
| | | | NO. and kind of employees supervised by you 30 TO 50 | REASON FOR LEAVING RESIGNED |
| DESCRIPTION OF YOUR DUTIES PREPARATION OF INDIV CASE MANAGEMENT REPRESENTATION AT PAROLE BOARD OF INMATES. INVESTIGATION OF INMATES IN COURT. REVOCATION OF HALFWAY HOUSE PRIVILEGE OF DISCREETLY INMATE - DRUG COUNSELLING & REFERRALS | | | | |

37. HAVE YOU ANY OBJECTIONS TO OUR MAKING INQUIRIES OF YOUR PRESENT EMPLOYER? **NO**

38. ARE YOU NOW OR HAVE EVER BEEN A CIVIL SERVANT IN YOUR GOVERNMENT'S EMPLOY?
If answer is "yes", WHEN? **NO**

39. REFERENCES: List three persons, not related to you, who are familiar with your character and qualifications.
Do not repeat names of supervisors listed under Item 27.

| FILL NAME | FULL ADDRESS, TEL & FAX | BUSINESS OR OCCUPATION |
|---------------|--|------------------------|
| CUBAR BARKIE | 11 CHARLOTTS STREET FREETOWN 229793 | LAWYER |
| SHERIFF AMARA | 668095 242188 | DOCTOR |
| SAMI MARBANI | 235885 | MAGISTRATE |

40. STATE ANY OTHER RELEVANT FACTS. INCLUDE INFORMATION REGARDING ANY RESIDENCE OUTSIDE THE COUNTRY OF YOUR NATIONALITY.
N/A

41. HAVE YOU EVER BEEN ARRESTED, INDICTED, OR SUMMONED INTO COURT AS A DEFENDANT IN A CRIMINAL PROCEEDING, OR CONVICTED, FINED OR IMPRISONED FOR THE VIOLATION OF ANY LAW (excluding minor traffic violations)?
NO

If "yes", give full particulars of each case in an attached statement.

42. DO YOU HAVE ANY REASON TO BELIEVE THAT YOU MAY BE SUSPECTED OF CRIMES WITHIN THE JURISDICTION OF THE SPECIAL COURT OR OTHER INTERNATIONAL CRIMINAL JURISDICTION?, If YES, explain fully.
NO

43. I certify that the statements made by me in answer to the foregoing questions are true, complete and correct to the best of my knowledge and belief. I understand that any misrepresentation or material omission made on a Personal History form or other document requested by the Special Court renders a staff member liable to termination or dismissal.

DATE: DEC 4 - 03

SIGNATURE: Carleyn E. Fournier

N.B. You will be requested to supply documentary evidence which supports the statements you have made above. Do not, however, send any documentary evidence until you have been asked to do so by the Special Court and, in any event, do not submit the original texts of references or testimonial unless they have been obtained for sole use of the Special Court.

1705

DR. SHERIFF V. AMARA

Specialist Urologist
Acupuncturist & Homeopath
14 Thomas Street
Freetown Tel: 076-668-095



7 - 12 - 03

Mr. Kareem YANSANEH

Medical Certificate of Fitness.

I have examined the above named
and found him fit to be an
investigator.

Tests included Blood pictures, Urine
and a Chest X-ray to exclude
Tuberculosis.

Dr. Sheriff V. Amara
Specialist Urologist
Acupuncturist
5 Macdonald Street
Freetown

CURRICULUM VITAE

NAME: Kareem K. Yansane

ADDRESS: 2 Water Side Road Wilberforce
Freetown
Phone 233718 Mobile: 076-615-710

PROFILE: Experienced Professional in Industrial and intelligence, Security/Ability to handle multi-task Management responsibilities effectively.

EDUCATION: American University
1974-1978 School of Justice Washington D.C. U.S. A.
BSC Administration of Justice.

WORKING EXPERIENCE: Security Officer N.D.M.C.
1980-1985 National Diamond Mining Company
Yengema Sierra Leone
Plant
Separator House and Filed Security

1986-1987 Resettled in U.S. A.

1988 -- 1991: Case Manager
Hope Village Criminal Community Treatment Center
N.E. Washington D.C.

1991-1994: Counsellor and Correctional Officer
Receiving Home for under 21 years old children
Department of Correction,
Youth Services Administration
Washington D.C.

SPECIAL TRAINING: Control of Violence, Eg. Physical and Psychological
CPR and First Aid, American Red Cross
Washington D.C.

1995 TO PRESENT: Permanent Resident Director, Bellview Airline
31 Lightfoot Boston Street
Freetown Sierra Leone

1997: Consultant: UN Need Assessment to Konike Chiefdom
Tonkolili District.

ATTACHMENTS

- CURRICULUM VITAE - ATTACHED
- WEEK SCHEDULE - 8 hours a day, 5 days a week one hundred and sixty hours a month.
- WORK DESCRIPTION - To peruse and analyse all prospective witnesses. Summarise statements. To conduct conferences with the accused and Defence Counsel on allegations contained in all relevant statements. To travel within Sierra Leone and ~~if possible any other country~~ so as to be able to identify potential factual witnesses. To identify, interview and obtain statements from potential factual witnesses. And to legally seek, compile and or obtain any relevant material(s) in the effective defence of our client Alex Tamba Brima.

Estimate of expenses for travel and Accommodation during the length of Assignment:

The ALLOTTED amount of Le75,000.00 a day is accepted however the breakdown below is a more realistic figure.

Travel and hotel accommodation within Sierra Leone varies – e.g. Travel to Kono - one day.

| | |
|-----------------|-------------------|
| - Transport | Le40,000 – return |
| - Hotel | Le80,000 per day |
| - Local transp. | <u>Le20,000</u> |
| Total = | <u>Le 140,000</u> |

This example reflects only one day travel and hotel expenses.

EXHIBIT 'D'

1708

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

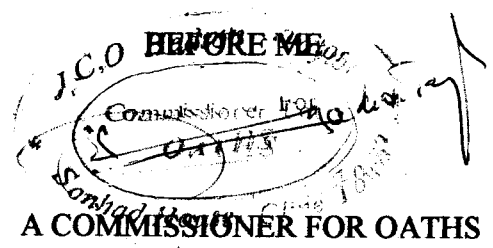
**Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge**

Registrar: Robin Vincent

BETWEEN:

| | | |
|---|---|----------------------------|
| TAMBA ALEX BRIMA DETAINEE AT THE SPECIAL COURT DETENTION CENTRE JOMO KENYATTA ROAD NEW ENGLAND FREETOWN AND | - | APPLICANT |
| SYLVAIN ROY ACTING PRINCIPAL DEFENDER SPECIAL COURT FOR SIERRA LEONE JOMO KENYATTA ROAD NEW ENGLAND FREETOWN AND | - | 1 ST RESPONDENT |
| THE REGISTRAR OF THE SPECIAL COURT FOR SIERRA LEONE, MR.ROBIN VINCENT JOMO KENYATTA ROAD NEW ENGLAND FREETOWN AND | - | 2 ND RESPONDENT |
| THE DEPUTY REGISTRAR OF THE SPECIAL COURT FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - JOMO KENYATTA ROAD, NEW ENGLAND FREETOWN | - | 3 RD RESPONDENT |

This is a photocopy of the letter dated the 18th of December 2003 written by the Applicant's Counsel Terence Michael Terry referred to in paragraph (6) of the affidavit of Tamba Alex Brima sworn to at the Special Court Detention Centre at Jomo Kenyatta Road, New England, Freetown on the 30th day of December 2003 and marked Exhibit "D".



A COMMISSIONER FOR OATHS

EXHIBIT D
TERENCE TERRY

Barrister-at-Law & Solicitor
Marong House, 4th Floor
11 Charlotte Street
Freetown, Sierra Leone
email: theodora@sierratel.sl

1709

18th December 2003

Mr. Sylvain Roy
Acting Principal Defender
Special Court for Sierra Leone
New England
Freetown

WITHOUT PREJUDICE

Dear Sir,

RE: **LEGAL SERVICE CONTRACT – PROSECUTOR VS. ALEX TAMBA
BRIMA (aka) TAMBA ALEX BRIMA**

I refer to my letter of the 17th December 2003 addressed to you in respect of the above matter.

I refer particularly to page 4 at lines 3 to 4 where the following appears.

“The mind boggles now you arrived at such a conclusion” which should now read as follows:

The mind boggles how you arrived at such a conclusion.

I refer also to line 12 at the same page 4 of my said letter where the following appears:

“Assignment of the Special Court for Sierra Leone – is a non sequitur in whatever way you choose to look at it” which should now read as follows:

Assignment of the Special Court for Sierra Leone as a non sequitur in whatever way you choose to look at it.

I refer also to page 5 at line 9 of my said letter where the following appears:

“Chamber of the Special Court for Sierra Leone having particularly to the rights of the accused the” which should now read as follows:

...../2.....

Chamber of the Special Court for Sierra Leone having regard particularly to the rights of the accused the applicant herein.

Yours faithfully,



Terence Michael Terry

- (1) The Registrar
Special Court for Sierra Leone
- (2) Deputy Registrar
Special Court for Sierra Leone, Mr. Robert Kirkwood
- (3) Tamba Brima
- (4) Duty Counsel of the Defence Section, Special Court for Sierra Leone
Mrs. Haddijatou Kah-Jallow
Mrs. Claire Carlton-Hanciles
Mr. Ibrahim Yillah

EXHIBIT E¹⁷¹¹

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

**Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge**

Registrar: Robin Vincent

BETWEEN:

| | | |
|--|---|----------------------------|
| TAMBA ALEX BRIMA DETAINEE AT THE SPECIAL COURT DETENTION CENTRE JOMO KENYATTA ROAD NEW ENGLAND FREETOWN | - | APPLICANT |
| AND SYLVAIN ROY ACTING PRINCIPAL DEFENDER SPECIAL COURT FOR SIERRA LEONE JOMO KENYATTA ROAD NEW ENGLAND FREETOWN | - | 1 ST RESPONDENT |
| AND THE REGISTRAR OF THE SPECIAL COURT FOR SIERRA LEONE, MR. ROBIN VINCENT JOMO KENYATTA ROAD NEW ENGLAND FREETOWN | - | 2 ND RESPONDENT |
| AND THE DEPUTY REGISTRAR OF THE SPECIAL COURT FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - JOMO KENYATTA ROAD, NEW ENGLAND FREETOWN | - | 3 RD RESPONDENT |

This is a photocopy of the letter dated the 23rd December 2003 written by the Applicant's Counsel Terence Michael Terry referred to in paragraph (7) of the affidavit of Tamba Alex Brima sworn to at the Special Court Detention Centre at Jomo Kenyatta Road, New England, Freetown on the 30th day of December, 2003 and marked Exhibit "E".

J.C.O. Hadson - Tutor
BEFORE ME
 Commissioner for Oaths
 * OATHS
 FREETOWN
A COMMISSIONER FOR OATHS

EXHIBIT E

1712

TERENCE TERRY

Barrister-at-Law & Solicitor
Marong House, 4th Floor
11 Charlotte Street
Freetown, Sierra Leone
E-mail: theodora@sierratel.sl

23rd December 2003

The Registrar of the Special Court for Sierra Leone
Jomo Kenyatta Road,
New England
Freetown

Dear Sir,

RE: LEGAL SERVICE CONTRACT – THE PROSECUTOR V. ALEX TAMBA
BRIMA also known as (aka) TAMBA ALEX BRIMA aka GULLIT – CASE
NO. SCSL – 2003-06-PT

I presume that by now, you must be seized of correspondence between the Acting Principal Defender of the Special Court for Sierra Leone Sylvain Roy and myself relating to the above matter.

It is a pity that you were out of the jurisdiction during the period when all these correspondence transpired between the Acting Principal Defender and myself, for I am sure you would have used your wealth of experience to resolve the matter in the best interest of my client and all concerned if only to avoid unnecessary unpleasantness and further hiccups. I take the view however, that it is not too late in the day for you to intervene in your capacity as Registrar of the Special Court for Sierra Leone at least to bring the above matter to a closure.

Let me for now only state that my client has instructed me to prepare papers which have been completed and signed by him by way of Motion and affidavits in support duly sworn to by him which I intend to file when the Court session resumes on the 5th of January 2004.

In the light of the position you presently hold, it will be ill-advised and impolite of me not to let you become aware in advance that the papers already prepared by me on instructions from my client have made you a party to the proceedings before the Trial Chamber of the Special Court for Sierra Leone. I concede that the present impasse between the Acting Principal Defender and myself is not of your creation. However out

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Telephone & Fax: Freetown 232-22-222605
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of an abundance of caution, you have been made a party to these proceedings in the light of some of the orders my client is seeking before the Trial Chamber of the Special Court for Sierra Leone. Indeed I have taken this route because of the views expressed by me in respect of the unwholesome construction and interpretation of the Acting Principal Defender regarding the provisions of Articles 13(A) and 14(C) of the Directive on the Assignment of Counsel of the Special Court for Sierra Leone and the non-existing Article 16(C) as you would certainly discern from my letters dated 11th November, 2003 and 17th December, 2003 respectively addressed to the Acting Principal Defender of the Special Court for Sierra Leone Sylvain Roy which were also copied to you for your perusal.

You will therefore find enclosed the breakdown of work covering my bill for professional services so far rendered by me and that of the Legal Assistant two Mr. Osman Keh Kamara on behalf of my client Tamba Alex Brima in respect of the above-mentioned matter. I trust you will take the appropriate administrative steps to settle the enclosed bill for professional services rendered on behalf of my client Tamba Alex Brima soonest.

With thanks,

Yours faithfully,


Terence M. Terry

- Cc: 1. Mr. Robert Kirkwood
Deputy Registrar of the Special Court for Sierra Leone
Jomo Kenyatta Road,
New England
Freetown
2. Tamba Alex Brima
Presently detained at the Special Court Detention Centre
Jomo Kenyatta Road, New England
Freetown
3. Mr. Sylvain Roy
Acting Principal Defender
Special Court for Sierra Leone
Jomo Kenyatta Road,
New England
Freetown
4. All other Duty Counsel of the Defence Section
- (i) Mrs. Hadijatou Kah-Jallow
(ii) Mrs. Claire Carlton-Hanciles
(iii) Mr. Ibrahim Yillah

Enc:

EXHIBIT F 1714

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone
OR the designated Judge

Registrar: Robin Vincent

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT
DETAINEE AT THE SPECIAL COURT
DETENTION CENTRE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
SYLVAIN ROY - 1ST RESPONDENT
ACTING PRINCIPAL DEFENDER
SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE REGISTRAR OF THE SPECIAL COURT FOR - 2ND RESPONDENT
SIERRA LEONE, MR. ROBIN VINCENT
JOMO KENYATTA ROAD
NEW ENGLAND
FREETOWN

AND
THE DEPUTY REGISTRAR OF THE SPECIAL COURT
FOR SIERRA LEONE, MR. ROBERT KIRKWOOD - 3RD RESPONDENT
JOMO KENYATTA ROAD, NEW ENGLAND
FREETOWN

This is a photocopy of the letter dated the 29th of December 2003 written by the Applicant's Counsel Terence Michael Terry referred to in paragraph (8) of the affidavit of Tamba Alex Brima sworn to at the Special Court Detention Centre at Jomo Kenyatta Road, New England, Freetown on the 30th day of December, 2003 and marked Exhibit "F".

J.C.O. Hadson - *Signature*
BEFORE ME
Commissioner for Oaths
Signature
* OATHS
Sierra Leone
A COMMISSIONER FOR OATHS

TERENCE TERRY

Barrister-at-Law & Solicitor
Marong House, 4th Floor
11 Charlotte Street
Freetown, Sierra Leone
email: theodora@sierratel.sl

EXHIBIT F 1715

29th December, 2003

Mr. Antonio Salles
Chief of Communication and Information Technology
Special Court for Sierra Leone
Jomo Kenyatta Road, New England
Freetown,

Dear Sir,

RE: **THE PROSECUTOR V. ALEX TAMBA BRIMA also known as (aka)
TAMBA ALEX BRIMA aka GULLIT – CASE NO.SCSL-2003-06-PT**

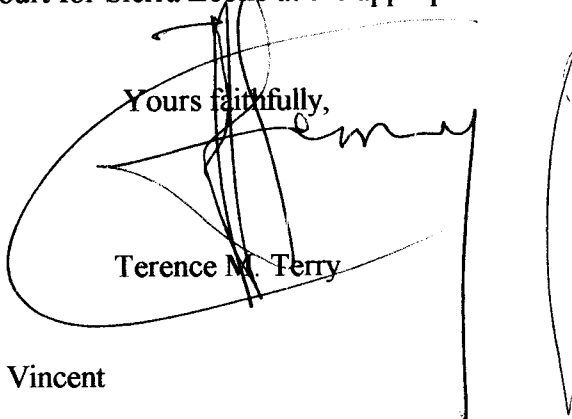
In my capacity as Lead Counsel for Tamba Alex Brima in the above-mentioned case, I only discovered a few days ago that I could not operate the code number for the telephone assigned to the Defence Team of Tamba Alex Brima at the Defence office.

May I therefore ask of you to confirm whether or not you have been instructed by the Acting Principal Defender of the Special Court for Sierra Leone to stop this facility? If that is the case, it may please you to know that the said Acting Principal Defender has acted in excess of his authority. Consequently, it has become virtually impossible for me to reach the two Co-Counsel namely Mr. Karim A. Khan and Mrs. Natacha Fauveau Ivanovic by telephone OR E-mail as the case may be and thereby preventing me from adequately conducting the Defence of my client in association with the said two Co-Counsel.

In the circumstances may I suggest in the meantime that you seek appropriate directions from the Registrar of the Special Court for Sierra Leone designed to restore

the status quo until the impasse between the Acting Principal Defender and myself is finally resolved by the Registrar of the Special Court for Sierra Leone OR the Trial Chamber of the Special Court for Sierra Leone at the appropriate time.

Yours faithfully,



Terence M. Terry

- C.c. (1) Mr. Robin Vincent
Registrar
Special Court for Sierra Leone
Jomo Kenyatta Road
Freetown
- (2) Mr. Robert Kirkwood
Deputy Registrar of the Special Court for Sierra Leone
Jomo Kenyatta Road, New England
Freetown.
- (3) Tamba Alex Brima
Presently detained at the Special Court
Detention Centre
Jomo Kenyatta Road, New England
Freetown
- (4) Mr. Sylvain Roy
Acting Principal Defender
Special Court for Sierra Leone
Jomo Kenyatta Road, New England
Freetown
- (5) All other Duty Counsel of the Defence Section
 - (i) Mrs. Hadijatou Kah-Jallow
 - (ii) Mrs. Claire Carlton-Hanciles
 - (iii) Mr. Ibrahim Yillah