

TRIAL CHAMBER I (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”) composed of Hon. Justice Bankole Thompson, Presiding Judge, Hon. Justice Pierre Boutet, and Hon. Justice Benjamin Mutanga Itoe;

SEIZED of a Memorandum and its appendices to Trial Chamber I from Vincent Nmehielle, Principal Defender, dated the 17th of May 2007, entitled “Notice of Intention to Appoint Mr. Steven Powles, Court Appointed Counsel for Moinina Fofana as Co-Lead Counsel to Charles Taylor” (“Memo”), in which the Principal Defender recommends that Mr. Powles be appointed as Co-Counsel for the Taylor Defence Team;[\[1\]](#)

NOTING that Mr. Powles has previously acted as Counsel for Mr. Morris Kallon and is still acting as Court Appointed Counsel for Mr. Moinina Fofana;[\[2\]](#)

MINDFUL of Article 14(C) of the Directive on Assignment of Counsel (“Directive”), which provides that:

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. Any application by Counsel to be assigned to more than one Suspect or Accused must be made, through the Principal Defender, to the Presiding Judge of the appropriate Chamber.

NOTING the waiver signed by Mr. Kallon on the 15th of May 2007, indicating that he has no objection to Mr. Powles representing Mr. Taylor;[\[3\]](#)

NOTING the waiver signed by Mr. Taylor on the 11th of May 2007 indicating that having been advised by the Office of the Principal Defender that Mr. Powles had recently acted as Court Appointed Counsel for Mr. Fofana and would continue to so act until the end of the trial phase (Judgment and sentencing if applicable) only, he has no objection to the appointment of Mr. Powles as his Counsel;[\[4\]](#)

NOTING the waiver signed by Mr. Fofana on the 16th of May 2007 stating:

4. That in compliance with Article 14(C) I have received independent legal advice and I therefore waive my right to be represented by separate Counsel only as far as the issue of Mr. Steven Powles is concerned.

1. That I consent to the appointment of Mr. Steven Powles as part of the Taylor Defence Team provided he still remains part of my Defence team during appeals if necessary;[\[5\]](#)

NOTING the Principal Defender’s recommendation in the Memo that “in view of the waivers submitted by the Accused, there is nothing in the way of Mr. Powles being appointed by the Principal Defender as Counsel to Mr. Taylor while still acting as Counsel to Mr. Fofana as Counsel up to judgment and sentencing if applicable” ;[\[6\]](#)

NOTING that Mr. Fofana’s waiver is conditional on Mr. Powles continuing to represent him during the Appeal phase, should there be one;

CONSIDERING therefore that in the Chamber’s view, Mr. Fofana’s statement does not contain a clear waiver of his right to be represented by separate Counsel;

CONSIDERING that the Chamber is therefore of the opinion that there has not been compliance with the requirements of Article 14(C) of the Directive;

MINDFUL of Article 17 of the Statute of the Special Court for Sierra Leone and Rules 54 and 26bis of the Rules of Procedure and Evidence;

THE TRIAL CHAMBER

DENIES the application on the basis that the waiver from the Accused Fofana does not satisfy the requirements of Article 14(C) of the Directive.

Done at Freetown, Sierra Leone, this 28th day of May 2007.

Hon. Justice Benjamin Mutanga
Itoe

Hon. Justice Bankole Thompson
Presiding Judge
Trial Chamber I

Hon. Justice Pierre Boutet

[Seal of the Special Court for Sierra Leone]

[1] In the Memo, the Principal Defender requests that Mr. Powles be appointed as “Co-Lead Counsel” (Memo, p. 1). However, in an email attached as an annex to the Memo, sent to the Principal Defender on the 3rd of May 2007, Karim Khan, Lead Counsel for Taylor, states that he would like to appoint Mr. Powles as his “Co-Counsel” (Memo, Annex I). In an email sent on the 22nd of May 2007 in response to a query from the Trial Chamber, Shakiratu Sanusi, Legal Taxing Officer of the Office of the Principal Defender, acting upon instructions, clarified that the request was that Mr. Powles be designated as “Co-Counsel”, not “Co-Lead Counsel” to the Taylor Defence Team.

[2] *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-PT, Order on the Appointment of Additional Counsel for the Fofana Defence Team, 3 August 2006.

[3] Memo, Annex III.

[4] Memo, Annex IV.

[5] Memo, Annex V.

[6] Memo, p. 2.
