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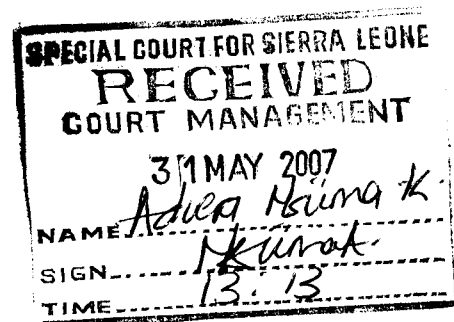
SCSL-03-01-PT  
(9600-9602)



9600

SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II



Before: Justice Julia Sebutinde, Presiding Judge  
Justice Richard Lussick  
Justice Teresa Doherty  
Justice El Hadji Malick Sow, Alternate Judge

Registrar: Herman von Hebel, Acting Registrar

Case No.: SCSL-03-1-PT

Date: 31 May 2007

PROSECUTOR

Against

CHARLES GHANKAY TAYLOR

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INTERIM ORDER IN RESPECT OF THE URGENT AND PUBLIC  
PROSECUTION'S MOTION FOR ADMISSION OF MATERIAL PURSUANT TO  
RULES 89 (C) AND 92BIS FOR USE DURING OPENING STATEMENT

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Office of the Prosecutor:

Stephen Rapp  
Brenda Hollis

Defence Counsel for Charles G. Taylor:

Karim A.A. Khan  
Roger Sahota

TRIAL CHAMBER II (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”);

9601

SEISED of the “Urgent and Public Prosecution’s Motion For Admission of Material Pursuant to Rules 89 (C) and 92bis For Use During Opening Statement” filed on 16 May 2007 (“Motion”) in which the Prosecution requests the Trial Chamber to exercise its discretion and admit into evidence the material (listed in Annex A and contained in Annex B to the Motion)<sup>1</sup>, which the Prosecution has selected, at this time, for use during its opening statements;

NOTING the Defence’s recent submissions that

In two recent filings<sup>2</sup>, the Prosecution has included multiple CDs as annexes of sorts. Yet no provision has been made for the Defence, located in The Hague where its client is detained and where the trial will soon be held, to obtain these CDs. Given the location of counsel, the instruction that the CDs should be picked up in the CMS office in Freetown is impractical. The Defence position is that until the CDs are received by them in The Hague, the entire motion has not been received. The Defence is simply unable to make an informed response at this point;<sup>3</sup>

NOTING also the Acting Registrar’s recent submission

acknowledging that recent delays in electronic services of Court documents to both the Defence and the Prosecution would have significant impact on time limits contained in Motions and Orders. According to Court Management Section, the Defence has not been served with Court Documents since 17 May 2007 and the Prosecution since 18 May 2007;<sup>4</sup>

MINDFUL of the provisions of Article 17 of the Statute of the Special Court (“Statute”); of Rules 7, 26bis, 54, 73, 84, 89 and 92bis of the Rules of Procedure and Evidence (“Rules”) and of the Practice Direction on Filing Documents Before the Special Court of Sierra Leone;

SATISFIED in view of the foregoing submissions that the Defence has not yet been duly served with a copy of the full Motion and is consequently not in a position to respond thereto;

CONSIDERING that although the Motion should ideally have been decided before the opening of the Taylor trial on 4 June 2007, it would be prejudicial to the Accused for the Trial Chamber to decide the Motion without giving the Defence an opportunity to file a response thereto;

CONSIDERING further that it would be in the interests of justice for the Trial Chamber to issue an interim order for the guidance of the parties, pending the closing of pleadings;

NOTING the provisions of Rule 26bis which requires that

The Trial Chamber and the Appeals Chamber shall ensure that a trial is fair and expeditious and that proceedings before the Special Court are conducted in accordance with the Agreement, the Statute and the Rules, with full respect for the rights of the accused and due regard for the protection of victims and witnesses [emphasis added];

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<sup>1</sup> Document No. SCSL-03-01-PT-239 consisting of 397 pages and 14 audio CDs as annexes.

<sup>2</sup> Including the present Motion.

<sup>3</sup> See Urgent and Public Defence Motion Pursuant to Rule 54 Requesting Order To Court Management to Accept Filings on the Parties in The Hague Immediately, filed on 23 May 2007, para. 6.

<sup>4</sup> See “Registrar’s Submission Pursuant to Rule 33 (B) relating to Defence Motion Pursuant to Rule 54 Requesting Order To Court Management to Accept Filings on the Parties in The Hague Immediately”, filed 28 May 2007, para. 11.



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NOTING also the provisions of Rule 84 which requires that

At the opening of his case, each party may make an opening statement confined to the evidence he or she intends to present in support of his case. The Trial Chamber may limit the length of those statements in the interests of justice; [emphasis added]

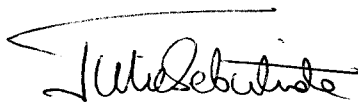
HOLDING that:

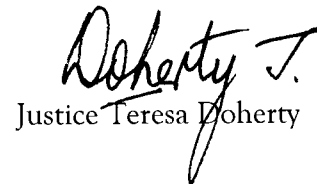
- (i) the proper procedure is for the Prosecution to tender its evidence during the course of the trial, when the Defence will be able to exercise its right to be heard before the Trial Chamber rules on the admissibility of the evidence;
- (ii) it is inappropriate for the Prosecution to tender evidence before it has even opened its case, or to adduce evidence during its opening statement;
- (iii) in accordance with Rule 84, if the Prosecutor chooses to make an opening statement, he must do so before he presents evidence;<sup>5</sup>

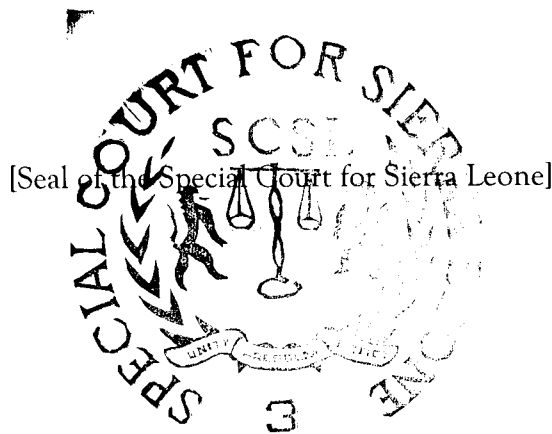
HEREBY ISSUES THIS INTERIM ORDER that the Prosecutor's opening statement shall be made orally and shall be "confined to the evidence he intends to present in support of his case."

Done at Freetown, Sierra Leone, this 31<sup>st</sup> day of May 2007.

  
Justice Richard Lussick

  
Justice Julia Sebutinde  
Presiding Judge

  
Justice Teresa Doherty




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<sup>5</sup> ICTR Rule 84 is in even more explicit terms. It provides: *Before presentation of evidence by the Prosecutor, each party may make an opening statement. The Defence may however elect to make its statement after the Prosecutor has concluded his presentation of evidence and before the presentation of evidence for the defence.*