

**AGREEMENT BETWEEN  
THE SPECIAL COURT FOR SIERRA LEONE  
AND  
THE GOVERNMENT OF SWEDEN  
ON THE ENFORCEMENT OF SENTENCES  
OF THE SPECIAL COURT FOR SIERRA LEONE**

The Special Court for Sierra Leone, established by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone signed on 16 January 2002 (hereinafter “Special Court”) and

The Government of Sweden (hereinafter “requested State”),

RECALLING Article 22 of the Statute of the Special Court annexed to the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone, according to which imprisonment of persons sentenced by the Special Court shall be served in Sierra Leone; or if circumstances so require, in any State that has concluded with the International Criminal Tribunal For Rwanda or the International Criminal Tribunal for former Yugoslavia an agreement for the enforcement of sentences and which has indicated to the Special Court its willingness to accept convicted persons; or alternatively, in any State with which the Special Court has concluded similar agreements;

RECALLING United Nations Security Council Resolution 1470 (2003), adopted on 28 March 2003, which urges all the States to cooperate fully with the Special Court;

NOTING the willingness of the requested State to enforce sentences regarding violations of international humanitarian law imposed by the Special Court;

RECALLING the provisions of the Standard Minimum Rules for the Treatment of Prisoners approved by ECOSOC resolutions 663 C XXIV) of 31 July 1957 and 2067 (LXII) of 13 May 1977, the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment adopted by General Assembly resolution 43/173 of 9 December 1988, and the Basic Principles for the Treatment of Prisoners adopted by General Assembly resolution 45/111 of 14 December 1990;

IN ORDER to give effect to the judgements and sentences of the Special Court;

HAVE AGREED as follows:

**Article 1**

*Purpose and Scope of the Agreement*

This Agreement shall regulate matters relating to or arising out of all requests to the requested State to enforce sentences imposed by the Special Court.

## **Article 2**

### *Procedure*

1. A request to the requested State to enforce a sentence shall be made by the Registrar of the Special Court (hereinafter “Registrar”), with the approval of the President of the Special Court.
2. The Registrar shall provide the following documents to the requested State when making the request:
  - a. a certified copy of the judgement;
  - b. a statement indicating how much of the sentence has already been served, including information on any pre-trial detention;
  - c. when appropriate, any medical or psychological reports on the convicted person, any recommendation for his or her further treatment in the requested State and any other factor relevant to the enforcement of the sentence; and
  - d. certified copies of identification papers of the convicted person in the possession of the Special Court.
3. The requested State shall promptly decide upon the request of the Registrar, in accordance with national law, and inform the Registrar in writing of its decision whether or not to accept the convicted person.

## **Article 3**

### *Enforcement*

1. In enforcing the sentence pronounced by the Special Court, the competent national authorities of the requested State shall be bound by the duration of the sentence.
2. The conditions of imprisonment shall be governed by the law of the requested State, subject to the supervision of the Special Court, as provided for in Articles 6 to 8 and paragraphs 2 and 3 of Article 9 below.
3. The conditions of imprisonment shall be compatible with the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Basic Principles for the Treatment of Prisoners.

## **Article 4**

### *Transfer of the convicted person*

1. The Registrar shall make appropriate arrangements for the transfer of the convicted person from the Special Court to the competent authorities of the requested State. Prior to his or her transfer, the convicted person will be informed by the Registrar of the contents of this Agreement.

2. If, after the transfer of the convicted person to the requested State, the Special Court, in accordance with its Rules of Procedure and Evidence, orders that the convicted person appears as a witness in a proceeding before it, the convicted person shall, in accordance with the national law of the requested State, be transferred temporarily to the Special Court for that purpose, conditional on his or her return to the requested State within the period decided by the Special Court.

3. The Registrar shall transmit the order for the temporary transfer of the convicted person to the national authorities of the requested State. The Registrar shall ensure the proper transfer of the convicted person from the requested State to the Special Court and back to the requested State for the continued imprisonment after the expiration of the period of temporary transfer decided by the Special Court. The convicted person shall receive credit for the period he or she may have spent in the custody of the Special Court.

### **Article 5**

#### *Non-bis-in-idem*

The convicted person shall not be tried before a court of the requested State for acts constituting a crime falling within the jurisdiction of the Special Court, for which he or she has already been tried by the Special Court.

### **Article 6**

#### *Inspection*

1. The competent authorities of the requested State shall allow the inspection of the conditions of detention and the treatment of the prisoner(s) by the International Committee of the Red Cross (hereinafter "ICRC"). The frequency of visits shall be determined by the ICRC. The Special Court can furthermore request the ICRC to carry out such an inspection. The ICRC shall submit a confidential report based on the findings of these inspections to the requested States and to the President of the Special Court.

2. The requested State and the President of the Special Court shall consult each other on the findings of the reports referred to in the previous paragraph. The President of the Special Court may thereafter request the requested State to report to him or her any changes in the conditions of detention suggested by the ICRC.

### **Article 7**

#### *Information*

1. The requested State shall immediately notify the Registrar of the following:
  - a. if the convicted person has completed his or her sentence, two months prior to such completion;
  - b. if the convicted person has escaped from custody;
  - c. if the convicted person has deceased; and

d. if the convicted person becomes eligible for early release, pardon or commutation of sentence, six months or as soon as practicable prior to such early release, pardon or commutation of sentence.

2. Notwithstanding the previous paragraph, the Registrar and the requested State shall consult each other on all matters relating to the enforcement of the sentence upon the request of either party.

## **Article 8**

### *Early release, pardon and commutation of sentences*

1. If, pursuant to the applicable national law of the requested State, the convicted person is eligible for early release, pardon or commutation of the sentence, the requested State shall notify this to the Registrar, in advance of such eligibility, and shall include in any such notification all the circumstances pertaining to the eligibility for early release, pardon or commutation of the sentence.

2. The Special Court will give its view as to whether early release, pardon or commutation of sentence is appropriate. The requested State will take these views into consideration and respond to the Special Court prior to taking any decision in the matter.

3. Following the receipt of the response, the Special Court may request the transfer of the convicted person in accordance with paragraph 2 of Article 9.

## **Article 9**

### *Termination of enforcement*

1. The enforcement of the sentence shall terminate:

- a. when the convicted person has completed his or her sentence;
- b. when the convicted person has died;
- c. when the convicted has been released as a result of being granted early release, pardon or commutation of sentence; or
- d. when the Special Court has issued a decision as referred to in paragraph 2.

2. The Special Court may at any time decide to request the termination of the enforcement in the requested State and transfer the convicted person to another State or to the Special Court.

3. The competent authorities of the requested State shall terminate the enforcement of the sentence as soon as it is informed by the Registrar of any decision or measure as a result of which the sentence ceases to be enforceable.

4. Upon the termination of the enforcement of a sentence, the Registrar shall in consultation with the requested State make the appropriate arrangements for the transfer of the convicted person from the requested State or in the case of death, the repatriation of the convicted person's body.

## **Article 10**

### *Impossibility to enforce sentence*

If, at any time after the decision has been taken to enforce the sentence, for any legal or practical reasons, further enforcement has become impossible, the requested State shall promptly inform the Registrar. The Registrar shall make the appropriate arrangements for the transfer of the convicted person. The competent authorities of the requested State shall allow for at least sixty days following the notification of the Registrar before taking other measures on the matter.

## **Article 11**

### *Costs*

1. Unless the parties agree otherwise, the Special Court shall bear the expenses related to the following:
  - a. the transfer of the convicted person to and from the requested State, including the temporary transfer to and from the Special Court for the purposes of appearing as a witness in a proceeding before the Special Court; and
  - b. the repatriation of the body of the convicted person, in case of his or her death.
2. The requested State shall pay all other expenses incurred by the enforcement of the sentence, including, but not limited to, medical treatment for the convicted person, if needed.

## **Article 12**

### *Entry into force*

This Agreement shall be signed by both Parties. It shall be subject to ratification by Sweden, and shall enter into force on the first day of the first month following the date of receipt by the Special Court of the notification from Sweden of its ratification.

## **Article 13**

### *Duration of the Agreement*

1. This Agreement shall remain in force as long as sentences of the Special Court are being enforced by the requested State under the terms and conditions of this Agreement.
2. Upon consultation, either party may terminate this Agreement, with two months' prior notice in writing. This Agreement shall not be terminated before the sentences to which this Agreement applies have been terminated and, if applicable, before the transfer of the convicted person as provided for in Article 10 has been effected.

**Article 14**

*Amendment*

This Agreement may be amended by mutual consent of the parties.

**IN WITNESS WHEREOF**, the undersigned, duly authorized thereto, have signed this Agreement.


Done at Freetown this 15<sup>th</sup> day of October, 2004, in duplicate, in the English language.

**FOR THE SPECIAL COURT  
FOR SIERRA LEONE**



Robin Vincent  
Registrar

**FOR THE GOVERNMENT OF SWEDEN**



Hans Dahlgren  
State Secretary for Foreign Affairs