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SCSL-03-01-T
(12502-12509)



12502

THE SPECIAL COURT FOR SIERRA LEONE

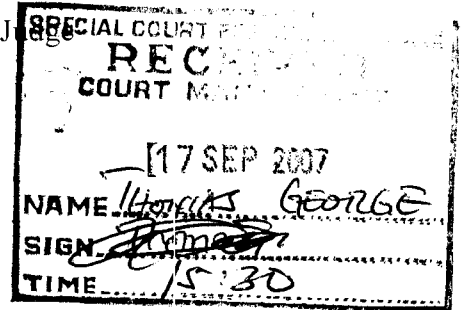
Trial Chamber II

Case No.SCSL-03-01-T

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

Registrar: Mr Herman von Hebel

Date: 17 September 2007



The Prosecutor

-Versus-

Charles Ghankay Taylor

Public

**Registrars Submission Pursuant To Rule 33(B) In Relation To Defence Motion
Seeking Special Measures With Regard To Resolutions 1521(2003) And 1532(2004)
Of The United Nations Security Council**

Office of the Prosecutor

Mr Stephen Rapp
Ms Brenda Hollis
Mr Mohamed Bangura
Ms Wendy van Tongeren

Counsel for Mr Charles Ghankay Taylor

Mr Courtney Griffiths
Mr. Andrew Cayley
Mr. Terry Munyard

Introduction

1. On 7 May 2007 this Trial Chamber held a pre-trial conference to review the progress of preparations for the trial of Mr Charles Ghankay Taylor. At the pre-trial conference Counsel for the accused submitted that his team was facing difficulty in that many potential witnesses were unwilling to speak to the defence for fear of having a travel ban and assets freeze imposed on them by the UN Security Council.¹
2. On 4 June 2007, the Defence for Mr Taylor (the Defence) filed a motion seeking special measures with regard to the travel ban² and the assets freeze³.
3. The Defence sought orders that the Trial Chamber requests the States making up the Security Council to suspend the travel ban and the assets freeze during the duration of Mr Taylor's trial and that these States are requested to communicate the evidence supporting the addition of individuals appearing on the two lists.
4. On 14 September 2007, the Trial Chamber issued a scheduling order for a status conference to be held on 20 September 2007.
5. The Registrar provides this submission in order to give relevant information in relation to the motion pending before the Trial Chamber.

The Registrars Submission

6. On 16 June 2006 the Security Council adopted resolution 1688(2006) providing for the transfer and trial of the accused, Mr Charles Taylor, to The Hague in The Netherlands.
7. Acting under Chapter VII of the UN Charter, the Security Council decided to exempt from the travel ban any witnesses whose presence was required at the trial.⁴
8. On 22 June 2007 the Chairman of the Security Council Committee established pursuant to resolution 1521(2003) addressed a letter to the Registrar in connection with resolution 1688(2006) outlining the procedure to be followed in making requests for the exemptions from the travel ban.⁵
9. On 30 June 2007 the Registrar replied to the Chairman of the Security Council Committee accepting the conditions laid out by the committee.⁶

¹ Pre Trial Conference transcript Pg 24

² Resolution 1521(2003)

³ Resolution 1532(2004)

⁴ Article 9 Resolution 1688(2006)

⁵ Letter is attached and marked appendix I.

⁶ Letter is attached and marked appendix II.

10. The procedure mentioned in paragraph 8 requires the Special Court to notify the Committee in writing at least four working days before any travel is to be undertaken by listed individuals. This notification would include identification details, dates of departure and return, travel itinerary and the mode of transport to be used by the listed person. Upon receipt of such notification the committee issues a letter authorising travel.
11. On 12 September 2007 the Registrar's office emailed both letters to The Defence.⁷
12. It is the complaint of the Defence that likely witnesses for the Defence fear that testifying on behalf of Mr Taylor will incite the Committee to add or maintain their names to the list.
13. The Registrar submits that this fear seems to be unfounded. Paragraph 4 of resolution 1521(2003) provides that names are maintained or added to the list only where the individuals constitute a threat to the peace or are undermining the peace process in Liberia. Individuals who are providing financial or military support to armed rebel groups in Liberia shall also be added to the list. Individuals shall not be added to the list simply because they have testified in favour or on behalf of the accused.
14. The Security Council in Resolution 1315(2000) requested the Secretary General to negotiate an agreement with the government of Sierra Leone to create the Special Court. It noted that such a credible system of justice would end impunity and contribute to the process of national reconciliation and to the restoration and maintenance of peace.
15. Any witnesses who appear for either of the parties in the proceedings would be contributing to a fair trial (a credible system of justice) and the overall aim of promoting peace and reconciliation.

Conclusion

16. The Registrar respectfully submits that in view of the fact that a procedure has been established and communicated to the parties, all necessary steps have been taken to ensure that any listed individuals will be exempted in order to be available as witnesses for both parties.



Herman von Hebel
Registrar

⁷ Print out of email attached and marked appendix III.

APPENDIX I

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UNITED NATIONS



NATIONS UNIES

POSTAL ADDRESS-ADRESSE POSTALE: UNITED NATIONS, N.Y. 10017
CABLE ADDRESS-ADRESSE TELEGRAPHIQUE: UNATIONS NEWYORK

REFERENCE: S/AC.41/2007/OC.26

22 June 2007

Dear Mr. Von Hebel,

On behalf of the members of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia, I am writing to you in connection with Security Council resolution 1688 (2006), by which the Council decided, *inter alia*, to exempt from the travel ban first imposed by paragraph 4 (a) of resolution 1521 (2003) the travel of any witnesses whose presence is required at the trial of former Liberian President Charles Taylor by the Special Court for Sierra Leone.

Key tasks entrusted to the Committee by the Security Council in paragraph 21 of resolution 1521 (2003) include monitoring the implementation of the travel ban and considering and deciding upon requests for exemptions to the travel ban. In this connection the Committee has been guided by procedures agreed on by the members which help to promote the orderly and effective management of travel waivers granted to sanctioned individuals.

With the commencement of the trial of former Liberian President Charles Taylor by the Special Court on 4 June 2007 in The Hague, the Committee is aware that the possibility may arise that individuals who are currently subject to the travel ban will need to travel internationally because their presence at the trial is required, as envisaged in paragraph 9 of resolution 1688 (2006). In order to avoid any complications in connection with the travel of listed individuals pursuant to resolution 1688 (2006), the Committee would welcome the Special Court's agreement that it will notify the Committee in writing at least four working days in advance of any travel to be undertaken by listed individuals pursuant to resolution 1688 (2006). In this connection, the Committee would further welcome the Special Court's agreement that, in notifying the Committee of exemptions to the travel ban being undertaken pursuant to paragraph 9 of resolution 1688 (2006), the Special Court will include the following information, with accompanying documents, to the extent possible:

- i. the name, designation, nationality and passport number(s) of the person(s) undertaking the proposed travel.

/...

Mr. Herman Von Hebel
Acting Registrar
Special Court for Sierra Leone
Freetown
Sierra Leone

S/AC.41/2007/OC.26

- ii. the proposed dates and times of departure from and return to the country from which the travel commenced.
- iii. the complete itinerary for such travel including the ports of departure and return and all transit stops.
- iv. details of the mode of transport to be used, including where applicable, record locator, flight numbers and names of vessels.

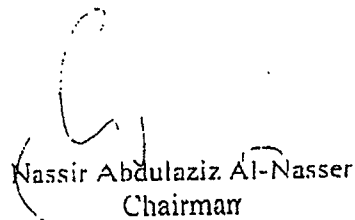
Under its existing procedures, the Committee customarily receives written confirmation from the State in whose territory the listed individual resides or from the relevant UN office, with supporting documents, confirming the date on which the listed individual(s) travelling under an exemption arrived back in the country of residence. The Committee would welcome receiving the views of the Special Court on whether it would be in a position to provide similar confirmation when listed individuals traveling under exemptions pursuant to paragraph 9 of resolution 1688 (2006) return to their country of residence.

The Committee is of the view that the submission by the Special Court of notifications of travel of listed individuals pursuant to resolution 1688 (2006) will keep the Committee and its Panel of Experts informed of the movements of sanctioned individuals, and will serve to assure the Committee that the travel of the individuals in question is indeed required by the Court.

Such notifications will also allow the Committee to dispatch an authorization letter containing information on the travel itinerary, including any stopovers or transit through third States. In line with the Committee's existing procedure this authorization letter would be provided to the authorities in States of departure, transit, and arrival, which could help diffuse problems that can arise if sanctioned individuals are stopped by authorities who may not be aware of the exemption contained in resolution 1688 (2006).

On behalf of the Committee, I would like to thank the Special Court for its consideration of this matter, and I look forward to receiving the response of the Special Court.

Yours sincerely,



Nassir Abdulaziz Al-Nasser
Chairman

Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia



SPECIAL COURT FOR SIERRA LEONE
TOMO 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

Our Ref: REG/268/07/ME
Your Ref: S/AC.41/2007/OC.26

30 June 2007

Mr Nassir Abdulaziz Al-Nasser
Chairman
Security Council Committee established pursuant
to resolution 1521(2003) concerning Liberia

Dear Mr Abdulaziz Al-Nasser,

Thank you for your letter of 22 June 2007 written on behalf of the Security Council Committee established pursuant to resolution 1521(2003), regarding the travel of the Special Court for Sierra Leone's witnesses, who are currently listed under a travel ban imposed pursuant to paragraph 4 (a) of Security Council resolution 1521(2003), and have to testify in Mr. Charles Taylor's trial.

As the trial of Mr Taylor progresses in The Hague it will indeed be necessary for witnesses under the ban to travel internationally, thus requiring an exemption granted by your Committee under paragraph 9 of resolution 1688(2006).

In this regard, as requested, the Special Court undertakes to inform the Committee at least four working days in advance of any travel to be undertaken by listed persons. Additionally, the Special Court will provide, to the extent possible, the following information requested by the Committee:

1. The name, designation, nationality and passport number(s) of the person(s) undertaking the proposed travel
2. The proposed dates and times of departure from and return to the country from which the travel commenced.
3. The complete itinerary for such travel including the ports of departure and return and all transit stops.
4. Details of the mode of transport to be used, including where applicable, record locator, flight numbers and names of vessels.



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SPECIAL COURT FOR SIERRA LEONE
TOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE
PHONE: +39 0831 257000 (LF) +232 22 297000 (LF) +39 083125 (FEXT)
UN Intermission: 175 7000 (LF) 175 (FEXT)
FAX: +232 22 297001 (LF) UN Intermission: 175 7001

The Special Court confirms to the Committee that it will provide written confirmation from the State where the listed individuals reside or from relevant UN offices, with supporting documents, stating the date on which the listed individual travelled under an exemption pursuant to paragraph 9 of resolution 1688(2006) and the dates they return to their country of residence.

Further, the Special Court therefore undertakes to keep the Committee informed of all movement of the listed individuals and give the assurance it will only seek exemption for those required as witnesses.

May I thank the Committee in advance for all the cooperation extended to the Special Court for Sierra Leone.

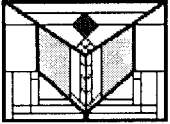
Yours sincerely,

A handwritten signature in black ink, appearing to read 'Herman von Hebel'.

Herman von Hebel
Acting Registrar
Special Court for Sierra Leone

APPENDIX III.

12569



Michael Elubu/SCSL
09/12/2007 02:08 PM

To SCSL Defence-Taylor/SCSL@SCSL
cc Herman von Hebel/SCSL@SCSL, Nikolaus A
Toufar/SCSL@SCSL
bcc
Subject Travel Ban Arrangements

Dear Mr Griffiths,

I am instructed by The Registrar to send you a copy of his letter to The Chairman Security Council Committee established pursuant to resolution 1521(2003) concerning Liberia.

This letter spells out the procedure to be adopted when seeking a lift of the travel ban for witnesses listed under Resolution 1521(2003) and is forwarded for your information.

The Chairmans letter is also forwarded herewith.

With best regards

Michael

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Michael Elubu
Special Assistant to The Deputy Registrar
Special Court for Sierra Leone
Tel: +232 22 297126
Mobile: +232 76660836
Fax: +232 22 297001
email: elubu@un.org



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