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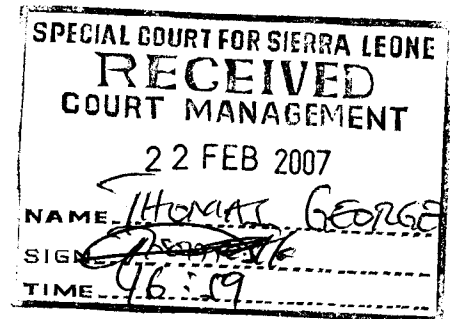
THE SPECIAL COURT FOR SIERRA LEONE

Before: Justice George Gelaga King, President

Registrar: Mr. Lovemore G. Munlo, SC

Date: 22 February 2007

Case No.: SCSL-2003-01-PT



THE PROSECUTOR

-v-

CHARLES GHANKAY TAYLOR

PUBLIC

**DEFENCE MOTION FOR RECONSIDERATION
OF ORDER CHANGING VENUE OF PROCEEDINGS**

Office of the Prosecution

Mr. Stephen Rapp
Ms. Brenda Hollis
Ms. Wendy van Tongeren
Ms. Shyamala Alagendra
Mr. Alain Werner
Ms. Leigh Lawrie

Counsel for Charles Taylor

Mr. Karim A. A. Khan
Mr. Roger Sahota

I. Introduction

1. On 19 June 2006 the President ("the President") of the Special Court for Sierra Leone ("SCSL") ordered that the pre-trial proceedings, trial, and any appeal of Mr. Taylor be conducted in The Hague.¹ This decision was taken in light of perceived security risks created by Mr. Taylor's detention in Freetown, which prompted the initiation of diplomatic steps to ascertain whether Mr. Taylor's trial could be held outside of the West-African region. The International Criminal Court ("ICC") facility in The Hague was identified as a possible alternative venue for the proceedings and:

"The Netherlands accepted to host the trial but asked for a Security Council resolution supporting the change of venue, for the prior agreement by a third state to accept Mr. Taylor immediately after a final judgement, and for one of the international courts in the Netherlands to provide facilities for the trial and detention."² [emphasis added]

2. There has been a significant change in circumstances since the date of the decision to change the venue of proceedings was taken nine months ago. The political and security situation in Liberia and Sierra Leone has stabilised and the full extent of the financial, logistical and administrative challenges faced by the Court in transferring Mr. Taylor's trial to the Hague are now much clearer than was the case in June 2006. Complaints pertaining to Mr. Taylor's conditions of detention and other matters have led the Defence to conclude that Mr. Taylor's fair trial rights will be violated or made significantly more difficult to guarantee if the trial proceeds in The Hague.
3. A recent application by the Prosecution³ to allow wide categories of witnesses to give testimony by video-link from Freetown whilst the Chamber, Accused and parties sit in the Hague demonstrates the OTP view that extraordinary measures are required on account of the transfer of the accused away from the seat of the court. Resort to such measures on such a scale have not been considered necessary in any other case before the SCSL. Whilst the merits or otherwise of that application will, of course, be decided by the learned judges of Trial Chamber II in due course, this most recent motion demonstrates some of the hurdles created by the transfer of the Accused from Freetown to the Hague. For these reasons, and as further advanced below, the Defence request that the President reconsider his Order Changing Venue dated 19 June 2006.

¹ *Prosecutor v. Charles Taylor*, SCSL-03-01-PT-108, Order Changing Venue of Proceedings, 19 June 2006 ("Order Changing Venue").

² Order Changing Venue, para. 2.

³ *Prosecutor v. Charles Taylor*, SCSL-03-01-PT-178, Prosecution Motion to Allow Witnesses to Give Testimony by Video-Link, 9 February 2007, ("Video-Link Motion") ("Obtaining and putting in place the best video-link technology between Freetown and The Hague will be a challenging technological undertaking requiring a coordinated effort among various agencies").

II. Jurisdiction

4. Article 10 of the Agreement between the United Nations ("UN") and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone provides:

"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". [emphasis added]

5. Rule 4 of the Special Court's Rules of Procedure and Evidence ("the Rules") explicitly provides for a sitting away from the seat of the Special Court:

"A Chamber or a Judge may exercise their functions away from the seat of the Special Court, if so authorized by the President. In doing so, audio or video-link technology, e-mail or other available electronic instruments may be used if authorised by the President." [emphasis added]

6. Pursuant to Article 10 the decision to move a single trial to a different location is a "meeting away from the seat" and not the "relocation" of the whole Court. Rule 4 states that it is the President that must make this decision. The President has interpreted Rule 4 to read that:

"To meet away from its seat, the only condition to be met is that it is 'necessary for the efficient exercise of its functions.'" ⁴ [emphasis added]

7. The Appeals Chamber has previously held that the President has wide discretion in the exercise of his "administrative and diplomatic mandate"⁵ which the Appeals Chamber will not interfere with until the President reaches a decision. Implicit in the Appeals Chamber's decision is that once a determination is made by the President as to venue, the Defence may invoke the inherent jurisdiction of the Trial Chamber to ensure the Accused's Article 17 rights are maintained by seeking judicial review of the President's (administrative) decision, if necessary.
8. The Trial Chamber has previously declined jurisdiction to review an administrative decision (of the Registrar) which the Defence maintained affected the fair trial rights of Mr. Taylor.⁶ By dint of that reasoning, the Defence considers that an application to any judicial Chamber of the Special Court is premature until all administrative remedies have been exhausted, as:

⁴ Order Changing Venue, para. 5.

⁵ *Prosecutor v. Charles Taylor*, SCSL-03-01-AR72-104, Decision on Urgent Defence Motion Against Change of Venue, 29 May 2006, para. 8 ("Change of Venue Decision").

⁶ *Prosecutor v. Charles Taylor*, SCSL-03-01-PT-137, Decision on Urgent Public Defence Motion Requesting Removal of Camera from Conference Room, 30 November 2006. ("Trial Chamber Decision on Camera").

“..only in limited circumstances may Trial Chambers review the administrative decisions of the Registrar where they are closely related to the fundamental trial rights of the accused and hence may negatively impact on his statutory rights under Article 17(2) of the Statute and therewith ultimately on the trial proceedings, but that this exercise of power by the Trial Chamber should not be used as a substitute for a general power of review which has not been expressly provided for in the rules of the Special Court.”⁷ [emphasis added]

9. It is submitted that this “general power of review” must entitle the parties affected by the President’s decision to submit representations. This is particularly so where the parties have not been heard before on the issue and where the subject matter include issues involving an accused’s fair trial rights, Whilst the Appeals Chamber was careful not to prejudge the appropriate procedure to be followed when deciding whether a change of venue is, in fact, necessary,⁸ the Defence submit that, in determining the correct procedure, regard should be had to the provisions and Rules of the International Criminal Court⁹ and to the practice in Sierra Leone¹⁰ and other national legal systems -- where the parties are afforded the right to be heard.
10. It is further submitted that the President has jurisdiction to order a change of venue to Freetown without recourse to the UN Security Council. Rule 4 does not require the President to seek the approval of the UN Security Council before a decision is made to order a change of venue. In the instant case, the intervention of the UN Security Council was requested by the Government of the Kingdom of the Netherlands as a condition to their agreement to host the trial of Mr. Taylor. The Defence have not been provided with, or otherwise seen, the correspondence between the President of the Special Court and the Government of the Kingdom of the Netherlands but understand that a request was made for “a Security Council resolution supporting the change of venue.”¹¹
11. In this context, Resolution 1688 can only be read as an enabling provision facilitating the intended transfer of Mr. Taylor to The Hague:

Acting under Chapter VII of the Charter of the United Nations,

1. *Takes note* of the intention of the President of the Special Court to

⁷ Trial Chamber Decision on Camera, pg. 3.

⁸ Change of Venue Decision, para. 6.

⁹ See arguments advanced in *Prosecutor v. Taylor*, SCSL-03-01-PT-91, Urgent Defence Motion for an Order that no Change of Venue from the Seat of the Court in Freetown Be Ordered Without the Defence Being Heard on the Issue and Motion that the Trial Chamber Request the President of the Special Court to Withdraw the Requests Purportedly Made to (1) the Government of the Kingdom of the Netherlands to Permit that the Trial of Charles Ghankay Taylor Be Conducted on its Territory (2) to the President of the ICC for Use of the ICC Building and Facilities in the Netherlands During the Proposed Trial of Charles Ghankay Taylor, 6 April 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-92, Prosecution Response to Taylor Urgent Motion Against Change of Venue, 24 April 2006; and *Prosecutor v. Taylor*, SCSL-03-01-PT-96, Defence Reply to Prosecution Response to Taylor Urgent Motion Against Change of Venue, 27 April 2006.

¹⁰ The Criminal Procedures Act, 1965, The Government of Sierra Leone, sections 39 – 43. [Annex 1]

¹¹ Order Changing Venue, para. 1

authorize a Trial Chamber to exercise its functions away from the seat of the Special Court, and his request to the Government of the Netherlands to host the trial, including any appeal; [...]

8. *Decides further* that the Government of the Netherlands shall facilitate the implementation of the decision of the Special Court to conduct the trial of former President Taylor in the Netherlands, in particular by:

- (a) Allowing the detention and the trial in the Netherlands of former President Taylor by the Special Court;
- (b) Facilitating the transport upon the request of the Special Court of former President Taylor within the Netherlands outside the areas under the authority of the Special Court;
- (c) Enabling the appearance of witnesses, experts and other persons required to be at the Special Court under the same conditions and according to the same procedures as applicable to the International Criminal Tribunal for the former Yugoslavia.¹²

12. Accordingly, the Defence submit that the instant motion does not call for the President to review a Security Council Resolution. Resolution 1688 is not a mandatory order (that the trial must be held in The Hague due to security concerns) but rather an enabling provision designed to give effect to a decision of the Special Court and as an exceptional measure. Before the Resolution was passed, some members of the Security Council reportedly expressed concern at the use of Chapter VII powers and the terms of transfer.¹³ After the resolution was passed, the Russian Federation registered a disclaimer to the effect that the use of Chapter VII powers to address the Taylor venue issue is not intended to serve as a precedent to dispose of “similar issues in the same manner in the future”.¹⁴
13. Any power of review therefore lies with the decision making body and only the President of the SCSL is empowered under the relevant instruments of the SCSL to order the transfer of an accused and to permit a Trial Chamber to exercise its functions away from Freetown.¹⁵ Furthermore whilst the President can take note of the reasoning of the Security Council in passing the resolution,¹⁶ the President is not bound by it in deciding whether the transfer is “necessary” for the “efficient” exercise of the Court’s functions.

¹² Resolution 1688 (2006), Adopted by the Security Council at its 5467th meeting on 16 June 2006. [Annex 2]

¹³ See “UN Security Council disagrees on moving Taylor’s trial to The Hague,” Deutsche Press Agency, 10 April 2006. [Annex 3]

¹⁴ See UN Press Release, “Security Council Approves Trial Transfer of Former Liberian President Charles Taylor to the Netherlands,” 16 June 2006. [Annex 2]

¹⁵ See Charles Chernor Jalloh, “ASIL Insight: Special Court for Sierra Leone Dismisses Taylor Motion Against Change of Venue,” Volume 10, Issue 15, 15 June 2006 (this interpretation is supported by the author). [Annex 4] Compare, “The Prosecutor’s Meeting with Civil Society of Sierra Leone,” Press Release, Special Court of Sierra Leone Office of the Prosecutor, 12 April 2006 (The Prosecutor at the time stated that “The transfer of the trial of Charles Taylor to The Hague was requested by the President of the Court after taking into consideration concerns expressed to the Special Court about stability in the region should Taylor be tried in Freetown. The final decision is up to the United Nations Security Council. Until then, proceedings will continue in Freetown”) [Annex 5]

¹⁶ Resolution 1688 (2006). [Annex 2]

III. Basis of Security Concerns in Present Proceedings

14. The decision by the President of the SCSL to transfer these proceedings to The Hague on the basis that "the continued presence of former President Taylor in the sub-region is an impediment to stability and a threat to the peace of Liberia and of Sierra Leone and to international peace and security in the region"¹⁷ was highly controversial, and the Defence submits unsupported by evidence. The conclusion reached by the President and the UN Security Council was not shared by the Sierra Leonean Government which reportedly stated that Sierra Leone had adequate security to hold the trial in the country.¹⁸ Before Mr. Taylor's arrest, the Prosecution also publicly voiced support for Mr. Taylor's trial to be held in Freetown,¹⁹ and after his arrest appeared neutral on the issue of transfer.²⁰ Many prominent Sierra Leoneans as well as government institutions, most notably the elected Parliament,²¹ as well as human rights and war victims groups have argued that the trial of Mr. Taylor should be held in the locale.²² Otherwise, as one local commentator maintains "the people of the country will be denied the opportunity to closely follow the trial, a powerful argument coming as it is from those in whose name the Court is said to be rendering justice".²³
15. The Defence supports the reported position of the Government of Sierra Leone. There has been trenchant criticism of the lack of transparency in the decision making process

¹⁷ Order Changing Venue, pg. 3, citing Resolution 1688.

¹⁸ See Emmanuel Aiah Sennessie, "Taylor's going to the Hague not for Security Reasons," Berewa, *Sierra News*, 7 April 2007 (reporting that Sierra Leonean Vice-President Solomon Berewa had also told journalists at a press briefing that the intention to transfer Taylor to the Hague was not for security reasons, as widely believed). [Annex 6]

¹⁹ "Prosecutor Welcomes UN Security Council Resolution Granting the United Nations Mission in Liberia (UNMIL) Chapter VII Powers to Arrest Charles Taylor," SCSL Office of the Prosecutor Press Release, Freetown, 14 November 2005 (The Prosecutor states that Mr. Taylor "should be in detention awaiting trial in Freetown at the Special Court"). [Annex 7]

²⁰ "The Prosecutor's Meeting with Civil Society of Sierra Leone," Press Release, Special Court of Sierra Leone Office of the Prosecutor, 12 April 2006. [Annex 5]

²¹ See Ishmael Bayoh, "SLPP, APC, PLP want Taylor tried in Sierra Leone," *Independent Observer*, 6 April 2006 (Legislators representing the ruling Sierra Leone People's Party as well as all other major parties "overwhelmingly demanded" that Charles Taylor be tried in Sierra Leone). [Annex 8]

²² See Vidal Boltman, "Amputees Want Taylor tried in Freetown," *Awareness Times*, 5 April 2006 (noting that members of the Amputees and War Wounded Association want Taylor tried in Freetown so that they can witness the proceedings; they claim that this will help in their healing) [Annex 9]; Heidi Vogt, "Sierra Leone tribunal an experiment," *Associated Press*, 5 April 2006 [Annex 10]; Alpha Sesay, "Trying Charles Taylor Justice Cannot be Fully Achieved in the Hague" [Annex 11]; Betty Milton, "Civil Societies Disagree with Taylor's Transfer," *Awoko*, 3 April 2006 [Annex 12]; "Sierra Leonean War Victims Want Ex-Liberian President Taylor Tried in Freetown," *AFP (World Service)*, 2 April 2006 [Annex 13]; "Sierra Leonean War Victims Say Taylor's Transfer to Rob Nation of Healing Process," *AFP (World Service)*, 4 April 2006 [Annex 14]; Abayomi Tejan, "Popular Call for Taylor's trial in Sierra Leone," *Democrat*, 3 April 2006 [Annex 15].

²³ See Charles Jalloh, "The Law and Politics of the Charles Taylor Case," *Canadian Council on International Law*, Web Exclusive, April 2006 [Annex 16] ("Law and Politics").

leading to the transfer from civil society and observer groups.²⁴ The Defence therefore calls for the President of the Special Court to invite representations and engage all interested parties in Sierra Leone and Liberia in the course of reviewing his decision in a consultative and transparent manner. This would go some distance towards remedying the deficiencies identified above and further strengthening public confidence in the Court.

16. Mr. Taylor voluntarily resigned from his office as the President of Liberia in August 2003, more than three years ago. He remained in West Africa until he was transferred to The Hague. The Defence has not had sight of any public evidence produced since Taylor resigned office of any conduct by him that justifies the security concerns that have been raised by dint of his "presence" in the region. These concerns appear to be largely speculative and political and are not borne out by the UN Secretary General's own report of a "generally stable"²⁵ security situation in both countries, highlighted in Sierra Leone by the recent designation of the UN peacekeeping force stationed there as an observer mission. In this context, fears that the Court in Freetown could come under attack by pro-Taylor forces²⁶ have been dismissed as "far fetched"²⁷ by some local commentators. The Special Court has already proved itself able to manage difficult security issues in indicting and trying several individuals with potential (on the basis of the indictments and according to the Prosecution's case) to cause instability in Sierra Leone. In contrast to Mr. Taylor, these individuals are Sierra Leonean nationals, alleged to have been actually present in Sierra Leone during the relevant indictment periods, and some of whom retain significant support bases and constituencies within the territory where the Court is situated.

²⁴ See International Centre for Transitional Justice, "Taylor Trial Should Be Moved from Sierra Leone Only as Last Resort," *Press Release*, 3 April 2006 ("The Special Court should make the final decision on whether to relocate the trial and should do so in a transparent and consultative manner, after careful consideration of all relevant factors. Current impressions are that an agreement has already been made between several governments, and that it paved the way for Taylor's transfer from Nigeria. However, this process has not been transparent and has neglected to involve the scores of Sierra Leoneans and Liberians who were victimized by Taylor and have an interest in this trial"). [Annex 17]

²⁵ Twelfth Progress Report of the Secretary-General on the United Nations Mission in Liberia (S/2006/743), 12 September 2006, page 3 ("generally stable") [Annex 18]; Third Report of the Secretary-General on the United Nations Integrated Office in Sierra Leone (S/2006/922), 28 November 2006, para. 14 ("During the reporting period, the security situation in Sierra Leone remained stable, but still fragile. The most serious threats to the tenuous stability in the country continued to be related to the high level of youth unemployment, the poor social and economic conditions of the people, and the general public perception of the Government's mismanagement of public resources"). [Annex 19]

²⁶ Order Changing Venue, para. 10.

²⁷ See Law and Politics [Annex 16]

IV. Change of Venue Places Serious Financial, Logistical and Administrative Burden on the Court

17. In the Order Changing Venue, the President of the Special Court stated that “while it is true that certain witnesses may have to travel to The Hague, this should not present an undue financial or administrative burden”.²⁸ This conclusion is not supported by subsequent events or by the conclusions of the Independent Expert Professor Antonio Cassese in his recent Report on behalf of the Management Committee of the SCSL which states that:

“The decision to move the Charles Taylor trial from Freetown to The Hague has had serious repercussions for the future of the Special Court. The transfer of the trial deprives the Special Court of one of its main features: its location in the territory where the crimes were perpetrated. It also creates a complicated—and expensive—logistical situation, requiring the establishment of a second Special Court office in The Hague, the redeployment of staff, the relocation of the Trial Chamber, the transfer of witnesses, and the establishment of an enhanced Special Court presence in Liberia. The Taylor Trial will thus be the most significant challenge to confront the Special Court.”²⁹

18. The Defence submit that, fairly assessed, the logistical complexities and cost implications of staging Mr Taylor’s trial in The Hague found the Court unprepared. The cost of staging Mr Taylor’s trial in The Hague has been estimated at \$20 million.³⁰ As of 30 January 2007 it has been reported that the Court only had sufficient funds to continue operating until June 2007,³¹ halfway through the opening statement of trial. Without a dramatic and immediate increase in the level of contributions from donor countries, it is self-evident that it will not be possible to finish this trial once it begins in The Hague.
19. The financial and logistical problems presented by transplanting these proceedings to the Netherlands would be alleviated if the trial reverted to Freetown, particularly with regard to the most challenging logistical aspect of this operation - the movement of witnesses to The Hague.³² Each witness that is called will have to travel a roundtrip of 10,000 kilometres to testify and will require protection not only where they live but also in the Netherlands. The budget, staffing, visa, logistics, and accommodation arrangements to be

²⁸ Order Changing Venue, para. 9.

²⁹ Antonio Cassese, Independent Expert Report on the Special Court for Sierra Leone, 12 December 2006, paras. 217 (“Cassese Report”). [Annex 20]

³⁰ “U.N. Security Council Disagrees on Moving Taylor’s Trial to The Hague,” Deutsche Press Agency, 10 April 2006. [Annex 3]

³¹ “Press Conference by Prosecutor for Special Court for Sierra Leone,” U.N. Department of Public Information, News and Media Division, 30 January 2007, page 2 (It is stated that the projected budget for the Court in 2007 has been estimated at \$33 million. Note that this figure does not include the budget for 2008 which is to be completed by 15 March 2007, after the Management Committee leaves Freetown). [Annex 21]

³² Cassese Report, paras. 238 – 239 (The Report states that the “Prosecution has indicated that they would like to send an additional family member or support person to accompany each witness”). [Annex 20]

made to accommodate the transfer of large numbers of witnesses and staff across two continents are daunting.

20. It is respectfully submitted that, judged fairly on its merits, the cost of relocating Mr. Taylor's trial is an unnecessary expense, perhaps even more difficult to justify in a court based upon voluntary contributions based in a country still recovering from conflict and struggling with a variety of well catalogued problems. When the costs necessitated by the transfer do not improve the quality of justice or enhance accountability in any way, but rather delay and complicate proceedings and investigations, it is submitted that reconsideration is appropriate.
21. When assessing whether to revert to Freetown it should be noted that a mechanism is now in place for this trial to be transferred to The Hague at any point in the future, should circumstances, in fact, so require.

V. Change of Venue Has Resulted in Violations of Mr. Taylor's Right To A Fair Trial

22. Article 17 of the Statute of the SCSL provides that "All accused shall be equal before the Special Court". The Defence have recently filed a number of motions alleging that Mr. Taylor's rights to equal treatment with other SCSL detainees have been repeatedly compromised. Mr. Taylor's lawyer – client privileged consultations have been subject to video surveillance,³³ and the ICC Detention Centre where Mr. Taylor is incarcerated has imposed a plethora of unnecessary, unreasonable, and discriminatory restrictions that are not applicable to other detainees in Freetown.³⁴ These problems have arisen because of a flawed Memorandum of Understanding between the Special Court and the ICC that has, in effect, ceded jurisdiction to the ICC over decisions pertaining to Mr. Taylor's conditions of detention.³⁵

³³ See *Prosecutor v. Charles Taylor*, SCSL-03-01-PT-133, Urgent and Public Defence Motion Requesting Removal of Camera from Conference Room, 28 November 2006. The Defence recognizes that the President recently ordered the Registrar to communicate with the relevant ICC authorities to ensure that video surveillance of legal consultations was "discontinued". *Prosecutor v. Charles Taylor*, SCSL-03-01-189, Decision of the President on Urgent and Public Defence Motion Requesting Cessation of Video Surveillance of Legal Consultations, 21 February 2007, para. 31. However, the Defence has not received any notice or reassurance from the Registrar that this has been done.

³⁴ *Prosecutor v. Charles Taylor*, SCSL-03-01-PT-146, Public Defence Application Requesting Review Of The Memorandum Of Understanding Between The ICC and the SCSL Dated 13 April 2006 & Modification Of Mr. Charles Taylor's Conditions of Detention, 14 December 2006.

³⁵ *Id.*, para. 13.

VI. Conclusion

23. When considering the options available for the trial of the former President of Chad, The Report of the Committee of Eminent African Jurists on the Case of Hissene Hibre,³⁶ recommended that “an African option should be adopted”.³⁷ Similarly, the primary motivation behind the establishment of the Special Court in Freetown—hailed as a new model precisely because of its location—was to allow for a blend of international legal standards with local participation from those affected by the conflict.
24. For the reasons advanced above, the Defence submit that the President’s decision to change the venue of trial to the Hague cannot, at the present time, be justified as “necessary for the efficient exercise of [the Court’s] functions.” Accordingly, the Defence request that the President of the Special Court:
- (i) Reconsider his Order Changing Venue of Proceedings of 19 June 2006;
 - (ii) Invite Representations from the Sierra Leonean and Liberian Governments, The African Union, Civil Society Groups and Other Interested Parties on the issue of venue on an expedited basis;
 - (iii) Order that the Trial of Charles Ghankay Taylor be held at the Special Court’s premises in Freetown; and
 - (iv) Make such other consequential orders as are deemed necessary.

Respectfully submitted,



Karim A. A. Khan

Lead Counsel for Mr. Charles Ghankay Taylor

Done in Freetown this 22nd Day of February 2007

³⁶ “The Report of the Committee of Eminent African Jurists on the Case of Hissene Hibre,” African Union, pg. 4 (“The Committee recommends that an African option should be adopted”). [Annex 22]

³⁷ Id, pg. 1. [Annex 22]

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PLACE OF ENQUIRY AND TRIAL

Courts other
than the
Supreme
Court.

39. Subject to the provisions of the Courts Act, 1965, and to the powers of transfer conferred by the section 43, the place for the investigation and trial of offences by Courts other than the Supreme Court shall be determined according to the following rules—

- a. An offence shall be enquired into and tried in the Judicial District in which it was committed.
- b. When a person is accused of the commission of any offence by reason of anything which has been done or of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be enquired into or tried in any district in which any such thing has been done or omitted to be done, or any such consequence has ensued.
- c. When an act is an offence by reason of its relation to another act which is also an offence, or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be enquired into or tried in the District in which either act was done.
- d. In any of the following cases, that is to say—
 - i. when it is uncertain in which of several Districts an offence was committed; or
 - ii. when an offence is committed partly in one District and partly in another; or
 - iii. when an offence is a continuing one, and continues to be committed in more Districts than one; or
 - iv. (when it consists of several acts done in different Districts,

the offence may enquired into and tried in any one of such Districts.

Offence
committed on
a journey.

40. An offence committed whilst the offender is in the course of performing a journey or voyage may be enquired into or tried in a District through or into which the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Offences at
sea or
elsewhere out
of Sierra
Leone.

41. When a person is accused of the commission of an offence at sea or elsewhere out of Sierra Leone, which according to law may be dealt with in Sierra Leone, the offence may, subject to the provisions of section 53, be enquired into and tried at any place in Sierra Leone to which the accused person is first brought or to which he may taken thereafter.

Offences by
public
officers
abroad and
offences on
aircraft.

42. (1) Any public officer, who commits outside Sierra Leone, when acting or purporting to act in the course of his duties, any act, which if committed in Sierra Leone would be an offence shall be guilty of an offence of the same nature, and subject to the same punishment, as if the act had been committed in Sierra Leone.

(2) Any person who commits on an aircraft operated by or on behalf of a company registered in Sierra Leone, any act which, if committed in Sierra Leone would be an offence shall be guilty of an offence of the same nature, and subject to the same punishment, as if the act had been committed in Sierra Leone.

No. 22 of
1964, 1965.

(3) Any person may be proceeded against, tried and punished for an offence under this section in any part of Sierra Leone in which he is apprehended or is in custody as if the offence had been committed in that part of Sierra Leone and the offence shall for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in that part of Sierra Leone.

Power of
Judge to
transfer
cases.

43. Whenever it is made to appear to a Judge, by summons —

- a. that some question of law is likely to arise, which it is desirable should be decided by the Supreme Court;
- b. that an order under this section will tend to the general convenience of the parties or witnesses; or
- c. that such an order is otherwise expedient for the ends of Justice,

the Judge may order —

- i. that an offence be enquired into or tried by the Supreme Court or any subordinate Court not empowered by sections 39 and 40 but in other respects competent to enquire into or try such offence;
- ii. that an accused person committed to the Supreme Court or trial;
- iii. that an accused person committed to the Supreme Court for trial instead of being tried at the place where he would but for the order have been tried, be tried by the Supreme Court at such other place as may be specified in the order.

(2) The Judge may act on the application of any party interested after due notice to all other interested parties.

(3) When an accused person makes an application under this section, the Judge may before granting the same, direct him to enter into a recognisance, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecution.

(4) If, in any criminal cause, before any evidence is taken a Law Officer, the accused, or any person having the conduct of the prosecution or the defence, notifies to the Court before which the cause is pending his intention to make an application under this section in respect of the cause, the Court shall adjourn the cause to such a date as will afford a reasonable time for the application being made, and an order being obtained thereon before the accused is called on for his defence.

Annex 2

16 June 2006

United Nations



Security Council

SC/8755

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Department of Public Information • News and Media Division • New York

Security Council
5467th Meeting (PM)

SECURITY COUNCIL APPROVES TRIAL TRANSFER OF FORMER LIBERIAN PRESIDENT

CHARLES TAYLOR TO NETHERLANDS

Resolution 1688 (2006) Adopted Unanimously: Freetown-Based Special Court Will Sit in The Hague

The Security Council today unanimously approved a measure that paved the way for the transfer of former Liberian President Charles Taylor — now awaiting trial at a United Nations-backed tribunal in Sierra Leone on charges related to his role in that country's bloody civil war -- to The Hague, Netherlands, where he would be tried for war crimes.

Acting under Chapter VII, the Council adopted a United Kingdom-drafted resolution allowing a chamber of the Freetown-based Special Court for Sierra Leone to sit outside its jurisdiction, and requested United Nations Secretary-General Kofi Annan "to assist, as a matter of priority, in the conclusion of all necessary legal and practical arrangements" for Taylor's transfer to the Special Court in the Netherlands, and the provision of the necessary courtroom facilities for the conduct of the trial. The International Criminal Court has agreed to allow the use of its premises for both detention and trial.

Noting that the ex-Liberian leader's continued presence in the West African subregion "is an impediment to stability and a threat to the peace of Liberia and of Sierra Leone", and that the International Criminal Tribunal for Rwanda was already too busy to handle the case, the Council decided that the Special Court would retain "exclusive jurisdiction over former President Taylor during his transfer to and presence in the Netherlands".

It decided further that the Dutch Government would smooth the progress of the trial proceedings by: facilitating Mr. Taylor's transportation within the Netherlands outside areas under the authority of the Special Court; and enabling the appearance of witnesses, experts and other persons required to be at the Special Court.

The Council noted the willingness of the International Criminal Court to allow the use of its premises for Taylor's detention and trial, including any appeal, and requested all States to cooperate to that end, particularly to ensure his ultimate appearance in the Netherlands. The text "encourages all States, as well, to ensure that any evidence or witnesses are, upon the request of the Special Court, promptly made available to the Special Court for this purpose".

The Council's action capped a series of events sparked by Taylor's late March disappearance and then arrest in Nigeria — where he had been living in exile since fleeing Liberia in 2003 -- and transfer to back to Liberia, and, finally to the Special Court, to face an 11-count indictment for crimes against humanity, and other serious violations of international humanitarian law, including sexual slavery and mutilations allegedly committed during Sierra Leone's decade-long civil war.

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But the Special Court, as well as newly-elected Liberian President Ellen Johnson-Sirleaf, feared that Taylor's presence in the countries where he allegedly fomented uprisings during the 1990s could shatter the fragile peace that was taking hold in the long-troubled West African region. They asked the Council, and other concerned countries to step in. Shortly after Taylor's arrest, the Netherlands expressed its willingness to host the Special Court. And just yesterday, the British Government said Taylor could serve his prison sentence in the United Kingdom if he was convicted, a decision immediately hailed by the Secretary-General as "another step forward in our battle against impunity for the most heinous crimes".

Expressing a similar sentiment, the Council's resolution recognizes that the proceedings in the case against Taylor would contribute to achieving truth and reconciliation in Liberia and in wider West Africa, and it also requests the Special Court -- with the help of the Secretary-General and relevant States -- to make the trial proceedings accessible to the people of the subregion, including through video link.

After the vote, Konstantin Dolgov (Russian Federation) said that his delegation shared the view of the Council members of the need to hold Charles Taylor's trial away from the seat of the Special Court for Sierra Leone. And while it appreciated the constructive assistance of the Governments of the Netherlands and Great Britain, as well as that of officials at the International Criminal Court, as Russia understood the text, acting under Chapter VII was unique and exceptional in nature and did not set a precedent for solving similar issues in the same manner in the future.

The meeting began at 12:16 p.m. and ended at 12:25 p.m.

Security Council Resolution

The full text of resolution 1688 (2006) reads as follows:

"The Security Council,

"Recalling its previous resolutions and the statements of its President concerning Liberia, Sierra Leone, and West Africa, in particular its resolutions 1470 (2003) of 28 March 2003, 1508 (2003) of 19 September 2003, 1537 (2004) of 30 March 2004 and 1638 (2005) of 11 November 2005,

"Recalling that the Special Court for Sierra Leone ("the Special Court") was established by Agreement between the United Nations and the Government of Sierra Leone on 16 January 2002 ("the Agreement") pursuant to its resolution 1315 (2000) of 14 August 2000,

"Recalling article 10 of the Agreement pursuant to which the Special Court may meet away from its seat if it considers it necessary for the efficient exercise of its functions, and recalling also Rule 4 of the Rules of Procedure and Evidence of the Special Court pursuant to which the President of the Special Court may authorize a Chamber or a Judge to exercise their functions away from the seat of the Special Court,

"Recalling the Council's determination to end impunity, establish the rule of law and promote respect for human rights and to restore and maintain international peace and security, in accordance with international law and the purposes and principles of the Charter,

"Expressing its appreciation to Liberian President Johnson-Sirleaf for her courageous decision to request the transfer of former President Taylor in order that he may be tried at the Special Court,

"Expressing its appreciation to President Obasanjo of Nigeria on his decision to facilitate the transfer of former President Taylor, and noting the role Nigeria has played in securing and promoting peace in Liberia and the wider subregion, including President Obasanjo's decision in 2003 to facilitate the removal of former President Taylor from Liberia which allowed the

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Comprehensive Peace Agreement to take effect, and recognizing the contribution made by the Economic Community of West African States (ECOWAS) in this regard,

"Recognizing that the proceedings in the Special Court in the case against former President Taylor will contribute to achieving truth and reconciliation in Liberia and the wider subregion,

"Expressing that it remains committed to assisting the Governments of Liberia and Sierra Leone in their efforts to a more stable, prosperous and just society,

"Reiterating its appreciation for the essential work of the Special Court and its vital contribution to the establishment of the rule of law in Sierra Leone and the subregion,

"Welcoming the transfer of former President Taylor to the Special Court on 29 March 2006, and noting that at present the trial of former President Taylor cannot be conducted within the subregion due to the security implications if he is held in Freetown at the Special Court,

"Noting that it is not feasible for the trial of former President Taylor to be hosted at the premises of the International Criminal Tribunal for Rwanda due to its full engagement on the completion strategy, and that no other international criminal tribunals exist for the trial of former President Taylor in Africa,

"Taking note of the exchange of letters between the President of the Special Court and the Minister of Foreign Affairs of the Kingdom of the Netherlands dated 29 March 2006 ("the exchange of letters dated 29 March 2006"),

"Taking note also of the Memorandum of Understanding between the Special Court and the International Criminal Court dated 13 April 2006 ("the Memorandum dated 13 April 2006"),

"Noting that former President Taylor has been brought before the Special Court at its seat in Freetown and determining that the continued presence of former President Taylor in the subregion is an impediment to stability and a threat to the peace of Liberia and of Sierra Leone and to international peace and security in the region,

"Acting under Chapter VII of the Charter of the United Nations,

"1. *Takes note* of the intention of the President of the Special Court to authorize a Trial Chamber to exercise its functions away from the seat of the Special Court, and his request to the Government of the Netherlands to host the trial, including any appeal;

"2. *Welcomes* the willingness of the Government of the Netherlands, as expressed in the exchange of letters dated 29 March 2006, to host the Special Court for the detention and trial of former President Taylor, including any appeal;

"3. *Takes note* of the willingness of the International Criminal Court, as requested by the Special Court and as expressed in the Memorandum dated 13 April 2006 to allow the use of its premises for the detention and trial of former President Taylor by the Special Court, including any appeal;

"4. *Requests* all States to cooperate to this end, in particular to ensure the appearance of former President Taylor in the Netherlands for purposes of his trial by the Special Court, and encourages all States as well to ensure that any evidence or witnesses are, upon the request of the Special Court, promptly made available to the Special Court for this purpose;

"5. *Requests* the Secretary-General to assist, as a matter of priority, in the conclusion of all necessary legal and practical arrangements, including for the transfer of former President Taylor to the Special Court in the Netherlands and for the provision of the necessary facilities for the conduct of the trial, in consultation with the Special Court, as well as the Government of the Netherlands;

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"6. *Requests* the Special Court, with the assistance of the Secretary-General and relevant States, to make the trial proceedings accessible to the people of the subregion, including through video link;

"7. *Decides* that the Special Court shall retain exclusive jurisdiction over former President Taylor during his transfer to and presence in the Netherlands in respect of matters within the Statute of the Special Court, and that the Netherlands shall not exercise its jurisdiction over former President Taylor except by express agreement with the Special Court;

"8. *Decides further* that the Government of the Netherlands shall facilitate the implementation of the decision of the Special Court to conduct the trial of former President Taylor in the Netherlands, in particular by:

(a) Allowing the detention and the trial in the Netherlands of former President Taylor by the Special Court;

(b) Facilitating the transport upon the request of the Special Court of former President Taylor within the Netherlands outside the areas under the authority of the Special Court;

(c) Enabling the appearance of witnesses, experts and other persons required to be at the Special Court under the same conditions and according to the same procedures as applicable to the International Criminal Tribunal for the former Yugoslavia;

"9. *Decides* that the measures imposed by subparagraph 4 (a) of resolution 1521 (2003) of 22 December 2003 shall not apply to former President Taylor for the purposes of any travel related to his trial before the Special Court, as well as any travel related to the execution of the judgment, and also to exempt from the travel ban the travel of any witnesses whose presence at the trial is required;

"10. *Recalls* that the costs to be incurred as a result of the trial of former President Taylor in the Netherlands are expenses of the Special Court in the sense of article 6 of the Agreement and that no additional costs can be incurred by any other party without their prior consent;

"11. *Recalls* the Secretary-General's letter of 5 April 2006 and reiterates its appeal to States to contribute generously to the Special Court and notes with appreciation the States which have done so in the past;

"12. *Decides* to remain seized of the matter."

* * * * *

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AFRICA NEWS

UN Security Council disagrees on moving Taylor's trial to The Hague

By DPA

Apr 10, 2006, 19:00 GMT

New York - UN Security Council members have not yet agreed on a resolution to transfer former Liberian President Charles Taylor to The Hague to face charges of war crimes and crimes against humanity, the council president said Monday.

The government of Liberia has requested Taylor's transfer to The Hague, where it believes his political supporters would not be able to impact the judicial process. Taylor is currently standing trial in a UN court in Sierra Leone.

The council's 15 members, who began negotiating on a resolution more than a week ago, still could not agree on the terms of his transfer, said Chinese Ambassador Wang Guangya, the council president.

Wang said costs for the transfer of Taylor and Sierra Leonean judges to The Hague could be a major problem.

'There are still a few areas in which the members have not reached agreement,' Wang told reporters following a closed-door meeting to discuss the Taylor case.

He said council members wanted to ensure a 'sound financial basis' if Taylor were to be brought to The Hague for trial, using the facility of the International Criminal Court (ICC), which itself is not well financed. The ICC also fears it would not be reimbursed for the expenses.

News reports said it would cost more than 20 million dollars to try Taylor at The Hague. UN Secretary General Kofi Annan last week appealed for voluntary contributions from governments, but there was so far no official response.

Council members also disagreed on whether the resolution should be under the UN Charter's Chapter 6 or Chapter 7. Chapter 7 is applied when a case deals with threats against peace and security, while Chapter 6 deals with the peaceful settlement of disputes.

The Netherlands and Liberia had requested Chapter 7 because they consider Taylor a threat to the region, but diplomats said China and Russia are opposed to placing the trial at The Hague under Chapter 7.

Wang said he hopes the council would act on the resolution once legal experts have ironed out the financial and political problems.

Taylor, 58, was captured on March 29 as he tried to escape asylum in Nigeria where he had been living the past three years. He was flown to Monrovia and then to the UN court in Freetown where he pleaded not guilty to 11 counts of war crimes and crimes against humanity committed by his armed supporters during the civil war in Sierra Leone.

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ASIL Insight
Special Court for Sierra Leone Dismisses Taylor
Motion Against Change of Venue
 By Charles Chernor Jalloh

June 15, 2006
 Volume 10, Issue 15

SEARCH
 Advanced Se

Addendum By Charles Chernor
 Jalloh

Introduction

On May 29, 2006, the Appeals Chamber of the Special Court for Sierra Leone ruled that the Urgent Defence Motion Against Change of Venue filed by Karim A.A. Khan, the Provisionally Assigned Counsel representing former Liberian President Charles Ghankay Taylor, was inadmissible. The motion was therefore dismissed.[1]

Background to the Motion

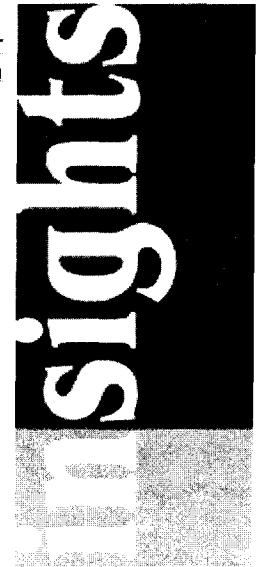
On April 3, 2006, at his initial appearance before the Special Court in Freetown, Sierra Leone's capital, Mr. Taylor was formally charged with an 11-count Amended Indictment for 1) crimes against humanity, 2) war crimes and 3) other serious violations of international humanitarian law contrary to Articles 2, 3 and 4 respectively of the Statute of the Special Court.[2] In the Amended Indictment,[3] the Prosecutor uses theories of command responsibility and joint criminal enterprise to allege that Mr. Taylor is, by his acts or omissions, criminally responsible for planning, ordering and/or instigating numerous unlawful killings, acts of terrorism, sexual and physical violence, conscripting or recruiting children under fifteen years into armed forces or groups, abductions, child labour and looting, during the latter half of the decade-long civil war in the small West African nation (between November 30, 1996 to about January 18, 2002).

On March 29, 2006, a day after Mr. Taylor's transfer to the Court, Justice Raja N. Fernando (Sri Lanka), the President of the Court at the time,[4] sent a letter to the Government of the Netherlands and the President of the International Criminal Court (ICC) asking them to facilitate the Special Court's trial of Taylor in the Hague. Judge Fernando's letter cited concerns about security of the West Africa sub-region as the main motivation for seeking to hold the Taylor trial in the Netherlands.[5] The Dutch Government is apparently willing to host the trial, provided a Security Council resolution formalizes the request and a third country is found to take Taylor after his trial, whether or not he is found guilty or not guilty.[6]

On April 7, 2006, Counsel for Mr. Taylor filed an urgent motion before Trial Chamber II,[7] which is currently seized of the Taylor case, seeking the following orders: 1) that no change of venue be made without first giving Mr. Taylor an opportunity to be heard on the important issue of venue of his trial; 2) that the President of the Special Court withdraw his requests to the Netherlands and the ICC; and, in the alternative, 3) clarification that the requests and the decision to transfer the Taylor case to the Netherlands had not yet been made.[8]

On April 24, 2006, the Prosecution filed its Response in which it opposed the Taylor motion principally on the ground that the decision authorizing a judge or Trial Chamber to sit away from the seat of the Special Court is one made by the President of the Court acting in his administrative, rather than judicial, capacity. The Prosecution also argued, *inter alia*, that the defence motion was misconceived because it failed to show that there had been an order changing the venue of Taylor's trial; or that any of Taylor's Article 17 rights had been violated; or that any of the applicable instruments of the Special Court required a hearing of the parties by the President before a decision to change the venue of a particular trial is made.

In an Order issued on May 3, 2006, Trial Chamber II found that the motion filed by Mr. Khan raised fundamental objections relating to jurisdiction because it challenged the President's authority to change the venue of the trial and alleged his abuse of the processes of the Special Court. Thus, Trial Chamber II referred the motion to the Appeals Chamber of the Special Court for determination pursuant to Rule 72(B)(E) and (F) of the Special Court's *Rules of Procedure and Evidence* (RPE).



RELATED ASIL INSIGHTS

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 Liberian President, Charles
 Taylor

The Special Court for
 The International Criminal
 Treaty Enters Into Force
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RELEVANT DOCUMENTS

Statute of the Special
 Sierra Leone (SCSL)

SCSL Rules of Procedure
 Evidence

Agreement on Establishment
 Special Court for Sierra
 Leone

Appeals Chamber Decision
 Change of Venue Motion
 Taylor Indictment (Amended)

Taylor Case Summary
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ORGANIZATIONS
 Special Court for Sierra
 Leone

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The Appeals Chamber Decision

Upon the referral of the De fence Motion to the Appeals Chamber, Justice Fernando, the President of the Special Court whose actions were being challenged by the motion, was immediately faced with the preliminary question of the proper composition of the panel of three judges to hear the motion. In a surprising move, instead of seeking the recusal of the two judges of the Appeals Chamber who had already publicly expressed certain views on the Taylor matter, the De fence filed a new motion in which Taylor waived any objections to those judges being assigned to hear his motion against change of venue or, and this is particularly significant, any other aspect of his case.[9] The panel of three judges of the Appeals Chamber appointed by President Fernando to consider the motion did not include himself or Justice Geoffrey Robertson, who Taylor had also indicated could form part of the bench hearing the motion.[10]

Sierra Leone Truth and
Reconciliation Commission
International Criminal
United Nations Mission
Sierra Leone
International Center for
Transitional Justice
Project on International
and Tribunals
Open Society Justice
Crimes of War Project

In the short four-page decision issued last week, the Appeals Chamber first observed that Trial Chamber II's referral of the de fence motion to it for determination was improper. First, the motion had nothing to do with either jurisdiction or abuse of process. And second, the motion sought relief that the Trial Chamber did not have the power to grant.

While the Appeals Chamber could have exercised discretion not to examine the merits of the motion because of the improper referral by Trial Chamber II, it decided to do so and concluded that the motion was inadmissible because it would amount to judicial interference with the "administrative and diplomatic functions"[11] of the President, which neither the Trial nor the Appeals Chambers are authorized to do under the relevant instruments of the Special Court. The Appeals Chamber then explained that the procedure regarding a change of venue for a trial is to be found in the Agreement between the UN and Sierra Leone establishing the Special Court and under the RPE. In addition, according to the Appeals Chamber, the residual powers of the Trial Chamber to ensure a fair trial for an accused could not avail the De fence in its attempt to secure pre-emptive relief when the President had not taken any formal decisions affecting the fair trial rights of Mr. Taylor. In the final analysis, the Appeals Chamber held, at this stage of the proceedings wherein the President is undertaking diplomatic steps to secure a new venue (as contemplated under the relevant provisions), questions about venue of the Taylor trial are best directed to the President of the Court rather than the Chambers. Consequently, the Appeals Chamber concluded that the motion is inadmissible and must be dismissed.

Conclusion

This decision by the Appeals Chamber is important for at least three reasons. First, it addresses the first de fence motion brought before the Special Court challenging the possible transfer of a trial outside of Sierra Leone, and in the process, clarifies to some extent the relevant rules governing a possible change of venue of a trial before the Special Court (that is, Article 10 of the Agreement and Rule 4 of the RPE[12]).

While the Appeals Chamber did not expound how those rules will apply to the case at bar, it seems that Article 10 of the Agreement would only be determinative if we read the second sentence of the provision, which in relevant part provides that "The Court may meet away from its seat if it considers it necessary for the efficient exercise of its functions," to mean that the Special Court may conduct trials at locations other than its seat – Freetown. As the Prosecution and the De fence briefs disagreed on how to construe this sentence, especially the word "functions" (whether, for instance, "functions" meant hearing an entire trial or a single witness, or both), it would have been helpful to Counsel on both sides, as well as to the judges of Trial Chamber II, for the Appeals Chamber, the final arbiter of the law applicable in the Special Court, to spell out how to properly interpret and apply Article 10. This matter remains unresolved and could therefore again come before Trial Chamber II once the President of the Special Court makes a formal decision on the venue of the Taylor trial.

The second provision cited by the Appeals Chamber, Rule 4 of the RPE, is derived from the equivalent provision in the *Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda* (ICTR RPE). At first blush its applicability is less controversial because of the simplicity of its language which states: "A Chamber or Judge may exercise their functions away from the Seat of the Special Court, if so authorized by the President." [13] Indeed, as the Prosecution argued, Rule 4 seems to be in line with the administrative functions entrusted to the President of the Special Court by Rule 19, in particular 19(A), of the RPE. [14]

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The crux of the interpretative problem between the Prosecution and the Defence in respect of this provision arises from the difference in language of Rule 4 of the ICTR RPE, upon which Rule 4 of the Special Court's RPE is based. ICTR Rule 4 allows the President of that tribunal to authorize a Chamber or a Judge to exercise their functions away from the seat of their tribunal provided that this is found to be "in the interests of justice," a standard that was removed from the iteration of the equivalent rule in the Special Court.^[15] Even in its ICTR version, the rule is silent on how the determination is made that something is "in the interests of justice," much as its equivalent at the Special Court does not indicate the basis upon which the President should determine when to authorize a Chamber or judge to sit elsewhere. For example, can the President make that determination *ex parte* or should the views of the Defence (and thus the Prosecution) be taken into account? On this issue, Mr. Khan submitted that the Special Court should adopt the relatively more transparent ICC procedure that would allow Taylor to express views on the proposed change of venue of his trial. By implication, Mr. Khan suggested that with the enhanced transparency arising from the participation of the parties, the President's decision to move a trial to another location would less likely be made for extrajudicial or purely political reasons.^[16]

Secondly, the bench was careful not to be seen to have pronounced, in this ruling, on the propriety of the procedure followed by Justice Fernando, the previous President of the Special Court, who merely took what the Appeals Chamber characterized as "preliminary diplomatic steps," as opposed to a final decision.

Whether intended or not, the effect of this approach by the Appeals Chamber is to give considerable latitude to Justice George Gelaga King (Sierra Leone), the new President of the Special Court,^[17] to examine the approach of his predecessor, and to agree or disagree with him as to whether a change of venue for the Taylor case is necessary. If he stands by the decision of the previous President, as he most likely would given the stated concerns about the security and stability of the West Africa sub-region, this decision will allow him to continue seeking to put in place the modalities facilitating the trial of Taylor in the Hague without worrying about further judicial challenges to his (administrative) actions until the final order for transfer of the trial is formally made.^[18] The language of the decision implies that at such a point, if and when it is reached, Counsel for Mr. Taylor could choose to file a motion invoking the (residual) inherent jurisdiction of Trial Chamber II to ensure that Mr. Taylor has a fair trial by seeking judicial review of the President's (administrative) decision.^[19]

Furthermore, when the new President determines whether a change of venue for the Taylor trial is necessary, the decision leaves open the distinct possibility that Justice King could choose to seek the views of the parties (though the Appeals Chamber decision implies that he would not be required to do so under the applicable provisions of the Special Court).

Third, and closely related to the previous point, from the perspective of the accused and many Sierra Leonean victims of the war, the manner in which this matter is disposed of by Justice King, who is a national of the country in which Taylor's alleged crimes took place, will in the end serve as a barometer on which they could measure the extent to which their interests are balanced against each other by the Special Court and the international community, especially given the position adopted by the accused and the victims that the trial should be held in Sierra Leone.^[20]

About the author

Charles Chernor Jalloh holds the B.A. (Guelph), LL.B. (McGill), and B.C.L. (McGill). He is a member of the Bar of Ontario, Canada, and is Legal Advisor to the Office of the Principal Defender, Special Court for Sierra Leone. He is concurrently a Chevening Scholar and candidate completing the Master of Studies in International Human Rights Law at the University of Oxford (Kellogg College). The opinions expressed in this article are his own and not necessarily those of the Special Court or any other organizations with which he may be associated. E-mail: jallohc@yahoo.com.

Footnotes

[1] See *Prosecutor v. Charles Ghankay Taylor*, SCSL-2003-01-AR72-104, Decision on Urgent Defence Motion Against Change of Venue, 29 May 2006, online: <<http://www.sc-sl.org/Documents/SCSL-03-01-AR72-104.pdf>> (last accessed: 31 May 2006).

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[2] See *Statute of the Special Court for Sierra Leone*, online: <<http://www.sc-sl.org/scsl-statute.html>> (last accessed: 31 May 2006).

[3] See *Prosecutor v. Charles Taylor*, SCSL-03-01-I-75, Amended Indictment; online: <<http://scsl-server/sc-sl/new/Documents/SCSL-03-01-I-75.pdf>> (last accessed: 31 May 2006). The Amended Indictment was sealed and was only disclosed by the Trial Chamber in March 2006. David Crane, the Special Court's first Prosecutor, issued the initial 17-count indictment against Mr. Taylor. For that and other decisions related to the Taylor case, see <<http://scsl-server/sc-sl/new/taylor-decisions.html>>. For a summary of the Appeals Chamber decision following Taylor's unsuccessful challenge of the Special Court's jurisdiction over him while he was still President of Liberia, see C. Jalloh, ASIL Insight: *Immunity from Prosecution for International Crimes: The Case of Charles Taylor at the Special Court for Sierra Leone* (October 2004) <<http://www.asil.org/insights/insigh145.htm>> (last accessed: 31 May 2006).

[4] Justice King was elected President of the Special Court at the Plenary held between May 12 and 14, 2006 in Freetown. See Special Court for Sierra Leone, Press Release dated 15 May 2006, "New President for the Special Court for Sierra Leone", online: <<http://www.sc-sl.org/Press/pressrelease-051506.pdf>> (last accessed: 31 May 2006).

[5] For an analysis of the intersection of international law and international politics in the Taylor case, see Charles Jalloh, *The Law and Politics of the Charles Taylor Case*, Canadian Council on International Law Web Exclusive (April 2006), online: <http://www.ccil-ccdi.ca/index.php?option=com_content&task=view&id=165&Itemid=76> (last accessed: May 31, 2006).

[6] While the Security Council has drafted a resolution that would authorize the transfer of the Taylor trial to the Netherlands, it has become a challenge to find a country willing to receive Mr. Taylor after his trial. The trial has not started; based on the experience with similar high profile cases in other international criminal tribunals, it may be at least a year or two away.

[7] Trial Chamber II is composed of Justices Richard Lussick (Samoa), Presiding; Julia Sebutinde (Uganda); and Teresa Doherty (Northern Ireland). The Government of Sierra Leone nominated the former while the Secretary-General of the United Nations appointed the latter two.

[8] See *Prosecutor v. Charles Ghankay Taylor*, SCSL. SCSL-03-01-PT-91, Urgent De fence Motion for an Order that no Change of Venue from the Seat of the Court in Freetown be Ordered without the De fence Being Heard on the Issue and Motion that the Trial Chamber Request the President of the Special Court to Withdraw the Requests Reportedly Made to (1) The Government of the Kingdom of the Netherlands to Permit that the Trial of Charles Ghankay Taylor be Conducted on its Territory and (2) to the President of the ICC for use of the ICC Building and Facilities in the Netherlands during the Proposed Trial of Charles Ghankay Taylor, especially paras. 2-3.

[9] See *Prosecutor v. Charles Ghankay Taylor*, SCSL-03-01-PT, De fence Filing on Composition of Appeals Chamber Pursuant to Trial Chamber's Order Dated 03 May 2006.

[10] See Taylor waiver, *ibid* at Annex A.

[11] Appeals Chamber Decision at para. 5.

[12] See *Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*, online: <<http://www.sc-sl.org/scsl-agreement.html>> (last accessed: 31 May 2006).

[13] Indeed, the rules of procedure and evidence obtaining before the ICTR were to apply *mutatis mutandis* before the Special Court. See Article 14 of the *Statute of the Special Court*.

[14] See Prosecution Reply to Urgent De fence Motion at para. 7.

[15] It is hard to discern why this decision was made given that neither the De fence nor the Prosecution, or for that matter the public, have access to the Minutes of the Plenary that adopted the RPE at the Special Court. Otherwise, both sides could have had recourse to the *travaux préparatoires* in an attempt to discern the intent of the judges in adopting a somewhat different rule for the Special Court.

[16] See De fence Reply to the Prosecution Response to the Urgent De fence Motion filed on 27 April 2006 at para. 16.

[17] See Press Release, *supra* note 4.

[18] In this vein, it is important to note that Justice King, the new President of the Special Court, also participated in the bench comprised by the President to dispose of this de fence motion. This could raise important questions about fundamental principles of justice.

[19] At that point, two arguments could be made by De fence Counsel should Taylor wish to oppose his transfer. First, the same one made in this Urgent De fence Motion, i.e., that the President should not make the decision to transfer the case until Taylor puts forth his views on the matter because of the possible impact of the move on his right to a fair trial. Second, the decision to move the trial itself could be challenged on the basis that it violates fair trial guarantees contained in Article 17 of the Statute of the Special Court.

[20] For more on this, see *The Law and Politics of the Charles Taylor Case*, *supra* note 5.

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Addendum By Charles Chernor Jalloh
June 21, 2006

On 16 June 2006, the United Nations Security Council unanimously adopted Resolution 1688 (2006) in which it concluded that because of security concerns, the trial of former Liberian President Charles Taylor in Freetown, the seat of the UN-backed nationalized Special Court for Sierra Leone, is not feasible because Mr. Taylor's continued presence in the West Africa sub-region "is an impediment to stability and a threat to the peace of Liberia and of Sierra Leone and to international peace and security in the region." This is the first Security Council resolution providing for the change of venue of a high profile trial before an international criminal court.

Contrary to media reports, the resolution, which was passed pursuant to Chapter VII of the Charter of the United Nations, did not "authorize" the transfer of Mr. Taylor to the Netherlands for trial. Only the President of the Special Court, currently Justice George Gelaga King (Sierra Leone), is empowered under the relevant instruments of the Special Court to order the transfer of an accused and to permit a Trial Chamber to exercise its functions away from Freetown. In fact, in a decision issued on June 19, 2006, two days after the UNSC Resolution, President King ordered that Mr. Taylor be transferred to detention in the Netherlands and authorized the Trial and Appeals Chambers to sit in The Hague for the trial, including any appeals.

As if to anticipate the argument that the trial of a former African leader should be held at another location on the continent, rather than Europe, the Security Council concluded that "it is not feasible for the trial of former President Taylor to be hosted at the premises of the International Criminal Tribunal for Rwanda due to its full engagement on the completion strategy, and that no other international criminal tribunals exist for the trial of former President Taylor in Africa."

For the first time in a matter relating to the Special Court, the Security Council also invoked its Chapter VII powers to "encourage" all states to facilitate the presentation of evidence or witnesses in respect of the Taylor trial. In this regard, aside from permitting Taylor to be transported to and within the Netherlands for detention and trial, the Security Council decided that the Dutch Government shall enable the appearance of all witnesses before the Special Court under the same conditions as those obtaining for the International Criminal Tribunal for the former Yugoslavia.

Paragraph 6 of Resolution 1688 (2006) also addressed the concern expressed by civil society, within and outside Sierra Leone, that the people of the West Africa could be denied the opportunity to follow the Taylor trial should the case be transferred to The Hague, by calling on the United Nations Secretary-General and relevant states to assist the Special Court to make the proceedings accessible to people in the sub-region.

President Taylor, who was under a Security Council travel ban along with almost sixty of his family members and close associates, was exempted from that ban for the purposes of his trial and judgment. Importantly, to ensure a fair trial, the Security Council also exempted any other persons on the travel ban list whose presence as witnesses before the Special Court is required.

About the author:

Charles Chernor Jalloh holds the B.A. (Guelph), LL.B. (McGill), and B.C.L. (McGill). He is a member of the Bar of Ontario, Canada, and is Legal Advisor to the Office of the Principal Defender, Special Court for Sierra Leone. He is concurrently a Chevening Scholar completing the Master of Studies in International Human Rights Law at the University of Oxford (Kellogg College). The opinions expressed in this article are his own and not necessarily those of the Special Court or any other organizations with which he may be associated. E-mail: jallohc@yahoo.com.

Footnotes

The resolution is available online at the UN Security Council website <<http://daccessdds.un.org/doc/UNDOC/GEN/N06/392/20/PDF/N0639220.pdf?OpenElement>> (last accessed: June 19, 2006).

After the resolution was passed, the Russian Federation registered a disclaimer to the effect that the use of Chapter VII powers to address the Taylor venue issue is not intended to serve as a

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precedent to dispose of "similar issues in the same manner in the future". See Press Release dated June 16, 2006, "Security Council Approves Trial Transfer of Former Liberian President Charles Taylor to the Netherlands" <<http://www.un.org/News/Press/docs/2006/sc8755.doc.htm>> (last accessed: June 19, 2006). While change of venue is well known to municipal legal systems, to this author's knowledge, the issue had not previously arisen in an international criminal court. This may partly be a function of the reality that after the Nuremberg and Tokyo Tribunals, the bulk of modern international criminal trials have been held in countries outside where the crimes were committed. For instance, the ICTR sits in Arusha, Tanzania (not Rwanda) and the ICTY sits in the Hague (not in the former Yugoslavia). Of course, the ICC is based in the Hague, the Netherlands and has jurisdiction over crimes committed throughout the world. The rules of procedure and evidence of the ad hoc tribunals provide, however, that these tribunals can sit elsewhere (in the case of the ICC, anywhere considered desirable pursuant to Article 3 of the Rome Statute). In addition, the locus of a crime is not necessarily material for international crimes attracting universal legal and moral condemnation such as "crimes against *humanity*".

See, for example, "U.N. authorizes Taylor's war crimes trial in Hague" (June 16, 2006) <<http://edition.cnn.com/2006/WORLD/africa/06/16/taylor.hague.reut/index.html>> (last accessed: June 19, 2006).

See Prosecutor v. Charles Taylor, SCSL-03-01-P3, "Order Changing Venue of Proceedings". The President cited the Special Court's Statute and Rules of Procedure and Evidence. Given the theoretical possibility that the Netherlands could assert jurisdiction over Taylor once he is in its territory, the Security Council also decided that, in respect of matters within the Statute of the Special Court, it shall retain exclusive jurisdiction over former President Taylor during his transfer and presence in the Netherlands. While this means that the Dutch Government cannot try Mr. Taylor for the crimes he allegedly committed in Sierra Leone, without the consent of the Special Court, it seems to leave open the option for the host country to assert jurisdiction over President Taylor for acts he may have committed during the war in Liberia. The President's decision conceded that the transfer of Taylor to The Hague would sacrifice the direct and personal access of the average Sierra Leonean to the trial. However, that concern was outweighed by the security concerns.

See UNSC Resolution 1521 (2003) adopted 22 December 2003.

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PRESS RELEASE

Freetown, 12 April 2006

The Prosecutor's Meeting with Civil Society of Sierra Leone, 31 March 2006

On 31 March 2006, the second day following the transfer of Charles Taylor into the custody of the Special Court for Sierra Leone, Special Court Prosecutor Desmond de Silva, QC addressed members of civil society and the local press in Freetown.

The aim of the meeting was to update the people of Sierra Leone on the details of Charles Taylor's transfer, and the request made by the President of the Court to transfer the trial of Charles Taylor to The Hague.

The Prosecutor highlighted three main issues in his address:

A new 11-count indictment has been served on the defendant. The indictment was approved on 16 March 2006 to ensure a more focused and speedier trial. The gravity of the original 17 counts for war crimes and crimes against humanity is reflected in the amended indictment.

The transfer of the trial of Charles Taylor to The Hague was requested by the President of the Court after taking into consideration concerns expressed to the Special Court about stability in the region should Taylor be tried in Freetown. The final decision is up to the United Nations Security Council. Until then, proceedings will continue in Freetown.

If a Trial Chamber of the Special Court does sit in The Hague, the Office of the Prosecutor will work to ensure access to the trial and transparency for the people of Sierra Leone.

#END

Produced by the
Office of the Prosecutor
Special Court for Sierra Leone
Email: SCSL-Prosecutor-Press@un.org

Visit the Special Court's website at www.sc-sl.org

The Prosecutor's statement:

When I became the Prosecutor I made you a promise. That promise was to ensure that Charles Taylor will be in our detention centre. I have kept that promise, and on Monday or



Tuesday he will make an 'Initial Appearance' before a judge of this Court. And the indictment will be read to him and he will be given a chance to plead guilty or not guilty to the crimes that, we say, he committed on Sierra Leonean soil – crimes against you all.

We have all waited a long time and finally

the day has come. Now, all of you will be able to see this former warlord in this Court, answering guilty or not guilty. Technically, the trial starts then.

None of this would have been possible without your support. All of you representing civil society have quite rightly pushed me and before me, my predecessor, David Crane, to do our best to bring this warlord to justice. Well, I'm very pleased as I've indicated to have been able to achieve something for you. And I thank you for all your support, all your encouragement, which made my job that much easier, because I knew I was doing it for you, and I knew I was doing it for the victims of what allege are his crimes.

The 11 Count Indictment

I have always believed that victims have rights too. The right to see the perpetrators of serious crimes brought to justice. But unless one can get the man before the court it's hopeless. So we've taken this first great step in the process of bringing this most wanted man to justice. My predecessor drafted an indictment of 17 counts or charges against Charles Taylor. I recently reviewed that indictment and on 16th March a judge of this Court at my request amended that indictment to 11 counts which represent in my view the full gravity of the former 17. Now copies of those indictments as you know are available for you. My Special Assistant, without whom I'm lost, sitting on my left, will make indictments available to you if you need them. But you will see from that indictment that the allegations of war crimes, crimes against humanity, serious violations of international humanitarian law, including sexual slavery and mutilations are all there. All there. So the full force, the full gravity, of those former allegations are still there.

However, the reason that I took the view that the indictment should be "slimmed down" is to provide for a more focused trial and a speedier end to the trial. As you know, there have been many complaints about the way in which international justice takes a long time. Today people ask me, interviewers ask me, "What about Milosevic? He spent four years in trial and now he's dead. He was not brought to justice". I don't want anything of that kind said about Charles Taylor. I want him brought to justice when he's alive. I want him to know, and I want him to answer, for what we say he did.

In order that the international community might see the Court in Sierra Leone as a model, a preferable model, to anything that has gone before, it is for that reason I slimmed down that indictment to make sure that the trial would not be over-long, and so that the victims, we say, of Charles Taylor will get a result more quickly.

The Hague Option

I'm sharing this with you because I hope you approve. You have of course heard, in recent days, about what I'm going to call The Hague Option. Something that concerns some of you, in fact it might concern many of you. The Hague Option is not set in concrete. It is merely an option. So don't believe, don't believe, anyone who tells you that it's fixed in concrete. Yes, the President of the Court has made the request for the transfer, however, the decision will be taken by the international community at the UN. They have to consider a number of issues, mainly legal and logistical, before they will come to a firm decision. Until then, all proceedings continue in Freetown.

Now why has The Hague option arisen? The answer is very simple. The Rules and Procedure of this Court enables this Court to sit outside Sierra Leone. Why? Why do the Rules of Procedure and Evidence enable this court to sit outside Sierra Leone? The reason is simple. This Court was set up, uniquely, in the very country in which the atrocities were committed. And this is the first court, international criminal court, in the world, that has been set up as we call "in theatre", in the very place in which the atrocities were committed.

Those who created the Court in 2002 understood that there might be – they didn't know who we were going to indict – but obviously they had an idea that we might indict people whose trial in Sierra Leone may have a destabilising effect, either on Sierra Leone or on the region. That is why this Court was empowered to be able to sit elsewhere. So it's not a new idea. This was an idea that the creators had. It's not my idea – it's the idea the creators had. That's why they provided for it in our Statute and in the Rules of Evidence and Procedure. As I say, they had no idea who we were going to indict. And in due course we indicted Charles Taylor, then President of Liberia, who fell from office, who left office not long afterwards and went into exile in Nigeria.

You know the battle we have had with Nigeria to try to get Nigeria to surrender him. You know the international voices that kept saying "No, if you surrender him there will be trouble in the region again. The trial of Charles Taylor will bring instability and trouble to the region again". You've heard those voices. However, we pursued him. We did not let go. We did not listen, David Crane and I did not listen to those voices that said "Leave him alone where he is, because peace is better served by leaving him in Calabar".

We didn't listen to that, because we had to answer to you. You, my friends, are the people I answer to. You are the people who want him brought to justice, and you are the people I serve together with the victims, the sad victims, of the atrocities that were committed here.

So, we get him here, and what an exciting week it's been. He escapes, he's caught, and then when I was going to work on Wednesday morning, coming into the office, little did I think at the end of that day, as the sun was going down, a helicopter would land and out of the side of the helicopter would come the handcuffed tyrant who has caused so much unhappiness in this part of the world. The cheers that went up as the helicopter went down! One realized how important it was to the people of Freetown, the people of Sierra Leone, and above all the people that want justice done.

Of course, very shortly after that we received him, I think 48 hours ago, we heard voices saying again that you can't try him in Sierra Leone because it's going to destabilise the country, it'll destabilise the region. What am I supposed to do? What am I supposed to do now that I've got him here? There is one person without whom I could not have got him here, and that is President Ellen Johnson-Sirleaf, the newly-elected, very respectable president of Liberia. She called on President Obasanjo to surrender him, as you know. Without her call, he would not be here. Without her courage, he would not be here. Without her dedication to the cause of justice, he would not be in our detention centre.

Now, she called, as you know, and then President Obasanjo – because President Obasanjo has been saying for two years “I will of course heed the call of a newly-elected democratically-elected government of Liberia”. So President Obasanjo now had his answer: “Hand him over!” by this very courageous woman who has only just come to office and this must be a very difficult foreign policy decision for her because there are lots of Taylor supporters still in Liberia. In fact there are some Taylor supporters in her government. So she acted with great, great courage – a great lady. And then, 48 hours ago, this great lady said “Please, don't try him in Sierra Leone” – she went public – “because it will destabilise my country.” So what do we do? Here is this lady without whom we couldn't have achieved what we have achieved, really pleading for her own people. I want you to be generous to her in view of what she has done, and so, and regard her as somebody who has played a remarkable part in bringing this together. As I say, The Hague Option is not set in stone.

But why The Hague? It can't take place in Arusha because the courts are full. It can't take place at the ICTY because their courts are also full. The only facility available is the International Criminal Court's facilities in The Hague. However, this trial can only take place outside Sierra Leone if the Special Court for Sierra Leone, or a court of this court, sat outside Sierra Leone. And there is President Johnson-Sirleaf saying “Please, don't try him in this region”. Well, The Hague Option is being considered by the international community. The Hague Option means that if it is approved, it will be the Special Court for Sierra Leone sitting in The Hague, renting the ICC's facilities.

Now, I want Charles Taylor brought to justice quickly. I thought that the AFRC and CDF cases would be finished by this summer – June, July. It now looks as if they may run on towards the end of the year. And both these courtrooms are occupied, so there's no way Charles Taylor can be tried here this year. There's no way. I don't want Charles Taylor to start saying “I want bail, because I can't be tried. There is no court to try me, so I want bail”. Then what do we do? Lose him again? You know there are so many considerations, and that's why I want to share my thoughts with you. I want to share my thoughts with you. He won't be able to say that if The Hague Option, for example, is achieved, because in theory there will be a court to try him.

Now, it is most essential that the people of Sierra Leone understand and see and hear – let's take for a moment, let's examine for a moment, the prospect of a court sitting outside Freetown, whether it's in Banjul or The Hague is immaterial for this moment. We are now looking at plans that if, that if, The Hague Option is operated, that in the same way as all of you can follow the proceedings of these two Courts, everything that happens in The Hague will be processed similarly for you here. And I can tell you that is under active consideration.

If and when the UN Security Council does decide to send this trial to The Hague, there will be divided views, without any shadow of a doubt. There will be Sierra Leoneans who agree with the fact that, they think “no, no, it's better to try him outside. And we would rather hear, watch, or hear what's going on than have run the danger of instability, either in Sierra Leone or neighbouring Liberia.”

Now these are all considerations I have to share with you. We're not living in a perfect world. We're not living in a world in which I can deliver to you everything you want. I have tried my best and have delivered up the man. It is a matter for others to decide and I don't decide this, it's not my decision that he goes to The Hague. I would be quite content if he was tried in Sierra Leone, but it's not my decision. It's not my decision. I'm sure it's the decision of the government of Sierra Leone that he be tried in Sierra Leone. However, this is an international criminal court, and the word international means international. It means that other countries also have a say. That's what international means. And if other countries have a say, and the principal judge, the President of the Court, decides that there cannot be a risk, any further risk, either to Sierra Leone or to Liberia, then the decision is made, not by me, not by the Government of Sierra Leone, but by somebody who's been empowered to consider it.

Because if, for example, the trial took place here; if something happened in Liberia which Ellen Johnson-Sirleaf fears, and one can only assume the President of Liberia must know something about her own country, if that is a fear that she has expressed publicly, and if something does happen in Liberia, we will be held to blame. We will be held to blame. I don't want any more blood spilt, either here or in Liberia. I would like to see, of course, a peaceful trial of Charles Taylor here. However, this is an international criminal court, as I keep saying, and if other countries, for example neighbouring Liberia, says "We think we will be affected", a judge of an international criminal court must entertain considerations of that kind. So as much as I would be willing to proceed here, I want to share with you my predicament and the responsibility this Court has to the continuing peace and security of the region. I prosecute where I'm required to prosecute. If they decided to set this court up in Paris I'll have to prosecute there.

I'm delighted to be here in Freetown, now entering my fourth year here. I've committed a chunk of life to helping to bring justice to Sierra Leone. And I'm not in Sierra Leone in order to get away. I'm here to do justice to you all within your own country. But I have to recognise the international court also has to respond to the voice of the international community. It was the international community that created the court and now supports it.

Charles Taylor will I hope on Monday, probably in the afternoon, be in that dock, (points) somewhere over there – sorry, I'm not pointing at you; in fact, you don't look anything like him! You don't look anything like him, so there's no chance of confusion! – he will sit somewhere over there I take it and the charges – well, he may go over there, I don't know – and the charges will be read to him. And all of you, I hope, will fill that gallery and you will see the man we have worked so hard to get, you and I together. You put your hand into mine and we worked together to do this. And we've got this far.

I don't want Charles Taylor ever to raise an appeal on the basis that he's the most hated man in Sierra Leone, and therefore his lawyers say the case took place in an atmosphere of hostility to him, as a result of which he couldn't properly produce his defence. He couldn't get his witnesses because the whole country in which he was tried considers him to be the first one responsible, and therefore his witnesses wouldn't come to testify. Then what would happen? His conviction will be quashed and he will walk free. You know, there are so many aspects that I invite you to consider.

I just want him to be tried fairly. I want him to answer to what we say he has done. I hope the judges at the end of the day will find the Prosecution case a strong one. And I hope at the end of the day Charles Taylor will be convicted and sentenced to a very, very long time in prison. But I would hate it if he successfully appealed on some grounds that would lead the appellate court to quash his conviction so that he walked free.

Everything we'd have done would be totally defeated. So whatever happens, I want you to know one thing: We will do it together. We will do it together. We've come this far. You trust me and I trust you. We will do it together. Things may not always be easy. The path ahead may not be smooth, but we'll see. Monday is a start – a start when that bad man will be in this courtroom we sit in today.

So, ladies and gentlemen, it's been a very long and tiring week. I have shared my innermost thoughts with you. Please consider them over the weekend, and I hope to see that gallery filled with you all, possibly on Monday afternoon, because without you this wouldn't have happened. And I thank you for your support. I thank you for all the kindness you've shown me in many, many ways. And I shall try to ensure that at the end of the day that individual will pay for his crimes to you and your people.

Ladies and gentlemen, thank you very much. Thank you.

Sierra News
7 April 2006

"Taylor's going to the Hague not for Security Reasons" Berewa

By Emmanuel Aiah Senessie

The Vice President Solomon E. Berewa has told Reuters that the intention to transfer Charles Taylor to The Hague was not for security reasons, as widely believed.

Answering a question by Nicho-

las Tattersall of Reuters on Thursday this week at his Spur View Office, the Vice President said that there was enough security in the country to have Charles Taylor tried. But the main issue, he told the Reuters West Africa correspondent, had to do with the special Court's exit strategy.

Vice President Berewa said that



"Taylor's going to the Hague not for security reasons" Berewa

tude such as Charles Taylor's were to be started, it would mean taking the Special Court far into 2007 or even beyond.

Mr. Solomon Berewa also told Reuters, in answer to a question if the PMDC was a challenge to the SLPP, that Charles Margai was no threat to the SLPP.

The Vice President said that Charles Margai had always been moving in and out of the SLPP any time he lost the leadership contest.

"The only difference this time is that he had gone ahead to form his own party".

Mr. Berewa said that Margai's

rationale for forming his own party was most unfortunate.

"the desire to become President

should not be the rationale for forming a political party", he told Reuters.

PRESS RELEASE

Freetown, 14 November 2005

Prosecutor Welcomes UN Security Council Resolution Granting the United Nations Mission in Liberia (UNMIL) Chapter VII Powers to Arrest Charles Taylor

The Prosecutor of the Special Court for Sierra Leone welcomed the United Nations Security Council Resolution (1638), passed unanimously on 11 November 2005, which grants the United Nations Mission in Liberia (UNMIL) a Chapter VII mandate to arrest Charles Taylor, the former Liberian President, if he returns to his country.

Charles Taylor was indicted on 3 March 2003 by the Special Court for Sierra Leone on a 17-count indictment for war crimes and crimes against humanity committed during the brutal decade-long conflict in Sierra Leone. However, he has evaded arrest and since August 2003 has been in exile in Nigeria, where he was granted asylum. The charges against him include terrorising the civilian population, unlawful killings, sexual violence, physical violence, forced conscription of child soldiers, abductions, forced labour, looting and burning, and attacks on United Nations peacekeeping personnel.

Following last Friday's unanimous resolution, Desmond de Silva QC, Chief Prosecutor of the Special Court, stated:

"The United Nations Security Council Resolution made two important points:

1. Taylor's stay in Nigeria is temporary and was always intended to be so;
2. He should be in detention awaiting trial in Freetown, at the Special Court.

"Nigeria played a leadership role in 2003 by removing Taylor from Liberia so that the war could come to an end. President Obasanjo now needs to play an even greater regional leadership role by supporting the development of the rule of law and justice in the region by transferring Taylor to the Special Court to face justice immediately."

The Security Council Resolution underscores the international community's commitment to see Charles Taylor stand trial before the international criminal tribunal in Sierra Leone. This resolution follows previous European Parliament and U.S. Congress resolutions calling for the transfer of Taylor to the Court. The fact that it was passed in the immediate aftermath of the successful parliamentary and Presidential elections in Liberia is also significant, and highlights the importance of ensuring that the former head of state remains out of Liberia to allow the country to move toward stability under the leadership of a new democratically-elected President.

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Special Court for Sierra Leone
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Visit the Special Court's website at www.sc-sl.org

Independent Observer
6 April 2006

SLPP, APC, PLP want Taylor tried in Salone

By Ishmael Bayoh

Members of Parliament on Tuesday overwhelmingly demanded that Charles Taylor be tried here in Sierra Leone.

Proposing a private member's motion, Hon Francis S D Tengbe of the ruling Sierra Leone People's Party (SLPP) called on his colleagues to thank the United Nations, the Nigerian government and all those who contributed in various ways to the arrest and sending to Freetown of Mr. Taylor. Hon Koedoyama also of

the SLPP, who seconded the motion, referred to Charles Taylor as an enemy of peace who should not escape justice.

The arrest of Taylor, Hon Dauda Kamara of the APC observed, was not an easy

task. He said Sierra Leoneans were happy for his arrest and would also love to see him tried in Sierra Leone. 'We have no fear should he

be tried here'. He added that the trial of Taylor in Sierra Leone was an added advantage for Sierra

Leoneans to hear from the man who contributed to the country's dark period.

The House called for an increase in pressure on the International Community to see Taylor be tried in Sierra Leone. Hon Chief Justice Nwagwu of the SLPP remarked that 'This is the time for us to know those behind the conflict here let us not be robbed of that, he was supported by Hon Ngewon.

420 Years Jail For 7 Westsiders

See
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[Not Continued]

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Awareness Times
5 April 2006

Amputees want Taylor tried in Freetown

By Vidal Boltman

Members of the Amputees and War Wounded Association have called for the trial of the former warlord and President of the Republic of Liberia, Mr. Charles Ghankay Taylor, to be held here in Freetown, and not in The Hague as many prominent

people have suggested.

According to them, the trial of Mr. Taylor here in Sierra Leone will give them the opportunity to witness the proceedings live, adding that this will go a long way to heal their wounds.

It could be noted that Mr. Charles Taylor who is facing eleven counts charges relating

to crimes against humanity and war crimes, made his initial appearance on Monday 3rd April 2006, during which he pleaded not guilty to all the charges.

It could also be noted that during his initial appearance to take the plea, Mr. Taylor, through his battery of defence

Contd: page 2



Charles Taylor: At the hearing

Amputees want Taylor tried in Freetown

From front page

lawyers, did make a submission that he wants to be tried here in Sierra Leone.

This is against the backdrop that his family might not have adequate access to him in a situation wherein he is tried in The Hague or any where else.

Apart from the amputees, other civil society groups have expressed the need for the former warlord to be tried in Sierra Leone so as to ensure increased access to his trial by the victims and survivors of the war which is said to have been allegedly fueled by the criminal manipulations of Mr. Taylor.

Associated Press

5 April 2006

Sierra Leone tribunal an experiment

By HEIDI VOGT

ASSOCIATED PRESS WRITER

DAKAR, Senegal -- The Sierra Leone court that made Charles Taylor the first African president to answer war crimes charges is an experiment in international justice, a hybrid tribunal being tested by the debate over where the former Liberian president should be tried.

The Sierra Leone Special Court is the first U.N.-sponsored tribunal to prosecute war crimes in the country where they occurred, and it is being heavily backed by the United States as a model. It was established in January 2002 under an agreement between the United Nations and the Sierra Leone government.

Mohamed Suma, head of an independent group that monitors the court, said the aim is for his countrymen to see justice firsthand after their brutal civil war.

"The lack of justice, the lack of access to justice was one of the primary causes of the war, so people want to see justice," Suma said. He noted that the court's audience has included villagers bused in by outreach groups and college students, along with amputees from the war and relatives of the accused.

"If you look at the Rwanda court, it's not associated with the people," Suma said. "It's far away from them. If you look at Yugoslavia, it's so distant." The tribunal trying those involved in the Rwandan genocide is in neighboring Tanzania, while the Yugoslavia war crimes tribunal is at The Hague, Netherlands.

Yet Liberian President Ellen Johnson Sirleaf has asked that the trial of Taylor, who is accused of playing a leading role in Sierra Leone's 1991-2002 civil war, be moved to The Hague, arguing the sight of a former president on trial so close to home could undermine Liberia's tenuous peace.

A group of Sierra Leonean civil rights groups met with Desmond de Silva, chief prosecutor of the Sierra Leone court, on Friday and unanimously voiced their disapproval of the idea, Suma said.

"It is secure to have Taylor here and try him here; it's just paranoia" to say otherwise, Suma said.

The court borrows judges and procedures from Sierra Leone's judicial system as well as from foreign courts. To streamline justice, it only went after those with "greatest responsibility" for the atrocities of the West African country's civil war, and so indicted just 13 men, including Taylor.

Those involved in the Special Court say it is an experiment that has worked, and has advantages over courts at The Hague and elsewhere. It handles cases stemming from a struggle for control of Sierra Leone and its diamond wealth, a conflict that saw rebels hacking off the limbs, lips and ears of civilians.

The Yugoslavia and Rwanda tribunals have been going on since 1993 and 1996, respectively, and have indicted more than 100 people between them.

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"The perception is that they take too long and are too expensive," said Peter Andersen, spokesman for Sierra Leone's court in Freetown.

Both the Yugoslavia and Rwanda courts were forced on their governments by the United Nations, while Sierra Leone requested the Special Court. If the case moves to The Hague, Taylor's trial would still be overseen by judges from the Sierra Leone tribunal, a group of 11 that includes four nominated by the Sierra Leonean government.

"The international community got this right. It's located at the place where it should be, and that's at the scene of the crime," said David Crane, the former lead prosecutor who indicted Taylor. "It is more efficient to have it in the location because that's where all the witnesses are."

Crane and his successor were appointed by the U.N. secretary-general.

As important as it has been to hold hearings in Sierra Leone, the trial of Taylor, the most prominent suspect to be brought before the court, may be different, said another Sierra Leonean monitor, Thomas George.

George said he has spoken to Liberians who have told him a Taylor trial in Sierra Leone would not be good for regional relations.

"Liberians will regard Sierra Leone as hostile, because they will see Sierra Leone putting their president on trial," he said.

The Sierra Leone experiment has not worked seamlessly. Crane said the delay in getting Nigeria to turn over Taylor means the court will continue past a planned five-year term. Nigeria had given Taylor refuge for more than two years before reluctantly agreeing last week to surrender him for trial.

Andersen said court staff have had to spend much of their time raising funds, because the court is supported by donations.

And despite the efforts of outreach groups, spectators at the court generally have been journalists, not members of the public.

"There are some of the victims, yes. But mostly, it's the press. Although we invite the public, very few people come," said Andersen.

"Sometimes people are a little nervous about having to go by a lot of people with machine guns," he said, referring to security at the court. But he said the public follows the trials through radio announcements and videos the court sends out.

Trying Charles Taylor: Justice Cannot Be Fully Achieved at The Hague**By Alpha Sesay***

On March 29 2006, Charles Taylor was transferred to the custody of the Special Court for Sierra Leone, making him the first former African leader to be brought to trial for alleged crimes committed during Sierra Leone's conflict.

Upon his arrival in Sierra Leone, the Special Court immediately requested the International Criminal Court and the Government of The Netherlands to host his trial at The Hague, fearing potential instability in the sub-region if he is tried in Sierra Leone. His trial would still be conducted by the Special Court, though at a different venue, distant from the victims of the war in Sierra Leone. The UN Security Council is set to discuss a resolution to that effect, permitting The Netherlands to host the trial. The United Kingdom and the United States have expressed support for such a resolution. It is suspected that Taylor's supporters might use his trial in Sierra Leone as a reason to cause unrest in Liberia. As important as these concerns might be, transferring Taylor to The Hague not only poses great challenges for the Special Court, but also undermines the entire rationale for having the Court in Sierra Leone in the first place.

The Special Court is a unique make-up of hybrid justice. Its statute blends domestic and international law. It sits in the country where the conflict took place, gives victims of the conflict access to the justice that they deserve, engages Sierra Leoneans in public interaction with the court and promises a meaningful legacy for the country. Taylor's transfer to The Hague negatively impacts all these objectives. It would deprive war victims of the justice that they deserve. In 2004, at the Victim's Commemoration

Conferences organized by the Outreach Section of the Special Court, many victims said that they would regard the court as having been successful only if Taylor is tried. For many victims indeed, the most meaningful consolation they can get for their sufferings during the conflict is to see the person they consider as being responsible for their sufferings tried in their presence. This has been echoed by the Amputees and War Wounded Association in Sierra Leone, which declares that the opportunity to witness the trial of Taylor would go a long way to heal their wounds.

The victims are the Court's primary constituency and providing some sense of justice and restitution to such victims is one of several important goals for the court. Conducting Taylor's trial in Sierra Leone will greatly satisfy this goal -- a major purpose for locating the court in Sierra Leone. Taking his trial to The Hague makes justice too distant for victims of the conflict. It will also impose undue difficulty for an already financially handicapped Court. Transferring witnesses, prosecutors, judges and defense counsels will be too expensive.

The presence of the court in Sierra Leone has greatly enhanced civil society participation in the justice sector. This stands as one of the meaningful legacies that Sierra Leone can gain from the court's presence in the country. Journalists are able to report on trials first hand, thus informing the ordinary people about the court's proceedings. Victims are able to get a first hand view of how alleged perpetrators are made to answer for their acts. These are all things that Sierra Leoneans stand to lose if Taylor is transferred to The Hague. It might be too demanding for the court to facilitate the presence of such victims,

local media and civil society coverage at The Hague. Sierra Leoneans would be deprived of what they truly deserve.

The Court's outreach program has been doing tremendous work. They now face a harder task to extend the outreach to Liberia, to get Liberians to know how and why their Ex-President is being tried. These are already heavy tasks and taking Taylor to The Hague will make them all the more demanding. Sierra Leoneans and Liberians, especially war victims and Taylor's family, will only get second hand information of the proceedings. Many people do not have access to television and for those who do, electricity remains a problem. How would they be able to watch proceedings taking place in The Netherlands? If given second hand information, would they find the process credible?

If Taylor is moved to The Hague, there is the potential for Sierra Leoneans, particularly those sympathetic to Norman, to see this as unequal justice. Why does Norman sit in Sierra Leone while Taylor gets the plush confines of European jails and what will inevitably be seen as more European justice?

Security has always been a concern since the Court's inception. When guerrilla commanders were indicted, many people feared that their supporters would cause an uprising. When Chief Hinga Norman, former head of civil defense forces and a hero for many people, was indicted, security concerns arose. The Special Court requested the international tribunals for Rwanda and for the former Yugoslavia to provide temporary detention for him and to host his initial court appearance. These institutions refused and

Norman's trial has been held in Sierra Leone ever since. Nothing has happened despite such early fears.

Now if The Hague refuses to host Taylor's trial, would he not be tried in Sierra Leone? Surely, he would. So why don't we just do that job now, increase security and peace keeping efforts in the region and share the numerous benefits of holding his trial in Sierra Leone. The cost of his trial at The Hague will be enormous. So why not use that money to empower and deploy more peace keeping forces in the region? Because its proceedings are held out of Rwanda, the international tribunal for Rwanda has been criticized for having little or no impact on the Rwandan citizenry. This is exactly what the Special Court is meant to avoid. Taking Taylor's trial out of Sierra Leone will defeat this purpose.

It should be noted that Sierra Leone's "hybrid" feel of the court had already been seriously undermined by the Government of Sierra Leone's decision to name a British Deputy Prosecutor and Appellate Judge. Looking back on the foundations of the Court, those appointments were incredibly costly to the perception among Sierra Leoneans that this was truly a hybrid court. In seeing the long impact of an institutional shift away from what was originally promised, we see a precedent for how moving Taylor to The Hague might forever undermine Sierra Leoneans' sense of ownership over this process.

There are compelling reasons for Taylor to be tried in Sierra Leone, in the presence of the numerous victims of the conflict and alongside the other people already being tried by the Court. He must however be given all fair trial guarantees. Coupled with increased security in the region, the process should be a smooth one that will be of good to all.

** The writer is an LLM Candidate in International Human Rights Law at the Center for Civil and Human Rights, University of Notre Dame, and is Former Director of the Sierra Leone Court Monitoring Program*

Awoko
3 April 2006

Civil societies disagree with Taylor's transfer



Charles Taylor

By Betty Milton

Members of various Civil Society Organisations in Sierra Leone, Friday strongly opposed the transfer of the trial of former Liberia President Charles Taylor to the

International Criminal Court in The Hague.

At a briefing by the Chief Prosecutor of the Special Court Desmond de Silva, which was held at the Courtroom, members stated unequivocally that there is no need for the trial to be done

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Civil societies disagree with Taylor's transfer

From Front Page

in The Hague when the crimes committed by Charles Taylor were done in Sierra Leone.

The Civil Society activists argued that the issue of security should not be the reason the international community wants the matter to be transferred, because Chief Norman and the other Sierra Leoneans are facing trial presently without no problems.

They further stated that the victims want to see the trial done in their presence.

The Chief Prosecutor in his response explained that the Hague issue is just an option while answering that a letter by Liberian President Ellen Johnson-Sirleaf had given the reason that for security to remain in the sub region the

trial should be transferred to the Hague. Mr Da Silva maintained and they have not reached an agreement yet.

He disclosed that according to the rules of procedure it enables to court to sit outside Sierra Leone in case of any instability. The court he said is different from other international tribunals as it is set up in the very country the atrocities are committed.

The Chief prosecutor further maintained that he will be satisfied if Taylor is tried here but he would not want Taylor' lawyers to succeed in an appeal on certain grounds.

Mr. de Silva informed the people that by Monday Taylor will make his first appearance at the Special Court where the new 11

count indictments will be read to him "and he will have the chance to answer to the pleas." Technically he said "the trial will start from that point." However he said, the full gravity of the first indictment are still in the new one which includes crimes against humanity and serious violations of international humanitarian law including sexual slavery and mutilations.

The Chief Prosecutor stressed that he believes that the victims have the right to see the perpetrators of serious crimes be brought to justice.

Mr. Desmond de Silva commended the people of Sierra Leone as they stood their grounds for Taylor to be brought to task for crimes committed "this is a clear indication that international justice takes a long time and Monday is the start for that bad man to start his trial" he said.

Sierra Leonean War Victims Want Ex-Liberian President Taylor Tried in Freetown

Originally published on 4/2/2006 by AFP (World Service) in English

GRAFTON, Sierra Leone, April 2, 2006 (AFP) - Charles Taylor once said Sierra Leoneans would taste the bitterness of war, declared Sunday one of the thousands of people who lost one or more limbs in the war the former Liberian president is said to have sponsored.

And now it is his turn to taste that bitterness, he said, standing on his one leg and supporting himself on a table at his house at an amputees camp outside Sierra Leone's capital Freetown.

Sahr Momodu Tarawally, 39, said he remembered seeing Taylor in real life when he visited a diamond mine in the company of Sam Bokary, a former rebel commander.

"That time I was still standing on my two legs working at the diamond mine in Yengema (an eastern diamond mining town). He should be tried here, and if he is convicted should be jailed here so he can also taste the bitterness of the war," said Tarawally.

Kadiatu Fofonah, 46, who was amputated from the thighs down, cannot dance like others attending a Sunday mass. She sits in a wheelchair raising her hands and praising God for an answered prayer, the arrest of Taylor.

"This is my month of success," she joins others repeating in chorus after the youthful pastor leading the mass, at the New Life church at Grafton village, about 10 kilometres (six miles) from Freetown.

"I find this to be the best place to try Taylor. The special court here was built to try perpetrators of the rebel war in Sierra Leone, so why try him away from here?" she said in an interview with AFP.

She said fears about the destabilisation of the country by Taylor's supporters could be overcome by boosting security with international support.

"But as for us there is nothing more to fear, we don't have a life to talk about after Taylor did this to us, it doesn't matter what happens anymore," she said.

Her legs were chopped off with an axe by four young rebels, young enough to be her children, when she and a group of about 100 others sought refuge at Kissy psychiatric hospital in Freetown.

The rebels arrived there and lined up the men on one side and shot them all dead, before turning to the women with axes and machetes.

"I was carrying my seven-month old baby, who is now eight, when they sat me down and cut my legs up saying 'go get your legs from President (Ahmad Tejan) Kabbah'," she said, battling to hold back tears.

A pastor with the New Life ministries church, David Fofana said his sermon on Sunday was on

reconciliation, forgiveness and giving his congregation, which has been affected by the war in one way or another, a positive view of the world.

The UN estimates that at least 7,000 Sierra Leoneans lost a limb or other parts of their bodies such as noses or ears in the war that Taylor is accused of having sponsored for 10 years in return for so called "blood diamonds".

Many survive on handouts while non-governmental organisations have built some houses and the government gives their dependants free education. The amputees also travel free on any form of transport across the west African country.

The Norwegian Refugee Foundation has built houses for about a dozen families of amputees and war wounded at Grafton.

A former rice farmer, Tamba Ngowoge, 46, who had both hands hacked off, says he survives by begging.

"I am just thankful that I am still alive," said the father of five.

Taylor who faces charges including murder, sexual violence and unlawful use of child soldiers, will appear in court Monday for the first time since his indictment in 2003.

The 58-year-old former rebel chieftain will have the 11 counts read to him and will be asked to enter his plea.

Taylor is considered the single most powerful figure behind a series of civil wars in Liberia and neighbouring Sierra Leone between 1989 and 2003, which between them left around 400,000 people dead.

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Sierra Leone War Victims Say Taylor's Transfer To Rob Nation of Healing Process

Originally published on 4/9/2006 by AFP (World Service) in English

FREETOWN, April 9, 2006 (AFP) - Transferring the trial of former Liberian president Charles Taylor to The Hague will rob Sierra Leone of an essential part of the healing process, war victims said as the UN inched towards shifting the hearing to Europe.

The west African warlord is accused of sponsoring and aiding rebel groups who perpetrated murder, sexual slavery, mutilation and conscription of child soldiers in Sierra Leone's brutal civil war in exchange for a share in the lucrative diamond trade.

The UN-backed Special Court for Sierra Leone has requested that Taylor's trial be moved to the Netherlands on security grounds.

The UN Security Council's current president Wang Guangya said Friday that there was broad agreement among the 15 members to have the trial held on the premises of the International Criminal Court (ICC) in The Hague.

Early this week the Security Council is expected to adopt a draft resolution clearing the way for Taylor, who has pleaded not guilty to crimes against humanity, to be tried in The Hague.

But Sierra Leoneans who have waited for nearly three years to see the trial on their home soil, say shifting the hearing will be an anti-climax that could undermine the healing process.

"There is nothing that brings healing better than seeing someone that perpetrated a crime against you humbled and subdued before the rule of law," Festus Minah chair of the Civil Society Movement of Sierra Leone (CSMSL) told AFP late Saturday.

Whisking Taylor away will not only deprive Sierra Leoneans of access to the trial, but will "tremendously undermine the healing process" said the movement, a coalition of some 150 civic bodies, in a statement.

"The anticipated positive effect that the trials are supposed to have on the people of Sierra Leone and the region will not be achieved," said CSMSL.

"It has come as a shock to have been robbed of what I think would have made us feel better after the trauma we have gone through," said Fatmattah Sillah, 35, whose only son was conscripted by rebels during an attack on the capital in January 1999, when he was barely in his teens.

The case's relocation will be seen as frustrating the very purposes for which the Special Court was established in 2002, say inhabitants of this impoverished west African country which boasts multi-million dollar state-of-the-art courtrooms to try war crimes suspects.

"The court will have defeated the purpose for which it was set up ... that Sierra Leoneans would see justice first hand," said Minah in an interview.

The Special Court is unique in that it is the first UN-backed tribunal established in the country where the crimes it is handling were committed, unlike those for Rwanda and Yugoslavia -- respectively based in neighbouring Tanzania and the Netherlands.

Sierra Leone asked the UN to set up the court inside the country.

"My wish was for Taylor to have faced justice here. It would have provided the opportunity for him to realise first hand the anger of the people of Sierra Leone," said Pa Anjbioku whose daughter was gang-raped and killed by rebels in the northern town of Port Loko, about 100 kilometres (60 miles) north of the capital in 1998.

The victims would have been able to hear, see and assess for themselves the man who had bankrolled the atrocities, Foday Bangura of the Human Rights and Freedom Organisation noted.

"Taylor said we had to taste the bitterness of the war, let him taste the bitterness of justice here. Is that not why they built the Special Court, for people like us to see? So why take him away?" asked a double leg amputee Kadiatu Fofonah.

The Special Court cited security concerns when it sought last month a venue for the trial. The Dutch government has agreed to host the trial on condition that legal and funding issues are thrashed out before the final UN resolution. The costs involve moving the indictee, judges, court officials, lawyers and witnesses to The Hague.

It also remains to be finalised in which country Taylor would serve any prison term if convicted.

The Special Court, which relies on voluntary UN member contributions, has so far received less than half of its 25 million dollars (20.8 million euros) for this year's budget.

UN spokeswoman Marie Okabe said that only roughly nine million dollars had been contributed so far.

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Democrat
3 April 2006

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Popular Call for Taylor's trial in Sierra Leone

By Abayomi Tejan

Contrary to speculations that Taylor's trial would definitely be at The Hague, the Chief Prosecutor of the Special Court, Desmond Da Silver, denies that this is the official position of the President of the Court. 'Do not believe anyone who tells you that,' he warned.

Mr. Silver says it is 'just an option,' but that he would consider the views of the civil society and the local press as to the security implications of trying Taylor in Freetown. The

prosecutor says the concerns Ellen Johnson Sirleaf holds are worthy of contemplation by the UN Security Council.

'Mrs. Sirleaf' knows much about Liberian politics and the mood of

Liberians generally, and her views must be given serious consideration' says Da Silver, adding that it is not up to him to dictate to the international community and the UN Security Council. "Without her call for Taylor's

extradition from Nigeria, Taylor would not be here," he emphasized. Participants at the hurriedly convened press conference past Friday were of the view that trying Taylor elsewhere would throw the wrong signals to the local communities still grappling with the relevance and significance of the Special Court.

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and specific instructions before drinking the poison.

Popular Call for Taylor

From Page 1

There was consensus among major civil society groups to try Taylor here in Sierra Leone: taking Taylor to The Hague would deprive victims of the pleasure and consolation of actually seeing the perpetrators dealt with accordingly, and would definitely subvert the intent and purport of setting up a court in the country where the crimes were committed.

On the question of security risk because of Taylor's presence in Sierra Leone, the general reaction from the participants was that if indeed there are present dangers, then trying Taylor elsewhere makes no difference, and makes poor logic to have Hinga Norman and others tried here under similar conditions Liberia presently finds herself.

The Prosecutor informed the press that Taylor would make his initial appearance today and the charges read out to him. He would also take a plea. "Technically, the trial starts then," says Silver.

This is the first time in international criminal justice system that a Court sits in the locus of the crime, and Mr. Silver considers the model as the 'preferable' one for future prosecutions of perpetrators of similar crimes.

The Prosecutors points out that delaying Taylor's trial would likely provoke an application for bail from the defense, a privilege that the prosecutor is unwilling to countenance for, as he put it, 'This very bad man.'

The Prosecutor advised the press and civil society to make their views known to the Security Council.

The Law and Politics of the Charles Taylor Case**By Charles Jalloh*****I. Introduction**

On Monday, 3rd April 2006, at 3 P.M. local time, former Liberian President Charles Ghankay Taylor was arraigned before Presiding Judge Richard Lussick of Trial Chamber II, Special Court for Sierra Leone ("the Court"). At that initial appearance, held under Rule 61[1] of the Court's *Rules of Procedure and Evidence*, Mr. Taylor was formally charged with an 11-count indictment for crimes against humanity, war crimes, and other serious violations of international humanitarian law contrary to Articles 2, 3 and 4 of the Statute of the Court. According to the allegations in the Amended Indictment[2] filed by the Court's Prosecutor Desmond da Silva, Mr. Taylor, by his acts or omissions, is criminally responsible under Article 6(1) of the Statute[3] of the Court for those three serious crimes witnessed in Sierra Leone between 30th November 1996 and about 18th January 2002.

After the charges were read, Mr. Taylor had a brief exchange with Judge Lussick in which he questioned the jurisdiction of the Court over him as 21st President of Liberia and raised concerns about the legality of his transfer to the Court's seat in Freetown. Urged by the judge to enter a plea which would then give him standing to take up whatever issues he may have through motions before the full three-member trial chamber, Mr. Taylor responded emphatically:

Most definitely, Your Honour, I did not and could not have committed these acts against the sister Republic of Sierra Leone. I think that this is an attempt to continue to divide and rule the people of Liberia and Sierra Leone, so most definitely I'm not guilty.

With those two sentences, officially clocked at 15:46:40 Freetown time, Mr. Taylor became the first former African Head of State to come before a treaty-based international criminal tribunal set up jointly by the UN and one of its member states, in this case Sierra Leone, for the alleged commission of various international crimes on the territory of that state.[4]

II. Background: The Arrest and Transfer of Taylor to the Special Court

Mr. Taylor's arraignment before a packed but quiet courtroom in which one could hear a pin drop came five days after he was transferred to Freetown following his arrest on Wednesday, 29th March 2006, while allegedly seeking to flee Nigeria where he had been granted asylum by President Olesugun Obasango since 4th August 2003. The 58-year old Taylor's asylum in Nigeria was part of a peace package[5] for Liberia between him, the African Union, the United States and other powerful governments which facilitated the peaceful transfer of power to an interim government that then organized democratic elections. The disputed elections were won by former Taylor rival Ellen Johnson-Sirleaf in November 2005.

The newly elected Sirleaf government had been pressured into requesting Nigeria to hand Taylor over to the Court in February, despite her trepidations about the wisdom of such a

move for her as yet unsettled government. In return, the United States and the European Union pledged to assist President Sirleaf with aid to rebuild her country shattered by a decade and a half long civil war.

Mr. Taylor's reported arrest at the Nigerian/Cameroonian border and subsequent transfer to Freetown via Monrovia, Liberia's capital, came a day after Nigerian authorities incredulously claimed that he had disappeared, without their knowledge, from his Calabar villa in the south-eastern part of the country.[6]

With the recent death of former Yugoslav President Slobodan Milosevic in the Hague, and the apparent show trial of former Iraqi President Saddam Hussein before an internationally discredited Special Tribunal for Iraq, the case of Charles Taylor, the most high profile (and only non-Sierra Leonean) accused before the Court in Freetown, will raise profound questions about the substance, enforcement and legitimacy of international criminal law.

Among other issues, the Taylor case will implicate the nature and extent of immunity afforded by contemporary international law to a former head of state for acts allegedly committed while he was in office; the legal validity and status of the UN's establishment of a treaty-based criminal tribunal under Chapter VI, as opposed, to Chapter VII of the *Charter of the United Nations* and the authority of such a tribunal to assert personal jurisdiction over the nationals of a third (non-party) state; the question of extradition; [7] the extent and limits, if any, of the Security Council's power to effect the direct arrest and transfer of individuals by its peacekeeping forces and the relationship between international and domestic legal systems.

Based on the experience of other international criminal tribunals with high profile cases, it is already clear that the Taylor case will not be properly appreciated from a solely legal perspective. The events leading up to his indictment, arrest, and ultimately, transfer to the Court implicate long-standing matters that could impact upon the fairness and outcome of the proceedings, guaranteed under Article 17 of the *Statute of the Court* and under international human rights law. These non-legal factors include domestic politics in Sierra Leone, Liberia and Nigeria; international politics, especially in respect of the United States; diplomacy; arms embargoes and sanctions busting; the advocacy activities of human rights and "civil society" groups and networks; the media; and last but not least, international public opinion. The intersection, and to some degree collision, of legal and non-legal imperatives will make the Taylor case a fascinating study of the relationship between international law and international politics.

The apparent tension between international law and international politics can be illustrated by the request for the transfer of the Taylor case to the Hague.

III. Analysis: The Interplay of Law and Politics in the Request for the Transfer of the Taylor Case to The Hague

A day after Mr. Taylor's transfer to the Court, the President of the Court Judge Raja N. Fernando sent a letter to the Government of the Netherlands and the President of the International Criminal Court asking them to facilitate the Taylor trial in the Hague. According to the Press Release [8] issued by the Court, Judge Fernando's letter cited concerns about security in the region as his justification for requesting the transfer of the Taylor case to the Netherlands. According to media reports, the Dutch Government has agreed in principle to host the trial of Taylor in the Netherlands, provided that the Security Council passes a resolution approving the request. The Netherlands has also insisted that a third country be found to take Taylor in, whether or not he is found

innocent or guilty.

Yet, at his arraignment in Freetown, Mr. Taylor had relayed two concerns to Judge Lussick and the world through Court Principal Defender Professor Vincent Nmehielle.^[9] First, that he feared for his life, especially in the light of the death of former Sierra Leonean rebel leader Foday Sankoh in the custody of the Court, and the recent death of Milosevic in the Hague. Secondly, that he is completely opposed to the transfer of his trial to the Hague for both fair trial and family-related reasons.

As media reports indicate that a draft resolution approving the transfer of his trial is currently in circulation at the Security Council, and will likely be passed soon, the provisionally assigned counsel for Mr. Taylor by the Court's Defence Office Karim A.A. Khan, a renowned British Barrister, filed an urgent motion before Trial Chamber II on 7th April 2006 arguing that requests such as that of the President of the Court "are premature and raise a real risk of the appearance of unfairness in that the Accused in this case has not been afforded a right to be heard on the important issue of venue."^[10]

Furthermore, according to the motion, "it has not been judicially determined that such a proposed change of venue is necessary in the interests of justice."^[11] The Defence is therefore seeking "an order from the Trial Chamber that no change of venue for the proposed trial of Charles Ghankay Taylor be made without first giving the Defence an opportunity to be heard on this important issue."^[12] Counsel for Mr. Taylor is asking Trial Chamber II to direct the President of the Court:

to withdraw the Requests reportedly made to the Government of the Kingdom of the Netherlands and to the President of the ICC (and to any other entities or organisations that may have been contacted) without the Trial Chamber or the President finding, after full arguments from the parties, that such a change of venue is necessary and merited.^[13]

While the Prosecution has not yet even responded^[14] to the urgent Defence motion, meaning that the tribunal is at least a few weeks away from rendering a decision on the change of venue challenge,^[15] media reports suggest that this is more than a purely judicial issue since agreement for Taylor to be tried in the Hague was part of the pre-conditions of the Sirleaf government's request for Taylor's extradition to the Court because of its fear of the impact of the arrest on Liberia's security.

Interestingly, the Sierra Leonean government has stated unequivocally that it does not share such security fears.^[16] In fact, many prominent Sierra Leoneans as well as governmental institutions, especially Parliament,^[17] as well as human rights and war victims groups are now arguing that the Taylor trial should be held in the country.^[18] Otherwise, they maintain, the people of the country will be denied the opportunity to closely follow the trial; a powerful argument coming as it is from those in whose name the Court is said to be rendering justice.^[19]

IV. Conclusion

Those who argue in favour of the transfer of the Taylor case to the Netherlands will face some difficulties explaining their reasoning which suggests that his trial overseas is necessary to ensure the security of Sierra Leone, Liberia, and indeed, the rest of West Africa. However, because the contentious issue is the actual arrest and transfer of Taylor to the Court, it is difficult to sustain the proposition that instability will result if he is tried

in Freetown but not if he is tried in the Hague.[20]

Also, given the legal and political significance of the trial, especially for those to whom the trial would serve as a deterrent for dictatorial regimes on the continent, many would wonder why if the first indicted African leader cannot be tried in Freetown, another suitable African, rather than European, venue is not being considered, especially given the presence of the International Criminal Tribunal for Rwanda, with all the requisite facilities, in Arusha, Tanzania.[21]

Be that as it may, care must be taken to resolve this issue taking into account the rights and wishes of the accused, lest there be a claim that international criminal law is being built on the back of Africans. This is particularly important given that, so far, Africa is the only scene of investigations and the first indictment by the freshly minted permanent International Criminal Court. Failure to address such concerns may have profound implications and could undermine the legitimacy of the international criminal law regime by suggesting that it is nothing more than the new imperialism masquerading as international rule of law.

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[1] Rule 61 (Initial Appearance of Accused and Plea) provides:

Upon his transfer to the Special Court, the accused shall be brought before the Designated Judge as soon as practicable, and shall be formally charged. The Designated Judge shall:

- (i) Satisfy himself that the right of the accused to counsel is respected, and in so doing, shall question the accused with regard to his means and instruct the Registrar to provide legal assistance to the accused as necessary, unless the accused elects to act as his own counsel or refuses representation;
- (ii) Read or have the indictment read to the accused in a language he speaks and understands, and satisfy himself that the accused understands the indictment;
- (iii) Call upon the accused to enter a plea of guilty or not guilty on each count; should the accused fail to do so, enter a plea of not guilty on his behalf;
- (iv) In case of a plea of not guilty, instruct the Registrar to set a date for trial;
- (v) In case of a plea of guilty, shall refer the plea to the Trial Chamber so that it may act in accordance with Rule 62.

[2] See *Prosecutor v. Charles Taylor*, SCSL-03-01-I-75, Amended Indictment; online: <http://scsl-server/sc-sl/new/Documents/SCSL-03-01-I-75.pdf>. The Amended Indictment was sealed and was ordered disclosed by the Trial Chamber in March 2006. David Crane, the Court's first Prosecutor, issued the initial (17-count) indictment against Mr. Taylor. For that and other decisions related to the Taylor case, see <<http://scsl-server/sc-sl/new/taylor-decisions.html>> For a review of the decision following Taylor's challenge of the Court's jurisdiction over him, see *Immunity from Prosecution for International Crimes: The Case of Charles Taylor at the Special Court for Sierra Leone* by C. Jalloh

HSIS

(October 2004) <<http://www.asil.org/insights/insigh145.htm>>

[3] See *Statute of the Special Court for Sierra Leone*; online: <<http://scsl-server/scsl/new/scsl-statute.html>>

[4] However, on 27th October 1997, Jean Kambanda, Prime Minister of Rwanda between 8th April 1994 to about 7th July 1995, was charged by the Prosecutor of the International Criminal Tribunal for Rwanda with genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, complicity in genocide, and crimes against humanity, contrary to Articles 2 and 3 of that tribunal's Statute. Of course, the ICTR is a Chapter VII tribunal whereas the Court is not. See *Prosecutor v. Jean Kambanda*, ICTR-97-23-I (28th October 1997).

[5] Aside from losing credibility as a peace broker, Nigeria's failure to adhere to the bargain struck with Taylor will have dire implications for dispute resolution in Africa by undermining efforts to peacefully solve disputes by regional and sub-regional bodies such as the African Union (AU) and the Economic Community of West African States (ECOWAS). This has serious human security consequences for a continent dogged by a spate of rebel-led intra-state conflicts, not least in nearby Ivory Coast where regional leaders are seeking cessation of hostilities by the warring parties.

[6] See BBC News Africa, *Taylor missing from Nigerian home*, Tuesday, 28th March 2006; online: <<http://news.bbc.co.uk/2/hi/africa/4853158.stm>> and *Charles Taylor caught in Nigeria*, 29th March 2006; online: <<http://news.bbc.co.uk/2/hi/africa/4856120.stm>>

[7] Neither Nigeria nor Liberia has any cooperation agreements with the Court for Sierra Leone. Neither does Liberia have a bilateral extradition agreement with Sierra Leone. Media reports indicate that the Liberian government will likely face a law suit from Taylor supporters challenging the constitutionality of his mode of arrest and transfer to the Court in Freetown.

[8] See Press Release dated 30 March 2006, *Special Court Requests Charles Taylor be Tried in the Hague*; online at <<http://scsl-server/sc-sl/new/Press/pressrelease-033006.pdf>>

[9] The Office of the Principal Defender of the Court was created under Rule 45 of the Court's *Rules of Procedure and Evidence* to ensure the rights of suspects and accused persons. This innovation in international criminal justice administration aims to serve as an institutional counter-balance to the Prosecution. The Office, which technically falls under the Registry, is currently seeking independence from the Registry, a matter that is before the Court's Management Committee. Independence will help ensure greater "equality of arms" as between the Prosecution and Defence.

[10] See *Prosecutor v. Charles Ghankay Taylor*, SCSL. SCSL-03-01-PT-91, Urgent Defence Motion for an Order that no Change of Venue from the Seat of the Court in Freetown be Ordered without the Defence Being Heard on the Issue and Motion that the Trial Chamber Request the President of the Special Court to Withdraw the Requests Reportedly Made to (1) The Government of the Kingdom of the Netherlands to Permit that the Trial of Charles Ghankay Taylor be Conducted on its Territory and (2) to the President of the ICC for use of the ICC Building and Facilities in the Netherlands during the Proposed Trial of Charles Ghankay Taylor, paras. 2-3.

[11] *Ibid.*

[12] *Ibid.*

[13] *Ibid.*

[14] Under the Court's rules, the Prosecution has ten days to respond to the motion and the Defence five days from the date of filing to reply to the Prosecution response. The clock also stops running during the Court's recess which will last until April 24, 2006.

[15] Given the fast pace of events, it is possible that the matter could become moot if Taylor is transferred to the Hague before a judicial determination is made.

[16] See Emmanuel Aiah Sennessie, "Taylor's going to the Hague not for Security Reasons" Berewa, *Sierra News* (7 April 2007) (reporting that Sierra Leonean Vice-President Solomon Berewa told journalists at a press briefing that the intention to transfer Taylor to the Hague was not for security reasons, as widely believed; according to Berewa, Sierra Leone had adequate security for the trial to hold in the country).

[17] Legislators representing the ruling Sierra Leone People's Party as well as all other major parties "overwhelmingly demanded" that Charles Taylor be tried in Sierra Leone. See Ishmael Bayoh, *SLPP, APC, PLP want Taylor tried in Sierra Leone*, *Independent Observer* (6 April 2006).

[18] See Vidal Boltman, *Amputees Want Taylor tried in Freetown*, *Awareness Times* (5 April 2006) (noting that members of the Amputees and War Wounded Association want Taylor tried in Freetown so that they can witness the proceedings; they claim that this will help in their healing). Other groups have met with Prosecutor da Silva to express their opposition of the transfer of the Taylor case to the Hague. Mohamed Suma, head of an independent group monitoring the work of the Court, explained that "The lack of justice, the lack of access to justice was one of the primary causes of the war, so people want to see justice." See Heidi Vogt, *Sierra Leone tribunal an experiment*, *Associated Press* (5 April 2006).

[19] As a hybrid court of mixed jurisdiction and composition, the Court has been widely hailed for its location in the country that was the theatre of conflict. By taking away this important advantage that it has over the other international criminal tribunals, the international community will effectively be rendering nugatory this core hybrid feature of the Court.

[20] The suggestion that the Court in Freetown could come under attack by pro-Taylor forces seems a bit far fetched, especially in the light of the position taken by the Sierra Leonean government. On the other hand, while not as vocal as the pro-Freetown Taylor trial advocates, many ordinary Sierra Leoneans seem worried about the security implications of holding the trial in the country. To those individuals, the sooner the case is transferred to some location outside Sierra Leone, the better. The situation is not helped by the lack of professionalism on the part of some members of the local media that speculate on possible attacks of Freetown by pro-Taylor Liberian forces.

[21] Some might contend that the symbolism of trying a former African leader in Europe, for crimes committed in Africa, is attached to a deep-seated racist desire to humiliate the people of the continent, especially given Europe's failure to try those who commit crimes against African immigrants living in Europe.

FOR IMMEDIATE RELEASE

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Taylor Trial Should Be Moved from Sierra Leone Only as Last Resort

NEW YORK, April 3, 2006—While praising those who negotiated the arrest and judicial transfer of former Liberian president and warlord, Charles Taylor, the ICTJ today urged that his trial not be moved from the Special Court for Sierra Leone without careful consideration of all of the relevant factors and a transparent decision-making process.

The arrest and transfer of Charles Taylor to the custody of the Special Court last week marked an important victory for justice in conflict-ridden West Africa. Putting on trial the former president and warlord—accused of fueling a deadly conflict that has left nearly 100,000 dead and tens of thousands displaced in Sierra Leone alone—sets a tremendous precedent for the region, made possible by the efforts and courage of activists and leaders, including Liberian President Ellen Johnson-Sirleaf, and the Special Court itself. Taylor's appearance in Freetown today carries particular symbolic significance.

A trial of this magnitude requires carefully planned and robust security measures. Although discussions about the transfer of Taylor's trial venue to The Hague constitute prudent precautions, the decision to move him from the region should not be made prematurely and should only be undertaken as a last resort, should the security situation so dictate.

The ICTJ stresses that trying Taylor in Freetown on the Special Court's premises is preferable to his being tried in The Hague, for the following reasons:

- *Local Accessibility and Participation.* Most importantly, a trial in Freetown will be more accessible to the people of Sierra Leone and Liberia who were most affected by the crimes alleged to have been committed by Taylor. Ten years of experience with trials for war crimes and crimes against humanity have clearly demonstrated the importance of involving affected populations and the steep price of not adequately engaging them. One of the primary motivations behind the establishment of the Special Court in Freetown—hailed as a new model precisely because of its location—was to make it more accessible and to allow for participation by Sierra Leoneans and others from the region.
- *Special Court was Designed for this Purpose.* From the outset, the Special Court has been designed and built to conduct politically sensitive trials in-country. It has

already proven its ability to manage difficult security issues in indicting and trying several individuals with the potential to cause instability in Sierra Leone, including Foday Sankoh, the former leader of the Revolutionary United Front, and Sam Hinga Norman, the leader of the Civil Defence Forces and Interior Minister at the time of his arrest. Even though the full-fledged United Nations peacekeeping force that was operating in Sierra Leone during those proceedings is no longer available, a range of other robust security measures—which the UN should be centrally involved in and contribute to—could be used to supplement the Special Court’s current arrangements.

- *Capacity to Hold Fair Trials.* The Special Court’s trials in Freetown are generally considered to meet international standards of fairness. The Court’s Trial Chambers are able to each handle two cases concurrently, as is now being done by Trial Chamber I. Trial Chamber II could take on the Taylor trial. The ability of the Court to accommodate the logistics of such a high-profile trial has been demonstrated by Taylor’s initial appearance before it today—likely to be one of the most highly publicized occasions of the proceedings.

Relocating the trial to The Hague raises the specter of new costs and complications, including the establishment of a secondary Special Court presence there, and the constant transportation of staff, key witnesses, and evidence.

“Holding the trial in The Hague could dilute some of the Court’s biggest strengths: its hybrid nature that blends international legal standards with local participation, as well as its accessibility. It is likely to reduce Sierra Leonean participation in the trial and will make it easier for those who do not support the trial to distance themselves from the outcome,” said Marieke Wierda, Senior Associate and head of the ICTJ’s Sierra Leone and international justice programs. “For all of these reasons, the decision to remove Charles Taylor to The Hague should not be made lightly but should be evaluated carefully, over time, and the full reasons behind it should be weighed thoroughly and made known to the public.”

The Special Court should make the final decision on whether to relocate the trial and should do so in a transparent and consultative manner, after careful consideration of all relevant factors. Current impressions are that an agreement has already been made between several governments, and that it paved the way for Taylor’s transfer from Nigeria. However, this process has not been transparent and has neglected to involve the scores of Sierra Leoneans and Liberians who were victimized by Taylor and have an interest in this trial.

While broader political considerations such as regional stability must be taken into account, these should be weighed against the long-term benefits of holding in-country trials and the opposition to the removal of Charles Taylor voiced by civil society organizations in Sierra Leone and Liberia. If security concerns can be addressed, a fair trial held in Sierra Leone could make a more significant contribution to future stability and to the transitions to democracy and the rule of law in Sierra Leone and Liberia.

The process by which the Special Court arrives at this decision and the mechanisms it puts into place to address the real challenges posed by relocation will affect how it is perceived in Sierra Leone and in the region. If the security concerns being voiced now are adequately substantiated and found to outweigh competing factors and the decision to relocate the trial to The Hague is made, the Special Court and those who support it must:

- Fully explain the reasons for its decision to the public at large through specially designed outreach events.
- Make every effort to take all measures necessary to ensure that the proceedings will be accessible to the local populations in the region, particularly in Sierra Leone and Liberia. To this end, countries that support the Special Court should be prepared to set aside additional resources to supplement the higher costs of relocating to The Hague and to allow Sierra Leonean and Liberian organizations and individuals to attend the proceedings at The Hague. Provision should also be made for the live transmission of the trial to people in Sierra Leone and Liberia through various broadcast channels. Consideration should also be given to translating the trials into French for the French-speaking West African countries affected by Taylor's alleged destabilizing activities. The International Criminal Court (ICC) is equipped to meet some of these challenges.

"The trial of Charles Taylor will have tremendous significance wherever it is conducted, but only if his trial is witnessed and understood at the local level will justice be seen to be done in West Africa," said Wierda.

The ICTJ in Liberia and Sierra Leone

The ICTJ has been active in Liberia since January 2004, when it started working with local partners to lay the groundwork for the Truth and Reconciliation Commission (TRC) inaugurated in February 2006. It has also worked in close partnership with the UN Department of Peacekeeping Operations (DPKO) on security sector reform, focusing particularly on vetting and reforming the country's police force.

Since late 2001, the Center has been involved in Sierra Leone in both the country's TRC process—which officially ended in 2004—and in assisting and monitoring the activities of the SCSL. It has endeavored to address the unique relationship between the TRC and the SCSL, focusing on stimulating civil society participation and assisting a court monitoring program run by local activists.

About the ICTJ

The International Center for Transitional Justice (ICTJ) assists countries pursuing accountability for past mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved.

In order to promote justice, peace, and reconciliation, government officials and nongovernmental advocates are likely to consider a variety of transitional justice approaches including both judicial and nonjudicial responses to human rights crimes. The ICTJ assists in the development of integrated, comprehensive, and localized approaches to transitional justice comprising five key elements: prosecuting perpetrators, documenting and acknowledging violations through non-judicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and facilitating reconciliation processes.

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Twelfth progress report of the Secretary-General on the United Nations Mission in Liberia**I. Introduction**

1. By its resolution 1667 (2006) of 31 March 2006, the Security Council extended the mandate of the United Nations Mission in Liberia (UNMIL) until 30 September 2006 and requested me to present further recommendations for a drawdown plan for UNMIL. These recommendations were provided in my report of 9 June 2006 (S/2006/376). The present report provides an update on major developments in Liberia and contains broad benchmarks for the first phase of the consolidation, drawdown and withdrawal of UNMIL.

II. Major political developments

2. I visited Liberia from 3 to 5 July to witness the progress being made in rebuilding the country and to consult with the Government on how best the United Nations could continue to support its efforts to consolidate peace and advance the recovery process. I met with President Ellen Johnson-Sirleaf, members of her Cabinet and other senior public officials and had the privilege of addressing a joint session of the Liberian Legislature. I was impressed by the commitment and dedication to peace and democratic governance demonstrated by the leaders and people of Liberia and was reassured by the progress made in recent months notwithstanding the severe economic and financial limitations.

3. On 20 June, former Liberian President Charles Taylor was transferred from the Special Court for Sierra Leone to The Hague, Netherlands, pursuant to Security Council resolution 1688 (2006). Mr. Taylor's transfer elicited mixed reactions from the Liberian public. Most civil society and human rights organizations, as well as political figures supported the transfer as necessary to ensure stability in Liberia and the subregion. Others expressed concern that the victims of war crimes allegedly committed by Mr. Taylor would be denied the opportunity to witness the trial in the country where serious crimes were committed. However, the predominant view expressed was that Mr. Taylor should have a fair and transparent trial.

4. Despite some delays caused by tensions between the executive and legislative branches, the Government's first national budget for the fiscal period 2006/07 was unanimously passed by the Legislature on 22 August and signed into law by President Johnson-Sirleaf on 28 August. The budget, which is based on a base



revenue projection of \$120.9 million and a contingent revenue projection of \$9 million, focuses on the Government's national reconstruction and development priorities for Liberia. Revenues are expected to be generated from taxes on income, profits, property, domestic services, international trade and cellular phone companies, while contingent revenues will be dependent on income from sources such as timber, diamonds, iron ore and rubber.

5. In the aftermath of the fire on 26 July that destroyed part of the Executive Mansion, President Johnson-Sirleaf made changes within her Cabinet and in the leadership of the State security structures. The Minister of State for Presidential Affairs and Chief of Staff was replaced and a new Director of the Special Security Services was appointed. The President indicated that these changes were aimed at strengthening the efficiency of the Executive Mansion staff with respect to security, administration and other responsibilities.

6. On 18 August, the Supreme Court rejected the writs of prohibition filed by some human rights and democracy organizations, as well as by two Senators, against the induction and seating of former leader of Liberians United for Reconciliation and Democracy and National Transitional Government of Liberia Minister of Justice, Kabinah Ja'neh, as Associate Justice of the Supreme Court. This cleared the way for Mr. Ja'neh's induction on 29 August.

7. The President continued her anti-corruption campaign during the period under review. The President dismissed a number of senior government officials for corruption, including a deputy minister, an assistant minister, a chief medical officer, a deputy director of the Liberian National Police and a chairman of a public corporation. She also terminated the appointments of three revenue collectors, a senior economist and a supervisor of the foreign travel section for financial improprieties.

8. The long-awaited report on economic crime in Liberia, which was prepared by the Economic Community of West African States (ECOWAS) during the tenure of the National Transitional Government of Liberia, was publicly released by the Government in July. It may be recalled that ECOWAS did not release the report while the Transitional Government was still in office. The report had recommended the immediate dismissal of four senior officials in the Transitional Government for misappropriation and mismanagement of public funds. Several civil society groups and media outlets have since called for the prosecution of the individuals named in the report.

9. The President has reconstituted the task force on recovery of public assets. The previous membership had failed to recover government assets from former officials of the National Transitional Legislative Assembly of Liberia. These assets include vehicles, furniture and computers, which were allocated to them for use in their official capacity. In addition, the President has instructed the Ministry of Justice to conclude action on several audit reports of different government entities and to identify, for the purpose of prosecution, individuals who have abused the public trust. In the meantime, 12 former employees of the National Social Security and Welfare Corporation who were being prosecuted for misappropriating public funds, were acquitted by the Supreme Court on 23 August.

10. During the reporting period, the 17-member ad hoc presidential commission established to investigate the inter-ethnic dispute in Nimba County concluded

hearings in Sanniquillie and Saclepea after obtaining verbal assurances from the conflicting parties that they would peacefully settle future disputes. The commission is still conducting hearings in Ganta and has established a technical committee to investigate land and property claims in that city. In the meantime, UNMIL has continued to work closely with the Ministries of Internal Affairs, and Lands, Mines and Energy and with civil society organizations, to address other inter-ethnic, religious, community and land and property disputes in other parts of the country.

11. On 20 August, the Cabinet approved a draft anti-corruption policy paper prepared by the Governance Reform Commission, which sets out a framework to tackle impunity and promote a sustainable system of accountability and public integrity. The Governance Reform Commission also submitted a draft code of conduct and draft declaration of income, assets and liabilities form for public servants, which are both designed to ensure transparency, efficiency and effectiveness of public servants in the performance of their duties. In the meantime, the Government has submitted, for adoption by the Legislature, acts to ratify the United Nations Convention against Corruption and the African Union Convention on the Prevention and Combating of Corruption.

III. Security situation

12. The security situation in Liberia has remained generally stable, but there are continuing serious threats to stability that require careful and robust management. Although the transfer of Mr. Taylor's trial from the region has considerably reduced tensions in Liberia, concern remains over the activities of his associates and supporters.

13. During the reporting period, UNMIL conducted military operations aimed at reassuring the populace and underlining the Mission's resolve to maintain peace and stability throughout the country. The operations involved robust patrolling within the Mission's area of operations and the deployment of the Mission's quick reaction force to the border areas and to Freetown to reinforce security at the Special Court for Sierra Leone.

14. Demobilized personnel from the former Armed Forces of Liberia, the Liberian National Police and the Special Security Service staged several demonstrations to demand severance payments and other benefits. Some of these demands were met when retired Armed Forces of Liberia personnel were honoured at a ceremony attended by the President during the Independence Day celebrations and when former personnel of the Anti-Terrorist Unit (a militia group established and controlled by former President Charles Taylor) received payments from the Government, albeit on humanitarian grounds. Many of these demobilized personnel have limited access to employment opportunities and are susceptible to manipulation by various interest groups.

15. Incidents of armed robbery within Monrovia and its environs also increased during the reporting period, leading to calls by the public for the arming of the Liberian National Police and the adoption of more extensive security measures to curb the activities of criminal gangs. UNMIL police, in cooperation with the Liberian National Police, increased their patrols in high crime areas within Monrovia and continued to develop community-based approaches to crime prevention. In addition, on 16 August, UNMIL troops and formed police units

commenced joint night foot patrols throughout Monrovia. UNMIL has also continued to conduct joint cordon and search operations to recover firearms. These operations will actively continue in the weeks and months ahead.

16. Several incidents of armed robberies and killings involving management, workers, residents and ex-combatants were reported at the Cocopa and Guthrie rubber plantations. On 15 August, with the assistance of UNMIL, the Government officially re-established its control over the Guthrie rubber plantation. UNMIL has also increased its patrolling activities at Cocopa and other rubber plantations. In the meantime, efforts are being made to accelerate the establishment of interim management teams at contested or abandoned rubber plantations, as recommended by the joint Government/UNMIL task force on rubber plantations.

17. There were also shooting incidents within Monrovia involving officials of the Special Security Service, which provides close protection to the President. On 3 and 5 August, separate shooting incidents occurred at the residence of the Director of the Special Security Service. The latter incident resulted in the death of the Director's personal bodyguard from gunshot wounds allegedly inflicted by a second security officer. The investigations into the causes of these incidents and of a third shooting incident on 8 August at the residence of the Deputy Director of the Special Security Service are ongoing.

18. As mentioned in paragraph 5 above, on 26 July, during Liberia's 159th Independence Day celebration, a fire broke out in the Executive Mansion where President Johnson-Sirleaf was hosting a luncheon for some 300 people, including the Presidents of Ghana, Côte d'Ivoire and Sierra Leone. Although no injuries were reported, significant damage was done to the Executive Mansion. An investigation into the fire was conducted with the assistance of UNMIL and South African forensic experts. On 3 September, the Government released the investigation report, which attributed the cause of the fire to an electrical fault.

19. No significant military activity that could threaten the stability of Liberia was observed on Liberia's borders with Sierra Leone, Côte d'Ivoire or Guinea. However, the unstable situation in Côte d'Ivoire continues to present a serious potential threat to stability in Liberia. In particular, there are concerns about the possible movement of armed groups from Côte d'Ivoire into Liberia; the recruitment of former Liberian combatants, including children, by Ivorian militia groups and Liberians to fight in Côte d'Ivoire; and an influx of Ivorians seeking refuge in Liberia in the event of violence in that country. To counter these potential threats, UNMIL has positioned additional forces in the eastern and southern border areas and strengthened its aviation capability in the southern part of the country.

20. In order to increase the presence of the United Nations in the border areas, establish cross-border liaison and reassure the local population, UNMIL and the United Nations Operation in Côte d'Ivoire (UNOCI) conducted concurrent patrols along the Liberian-Ivorian border from 26 to 30 June in "Operation Mayo". Similar patrols were undertaken from 7 to 11 August with the Sierra Leonean forces in "Operation Loko".

IV. Status of implementation of the mandate of the United Nations Mission in Liberia

A. Rehabilitation and reintegration of ex-combatants

21. As at 15 August, some 39,000 ex-combatants had not yet benefited from the reintegration programme. It is expected that 19,409 of these ex-combatants will be absorbed by projects sponsored by the United Nations Development Programme (UNDP) Trust Fund, while the remaining caseload will be covered by bilaterally funded programmes.

22. In the meantime, UNMIL continued to collect and destroy residual weapons and ammunition that were voluntarily surrendered or discovered through search operations. Since the end of the disarmament and demobilization programme in 2005, 632 weapons, 70,454 rounds of small arms ammunition, 941 pieces of unexploded ordnance and 11,550 assorted spares have been collected and destroyed by UNMIL.

23. A coordination group comprising representatives from UNMIL, the United Nations Children's Fund (UNICEF), UNDP, the Liberian National Police and the Liberian National Commission for Small Arms and Landmine Action (an international non-governmental organization) has been established to streamline efforts to eliminate small arms and light weapons from Liberia. The coordination group has prepared a common strategy, which includes modalities for the collection and disposal of unexploded ordnance and explosive remnants of war, and mine risk education. The group's work is complemented by the UNDP Community Arms Collection for Development programme. Since its launch in January, over 7,000 small arms ammunitions, 100 guns and 100 unexploded ordnances and rocket-propelled grenades have been collected through the Community Arms Collection for Development programme. As at August, the programme was being implemented in Lofa, River Gee, Maryland, Nimba, Grand Gedeh and Bong Counties.

B. Reform of the Liberian National Police

24. The reform and restructuring of the Liberian National Police continues to make good progress. As at 1 September, 2,073 Liberian National Police, 392 Special Security Services and 155 Seaport Police officers had been trained and deployed. Some 295 new Liberian National Police recruits are currently undergoing field training, while 419 are receiving basic training. In order to reach the target of 3,500 fully trained Liberian National Police personnel by July 2007, the field training programme has been compressed from 26 to 16 weeks. Moreover, to address the serious shortfall in the mid-level ranks of the Liberian National Police, the United Nations police has developed a basic management course for 300 Liberian National Police officers and a senior leadership qualification programme for 50 officers.

25. At the same time, the presence of the Liberian National Police in the interior of the country remains far below acceptable levels. This is partially due to the unavailability of suitable housing, vehicles and communications equipment needed to sustain the deployment of the police in the counties. To date, the Liberian National Police has deployed only 454 officers throughout the 15 counties in Liberia. Immediate priority has been given to providing reinforcements for the

Liberian National Police county headquarters and the Guthrie rubber plantation. Of the remaining 1,577 trained police officers, 208 are assigned to zones and depots within Monrovia, 49 are assigned to Roberts International Airport, 300 are assigned to the Liberian National Police Support Unit, 174 are assigned to the Monrovia Central Patrol Division, and the remaining 731 are assigned to the Liberian National Police headquarters in Monrovia. The United Nations police is working with the Liberian National Police to rationalize the high number of officers currently assigned to the Monrovia headquarters.

26. The Government urgently needs funds to complete the basic training programme for new recruits, to conduct specialized management and thematic police training programmes and to provide vehicles, communications equipment and accommodation allowances to sustain the deployment of the Liberian National Police in the interior of the country. UNMIL is assisting the Government to prepare an appeal to Member States for assistance in these critical areas. I urge Member States to respond favourably to this request.

27. As at 1 September, 2,035 out of a targeted 2,351 Liberian National Police officers had been deactivated with funds provided by the United Kingdom of Great Britain and Northern Ireland. Those remaining to be deactivated include officers who have either disputed their deactivation or who cannot be located.

C. Reform of the Armed Forces of Liberia

28. The United States of America continues to assist the Government in building a new Armed Forces of Liberia. To date, 7,050 recruits have applied to be enlisted in the Armed Forces of Liberia, of whom 6,327 have passed the literacy tests, 2,510 have passed the physical fitness test and 1,050 have passed all medical tests. However, as at 1 September, only 563 applicants had been recommended for training. The first group of 110 recruits for the new army began training at the Barclay Training Centre in Monrovia on 22 July. However, the first fully trained battalion is expected to be operational only in 2008.

29. The Government is also in the process of formulating a national security policy and has tasked the Governance Reform Commission with leading the public dialogue on security sector reform.

D. Consolidation of State authority throughout the country

30. Steady progress continued to be made in the restoration and consolidation of State authority throughout the territory of Liberia, with UNMIL facilitating the return of government officials to their duty stations in the counties. However, the work of county officials and government line ministries in the interior of the country continues to be constrained by the lack of communications equipment, transportation and office and residential accommodations. In the meantime, special support teams jointly established by UNMIL and the United Nations country team to assist county superintendents in strengthening coordination and to develop community recovery and development priorities have become operational in the counties.

31. Three additional Central Bank payment centres, constructed with the assistance of the Mission's quick-impact projects, were opened in Kakata, Margibi County, Gbarnga, Bong County and Buchanan, Grand Bassa County to facilitate salary payment to government officials stationed in remote locations. The number of Central Bank payment centres in the counties is now six. The Central Bank has carried out assessments in Barclayville, Grand Kru County, Harper, Maryland County and Greenville, Sinoe County with a view to opening payment centres in those locations, and is also encouraging commercial banks to expand their operations outside Monrovia.

32. Another important step in the restoration of State authority was the election of a new nine-member National Traditional Council of Paramount Chiefs and Elders. In addition, initial steps have been taken by the National Elections Commission, in collaboration with the Ministry of Internal Affairs, to prepare for municipal and chieftaincy elections, which are scheduled for October 2007, in which city mayors, paramount chiefs, clan chiefs and town chiefs are to be elected.

E. Restoration of proper management of natural resources

33. The Government is making progress in its efforts to regain control over the country's natural resources. In compliance with Security Council resolution 1689 (2006), a national forestry reform law, which was drafted with the assistance of UNMIL, is in the process of being enacted. Moreover, the Government's policy on the movement of timber within the country is being strictly implemented at the joint UNMIL/Forestry Development Authority checkpoints in Monrovia, which has led to an increase in public revenues. Efforts are being made to extend this arrangement to other parts of the country. The Government is also in the process of developing an environmentally sustainable pit-sawing policy with the assistance of UNMIL.

34. The President has extended the mandate of the joint Government/UNMIL task force established to undertake a comprehensive assessment of Liberia's rubber plantations. The task force is now mandated to oversee the implementation of the recommendations contained in its 23 May report to the President, including the repossession of illegally occupied plantations, review of concession and management agreements and establishment of interim management teams for contested or abandoned plantations.

35. UNMIL is assisting with the installation of the interim management teams. The Mission has constructed a campsite and structure on the Guthrie rubber plantation, which will house the Liberian National Police, the Magistrate Court and other relevant government agencies. In addition, Liberian National Police personnel have been deployed to the plantation to conduct night and day patrols with the support of the United Nations police, and an interim management team has been created to manage the plantation pending the establishment of a permanent management team in accordance with the Public Procurement and Concessions Act.

36. The Government has accepted the recommendations of the Kimberley Process assessment team that visited Liberia in May, including the need to establish an inter-ministerial task force and a steering committee on Kimberley Process compliance and to suspend all large-scale mining activities. The United States of America is assisting with the construction of the Liberia Diamond Authority building, which will house the Government's Kimberley Process Certification Scheme diamond

appraisers and administrators. In the meantime, UNMIL has temporarily provided containers that are being used as diamond certification offices. In June, with the support of UNMIL and UNDP, the Government hosted a West Africa subregional conference on the harmonization of taxation, border controls, law enforcement and issues related to alluvial diamond mining. The conference decided that civil society organizations should participate in the future establishment of diamond mining policies and artisanal alluvial miners should be provided with funding and training assistance.

37. Despite these efforts, illegal artisanal mining continues to be reported, mainly in the western parts of the country and in Nimba and Sinoe counties. In that regard, UNMIL will continue to assist the Government, to the extent possible, with its surveillance, mapping and inspection activities.

F. Promotion of human rights and the rule of law

1. Promotion of human rights

38. During the reporting period, UNMIL continued to carry out human rights promotion, protection and monitoring activities throughout the country. The Mission also intensified its capacity-building activities by conducting comprehensive legal education and training programmes for members of the legal profession and judicial system. A series of workshops was held for magistrates and justices of the peace from all 15 counties. In addition, with the support of the Office of the United Nations High Commissioner for Human Rights and Penal Reform International, a non-governmental organization, UNMIL conducted a three-day workshop on best practices, strengthening the rule of law and human rights protection for 120 participants drawn from the police, corrections, judiciary and local administration across the country. The aim of the workshop was to improve and strengthen the criminal justice system and justice delivery in the country. Despite these activities, there has been an increase in reported cases of sexual and gender-based violence, in particular, rape and sexual abuse of women and girls.

39. During the reporting period, UNMIL released its fourth report on the human rights situation in Liberia. The report, which covers the period from February to April 2006, highlights human rights violations by law enforcement and judicial personnel, the human rights situation on rubber plantations and issues related to the protection of child rights. It also reports on the impact of the interference of government officials in the judicial system, corruption, high rates of sexual and gender-based violence, particularly involving child victims, and the use of harmful traditional practices on the enjoyment of human rights. The report contains a number of recommendations aimed at helping the Government with the implementation of its international human rights obligations.

40. The Truth and Reconciliation Commission commenced operations following the nationwide launching of its programme of public activities on 22 June. However, the Commission is still beset by financial and logistical constraints. While the Commission has requested \$10 million for its two years of operations, it has only received \$150,000 out of \$600,000 pledged by UNDP; €84,000 out of €300,000 pledged by the European Commission; and \$180,000 out of \$278,000 promised by the Open Society Initiative for West Africa. In the meantime, the Government has earmarked \$300,000 in the 2005/06 budget and office space and vehicles for the

Commission's operations. UNMIL continued to support the Commission's public outreach programme and to make its air assets available for access to remote parts of the country.

41. The Independent National Commission on Human Rights is still in the process of appointing its members. On 10 August, the independent committee of experts, which was established to vet the nominees and applicants for the posts of Chairman and Commissioners, conducted interviews of 12 prospective candidates. Interviews for the remaining 13 candidates will be conducted shortly, after which the committee will conduct an assessment of all candidates on the basis of their human rights experience and prepare a shortlist to be examined by the Chief Justice. The final selections will be made by the President and confirmed by the Senate.

2. Support for the judicial system

42. Reform of the justice sector is continuing, albeit at a slow pace. The administration of justice continues to be constrained by the lack of court buildings in many counties and the dearth of qualified judicial and legal officers. UNMIL has funded a number of court construction and renovation projects across the country through its quick-impact project scheme. To date, six projects have been completed in Kakata, Tubmanburg, Gbarnga, Greenville, Bensonville and Careysburg and another seven projects are ongoing in Buchanan, Zwedru, Harper, Ganta, Sanniquellie, Bopolu and Cestos City.

43. UNMIL has also assisted the Government with the hiring of 12 national prosecutorial consultants and 11 public defence consultants for an initial period of six months. This has resulted in more cases being heard by the courts, which has contributed to a reduction in the backlog of pending cases; greater access to justice; improved adherence to fair trial standards; and increased public trust and confidence in the judicial system. Arrangements are under way to hire an additional seven public defence consultants.

44. The Mission's legal and judicial system support division continued to expand its capacity-building activities in the counties. The division is providing advice and assistance to legal and judicial officers in the counties in order to enhance their practical and procedural capacities to administer justice.

45. A task force constituted by the Minister of Justice to facilitate the establishment of the law reform commission commenced work in July. The draft law for the establishment of the commission is expected to be finalized and submitted to President Johnson-Sirleaf later this year. The success of this initiative will depend on the provision of adequate funding and support by the Government and the international community.

3. Support for the corrections system

46. UNMIL continued to assist the Bureau of Corrections and Rehabilitation in improving the conditions of correctional facilities in the country. The refurbishment programme, which is being funded by the United States of America and Norway, is continuing. Work has been completed at Kakata prison, while the rehabilitation of the Monrovia, Gbarnga, Buchanan and Harper prisons and the Zwedru Palace of Corrections is at varying stages of completion. The Firestone Company has also commenced rehabilitation of the Bondiway prison, which had been closed due to its

dilapidated condition. Most correction facilities still rely heavily on UNMIL, the World Food Programme (WFP), the International Committee of the Red Cross and other partners for water, food, medical and other essential supplies to prisoners.

47. The Government has absorbed all the graduates of the first corrections officers' training class into the civil service. In the meantime, the recruits of the third corrections officers' training class have completed their 12-month induction training and the recruitment and training of qualified candidates for the fourth training class has been approved. The Government has also agreed to the deactivation of corrections personnel who do not meet civil service recruitment criteria.

G. Economic governance

48. Since my previous report, further progress was made in the implementation of the Governance and Economic Management Assistance Programme. The concessions and contracts expert, who was recruited for the technical secretariat of the Contracts and Concessions Review Committee, assumed duties. In addition, the European Commission commenced the recruitment exercise for an auditor general who will head the General Auditing Commission. On 16 June, the Government signed a memorandum of understanding for the consolidation of operational bank accounts for State-owned enterprises.

49. The Economic Governance Steering Committee continued to meet regularly to monitor progress in the implementation of the Governance and Economic Management Assistance Programme. The Steering Committee's technical team is working with the internationally recruited experts to ensure that they focus on improving financial management and transparency and on building the capacity of Government institutions and personnel through the proper transfer of skills and knowledge. The Steering Committee has asked the internationally recruited experts to provide monthly status reports on their activities. In the meantime, as part of the capacity-building process, the Government, in collaboration with UNDP, has convened a knowledge-building seminar to discuss how Liberia's State-owned enterprises can best utilize the international experts.

50. On 26 June, UNMIL, in collaboration with the Steering Committee technical team's public information subcommittee, launched an information campaign to raise public awareness of the progress being made in the implementation of the Governance and Economic Management Assistance Programme. The campaign will include daily interviews with government officials, civil society and international partners on UNMIL Radio. A website on the implementation of the Programme has also been created. In addition, the World Bank has agreed to provide a grant for public communication and sensitization efforts related to the Programme.

51. The Government continued to undertake initiatives aimed at improving controls over the granting of contracts and concessions and implementing a basic procurement system through its Public Procurement and Concessions Committee. During the reporting period, the Committee, in collaboration with the European Commission, convened a meeting of the Contracts and Concessions Review Committee, which was established to undertake an independent review of all contracts and concessions entered into by the National Transitional Government of Liberia.

H. National recovery, reconstruction and development

52. A partners' meeting was held in Monrovia on 12 and 13 July to assess the Government's performance during its first six months in office and to agree on the way forward for Liberia's recovery, reconstruction and development. The meeting provided an opportunity for the Government to meet with its international partners to address several policy issues prior to the partners' forum scheduled for early next year in Washington, D.C. At the meeting, the Government highlighted the severe capacity and implementation constraints that it faces in achieving its reconstruction and development objectives and presented a compelling case for targeted budget support and early debt relief. International partners acknowledged the positive achievements already made by the Government and urged it to continue to adhere to its reform programmes so as to ensure compliance with the Heavily Indebted Poor Countries Initiative and eventual debt relief.

53. During his visit to Liberia on 21 and 22 July, the President of the World Bank, Paul Wolfowitz, pledged the Bank's commitment to the economic development of Liberia and agreed to provide assistance for labour-intensive public works schemes aimed at building key infrastructure and generating employment. The Secretary of State for International Development of the United Kingdom of Great Britain and Northern Ireland, Hilary Benn, and the President of the African Development Bank, Donald Kaberuka, also paid a joint visit to Liberia on 18 and 19 July to review areas in which the United Kingdom and the African Development Bank could assist Liberia.

54. The Government has continued to highlight the urgent need for job creation. On 15 July, it launched the Liberia Emergency Employment Programme and the Liberia Employment Action Programme. The Liberia Emergency Employment Programme is aimed at creating short-term employment opportunities, while the Liberia Employment Action Programme is intended to provide long-term sustainable employment. Sources of short-term employment will include the labour-intensive rehabilitation of roads and critical infrastructures across the country. Over 5,000 local community members, including returnees and ex-combatants, have benefited from this initiative, which is supported by the WFP "Food support for local initiatives" programme. UNMIL's quick-impact projects have also enhanced the process of employment creation, with nine projects providing short-term employment to some 900 ex-combatants and local community members in the south-eastern part of Liberia. In addition, UNMIL has continued to assist in the distribution of donated tools, as well as seed rice and other agricultural commodities provided by China.

55. The Government and the World Bank signed an agreement for the first part of a \$68 million grant to conduct emergency rehabilitation and repair of critical infrastructure, including the rehabilitation of the Monrovia-Buchanan and Monrovia-Ganta highways, repairs to 65 bridges and construction of six bridges. The second part of the grant will be used to increase the Government's capacity to carry out road maintenance functions, build the capacity of the Liberia Water and Sewer Corporation and construct ports, airports, schools and health clinics. The grant is aimed at creating short-term jobs and providing a basis for economic development.

56. UNMIL and Liberia's international partners continued to support the Government's efforts to implement its 150-day action plan, which was designed to address some of the most urgent needs of the population, such as the partial restoration of electricity, road repairs and the rehabilitation of Government infrastructure. The Government estimates that more than 60 per cent of the action plan was successfully completed on schedule. As part of the 159th independence anniversary celebration of Liberia and in fulfilment of the promise made at her inauguration ceremony, President Johnson-Sirleaf switched on the Monrovia emergency electricity supply on 26 July, which was made possible with assistance from Ghana, the United States of America and the European Commission.

57. A team from the International Monetary Fund visited Monrovia from 20 to 28 July to assess progress under the Fund's staff-monitored programme. The team was impressed with the considerable progress made in the implementation of key policies under the staff-monitored programme and with the fact that revenues exceeded the programme target.

V. Humanitarian activities

58. The humanitarian situation continued to improve during the reporting period. To date, 77,523 refugees have returned to their places of origin with the assistance of the Office of the United Nations High Commissioner for Human Rights (OHCHR). In order to accelerate the return of the refugees, OHCHR has contracted a vessel to repatriate Liberian refugees residing in Ghana. The first group of 300 refugees from Ghana arrived in Liberia on 28 July. Although the camps for internally displaced persons have been officially closed since 20 April, some 13,000 internally displaced persons continue to reside in and around the camps.

59. There are several humanitarian challenges that require urgent attention in the communities of return. These include the provision of health care, water and sanitation, education, shelter, food and livelihood opportunities for returnees. The 2006 United Nations consolidated appeal for Liberia has only received 34 per cent of the estimated requirements for 2006, as per the mid-year review, which was launched on 19 July. I appeal to donors to generously provide the assistance required to meet these needs.

VI. Gender

60. The Mission's Gender Affairs Unit continued to build the Mission's capacity to implement Security Council resolution 1325 (2000) by conducting a training programme for middle and senior management in the Mission. The Unit also collaborated with the United Nations Development Fund for Women and the Ministry of Gender and Development to organize a sensitization workshop for 100 women on the challenges and lessons learned from their participation in the 2005 national elections. In addition, the Unit actively supported the Truth and Reconciliation Commission process by providing training to the newly appointed commissioners aimed at facilitating outreach to women and girls. It facilitated a one-week consultative visit to Liberia by the Committee on the Elimination of Discrimination against Women, during which Committee members met with President Johnson-Sirleaf, who assured them of her Government's political support

for the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. The Unit also participated in training organized by UNDP and the World Bank for legislators and government agencies involved in the preparation of the budget.

VII. HIV/AIDS

61. The Mission's HIV/AIDS Unit continued to collaborate with the Mission's Integrated Training Cell to carry out HIV/AIDS awareness, training and sensitization as part of the induction training for military, police and civilian personnel. The Unit also continued to promote HIV/AIDS awareness through its participation in an UNMIL Radio live phone-in programme. In addition, it organized workshops for HIV/AIDS peer educators drawn from non-governmental organizations and UNMIL's military, police and civilian components. It also facilitated a training workshop organized by the Liberian Council of Churches for 28 church and youth leaders and, in collaboration with UNICEF, facilitated another workshop for 60 Montserrado video club owners.

VIII. Personnel conduct and discipline

62. The UNMIL Personnel Conduct and Discipline Team focused on developing strategies to prevent, identify, report and effectively respond to all categories of misconduct through training and awareness-raising. In addition to standardized training for all United Nations personnel, the Mission designed a training module for focal points for the prevention of sexual exploitation and abuse in the Mission area, which is aimed at strengthening reporting mechanisms, responding effectively to reported allegations and providing support to victims of abuse.

63. Some 31 "Category 1" offences, including 24 cases of sexual exploitation and abuse, and 95 "Category 2" offences have been reported since January 2006. All cases are under investigation.

IX. Public information

64. The public information component of the Mission continues to support a number of priority programmes of the Mission, the United Nations agencies, the Government and civil society. The component organized several sporting activities to promote peace among communities. UNMIL Radio also increased its programming on the activities of the three branches of Government and introduced a new programme, in Liberian English, entitled "Talk with the President", which focuses on the activities of the Government. In addition, the radio station introduced three programmes in the Bassa, Lorma and Kpelle local languages. In the meantime, the Mission has established a new radio station studio at its headquarters in Monrovia to provide increased access to the radio.

65. The public information component conducted training for several community radio practitioners, newspapers publishers and Ministry of Information personnel. In addition, the component established a press club in one of the high schools in Gbarma, Gbarpolu County, to teach interested students basic journalism skills,

including how to create a school newsletter and basic reporting on the community radio station.

X. Adjustment of the Mission

A. Military component

66. As at 1 September, UNMIL troop strength stood at 14,827 out of an authorized strength of 15,125. In my previous report, I indicated that, given the relative stability that has prevailed since the inauguration of the new Government and based on the detailed assessment provided in my tenth progress report (S/2006/159), which remains valid, one infantry battalion would be withdrawn by the end of 2006. Accordingly, the Mission will repatriate one battalion, without replacement, in November 2006. As I have proposed in my previous reports, further adjustments, including the withdrawal of another infantry battalion in early 2007, will be considered if the security situation permits.

67. UNMIL continued to provide security to the Special Court for Sierra Leone in accordance with Security Council resolution 1626 (2005). In view of the high-profile nature of the detainees at the Special Court, security protection at the Court's premises remains a top priority. The 250-strong military unit from Mongolia charged with responsibility for guarding the Court's premises was rotated in July.

B. Police component

68. As at 1 September, the Mission's police strength stood at 1,056 officers, out of an authorized ceiling of 1,240 officers, which includes four United Nations police immigration officers, 605 officers in five formed police units and 18 corrections officers. The fifth formed police unit will be deployed to the Mission in September to support the efforts of the Liberian National Police in containing threats to public order in Monrovia and other urban centres, as well as on rubber plantations.

69. In order to support the efforts of the Liberian National Police to re-establish police primacy throughout the country, the United Nations police has increased its presence in five locations, including Bo Waterside, Foya, Pleebo, Toe Town and the Guthrie rubber plantation. Plans are under way to establish United Nations police team sites at Weebo, River Gee County and Kungbor forest, Gbarpolu County, where illegal mining activities have continued. In addition, an increased number of United Nations police have been assigned to the criminal investigation department and patrol section of the Liberian National Police headquarters in Monrovia and in the counties.

70. As training priorities for the Liberian National Police have shifted towards institutional capacity-building and operations support, efforts are now focused on deploying skilled United Nations police personnel to the Mission to fill specialized training positions. The strength of the United Nations police component will be reviewed as the reform and training programmes progress, and further recommendations will be provided in my future reports.

XI. Benchmarks

71. In my June report (S/2006/376), I indicated that UNMIL was developing benchmarks to guide the consolidation, drawdown and withdrawal of UNMIL. In that regard, the benchmarks covering the consolidation phase are set out in annex I of the present report.

72. The benchmarks are divided into four categories, including security; governance and the rule of law; economic revitalization; and infrastructure and basic services. The security benchmarks, including the training and deployment of the Armed Forces of Liberia and Liberian National Police, development by the Government of a national security strategy and architecture, reintegration of ex-combatants and return and reintegration of refugees, are critical in determining the pace and timing of the drawdown and eventual withdrawal of the Mission. The Mission will continue to elaborate on these key benchmarks and further details will be provided in my subsequent reports. Although the benchmarks covered under governance and rule of law, economic revitalization and infrastructure and basic services are critical for the consolidation of peace and stability, these are primarily long-term tasks that are expected to be fully accomplished after the departure of UNMIL.

XII. Observations

73. Liberia has continued to make tangible progress in a number of areas. The three branches of Government are functioning; the reform and restructuring of the security sector is gradually progressing; the resettlement of internally displaced persons has been completed; an increasing number of Liberian refugees have returned home; the Government is taking active measures to fight corruption; and the Truth and Reconciliation Commission has begun its work.

74. Progress has also been made in implementing a number of important structural reforms. The Government has commenced the review of concessions, contracts and licences, and international financial experts have been deployed to most of the key revenue-generating agencies under the Governance and Economic Management Assistance Programme. Measures have also been taken to strengthen the management and operations of the Central Bank and to boost revenue collection and control government expenditure. The efforts of the Government to meet the goals set out in the 150-day action plan are yielding some results, such as the partial restoration of electricity and pipe-borne water to some parts of Monrovia.

75. The progress made in Liberia was warmly welcomed by the African heads of State and Government at the last summit of the African Union, held in Banjul in July 2006. Liberia, which was once at the centre of conflict in the subregion, now serves as an example of hope and of what can be achieved when leaders and citizens work together and are committed to peace.

76. Nevertheless, Liberia still faces enormous challenges in several areas. The country is heavily dependent on UNMIL for the provision of security, given that the new police service is still in its formative stages and the training of the new armed forces is only just beginning. The Government and UNMIL will need to remain vigilant to carefully manage the internal threats to stability, especially those emanating from spoilers who may be adversely affected by the Government's

reform processes. Close monitoring of Liberia's borders will also continue to be essential, in the light of the volatile situation in the subregion, particularly in Côte d'Ivoire. In addition, a number of other tasks that are critical to the sustainability of peace in the country have yet to be completed, including the reintegration of ex-combatants, the resettlement of internally displaced persons and returning refugees and the consolidation of State authority.

77. The large number of unemployed youth concentrated in urban centres is a serious source of concern, especially given that the increase in criminal activities in Monrovia and other city centres has been linked to their presence. Unless economic activity is rapidly revived and employment opportunities created in the near future, these unemployed youths and frustrated former combatants will continue to constitute a source of major instability. It is gratifying to note that the Government has recently launched a number of programmes aimed at providing employment opportunities. I encourage international partners to fully support these very important initiatives.

78. While the progress that has been made in restructuring the Liberian security sector is encouraging, the Government still needs to rapidly develop a national security policy and architecture, which will enable it to set out a coherent road map for assuming security responsibility for the country. Since the Mission's drawdown will be linked to this road map, the Government should work expeditiously towards finalizing this policy.

79. The transfer of former President Charles Taylor from the region to stand trial before the Special Court for Sierra Leone sitting in The Hague was an important development. Not only did it signal that the world will not accept impunity, it also demonstrated the recognition by the Government of Liberia, regional leaders and the Security Council that Mr. Taylor's continued presence in Freetown was a threat to peace and stability in the subregion. In this regard, I wish to express my deep appreciation to all the Member States who collaborated to make possible the holding of Mr. Taylor's trial in The Hague.

80. In the light of the security issues outlined above, and in view of the planning for the drawdown of UNMIL, I recommend the extension of the mandate of UNMIL for a period of one year, until 30 September 2007.

81. The Government has taken further steps to reform the judicial sector and enhance the rule of law. However, there are a number of major structural challenges that will require the generous assistance of the international community if they are to be effectively addressed. At the same time, support will be needed for the work of the Independent National Human Rights Commission and the Truth and Reconciliation Commission. It is important for donors to provide funding for these critical areas.

82. Efforts to consolidate peace in Liberia are already bearing fruit, including the cultivation of good relations with its neighbours. The attendance of the Presidents of Côte d'Ivoire and Sierra Leone at the 159th Liberian Independence Day celebrations was a highly commendable gesture, which will have a positive impact on relations among the Mano River Union member States and Côte d'Ivoire. The leaders of these countries are encouraged to build on this development and continue to take measures that will enhance subregional dialogue and revitalize the Mano River Union.

83. In conclusion, I would like to commend the people and Government of Liberia, my Special Representative, Alan Doss, and all UNMIL military and civilian personnel for the progress accomplished during the reporting period. I would also like to thank all troop- and police-contributing countries, ECOWAS, the African Union, the International Contact Group on the Mano River Basin, United Nations agencies, funds and programmes, humanitarian organizations, multilateral and bilateral donors and international and local non-governmental organizations for their important contributions and support to the peace consolidation process in Liberia.

Annex I**Benchmarks for phase I of the consolidation, drawdown and withdrawal of UNMIL****Consolidation phase — 2006-2007**

<i>Benchmark</i>	<i>Indicators of progress</i>
Security	
Armed Forces of Liberia training and deployment	<ul style="list-style-type: none"> • Armed Forces of Liberia training commences • Ministry of Defence fully staffed • Armed Forces of Liberia concept of operations produced • First Armed Forces of Liberia battalion operational
Liberian National Police training and deployment	<ul style="list-style-type: none"> • Deactivation of Liberian National Police personnel completed • 3,500 Liberian National Police personnel recruited and trained • Liberian National Police support unit trained and equipped • All county police stations fully staffed and operational
National security strategy and architecture	<ul style="list-style-type: none"> • Complete national security review • Produce and adopt national security strategy and commence implementation • National Security Council and local structures in place and functioning
Reintegration of ex-combatants	<ul style="list-style-type: none"> • Remaining ex-combatants enrolled in reintegration programmes • Small arms collection and control programme extended to all counties
Return and reintegration of refugees	<ul style="list-style-type: none"> • Organized refugee returns concluded

Benchmark	Indicators of progress
Governance and rule of law	
Strengthen administration of justice	<ul style="list-style-type: none"> • Law Reform Commission established and comprehensive review of laws commenced • Comprehensive review of court administrative procedures completed and being implemented • All Circuit Court houses and magistrates courts constructed or renovated, equipped and staffed • Legal aid clinics available in each county • Reduction in pre-trial detention period
Strengthen human rights	<ul style="list-style-type: none"> • Independent National Commission on Human Rights functioning effectively • National human rights action plan developed and being implemented • Truth and Reconciliation Commission process ongoing in all counties
Conflict management	<ul style="list-style-type: none"> • County-level reconciliation and conflict management processes established to address longstanding grievances, including property and housing committees
National institutions	<ul style="list-style-type: none"> • Local authorities at county level established • County superintendents' offices established and equipped
Anti-corruption	<ul style="list-style-type: none"> • Anti-corruption strategy approved and implemented
Civil service reform	<ul style="list-style-type: none"> • Implementation of civil service code of conduct
Corrections reform	<ul style="list-style-type: none"> • National policy framework for Corrections Bureau formulated and approved • Corrections staff trained and deployed • Revised penal legislation adopted and any necessary changes implemented • Correction facilities in each county fully operational

Benchmark	Indicators of progress
Economic revitalization	
Implementation of the Governance and Economic Management Assistance Programme ^a	<ul style="list-style-type: none"> • Establishment of financial management and budgeting procedures in line with International Monetary Fund (IMF) recommendations (staff-monitored programme) • Government revenue increased in line with IMF projections • Transparent procedures for granting of concessions implemented as recommended by Economic Governance Steering Committee
Revival of economic production	<ul style="list-style-type: none"> • Increase in economic growth in line with IMF (staff-monitored programme) projections — between 3.8 to 8 per cent in 2007
Strengthen Government's management of natural resources	<ul style="list-style-type: none"> • Forestry legislation enacted • Environmental Protection Agency staffed and deployed in all counties • Sanctions on diamonds lifted
Infrastructure and basic services	
Rehabilitation of the transport network	<ul style="list-style-type: none"> • Main strategic routes repaired and maintained (interim poverty reduction strategy target)^b • Emergency work at Monrovia Freeport completed
Rehabilitation and expansion of health services	<ul style="list-style-type: none"> • Rehabilitation of health facilities in each county (interim poverty reduction strategy) • Increase in health workers employed and deployed in each county (interim poverty reduction strategy) • Construction and rehabilitation of water and sanitation facilities in each county (interim poverty reduction strategy)

<i>Benchmark</i>	<i>Indicators of progress</i>
Rehabilitation and expansion of education services	<ul style="list-style-type: none">• Rehabilitation of public schools across country (interim poverty reduction strategy)• Increased school enrolment, particularly of girls, across the country (interim poverty reduction strategy)

^a GEMAP will terminate after 36 months (September 2008) unless the Completion Point under the Heavily Indebted Poor Countries Initiative has not been reached.

^b The specific indicator will be based on the goals identified in the Government's interim poverty reduction strategy.

Annex II

United Nations Mission in Liberia: military and police strength as at 1 September 2006

<i>Component</i>		<i>Military</i>			<i>Police</i>
<i>Country</i>	<i>Military observers</i>	<i>Staff officer</i>	<i>Troops</i>	<i>Total</i>	<i>Civilian police</i>
Argentina					
Bangladesh	17	11	3 188	3 216	28
Benin	4	1		5	
Bolivia	3	1		4	
Bosnia and Herzegovina	17				9
Brazil		1		1	
Bulgaria	2			2	
China	5	7	558	570	23
Croatia		3		3	
Czech Republic	3			3	5
Denmark	2			2	
Ecuador	3	1		4	
El Salvador	3			3	2
Ethiopia	17	8	2 536	2 561	
Egypt	10			10	
Fiji					30
Finland		2		2	
France		1		1	
Gambia	4			4	32
Germany			13	13	5
Ghana	11	7	846	867	41
Indonesia	3			3	
Ireland		3	352	355	
Jamaica					8
Jordan	7	8	115	130	138
Kenya	3	4		7	27
Korea	1	1		2	
Kyrgyzstan	4			4	3
Malawi		2		2	18
Malaysia	10	0		10	
Mali	4	1		5	
Mongolia		2	248	250	
Montenegro	2			2	1
Namibia	3	4	609	616	6
Nepal	3	2	40	45	256



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Eleventh progress report of the Secretary-General on the United Nations Mission in Liberia

I. Introduction

1. By its resolution 1667 (2006) of 31 March 2006, the Security Council extended the mandate of the United Nations Mission in Liberia (UNMIL) until 30 September 2006 and requested me to present further recommendations for a drawdown plan for UNMIL. The present report provides an update on developments since my report of 14 March 2006 (S/2006/159) and contains adjusted recommendations for an UNMIL drawdown.

II. Major political developments

2. The most significant political development that occurred during the reporting period was the transfer of the former Liberian President, Charles Taylor, to the Special Court for Sierra Leone. On 25 March, President Olusegun Obasanjo of Nigeria officially informed President Ellen Johnson-Sirleaf that pursuant to her request, and following consultations with other African leaders, the Government of Nigeria would release Mr. Taylor to the custody of the Government of Liberia. On 28 March, the Nigerian Government announced that Mr. Taylor had absconded from his official residence in Calabar, Nigeria. Mr. Taylor was subsequently apprehended by the Nigerian authorities on the following day and was immediately flown to Monrovia. In accordance with Security Council resolution 1638 (2005) of 11 November 2005, upon his arrival Mr. Taylor was promptly apprehended and detained by UNMIL and transported to Freetown, where he was handed over to the Special Court for Sierra Leone to be tried for war crimes, crimes against humanity and other serious violations of international humanitarian law in Sierra Leone.

3. Mr. Taylor's transfer to the Special Court elicited mixed reactions from the Liberian public. Some Liberians were of the view that Mr. Taylor should be tried immediately in order to send a strong message that impunity would not be tolerated. Others argued that he should have been left in Nigeria as his trial would be disruptive to the Liberian reconciliation process and could destabilize Liberia and the subregion. In an address to the nation on 30 March, President Johnson-Sirleaf expressed the hope that the Security Council would adopt a resolution that would allow Mr. Taylor's trial before the Special Court to take place in The Hague, the Netherlands. In that regard, I welcome the recent steps that have been taken by some



ASAF

S/2006/743

<i>Component</i>		<i>Military</i>			<i>Police</i>
<i>Country</i>	<i>Military observers</i>	<i>Staff officer</i>	<i>Troops</i>	<i>Total</i>	<i>Civilian police</i>
Niger	3			3	
Nigeria	18	13	1 951	1 982	136
Norway					10
Pakistan	16	11	2 738	2 765	31
Paraguay	3	1		4	
Peru	3	2		5	
Philippines	3	5	165	173	34
Poland	2			2	3
Portugal					
Republic of Moldova	3	1		4	
Romania	3			3	
Russian Federation	6			6	13
Rwanda					15
Samoa					16
Senegal	3	3	600	606	
Serbia	4			4	5
South Africa					
Sri Lanka					11
Sweden		3	230	233	11
Togo		1		1	
Turkey					33
Uganda					21
United Kingdom of Great Britain and Northern Ireland		3		3	
Ukraine	3	1	298	302	13
Uruguay					
United States of America	6	6		12	10
Yemen					4
Zambia	3			3	27
Zimbabwe					31
Total	220	120	14 487	14 827	1 056



Third report of the Secretary-General on the United Nations Integrated Office in Sierra Leone

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1620 (2005), by which the Council established the United Nations Integrated Office in Sierra Leone (UNIOSIL), and requested me to keep it regularly informed of the implementation of the mandate of the Office. The report covers major developments in Sierra Leone and the activities of UNIOSIL since my report of 29 August (S/2006/695).

II. Major developments and governance issues

2. Sierra Leone continued to make progress in its peacebuilding efforts during the reporting period. Further gains were made in reforming the security sector and building the capacity of the national institutions responsible for conducting the 2007 presidential and parliamentary elections. Those advances notwithstanding, the Government continues to face profound capacity constraints, the pace of civil service reform remains slow and poverty and unemployment still represent pressing challenges.

3. On 12 October 2006, Vice-President Solomon Berewa addressed the Peacebuilding Commission of the United Nations during its meeting on Sierra Leone in New York. The Vice-President elaborated on the key priorities for peacebuilding in Sierra Leone, stressing that the problem of youth unemployment and marginalization remained the most immediate threat to the country's fragile stability. He acknowledged the capacity constraints facing the country and highlighted the need to keep the reform of the judicial and security sectors on track. The Vice-President also informed the Commission that his Government was determined to promote good governance practices and to consolidate the nascent democracy in the country. To that end, the Government continued its efforts to enhance transparency and accountability in state institutions and to ensure the efficient use of public resources.

4. The Peacebuilding Commission endorsed the priorities identified by the Government of Sierra Leone and took note of the national strategies and frameworks already developed by the Government and its partners, in particular the poverty reduction strategy and the peace consolidation strategy. In that regard, the



Peacebuilding Commission called on the international community to maintain its engagement in Sierra Leone, including by providing the necessary assistance. The Commission also declared Sierra Leone eligible to benefit from the Peacebuilding Fund, which had been launched on 11 October 2006.

5. On 24 October, the Office of the President of Sierra Leone issued a statement announcing the establishment of a Constitutional Review Commission with a mandate to bring the Constitution adopted in 1991 into conformity with the new political, social and economic realities in the country. The statement also confirmed that proposed constitutional amendments would be included on the ballot during the 2007 elections. In that regard, it is important for the Government and the National Electoral Commission to clarify, without delay, the implications of the proposed constitutional referendum, including the cost of its conduct, so that those issues could be addressed in a timely manner.

6. All political parties, including the ruling Sierra Leone People's Party, the All People's Congress and the People's Movement for Democratic Change, are intensifying their election-related activities well in advance of the 2007 elections. In that regard, as was indicated in my report of 29 August to the Council (S/2006/695), the general culture of political intolerance emerging in the country is a cause for great concern. The perception among opposition parties that the ruling party may be using its incumbency by leveraging public resources to its advantage while denying the opposition a level playing field remains and may lead to heightened tensions if not addressed at this early stage.

7. The socio-economic marginalization of a large segment of society, in particular young people, renders them susceptible to manipulation by political leaders during the electoral process. The political atmosphere is polarized and the three main political parties have displayed a "winner takes all" attitude. As yet, none of the parties has articulated a clear political platform.

8. The participation of paramount chiefs in partisan politics has become the focus of national debate, with the citizenry generally supporting the role of the traditional leaders. However, there have been reports indicating that opposition party representatives have been prevented from conducting electoral activities in some chiefdoms. While it is obvious that electoral campaigning should be conducted by all in an orderly manner and with respect for the law, there are concerns that the existing legislation prohibiting meetings without prior approval from the relevant paramount chiefs and the police may be abused during the pre-electoral period.

9. Following the controversial election of the paramount chief in the Biriwa Chiefdom, which was conducted without the involvement of the National Electoral Commission, members of the Limba ethnic group filed a petition with the Supreme Court to challenge the legality of the election. On 10 November, the Supreme Court ruled against the petition on the grounds that the election of a paramount chief was not a public election and, therefore, did not require the involvement of the National Electoral Commission.

10. In spite of continued logistical constraints, Parliament continued to improve its oversight functions. During the reporting period, ministers and heads of government agencies were invited to Parliament to provide information on the implementation of their respective mandates. There remains, however, a need for sustained capacity-building of Parliament to strengthen its various oversight committees, which would

bring to the fore its role in promoting accountability and transparency in the public service.

11. Three new bills have been prepared to address practices affecting women's rights, including the Devolution of Estates Act 2006, the Registration of Customary Marriage and Divorce Act 2006 and the Domestic Violence Act 2006. The enactment of these bills by Parliament will require concerted advocacy, as they seek to legislate issues that touch on a number of deeply entrenched traditional and cultural practices.

12. The Anti-Corruption Commission has concluded investigations into several high-profile cases, involving senior civil servants and parliamentarians and has forwarded them to the Attorney General for prosecution. Prompt action on the cases would attest to the Government's political will to deal with corruption in a resolute way. This would also help dispel the perception that the anti-corruption drive, which was encouraging some time ago, may have stalled.

13. The national anti-corruption strategy was discussed at a conference of the main stakeholders in Freetown on 16 November. The conference decided to establish a review mechanism to remedy identified flaws. Upon completion of the review, the strategy would be consistent with the priorities and actions contained in the Improved Governance and Accountability Pact, agreed by the Government in July 2006, with the Department for International Development of the United Kingdom of Great Britain and Northern Ireland, the World Bank and the European Commission.

III. Security situation

14. During the reporting period, the security situation in Sierra Leone remained stable, but still fragile. The most serious threats to the tenuous stability in the country continued to be related to the high level of youth unemployment, the poor social and economic conditions of the people, and the general public perception of the Government's mismanagement of public resources.

15. The national security sector is generally functioning well. The capacity of the Sierra Leone Police to maintain law and order and discharge its security responsibilities continues to develop. On 30 and 31 August, UNIOSIL and the United Nations Development Programme (UNDP) organized a national conference on the role of the Sierra Leone Police in the 2007 elections. Participants expressed confidence that the Sierra Leone Police is a credible institution capable of maintaining law and order during the electoral process.

16. In recent months, incidents of student demonstrations and industrial actions by junior and middle-level employees in schools have increased. In many cases, the riotous and sometimes destructive behaviour of the students has spilled into the streets, straining the limited resources of the Sierra Leone Police. Many of these incidents are related to the deplorable conditions in the schools and colleges across the country, as well as the poor conditions of service of teachers. The situation has been further exacerbated by the activities of the three major political parties on college campuses.

17. From 6 to 10 November, the country's Cabinet participated in the third regular national security exercise, the purpose of which was to test the capability of Sierra

Leone's security agencies to effectively manage security emergencies that could be externally or internally generated. The exercise was supported by the United Kingdom-led International Military Advisory and Training Team, UNIOSIL and other international partners. In addition, from 11 October to 5 November, the United Kingdom and the partners from Sierra Leone's Armed Forces conducted major military amphibious exercises in Sierra Leone, involving some 3,000 military personnel. The objective of the exercises was to enhance the capacity of Sierra Leone's security sector.

18. In the meantime, Sierra Leone and Guinea have taken further steps to resolve their ongoing border dispute. The ministers of the interior of both countries met on 18 and 19 September in Freetown and decided to request the Economic Community of West African States (ECOWAS) to provide boundary demarcation experts to work with the technical committees of both countries. I would like to reiterate my appeal to President Ahmad Tejan Kabbah and President Lansana Conté to expedite the peaceful resolution of this matter.

19. The Sierra Leone's security agencies, the United Nations Mission in Liberia and Liberian security agencies continued to conduct concurrent patrols in the areas along the border between Sierra Leone and Liberia. UNIOSIL played a facilitating role. At the same time, the Office continued to discuss modalities of joint border patrols between the Guinean and Sierra Leone's security agencies.

IV. Security sector reform

A. Office of National Security

20. The capacity of the national security architecture in Sierra Leone continues to develop. The Office of National Security has further strengthened its role as the agency responsible for the coordination of all national agencies and government departments on security-related matters. During the reporting period, this important body and the UNIOSIL Military Liaison Team organized a series of workshops aimed at enhancing the effectiveness of the provincial and district security committees in information collection, analysis and reporting. The Office of National Security has also established an elections threat assessment committee to identify potential threats to security during the electoral process and to develop a plan for a coordinated response.

B. Sierra Leone Police

21. During the reporting period, the programme for building a new Sierra Leone Police force passed a major milestone when the full strength of 9,500 trained police personnel, established by the Government, was achieved. A recruitment programme for 2007 has been developed for a further 250 officers. To ensure that the police training programme remains operationally relevant, the Sierra Leone Police and the UNIOSIL Police Section have reviewed the training curriculum, adding key updates on basic crowd control and maintenance of public order.

22. The UNIOSIL police personnel, in cooperation with other international partners, have also developed a special training programme aimed at further

enhancing the ability of the Sierra Leone Police to respond to possible civil unrest during the electoral period. United Nations police personnel further suggested the development of a beat policing training programme, in which over 3,000 local police personnel of various ranks have participated. In addition to UNIOSIL's efforts, the Sierra Leone Police benefited from considerable support provided by the United Kingdom's Department for International Development and UNDP.

C. Republic of Sierra Leone Armed Forces

23. The planned downsizing of the Republic of Sierra Leone Armed Forces has been completed and its current strength stands at some 10,300 military personnel. However, Sierra Leone is unlikely to be able to sustain an armed force of this size. The Government is therefore currently discussing the appropriate size of the army in the medium term. The Government will be mindful of the delicate socio-economical situation in considering any further retrenchments of armed forces personnel.

24. UNIOSIL conducted a survey of morale within the armed forces. The findings indicated that recent improvements in the training and welfare of army personnel had resulted in a corresponding improvement in morale. There remained, however, a critical shortage of housing for military personnel, in particular in the outlying and border areas. The survey also showed that battalions suffered from an acute lack of adequate equipment, confirming the need to continue adjustments to the Armed Forces. At the same time, logistical support capabilities remained weak.

V. Strengthening the role of the UNIOSIL military and police components

25. Currently, 13 of the 20 authorized United Nations police personnel are deployed to the countryside in regional advisory support teams to advise and support four Sierra Leone Police regional command teams. The Western Area, including Freetown, is covered by five United Nations police officers, given the operational demands of serving the capital with its large population and high crime rate. The workload of UNIOSIL's police personnel has increased considerably, as the Sierra Leone Police prepares to support the 2007 elections. In that respect, the UNIOSIL Police Section is shifting its focus to training Sierra Leone Police officers to perform election-related tasks.

26. In particular, it is envisaged that, during 2007, UNIOSIL police personnel, in cooperation with other partners, will continue to coordinate the development of a Sierra Leone training taskforce that will deliver public order management training to 5,500 Sierra Leone Police officers throughout the country at locations that have been identified as possible hot spots, based on the threat assessments developed by the Sierra Leone Police and the Office of National Security. Furthermore, the UNIOSIL Police Section will continue to support the capacity-building of the Sierra Leone Police by training an additional 25 officers to become a part of the Force's newly formed Evaluation Team to conduct inspections of police performance throughout the country. In order to address the issue of prisoners escaping from police custody, the United Nations police will increase their support to the Sierra Leone Police for the improvement of corrections facilities and training of their management personnel.

27. Given the increased scope of the tasks of the UNIOSIL police personnel, I would like to propose, subject to the Security Council's decision concerning the mandate of the Office, a temporary increase of an additional 10 United Nations police personnel to bring their strength to 30 police personnel. This reinforcement would enable the UNIOSIL Police Section to provide adequate support to the Sierra Leone Police's preparations for its election-related tasks. The additional 10 personnel would be withdrawn in the second half of 2007, after the elections.

28. The 2007 elections will also involve a considerable increase in the workload of the UNIOSIL Military Liaison Team of 10 officers. In particular, there will be additional tasks related to security needs in the provinces, including additional information-gathering in all 12 administrative districts. Another area of focus will be further capacity-building of the provincial and district security committees, whose roles in the electoral process will be critical. The Team is currently involved in assisting the Office of National Security in the preparation of the electoral security plan and will participate in monitoring of the plan in liaison with the Armed Forces' brigades deployed throughout the country. In addition, the Military Liaison Team will continue its daily tasks of liaising with and supporting the Sierra Leonean security forces, especially the Office of National Security, and other stakeholders, including the International Military Advisory and Training Team, and diplomatic missions in Sierra Leone. The Military Liaison Team also maintains close coordination with the Special Court for Sierra Leone. I would therefore propose a temporary increase in the current strength of the UNIOSIL Military Liaison Team of an additional five military advisers, who would also be withdrawn during the second half of 2007.

VI. Preparations for the 2007 presidential and parliamentary elections

A. National Electoral Commission

29. The National Electoral Commission, with United Nations assistance, continued to prepare for the voter registration exercise, which is expected to commence between late February and early March. The Commission recently shifted the focus of its efforts to the development of its operational capacity. In that regard, additional core personnel are being recruited, while an advance team of four United Nations technical advisers has already been assigned to support the Commission.

30. A voter registration operational taskforce has been set up, including working groups on such critical areas as data management, procedures and training, public outreach, field coordination, procurement and logistics. The working groups have identified immediate priorities in requirements and activities. Specifications for voter registration equipment and personnel were finalized and the procurement process was effectively launched at the end of October.

31. With United Nations technical assistance, the National Electoral Commission developed its database of estimated voter population per constituency. The field guidelines for distribution of registration centres in the districts have been finalized and the work for distribution and selection of registration centres is under way in the districts. Given the estimated total of over 4 million voters, it is projected that there

will be a maximum of 2,700 voter registration teams, which is the current basis for procurement of materials and training plans.

32. Now that the basic modalities for voter registration have been determined, the National Electoral Commission is gearing up for its public information and voter education campaign. The Commission is already engaged in a broad civic education programme, the Basic Electoral Administration Course, targeting youths from 18 to 25 years old. The programme is expected to reach several thousand youths in its first phase, which started in October and will be completed in December.

33. The United Nations support to the electoral process will continue with the further strengthening of the United Nations electoral advisory team in the coming weeks. International advisers to the National Electoral Commission's headquarters will reach 10 by the end of the year and 18 United Nations Volunteers will arrive during the same period to support the electoral district offices. At its maximum strength, the team is expected to reach the level of 44 advisers by the end of January 2007.

34. In the meantime, the United Kingdom, Ireland, the European Commission and UNDP have agreed to increase their contributions to the budget for the elections. The financial gap for the elections is consequently expected to be reduced to approximately \$7 million. I would like to reiterate my appeal to Member States for the urgent provision of additional funding in order to facilitate the successful conduct of the elections.

B. Political Parties Registration Commission

35. UNIOSIL also continues to assist in developing the capacity of the Political Parties Registration Commission. The Commission continues to face serious staffing and resource shortages, as well as a leadership problem. On 2 November, President Kabbah nominated Justice Sydney Warne as the new Chairman of the Political Parties Registration Commission. The appointment will require confirmation by the Parliament. It will be critical for the Government to honour its pledges to support the Commission to ensure that it has the technical, human and other resources necessary to function effectively.

36. In a positive development, on 23 November, the leaders of eight political parties signed an electoral code of conduct. The code had earlier been adopted by representatives of the political parties during a workshop organized by the Political Parties Registration Commission, with the support of UNIOSIL and UNDP, which was held in Freetown on 19 and 20 October. The Political Parties Registration Commission will play a key role in ensuring that political parties comply with the code of conduct.

C. United Nations electoral assessment mission

37. An interdisciplinary electoral assessment mission, led by the Electoral Assistance Division of the Department of Political Affairs of the Secretariat, visited Sierra Leone from 15 to 23 October to conduct a comprehensive review of electoral preparations and to consult with the Government on the assistance the United Nations system could provide to support the electoral process. The

assessment mission met with a broad cross section of national and international electoral stakeholders, including representatives of the Government, civil society, political parties, electoral authorities, the United Nations country team, technical assistance providers, donors and the diplomatic community.

38. The assessment mission identified serious though not insurmountable challenges to the successful conduct of presidential and parliamentary elections, which are scheduled to be held on 28 July 2007. The National Electoral Commission has developed a draft law on boundary delimitation, following a process that was broadly participatory. Passage of the law is delayed in Parliament, however. A final package of amendments to the legal framework for the elections is also in the process of being finalized by the Commission. In addition, the mechanism for resolving electoral disputes (the electoral offences court) has not yet been established. This matter requires urgent attention, including adequate resources for the envisaged court.

39. The assessment mission concluded that, despite these considerable challenges, the elections could be conducted on time and in a generally credible manner, provided that the national electoral institutions receive financial and technical support from the Government and donors in a timely manner; outstanding laws, including on boundary delimitations, are passed expeditiously by the Parliament; the overall security situation remains stable and the national security agencies can meet their responsibilities to secure the electoral process; and all necessary measures are taken to strengthen the electoral dispute mechanisms and the electoral offences court is established quickly, while being broadly acceptable and credible across the political spectrum. In addition, the independence of the electoral institutions should be protected, while international and domestic observation should be strongly encouraged.

D. Recommendations for the Government of Sierra Leone

40. In view of allegations made by opposition parties and some civil society groups, the assessment mission recommended that the Government should avoid creating a perception that state resources were being used to promote the electoral interests of one party. Additionally, as indicated earlier, it is critical that all parties have equitable access to the state media and that paramount chiefs are encouraged to allow free campaigning and political expression in their areas of control.

41. With regard to establishing the necessary legal framework for the conduct of the elections, the Parliament should expedite the passage of the proposed law on boundary delimitation. It should also ensure that the amendments to the legal framework governing the elections are adopted in a timely manner, given the tight time frame in which preparations for the elections must be conducted.

E. Recommendations on the role of the United Nations system in preparing for the elections

42. UNIOSIL and UNDP have established electoral assistance programmes to support the conduct of the elections. Although staffed with qualified experts, the UNDP project team faces considerable challenges in ensuring the procurement of more than \$15 million worth of registration and electoral materials, which should be completed in a very short period of time. The assessment mission therefore recommended that the United Nations system provide substantial technical support to the voter registration exercise. As the inclusion of the constitutional referendum on the ballot is expected to complicate the conduct of the elections, the United Nations will need to support the identification of the related technical challenges as soon as possible.

43. Furthermore, the assessment mission recommended that the United Nations system and the international community, in particular African organizations, consider providing long-term observers to the electoral process. The United Nations Communications Group is expected to provide coordinated support to the media coverage of the electoral process.

VII. Human rights and the rule of law

44. Sierra Leone continues to make progress towards adherence to international norms and standards on human rights. However, progress in the area of economic and social rights remains limited.

45. During the reporting period, further work was accomplished in preparing the child rights bill, which is an overarching compilation of laws and policies on children in Sierra Leone that supersedes all existing laws on child rights. The bill has been approved by the Cabinet and the Parliament is expected to pass it by the end of the year. It will be a landmark document, representing the country's compliance with the provisions of the Convention on the Rights of the Child (General Assembly resolution 44/25, annex), which was ratified by Sierra Leone in 1990.

46. At the same time, progress was made towards the establishment of the national human rights commission. On 3 October 2006, the Parliament confirmed the nomination by the President of five commissioners to serve as members of the commission. When fully operational, the commission is expected, among other activities, to act upon individual complaints concerning human rights violations, encourage ratification and implementation of international human rights instruments and promote awareness of human rights through information, education and research.

47. The mandate of the commission, as provided for by the recommendations of the Truth and Reconciliation Commission, is comprehensive and has raised high public expectations about its work. The commission will therefore face significant challenges, including the need to quickly demonstrate its competence, so that it may win the respect of the population. In this regard, I am very concerned that the \$16,000 allocated by the Government for the start-up phase of the commission in the 2006 budget is not adequate to ensure the effective functioning of this important

institution. The cost of the commission's operations for the first two years is estimated at \$1 million.

48. Meanwhile, implementation of other recommendations of the Truth and Reconciliation Commission continued to make slow progress. In particular, the reparations fund for amputees and war-wounded and communities seriously affected by the war is yet to be established. The Government recently nominated the National Commission for Social Action to lead the implementation of this important recommendation.

49. The judiciary system continues to suffer from capacity constraints. Prolonged pretrial detentions, large case backlogs and excessive remand of cases continue in courts around the country. In the Northern Province, a new high court registry has been established and a high court judge has been assigned exclusively to the region to expedite the processing of cases before the court.

50. UNIOSIL, in close collaboration with the Ministry of Internal Affairs, has completed a nationwide assessment of the corrections system in Sierra Leone, with a view to assisting the Government in formulating a comprehensive reform agenda. The corrections system still suffers from poor conditions, which seriously undermine prisoners' human rights. The Justice Sector Development Programme, supported by the United Kingdom and UNDP, continues to facilitate improvements in this area.

VIII. Economic recovery and socio-economic aspects

51. While the post-war macroeconomic development indicators continue to show steady economic stability and even growth, widespread poverty remains pervasive throughout the country. In order to meet the Millennium Development Goal of reducing poverty to 35 per cent by 2015, Sierra Leone will have to shift its focus from reliance on donor aid to wealth creation by the private sector. As an estimated 80-90 per cent of the workforce is employed in the informal sector, major policy changes will be required to bring informal enterprises into the mainstream economy.

52. At the same time, the restoration of commercial extraction of rutile and bauxite in the second quarter of 2006, with the assistance of foreign investors, is very encouraging. This development is expected to push export earnings up by almost four percentage points of gross domestic product (GDP) in 2006.

53. External and domestic public debts continue to place a heavy burden on Sierra Leone's economy, impeding the Government's ability to channel resources into vital infrastructure development. As at the end of 2005, the external debt, including arrears, stood at \$1.69 billion. In the meantime, interim external debt relief for Sierra Leone from March 2002 to October 2005 amounted to \$131.3 million, including unconditional delivery of debt relief under the World Bank's Heavily Indebted Poor Countries Initiative. Sierra Leone is expected to reach the completion point of the Initiative by the end of the year and it is anticipated that creditors will grant further debt relief.

54. On 9 October, the Government launched a youth employment and empowerment scheme as part of its efforts to address growing youth unemployment. However, its implementation is constrained by lack of resources, as well as institutional capacity constraints. Significant external assistance will be required,

including targeted infrastructure and quick-impact development projects aimed at promoting economic growth, development and job creation.

IX. Subregional cooperation

55. Pursuant to the decision taken by the African Union at the level of ministers and Heads of State, a logistics depot for ECOWAS will be established in Sierra Leone. The Government of Sierra Leone and ECOWAS have concluded a headquarters agreement and on 11 October the Government formally handed over to ECOWAS the facility at the Hastings Airfield that will serve as the logistics depot.

56. Efforts are being made to revitalize the Mano River Union secretariat, located in Freetown. UNIOSIL and the United Nations country team in Sierra Leone have provided some logistical assistance to build the capacity of the secretariat. UNDP funded the renovation and furnishing of the office building and also supplied office equipment and stationery to support the operations of the secretariat, and UNDP and the United Nations Population Fund donated two vehicles for its official use. Nonetheless, the financial and logistical problems of the secretariat remain acute. In addition, its human resource capacity needs to be enhanced to meet the growing demands of development and conflict management in the subregion. In that regard, additional support, from both the member States of the Union and the international community, is needed to make the secretariat operational and effective.

X. Implementation of Security Council resolution 1325 (2000) on women and peace and security

57. During their consultations on 7 September 2006, members of the Security Council requested UNIOSIL to develop an action plan for the implementation of Council resolution 1325 (2000) and to present it in a report. In that regard, in October 2006, the Department of Peacekeeping Operations of the Secretariat sent an expert to Sierra Leone to assist UNIOSIL and the United Nations country team in preparing the plan, who identified activities that could be implemented by UNIOSIL and the country team during 2007.

58. The action plan seeks, in particular, to strengthen the capacity of the Family Support Unit of the Sierra Leone Police to address sexual and gender-based violence. It targets key areas such as training, public education and information campaigns on sexual and gender-based violence. Under the plan, UNIOSIL will work with partner agencies to strengthen the capacity of the Family Support Unit, organize monthly radio programmes to raise public awareness of sexual and gender-based violence and advocate for the incorporation into domestic law of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women¹ and other international human rights instruments.

59. The action plan also emphasizes the inclusion of gender issues in the concept of operations for the electoral process, in particular in the key areas of voter education and voter registration. The plan further commits UNIOSIL to invest considerably in building women's confidence and capacity to participate in the

¹ United Nations, *Treaty Series*, vol. 1249, No. 20378.

political process and to develop a strategy to increase women's representation and participation in the upcoming election by March 2007. It is envisaged that these initiatives, together with continued support to local women's groups, including women's wings of all political parties, will enhance opportunities for women, both as candidates and voters, in the 2007 national elections.

60. The action plan also requests the Joint United Nations Programme on HIV/AIDS (UNAIDS) to develop a standardized capacity-building module on HIV/AIDS for all agencies to address the issue. In addition, the plan stresses that all necessary action should be taken to empower Sierra Leonean women economically and, to that end, calls for funding of microprojects, with special focus on women, which would provide the much-needed resources, in particular for women, in rural areas.

61. In keeping with the action plan, UNIOSIL will assist the newly established Human Rights Commission in drafting a national action plan on human rights for Sierra Leone, with particular emphasis on the rights of women. The action plan requests UNIOSIL to support the Government of Sierra Leone in finalizing by December 2006 a draft report on its implementation of the Convention on the Elimination of All Forms of Discrimination against Women and to work closely with the Law Reform Commission of Sierra Leone to review and repeal discriminatory laws against women by December 2007. In that regard, UNIOSIL and the United Nations country team will continue to make every effort to ensure that the three bills, which will address practices affecting women's rights, currently under consideration by the Office of the Attorney General, are expeditiously submitted to Parliament and approved by the legislature at the earliest possible date.

62. The plan also calls for greater collaboration between entities of the United Nations system, governmental institutions and civil society organizations in the implementation of related activities and lays greater emphasis on building local partnerships with women's organizations, capacity-building of national institutions and civil society organizations, support for advocacy, influencing policies and raising national awareness of resolution 1325 (2000).

63. In this regard, the plan emphasizes the need for regular consultations among local non-governmental organizations and women's groups and encourages their role in conflict prevention and resolution. The action plan further outlines specific interventions that will be undertaken by the United Nations and provides for a midterm review to assess the progress and impact of implementation of resolution 1325 (2000) by United Nations bodies in Sierra Leone. Effective implementation of the plan will require the establishment of a full-time post of gender adviser in UNIOSIL. In addition, the United Nations has developed a comprehensive communications strategy for the promotion of the action plan.

XI. Public information

64. The Public Information Section of UNIOSIL continues to facilitate the outreach work of the Office and its substantive sections. The Section leads and coordinates the activities of the United Nations Communications Group, which has been established at the initiative of UNIOSIL and comprises public relations components of all United Nations entities operating in Sierra Leone. United Nations Radio is currently broadcasting 60 hours of programming per week, ranging from

news bulletins to interactive panel discussions on many critical issues, such as sexual exploitation and abuse, women in politics, national security and accountability of the Government.

65. As a first step towards its strategic goal of transferring United Nations Radio to national ownership, UNIOSIL plans to convert it into an independent public access radio station, through a project managed by the Swiss Hironelle Foundation, which provides for the production of news and information programmes and journalism training in partnership with Fourah Bay College, University of Freetown. It is thus expected that a team of qualified radio journalists will be prepared who would constitute the core staff, once United Nations Radio's transformation into a national independent radio station has been completed. UNDP has played a critical role in the process.

XII. Personnel conduct

66. UNIOSIL has continued to actively train all its personnel on the United Nations standards of conduct and the code of conduct. The United Nations country team joint taskforce on the prevention of sexual exploitation and abuse, in collaboration with United Nations Radio, maintained the weekly series of radio panel discussions and call-in programmes to increase public awareness about sexual exploitation and abuse-related issues. The three allegations of sexual exploitation and abuse made against civilian personnel in 2006 are under investigation.

XIII. Observations and recommendations

67. While Sierra Leone continues to make progress in its peacebuilding efforts, the country still faces major challenges and will need the sustained support of the international community for the foreseeable future, especially in its efforts to address the root causes of the past conflict. I am, therefore, pleased with the outcome of the 12 October Peacebuilding Commission meeting on Sierra Leone, in particular its decision to declare Sierra Leone eligible to benefit from the Peacebuilding Fund. I urge the Government of Sierra Leone to seize this unique opportunity and work closely with the Peacebuilding Commission to make further progress in consolidating peace in the country.

68. Progress made in enhancing the capacity of the security sector is encouraging. However, there is still a need to further strengthen and rationalize the security architecture of Sierra Leone, so that both the Sierra Leone Police and the Armed Forces could be sustainable in the long term, and also carry out their tasks effectively, in particular in connection with the 2007 elections. The efforts to promote good governance and fight corruption should be stepped up. Also, much more needs to be done to transform the private sector in Sierra Leone into a driving force of the economy, which generates wealth and employment opportunities. Greater attention should also be paid to the urgent needs of the judiciary and the promotion of human rights, especially those of women.

69. The successful conduct of the 2007 elections and the wide acceptance of the outcome will be important indicators of the sustainability of peace and stability in the country. Sierra Leone needs considerable technical and material support from its

international partners to ensure the success of the elections. In this regard, the \$7 million electoral budget shortfall remains a source of major concern. I therefore appeal to Member States to contribute the resources required to close this funding gap.

70. I also recommend that the Security Council approve the increase of the strength of the UNIOSIL Military Liaison Team by 5 additional officers and that of the Police Section by 10 additional police officers to ensure effective support for Sierra Leone's security sector in carrying out its election-related responsibilities. In calling upon Sierra Leone's partners and other stakeholders to stay the course and do all they can to support the electoral process, I also wish to reiterate the importance of the Government of Sierra Leone honouring its obligations to support the electoral institutions, the National Electoral Commission and the Political Parties Registration Commission, with the necessary staffing and other resources.

71. Overall, the period beginning in early 2007 will be critical for the electoral preparations. All technical support from the United Nations and other donors will need to be delivered in a timely manner in order to help the National Electoral Commission and national security agencies fully meet the significant election-related challenges facing them. It would also be important for the international community to contribute in a major way to the observation of the elections.

72. UNIOSIL has made a significant contribution in assisting the Government of Sierra Leone to consolidate peace and address the root causes of the conflict over the past 12 months. The July 2007 elections will be a major milestone, which should help define an exit strategy for UNIOSIL. In that regard, it would be important to conduct a comprehensive assessment of the role of the Office, closer to the election date, with a view to defining its exit point after the elections. In the meantime, I recommend the extension of the mandate of UNIOSIL for an additional 12 months, until 31 December 2007.

73. In conclusion, I would like to express my appreciation to the Government of Sierra Leone and its international partners for their close cooperation with UNIOSIL and the United Nations country team. I also extend my gratitude to the countries contributing military and police personnel to UNIOSIL for their continued support. I would also like to thank my Executive Representative, Victor Angelo, and all the personnel of the United Nations in Sierra Leone, for their tireless efforts to help ensure that Sierra Leone achieves lasting peace, security and sustainable development.

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**REPORT ON THE SPECIAL COURT
FOR SIERRA LEONE**

**Submitted by the Independent Expert
Antonio Cassese**

12 December 2006

VI. PROBLEMS RELATING TO THE TAYLOR TRIAL IN THE HAGUE

217. The decision to move the Charles Taylor trial from Freetown to The Hague has had serious repercussions for the future of the Special Court. The transfer of the trial deprives the Special Court of one of its main features: its location in the territory where the crimes were perpetrated. It also creates a complicated—and expensive—logistical situation, requiring the establishment of a second Special Court office in The Hague, the redeployment of staff, the relocation of the Trial Chamber, the transfer of witnesses, and the establishment of an enhanced Special Court presence in Liberia. The Taylor Trial will thus be the most significant challenge to confront the Special Court.

218. The tentative start date for the Taylor Trial has been set for 2 April 2007, although the Judges have emphasized that this date is “fluid” and may be reassessed if good cause is shown.⁴³ The trial itself is projected to last between 12 and 18 months, with judgment thereafter. The current Prosecution witness list contains 133 core factual witnesses plus 14 to 19 expert witnesses. The parties hope to reduce the number of witnesses through agreement on certain facts, most likely pertaining to the crime base. It is also hoped that some of the crime base witnesses will be able to give evidence by way of written statements pursuant to Rule 92 *bis*, which would further reduce the number of oral witnesses heard by the Court.

219. Preparation for the Taylor trial is well advanced. Staffing is being organized and facilities are being secured. Nevertheless, it is possible to envisage a number of potential concerns that could be avoided with better communication and careful planning.

A. Strategic and operational plans should be worked out

220. The creation of a satellite office of the Special Court will test the communication and planning skills of the Registry. Thus far, progress has been impressive, but not without areas of concern.

221. Initial planning for The Hague began in spring of 2006. Planning appears to have taken place from the bottom up, rather than from the top down. One senior staff member prepared an early draft Concept of Operations, which received no discussion, comment, or revision by senior management. Instead of developing a clear vision of the operations, through consultation, and then seeking input from the sections about the minimum staffing requirements to meet it, section chiefs were asked to submit their budgetary and staffing requirements before they were given a clear indication of the common view of the office. At the time when these estimates were prepared it was unclear whether the parameters of the case were those set in the Concept of Operations paper—which stated that the trial would take 12 months commencing in January 2007—or whether the figures should be based on the approximately 180 witnesses proposed by the Prosecution, which

⁴³ The Prosecution originally asked for a February 2007 start date. The defence asked for July and then extended their request to September.

would require much longer proceedings.⁴⁴ No clear direction was provided by senior management.

222. Some progress has been made since Taylor's transfer to The Hague and plans have started to become more concrete. It is apparent, however, that the Special Court operation in The Hague has grown from a satellite office—intended to service the minimum needs of the trial in conjunction with the ICC and with substantial support from Freetown—into a miniature Special Court based in Europe. To date, there is still a sense of confusion amongst some Registry sections about their perceived role in The Hague.

223. Leadership is necessary to guide the various sections in the right direction. It is all the more vital since it requires coordination between staff already in The Hague and the Freetown base. Currently, the Registrar, Deputy Registrar, and Chief of Administration meet on a weekly basis to discuss a variety of issues, including matters relating to The Hague. It would be worth considering whether lower level meetings might also serve a constructive purpose. A working group could be established within the Registry to set clear parameters and milestones for the operation of the Special Court in The Hague.

224. Communication is another crucial ingredient in the success of this trial. Two areas have been identified that could be improved. First, the new communication structure within the Registry, discussed above, is impeding the ability of staff to communicate on an informal level or to coordinate and discuss possible solutions to problems. These administrative boundaries are frustrating the establishment of the new office by disrupting the flow of information and the discussion of possible remedies. Staff members are becoming increasingly irritated with this management approach and feel that it is impeding their ability to do their work efficiently. Again, I would recommend that this communication policy be reviewed and reconsidered.

225. It is also imperative for the Registry to open direct lines of communication with the ICC. The details of division of labour must be worked out in advance in order to avoid delays in the trial. While staff of both institutions can be expected to perform at the highest levels of professionalism, it is nevertheless important to provide clarity about their respective roles. Some sections appear to be well advanced in their planning and coordination with the ICC and relevant authorities, while others, such as the Security Section, commenced negotiations only in November 2006. A number of issues ranging from minor technical matters to conceptual problems with financial implications remain to be resolved. Practical questions about the use of ICC facilities and space also linger. It is unclear, for example, whether SCSL Prosecution and defence will have any access to private rooms within the ICC to store their files and to consult during short breaks in the proceedings. These and a myriad of other small details should be hammered out and tested in advance of the trial.

226. The SCSL and the ICC should make some crucial decisions about the nature of the cost recovery system envisaged in the Memorandum of Understanding of 13 April

⁴⁴ Transcript of Status Conference, 21 July 2006, p. 11. ("In a fully litigated case we would anticipate that there could be as many as 180 witnesses.")

2006. For example, it has not been determined whether additional staff will be employed by the ICC to service SCSL needs or whether the SCSL will be charged for certain ICC support services on an hourly rate.

227. It is also important for the administration to become fully aware of and take into account the effect that the Taylor trial is having on morale in Freetown. In many instances, entire sections are applying for equivalent posts in The Hague. In filling these vacancies, the desirability of promoting qualified Sierra Leonean staff should be taken into account.

B. An Alternate Judge should be appointed

228. The Taylor trial will be of central importance to the success of the Special Court. Given that it will start long after the other cases and will thus extend the life of the Special Court, it is very important for it to run smoothly and not falter.

229. For this reason, I believe that an alternate Judge should be appointed who could sit through each stage of the trial and step in to replace a Judge if, for any reason, the Judge cannot continue sitting.⁴⁵ While this would entail additional expenditure, it is undesirable to gamble on the continuity of such an important case so late in the life of the Court.

230. The appointment of an alternate Judge might present an important opportunity to train a distinguished African jurist for future international judicial opportunities. The alternate Judge, while acting as a member of the Trial Chamber, could also actively assist with the drafting and preparation of the judgment. I would strongly recommend that the Management Committee, in selecting a Judge for this position, look closely at senior African lawyers with experience at the ICTY or ICTR and an excellent track record.

C. Prosecution concerns should be addressed

231. Prosecution preparation has been efficient in spite of the delay in appointing the Prosecutor and the Senior Trial Attorney for the *Taylor* trial. In light of the 2 April 2007 tentative start date, every effort should be made to finalize the *Taylor* team as soon as possible. It is anticipated that the Prosecution team will consist of one Senior Trial Attorney, two P4 Trial Attorneys, two P3 Trial Attorneys, one P2 Case Manager and one G6 Administrative Assistant. Some of the more junior members of the team have already been identified and are already preparing the case,⁴⁶ but the Senior Trial Attorney post and one P4 post remain vacant.

⁴⁵ See Statute, Art. 12 (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). *See also*, Agreement, Art. 2.

⁴⁶ Transcript of Status Conference, 22 September 2006, pp. 3–4.

232. It is imperative that the final Prosecution team be established well in advance of trial. Ideally, they should be relocated to The Hague in sufficient time to settle into the new offices and to find accommodation before the trial begins. The current plan to send them to The Hague only two months before the start of trial may be insufficient and should be reviewed.

233. Interviews have also suggested that the Prosecution budget for Taylor is very tight. The Prosecution, like the defence, should be allowed a certain degree of flexibility to accommodate unexpected expenses.

234. Based on a number of interviews, it is my assessment that, although the Prosecution will certainly be ready to start on the tentative start date of 2 April 2007, the case may be better prepared and presented if the timeline were less strict and the trial proceedings started a bit later. A delay of a few more months would, on one view, be unfortunate; however, much of this delay could perhaps be recouped by the benefits of a smoother trial process.

D. Defence issues should be resolved

235. The defence team is currently composed as follows: Karim Khan, lead counsel, Roger Sahota, co-counsel and two legal assistants (a third assistant is acting pro-bono). At a recent status conference, Counsel stated that he is also receiving legal advice from three English counsel, but has since indicated that they have not committed to working on the case.⁴⁷

236. The defence has argued vigorously that the 2 April 2007 tentative start date is unreasonable in light of the volume of materials disclosed, the size of the case, and the delays in appointing a full defence team including investigators. The defence originally requested a July start date, and then revised this to a September start date in light of the complications arising out of the transfer of the trial and the amount of disclosure.

237. One of the most significant problems for the defence is investigations, which are more complicated in the *Taylor* case because of the Liberian dimension. The defence team has hired an investigator for Liberia, but only interviewed candidates for a Sierra Leonean investigator in mid-November. Defence counsel has also requested the services of a full time international investigator to supervise the Liberia and Sierra Leonean investigators and to ensure the quality, impartiality, and integrity of their work. Thus far, the defence has only been granted permission to hire one international investigator on a six-month contract without any provision for renewal (the experience in the other trials suggests that renewal is unlikely). In light of the Prosecution's complement of ten international investigators, at least a few of whom are certainly assisting with Taylor case preparation, this request should be given serious consideration.

⁴⁷ Transcript of Status Conference, 22 September 2006, p. 4.

E. Potential problems with witness movement

238. The movement of witnesses to and from The Hague will be one of the most challenging aspects of The Hague operations. It appears that the logistical arrangements are already well advanced. The Chief of WVU has travelled twice to The Hague to liaise with his counterparts at the ICC and to secure adequate facilities for witness accommodation. Witnesses will first be assembled in Freetown (or Monrovia), where they will undergo medical checks and complete visa preparations. Accompanied by a protection officer, they will be transported in groups of five to The Hague. The plan is to have 10 witnesses in The Hague at any given time. As the fifth witness finishes testifying, a group of five will be rotated home and five new witnesses will be flown to The Hague.

239. Two additional logistical concerns have arisen in recent months and efforts are ongoing to find a reasonable solution. First, there is a concern about witness accommodation. Currently it is planned to house witnesses together in safe-houses in Freetown and in one facility in The Hague. This raises concerns about witnesses talking to each other about the case, even in spite of cautions to the contrary. The witness protection unit will not have sufficient staff to ensure that this does not happen. Second, the Prosecution has indicated that they would like to send an additional family member or support person to accompany each witness. Thus far, the budget, staffing, visa, logistics, and accommodation plans have not taken this request into account. Continuing attention should be devoted to finding a reasonable solution to these problems.

F. Expanding outreach from The Hague to Liberia

240. In asserting that the trial of Charles Taylor in Freetown would pose a security threat to the sub-region, the United Nations Security Council requested the “Special Court, with the assistance of the Secretary-General and relevant States, to make the trial proceedings accessible to the people of the sub-region, including through video link.”⁴⁸ In the Order Changing Venue of Proceedings, the President of the Special Court reiterated the importance of ensuring that the Taylor proceedings be made available to the public, local media, and victims and witnesses.⁴⁹

241. Efforts are ongoing to ensure that the proceedings are available within Sierra Leone. Thus far, however, little advance has been made in Liberia. To date, the Outreach programme has relied on Liberian civil society representatives to spread the word about the trial. It would also be desirable for Special Court officials to attend outreach events in Liberia in order to raise the profile of the Court.

242. Another Outreach concern is the movement of trial observers to The Hague. They have planned to send four civil society representatives to monitor the trial. Thus far, there has been little effort to facilitate visas for this purpose.

⁴⁸ United Nations Security Council Resolution 1688, 16 June 2006, para. 6.

⁴⁹ *Prosecutor v. Taylor*, Order Changing Venue of Proceedings, June 2006.

Annex 21
30 January 2007

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Press Conference

Department of Public Information • News and Media Division • New York

PRESS CONFERENCE BY PROSECUTOR FOR SPECIAL COURT FOR SIERRA LEONE

With preparations for the trial of former Liberian President Charles Taylor "on track", the arrest, transfer, indictment and trial of the former Chief of State represented a vindication of the principle that no person, no matter their position, was above the law, and that no person, whatever their reputation, should receive an unfair trial, Steven Rapp, Prosecutor for the Special Court for Sierra Leone, told correspondents at a Headquarters press conference today.

Of all the trials before the Sierra Leone Court, the trial of former Liberian President Charles Taylor, which was set to begin on 4 June 2007, had gained greatest attention, he said. Indicted by the Special Court in March 2003 and transferred to the Court in March 2006, Mr. Taylor's trial should be a fair, just and equitable process where the evidence presented by the prosecution could be vigorously tested and where the defence had an opportunity to present its case in a manner that was transparent to the world, particularly to the people of Sierra Leone. The prosecution would attempt to present the most concise case possible, trying to limit it to the really fighting issue, namely the connection between Charles Taylor and the groups that committed the offences directly in Sierra Leone.

He added that, while the case involving Charles Taylor would be tried at the venue of the International Criminal Court in The Hague, it would be conducted by the Special Court for Sierra Leone with judges appointed both by Sierra Leone's President and the United Nations Secretary-General. The case would be conducted in the name of -- and on behalf of -- the people of Sierra Leone. The Court would do everything it could to ensure that it was accessible to the people of Sierra Leone. Efforts had been undertaken with the assistance of the BBC World Trust to provide two Liberian and two Sierra Leone journalists, who would be brought to The Hague in groups on a monthly basis to cover the trial and to report back to the region.

One of the Special Court's greatest accomplishments was its outreach programme, he added. He looked forward to travelling around Sierra Leone and the region to make sure that the news about the trial and the judgements to come were explained and understood.

Appointed by Secretary-General Kofi Annan on 8 December 2006, Mr. Rapp said he took up his post in Freetown earlier this month. Prior to that, he had served as a senior trial attorney for six years at the International Criminal Tribunal for Rwanda, leading the prosecution of the "Media Trial" involving the RTML Radio and the publisher of Kangura newspaper. He had also served as Chief of Prosecutions in charge of 12 trial teams which had put some 60 people on trial in Arusha. Before the Rwanda Tribunal, Mr. Rapp served as a Chief Federal Prosecutor and United States Attorney in his home state of Iowa.

He said the Court had set the goal for completing the trial in 12 to 18 months, which was obviously much faster than other trials. It would be challenging, as witnesses would have to travel a roundtrip of 10,000 kilometres to testify at The Hague and would have to be protected where they lived, not just in Sierra Leone but in Liberia and other countries in the region. The Court was developing plans in conjunction with the judges and the Registry to make sure that was done. So far everything was on track.

Regarding other cases, he said the trials of the nine individuals were progressing well. Indeed, trials had been completed for those individuals. Closing arguments had been heard at the end of November and early December. Those trials concerned, among others, the three charged as

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responsible for the civil defence force that had been allied with the Government, and three responsible for the Armed Forces Revolutionary Council, which had held power in Freetown in 1997 and 1998 and had allied itself with the Revolutionary United Front.

For the three other persons accused, he said the prosecution's case had been completed and the Trial Chamber would begin to hear evidence for the defence on 2 May. He was looking for that trial to be concluded by the end of 2007. In each of those trials, there would be, depending on the judgements, appeals by the defence, or as permitted by the rules in certain cases, by the prosecution.

On the Court's funding, he explained that the Court, unlike the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia, was supported by voluntary contributions and not mandatory assessments. In that regard, he would be in New York until tomorrow afternoon, meeting with the representatives of the various mission seeking contributions needed to complete the Court's work. Four years since the Court's establishment, it recognized that some things had not moved as rapidly as hoped. A report on the Special Court urged it to prepare a three-year budget showing that the Court could finish its work.

He said the resources needed for the Court would be substantial this year, with a budget of some \$33 million to establish the Court at The Hague. The budget would, however, be reduced substantially next year and dramatically in the final year, when the front completed its work in 2009. That was a realistic schedule requiring hard work. Gratified by the level of support from Member States, he was confident that there would be a continued effort to obtain the resources needed for the Court, making it a model of international justice, serving not only legal principles but also the people of the region.

Asked to clarify the issue of the Court's resources, he said the budget of \$33 million covered the Court's expenses for 2007, including the cost of what was happening in Freetown and the cost of going to The Hague. The actual budget figure for next year and the following was a work in process, to be completed by 15 March.

Regarding the issue of contributions, he said the Court had enough funds in the bank to keep going until June -- through the opening statement of the trial. Pledges had been made and discussions were under way with various countries. He believed that it would be possible to raise this year's budget. He had met last week with representatives of the United States Congress and State Department. The United States had been a strong supporter of the Court, traditionally providing a third of its funding, or about \$13 million in 2006. The United Kingdom and the Netherlands had provided about a sixth each of the Court's budget. The Court would also work with other Member States to raise monies and in-kind services from a variety of sources. He invited more countries to participate.

Asked what arrangements were in place should Charles Taylor not be found guilty, he said he was not sure he had an answer to that question. The issue that had come up during Taylor's transfer to The Hague from Freetown was the Dutch Government's assistance that a place be located for his imprisonment if convicted. The Court had entered into agreements with Austria and Sweden. The United Kingdom had agreed to accept Mr. Taylor if he was convicted and imprisoned. As far as the issue of his being acquitted, he would have such rights as he had beforehand in terms of where he would go. He did not think the issue had been specifically resolved, however.

Referring to the International Criminal Tribunal for the Former Yugoslavia and the case of Slobodan Milosevic, a correspondent asked Mr. Rapp how long it would take to pronounce Taylor's verdict.

Responding, he noted that the Court's completion strategy talked about the trial being completed in 12 to 18 months. It was believed that the Trial Chamber could then render a verdict in about three months. The Appeals Chamber would need six or seven months to deal with the appeal, if there was one. The Court envisioned a process that was much briefer than the Milosevic case. Frankly, it did not have the flexibility to go that long. The Office of the Prosecutor would attempt to

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present the most concise case that it could. It was, however, a complex case, involving a wide geographical area and associations that Mr. Taylor allegedly had some 20 years ago. Some of that evidence would come in, but he expected the fighting issues to be his responsibility for the Revolutionary United Front and the Armed Forces Revolutionary Council during the period of the Court's temporal jurisdiction, which began on 30 November 1996 and generally extended up to early 2002.

Asked whether a possible delay in the start of the trial, he said the defence had launched an appeal from the decision of the judges to deny in part the motion to delay the start of the trial to September. From the Prosecutor's point of view, he would not object to that going before the Appeals Chamber immediately for their decision. The Court supported the June trial date, but wanted to make sure that that issue was resolved and that they would not have to fight over it two years from now and run the risk of having a new trial. The defence had believed that it needed more time and had presented merit for that time. The Court had said that it was justified in part but not a delay until September. In the Court's view, given the disclosure made of its prospective witnesses, including 133 core witnesses and more than 100 back-up witnesses, the defence knew what the case had involved and had had time to prepare for it.

Asked how many judges were from Sierra Leone, he said there were two judges from Sierra Leone. The international community appointed a simple majority of each panel. There were to be five judges in the Appeals Chamber. The Secretary-General had appointed three and the country had appointed two. Sierra Leone's President had appointed Justice George Gelaga King and Sir Geoffrey Robertson. Although the later was an English barrister, that had been the country's appointment. In the first Trial Chamber, there were to be three judges, two appointed by the Secretary-General and one appointed by the President, namely Justice Bankole Thompson. In the third Trial Chamber, the President had appointed a non-Sierra Leonean. Of the total number of 11 judges, 2 were actual citizens of Sierra Leone, Justice Thompson and Justice King.

Responding to another question, he said the decision to move the venue to The Hague had been based on security concerns in the region. In Sierra Leone, there had been a brutal war with horrendous crimes committed from 1996 to 2002. The peacekeeping mission there — the United Nations Mission in Sierra Leone (UNAMSIL) — had recently become an observer mission. At the same time, a peacekeeping mission of some 15,000 was in Liberia, a country coming out of almost a quarter a century of conflict. With a trial of such length there was valid concern that forces could form and threaten the Court's security, as well as the security of the accused. That had been the determination made. He was very happy that the Netherlands was hosting the trial, that the International Criminal Court was allowing use of its building and that the United Kingdom had made the necessary decision in regard to imprisonment. It was a "done deal".

The challenge at the Court was to make sure that this case was available to the people of the region, he said. Every effort would be made by his Office to talk about what had happened in the case. The Outreach Office was invaluable in that respect. The public from every part of the country and every walk of life was following the process closely.

On the 133 witnesses, he said those were core witnesses whose evidence the Court believed was necessary to present the case. The indictment was originally a 16-count indictment. Just prior to Taylor's arrest and transfer, however, an amended indictment had been proposed by then Prosecutor Desmond da Silva and approved by the Judge, reducing the counts to 11, including both counts of crimes against humanity and war crimes, essentially for other acts of violence, namely mutilation, rape, sexual slavery, forced marriage and the use of child soldiers. He hoped that only 80 witnesses would have to be called in person. The Court would attempt to ask the Trial Chamber to admit evidence in writing, which was permitted under the rules. Under precedent of the Tribunals and the Special Court, that testimony could come in writing if it did not deal with the specific actions of the accused.

Was there no place in all of Africa to hold the Tribunal and, if so, was the Court sending the message that justice had to be imported? a correspondent asked.

The decisions had been made, he responded. The Arusha Tribunal was working full time with four court rooms occupied everyday. It had been impossible to envision the use of that facility.

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Also, not any courthouse would do. The trial needed a facility that provided for, among other things, security, bullet proof glass, language translation, detention facilities, witness transportation and housing. Outside of Arusha, no facility could have been used without the dramatic investment of resources. It was an international court, being tried under international humanitarian law. "It is international justice and we live with the world we have," he said.

Asked whether he was seeking funding from other institutions, he noted that the United Nations had decided two years ago not to accept private donations for core functions. Donations for non-core functions could be accepted, making it possible, for example, for the BBC World Trust to assist in outreach activities.

On witness protection, he said the general responsibility rested in the hands of the Registry. They had done an excellent job to date in dealing with witnesses. There was the responsibility of other protective measures, however, which could be particularly important when dealing with insiders. In that context, the prosecution was working with Governments to try to make sure that those people were not threatened. He could not talk about the specific ways they were doing that, however.

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Annex 22

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AFRICAN UNION

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REPORT OF THE COMMITTEE OF EMINENT AFRICAN JURISTS ON
THE CASE OF HISSENE HABRE

**REPORT OF THE COMMITTEE OF EMINENT AFRICAN JURISTS
ON THE CASE OF HISSÈNE HABRÉ**

I. INTRODUCTION

1. At the Summit of African Union Heads of State and Government in Khartoum, The Sudan, in January, 2006, a decision was taken by the Assembly Assembly/AU/Dec.103 (VI) to set up a Committee of Eminent African Jurists to be appointed by the Chairperson of the African Union in consultation with the Chairperson of the Commission of the African Union. The Committee was mandated to consider all aspects and implications of the Hissène Habré Case as well as the options available for his trial, taking into account the following benchmarks:

- (a) Adherence to the principles of total rejection of impunity;
- (b) Adherence to international fair trial standards including the independence of the judiciary and impartiality of proceedings;
- (c) Jurisdiction over the alleged crimes for which Mr. Habré should be tried;
- (d) Efficiency in terms of cost and time trial
- (e) Accessibility to the trial by alleged victims as well as witnesses;
- (f) Priority of an African mechanism.

2. The Committee was also mandated to make concrete recommendations on the above matter as well as ways and means of dealing with issues of a similar nature in the future and submit a report to the next Ordinary Session of the Assembly in July, 2006.

Membership*

3. Seven (7) persons appointed by the Chairperson of the AU in their personal capacities as eminent jurists attended the meeting. They are:

- | | |
|--|------------------------|
| ➤ M. le Juge. Guibril CAMARA | -- Senegal |
| ➤ Mme la Prof. Delphine EMMANUEL born ADOUKI | -- Congo - Brazzaville |
| ➤ Prof. Michael Ayodele AJOMO | -- Nigeria |
| ➤ Robert DOSSOU Esq. | -- Benin |
| ➤ Judge Joseph S. WARIOBA | -- Tanzania |
| ➤ Anil Kumarsingh GAYAN Esq. | -- Mauritius |
| ➤ Prof. (Mrs.) Henrietta J.A.N. MENSA-BONSU | -- Ghana |

* Note: The current Chairman of the Union, in consultation with the Chairpreson of the Commission, requested the Republic of Tunisia to nominate an eminent female jurist but the latter had not submitted any name by the time the meeting took place. Additionally, Justice Richard Goldstone (South Africa) who had been appointed as a member of the Committee did not attend.

II. MEETING

4. The meeting convened in Addis Ababa from 22nd, 23rd and 24th May. Members were welcomed by H.E. Patrick Mazimpaka, the Deputy-Chairperson of the AU Commission. He explained the purpose of the meeting and charged members to maintain absolute confidentiality to enable the Heads of State and Government to take a decision free from pressure from the press and other interest groups.

Election of Bureau

5. The Bureau to direct affairs of the Committee was elected as follows:

- | | |
|-----------------------------------|-----------------------------|
| ➤ Robert Dossou Esq. | -- Chairman (Benin) |
| ➤ Judge J.S Warioba | -- Vice-Chairman (Tanzania) |
| ➤ Prof. (Mrs.) H.JA.N Mensa-Bonsu | -- Rapporteur (Ghana) |

6. The Draft Agenda was adopted and the meeting proceeded according to that format.

III. APPRECIATION

7. The Committee expresses its appreciation to the Chairperson of the African Union for the confidence reposed in us, and to the Office of Legal Counsel for the cooperation and support we enjoyed during the period of our work.

IV. PROCEEDINGS

A) Methodology

8. The Committee determined what was required of it by the instructions of the Heads of State and Government. The Committee decided to consider its work in two parts:

- the specific case of Hissène Habré; and
- what to do for the future.

9. The committee must also help design a mechanism for dealing with impunity specifically in the African context.

10. The Committee decided to discuss all the options available and then to recommend what would be the best option given the benchmarks provided by the Heads of State and Government.

11. The discussion commenced on the benchmarks that are recommended by the Heads of State to the Committee to be taken into account.

B) Benchmarks**i) Impunity**

12. The rejection of impunity was accepted in total by the Summit. The Committee sees no difficulty since this is a principle that has been recognised since World War II and is now upheld worldwide following the establishment of ICC. All need to understand that African States have to operate in a global environment and not in isolation. Africa must take account of recent developments in the international criminal law arena, such as the Pinochet, Taylor, etc., cases have demonstrated.

13. The Committee considered that Hissène Habré cannot shield behind the immunity of a former Head of State to defeat the principle of total rejection of impunity that was adopted by the Assembly.

14. The Committee also considered that in view of the nature and gravity of the crimes alleged against him, Hissène Habré cannot benefit from any period of limitation (i.e. prescription).

ii) Adherence to Fair Trial Standards.

15. The trial of Hissène Habré should proceed in accordance with international fair trial standards, including impartiality of judiciary and impartiality of proceedings.

iii) Jurisdiction

16. The Committee within the framework of an African solution considered, in the first instance, the two (2) African States, Senegal and Chad, which have the necessary link to the Hissène Habré case. Both countries have ratified the Convention Against Torture.

Senegal:

17. Since Habré is within its territory Senegal should exercise jurisdiction over him. As a State party to the Convention Against Torture, Senegal is under an obligation to comply with all its provisions.

18. The Committee was apprised of the decision of United Nations Committee on Convention Against Torture taken on 17th May, 2006 concerning Hissène Habré that Senegal's conduct was in violation of Articles 5 (2) and 7 of the Convention Against Torture. It is therefore incumbent on Senegal in accordance with its international obligations, to take steps, not only to adapt its legislation, but also to bring Habré to trial.

19. The Committee considered that in the event that Senegal proceeds with the trial of Habré, Senegal should confer special powers upon the court to proceed to Chad or to any other country to take evidence of witnesses and do whatever is necessary to achieve its mandate.

Chad:

20. Hissène Habré is a former President of Chad. The crimes were committed in Chad. The victims are mostly Chadians. By virtue of Art 5(1) of the Convention AT Chad may put Habré on trial and ask for extradition from Senegal. Chad is therefore under an obligation to provide all the required juridical assistance, more particularly as far as access of victims and witnesses, is concerned.

Other locations:

21. All African countries that have ratified the Convention Against Torture are eligible as venues to try this case. At the present date, forty-five countries have ratified the Convention against Torture.

Ad hoc Tribunal:

22. The Committee considered the establishment of an *ad hoc* tribunal as another good opportunity for an African solution to be found.

23. The power of the Assembly to set up such an *ad hoc* tribunal is based upon Article 3 (h) 4(h) and (o) 9(1) (d) and Article 5(1)(d) of the Constitutive Act of the African Union.

24. A tribunal composed of five (5) judges from the highest courts in their respective countries should be appointed.

25. An *ad hoc* tribunal, in whatever form, would, cost a lot of money and create further delay in the trial of Habré . However, where there is a will, there is a way and the process could be expedited.

C) Regional Jurisdictions

26. The African Court on Human and Peoples Rights whose Protocol has already entered into force and the Court of Justice of the African Union whose Protocol is still under the ratification process, do not have jurisdiction to hear criminal matters at the present time. Therefore, these two institutions cannot hear the Habré case.

V. RECOMMENDATIONS ON THE HABRÉ CASE

27. The Committee recommends that an African option should be adopted.

28. Habré should be tried by an African member State - Senegal or Chad in the first instance, or by any other African country.

29. Senegal is the country best suited to try Habré as it is bound by International law to perform its obligations.

30. Chad has the primary responsibility to try and punish Hissène Habré. It should therefore cooperate with Senegal.

Ad hoc tribunal

31. Another option is the establishment of an ad hoc tribunal. This tribunal can be set up within any African country.

32. Whatever the solution chosen, (national jurisdiction or ad hoc regional jurisdiction) the African Union has to commit itself to assist the African State which will assume responsibility for the trial of Hissène Habré or host the ad hoc tribunal.

33. A third option is for any African state which has ratified the Convention Against Torture to take on the responsibility and exercise jurisdiction.

VI. THE FUTURE

Observations

34. On the ways and means of dealing with issues of a similar nature in the future, the Committee observed that there is urgency in sending strong signals throughout Africa that impunity is no longer an option. In this regard the Committee considered various measures and different mechanisms available, including the possibility of conferring criminal jurisdiction on the African Court of Justice [to confer criminal competence that can be adopted by States within a reasonable time-frame,] to make the respect for human rights at national, regional and continental levels a fundamental tenet of African governance.

35. The Committee discussed the prospects for the creation of the African Court of Justice and Human Rights based on the project to merge the African Court of human and People's Rights and The African Court of Justice. The Committee proposes that this new body be granted jurisdiction to undertake criminal trials for crimes against humanity, war crimes and violations of Convention Against Torture. The Committee also noted that there is room in the Rome Statute for such a development and that it would not be a duplication of the work of the International Criminal Court.

VII. RECOMMENDATIONS

36. **All African States** should be called upon to accede to the Convention against Torture and its Optional Protocol so as to enable the Convention to be applicable all over the continent. The relevant Declarations under Art. 22 must also be made to enable it offer real protection to the rights of the citizens. Accession is important also for the prevention of torture since the reporting requirements of Convention against Torture imposes an obligation on States to monitor their own compliance with the standards and so prevent torture within their national territories. The Committee recommends that countries that have not acceded to the various human rights instruments must do so.

37. All States must take steps to enact legislation to domesticate the Convention against Torture.

38. There is need to strengthen national and regional institutions to effectively protect human rights. In particular, there is the need to ensure appropriate human rights education and exposure to international criminal law norms for judges and law enforcement agencies in Africa, to ensure that they are equipped to handle such international crimes.

39. The African Court should be granted jurisdiction to try criminal cases. The Committee therefore recommends that the on-going process that should lead to the establishment of a single court at the African Union level should confer criminal jurisdiction on that court. The Committee further recommends that the text should be adopted through the quickest procedures possible.

40. The Court must be allowed to operate as an independent institution free from all forms of pressure, so that it can be impartial, and be seen to be impartial.

41. There should be a rapid response mechanism within the Court to ensure that Africa can act with dispatch in situations of gross violations and so give teeth to the notion of "total rejection of impunity".

42. There should be an ad hoc monitoring mechanism to ensure that the independence and impartiality of the institutions would exist both in theory and in fact. Such monitoring would affirm the credibility of the regional institutions and so offer credible regional options.