

**No. 51857\***

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**United Nations  
and  
Sierra Leone**

**Exchange of letters between the United Nations and the Government of Sierra Leone concerning the interpretation of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone and the Statute of the SCSL and the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone and the Statute of the RSCSL and the application of certain provisions of these Agreements and Statutes. New York, 24 June 2013, and Freetown, 23 July 2013**

**Entry into force:** *23 July 2013 by the exchange of the said letters*

**Authentic text:** *English*

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**Organisation des Nations Unies  
et  
Sierra Leone**

**Échange de lettres entre l'Organisation des Nations Unies et le Gouvernement de Sierra Leone relatif à l'interprétation de l'Accord entre l'Organisation des Nations Unies et le Gouvernement de Sierra Leone relatif à la création d'un Tribunal spécial pour la Sierra Leone et le statut du Tribunal spécial pour la Sierra Leone et l'Accord entre l'Organisation des Nations Unies et le Gouvernement de Sierra Leone relatif à l'établissement d'un Tribunal résiduel spécial pour la Sierra Leone ainsi que le statut du Tribunal résiduel spécial pour la Sierra Leone et l'application de certaines dispositions de ces accords et statuts. New York, 24 juin 2013, et Freetown, 23 juillet 2013**

**Entrée en vigueur :** *23 juillet 2013 par l'échange desdites lettres*

**Texte authentique :** *anglais*

**Enregistrement auprès du Secrétariat des Nations Unies :** *d'office, 1<sup>er</sup> avril 2014*

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*publication au Secrétariat. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Les traductions, s'ils sont inclus, ne sont pas en form finale et sont fournies uniquement à titre d'information.*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

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24 June 2013

Excellency,

I have the honour to refer to the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone and the Statute of the SCSL, as well as the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone and the Statute of the RSCSL.

I also have the honour to refer to the letter dated 10 April 2013 from the then President of the SCSL, Justice Fisher, addressed jointly to the Secretary-General and the President of Sierra Leone seeking clarification of certain provisions of the SCSL Agreement and the SCSL Statute. Further, I have the honour to refer to the letter dated 13 June 2013 from the current SCSL President, Justice King, and the SCSL Registrar, Ms. Mansaray, seeking clarification of a provision of the RSCSL Statute.

I should recall that the RSCSL Agreement entered into force on 2 October 2012 following our respective notifications that the legal requirements for entry into force had been complied with. This means that the RSCSL has been established as a legal entity although, pursuant to Article 14 of the RSCSL Agreement, it will not commence operations until the closure of the SCSL. I also recall that, according to Article 1 of the RSCSL Agreement, the RSCSL shall continue the jurisdiction, functions, rights and obligations of the SCSL subject to the provisions of the RSCSL Agreement and Statute.

In light of our discussions and correspondence, and in view of the expected completion of the work of the SCSL and start of the operations of the RSCSL at the end of this year, I wish to set forth the following as the United Nations' understanding of the interpretation of the above-mentioned Agreements and Statutes and the application of certain of their provisions:

His Excellency  
Mr. Frank Kargbo  
Minister of Justice and Attorney General  
of the Republic of Sierra Leone  
Freetown



- (1) Notwithstanding the completion of the work of the Trial Chambers and the expiry of the terms of office of the trial judges, a Trial Chamber of the SCSL continues to exist as part of the Chambers under Article 2 of the SCSL Agreement and Article 11 of the SCSL Statute until the closure of the SCSL;
- (2) After the completion of the final appeal, the Appeals Chamber of the SCSL will continue to exist as part of the Chambers under Article 2 of the SCSL Agreement and Article 11 of the SCSL Statute until the closure of the SCSL;
- (3) In light of the downsizing of the SCSL as it nears the completion of its mandate and notwithstanding the provisions of Article 2 of the SCSL Agreement and Article 12 of the SCSL Statute, the number of judges of the Trial Chamber and Appeals Chamber may be fewer than three and five respectively, and the total number of judges of the SCSL may be fewer than eight judges at any one time;
- (4) Former judges of the SCSL Trial and Appeals Chambers may be retained on a roster so that they may be assigned by the President to carry out functions requiring a judge or judges of a Trial or Appeals Chamber of the SCSL. It is not necessary to conduct an appointment process for retaining the judges on a roster or assigning them to work because the judges were already appointed to the SCSL in accordance with the provisions of the SCSL Agreement and Statute. The United Nations and the Government of Sierra Leone will be notified prior to the assignment of any work to judges on the roster;
- (5) In order to achieve efficiency and cost-effectiveness during the period of the downsizing of the SCSL, the President may, in so far as possible and appropriate under the SCSL Statute and the Rules of Procedure and Evidence, assign a single judge to perform the functions of a Trial Chamber;
- (6) If contempt of court proceedings arise before the closure of the SCSL, the SCSL may, pursuant to Rule 77 of the SCSL Rules of Procedure and Evidence, deal with the matter summarily, or refer it to the appropriate authorities of Sierra Leone, or conduct an investigation until the date of the closure of the SCSL. From the date of the commencement of its operations, the RSCSL will have the authority to complete the investigation and, if necessary, to issue an order in lieu of an indictment and conduct the contempt of court proceedings;
- (7) If an application for review of judgment or sentence is filed before the closure of the SCSL, the Appeals Chamber may, pursuant to Article 21 of the SCSL Statute, make a determination as to whether or not the application is meritorious. If the application is found to be meritorious, it will be transferred to the RSCSL so that the RSCSL may, as of the date of the commencement of its operations, conduct and complete the review proceedings;