ACT

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SPECIAL COURT AGREEMENT, 2002 (RATIFICATION) ACT, 2002

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SCHEDULES: AGREEMENT FOR SPECIAL COURT

SIGNED this *29th* day of *March, 2002.*

ALHAJI AHMAD TEJAN KABBAH,
President.

LS

No. 9 **2002**

Sierra Leone

The Special Court Agreement, 2002 (Ratification) Act, 2002

Short title.

Being an Act to ratify an Agreement between the Government of Sierra Leone of the one part and the United Nations of the other part signed on 16th January, 2002 for the establishment of a Special Court for Sierra Leone, to provide for the implementation of the Agreement and for other related matters.

[ ] Date of commencement.

WHEREAS the Agreement for the Special Court which was, for the part of the Government of Sierra Leone, signed under the authority of the President and is by the proviso to subsection (4) of section 40 of the Constitution of Sierra Leone, 1991 required to be ratified by an Act of Parliament:

AND WHEREAS it is desirable that provision be also made for the implementation of all elements of the Agreement that are not self-executing as well as those which need to be supplemented.

NOW, THEREFORE, it is enacted by the President and Members of Parliament in this present Parliament assembled as follows:—

PART I—PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires:—

"Agreement" means the Agreement between the Government of Sierra Leone and the United Nations for the establishment of a Special Court, signed on the 16th January, 2002, including the Statute of the Special Court for Sierra Leone, annexed thereto, and both as set out in the Schedule;

"arresting officer" means a person authorised under this Act to arrest another person;

"Attorney-General" means the Attorney-General and Minister of Justice of Sierra Leone;

"Constitution" means the Constitution of Sierra Leone 1991;

"Director of Prisons" has the same meaning as in the Prisons Act, 1960;

"indictee" means a person indicted before the Special Court;

"indictment" means an indictment brought before the Special Court;

"Management Committee" means the Management Committee referred to in Article 7 of the Agreement;

"Minister of Internal Affairs" means the Minister for internal affairs of Sierra Leone;

"officer in charge" has the same meaning as in the Prisons Act, 1960;

"official" in relation to the Special Court, means the Prosecutor, Deputy Prosecutor, Registrar or any other personnel of the Special Court;

"order of the Special Court" means any order, summons, subpoena, warrant, transfer order or any other order issued by a judge of the Special Court;

"prisoner of Sierra Leone" means a person who is in the lawful custody of the Director of Prisons or officer in charge of any prison, whether or not that person has been convicted of an offence;

"prison officer" has the same meaning as in the Prisons Act, 1960;

"Prosecutor" means the Prosecutor of the Special Court;

"Sierra Leone Court" has the same meaning as in the Constitution;

"Sierra Leone prison" or "prison" means a prison as defined in section 2 of the Prisons Act, 1960;

"Sierra Leone sentence" means any sentence of imprisonment imposed by a Sierra Leone court;

"Special Court" means the Special Court established by the Agreement and includes any organ of the Special Court;

"Special Court prisoner" means a person who is for the time being detained under an order of, or sentence imposed by the Special Court.

PART II—ADMINISTRATION OF SPECIAL COURT.

Legal capacity of Special Court.

2. (1) The Special Court shall have the capacity to do the following acts in Sierra Leone—

(a) contract;

(b) acquire and dispose of moveable and immovable property;

(c) institute legal proceedings;

(d) enter into agreements with States or such other bodies possessing international legal personality as may be necessary for the exercise of its functions and for the furtherance of its operations; and

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(e) any other act a company may perform pursuant to the Companies Act.

(2) The Special Court shall have a common seal, the affixing of which shall be authenticated by the signatures of—

(a) the President of the Court, and

(b) the Registrar, or another member of the staff of the Special Court designated in that behalf by the President of the Court after consultation with the Management Committee.

Administration of Special Court.

3. The Registrar shall be responsible immediately to the President of the Special Court for—

(a) the servicing of the Chambers of the Special Court and the Office of the Prosecutor;

(b) the recruitment, administration and discipline of the support staff; and

(c) the day-to-day administration of the financial and staff resources of the Special Court.

Application of funds of Special Court.

4. The funds of the Special Court shall be applied to meet the expenses of—

(a) servicing the Chambers of the Special Court;

(b) the salaries, allowances and other costs of the support staff;

(c) the administrative costs of the Special Court other than those specified in paragraphs (a) and (b).

Accounts and audit of funds.

5. (1) The Special Court shall keep proper books of account and other records in relation to the activities, property and finances of the Special Court and shall prepare in respect of each financial year of the Special Court a statement of accounts in a form designed to ensure the correct use of the finances of the Special Court.

(2) The accounts of the Special Court kept under subsection (1) shall be audited every six months by an auditor appointed by the Management Committee.

Annual report of Special Court.

6. (1) The Registrar shall, within three months after the end of each financial year of the Special Court, submit for the approval of the Management Committee, after consultation with the President of the Special Court, an annual report of the activities, operation, property and finances of the Special Court for that year.

(2) Subject to subsection (1), an annual report shall include—

(a) a copy of the audited accounts of the Special Court together with the audit report thereon;

(b) the semi-annual summary financial reports of the Special Court for the preceding year approved by the Management Committee.

(3) After the approval of the annual report, the President of the Special Court shall send copies to the President and the Secretary-General not later than six months after the end of the year to which the report relates and the President shall, as soon as possible but not later than one month after the receipt of the report, cause the report to be laid before Parliament.

Property of Special Court

7. (1) The property of the Special Court shall be inviolable, whether by executive, administrative, judicial or legislative action.

(2) Without prejudice to the generality of subsection (1), the property of the Special Court shall not be subject to any laws regarding any of the following:—

(a) search and seizure;

(b) requisition;

(c) confiscation; or

(d) expropriation.

(3) The Special Court shall exercise exclusive and free enjoyment of its property, in whole or in part, and shall not be dispossessed of any real property unless the President of the Special Court gives express consent otherwise.

(4) Without prejudice to the generality of subsection (3), any real property owned or occupied by the Special Court or any of its organs shall not be subject to any laws or executive or administrative action regarding compulsory acquisition of property.

Financial arrangements of Special Court.

8. (1) The Special Court, its funds, assets or property, wherever located and by whomsoever held, shall be immune from every form of legal process in Sierra Leone, unless the President of the Special Court expressly waives this immunity.

(2) Notwithstanding an express waiver of immunity, no funds, assets or property of the Special Court may be subject to any measure of execution.

(3) The Special Court shall be exempt from any financial controls, regulations or moratoriums.

(4) Without prejudice to the generality of subsection (3), the Special Court may—

(a) hold and use funds, or negotiable instruments of any kind;

(b) maintain and operate accounts in any currency;

(c) convert any currency held by it into any other currency; and

(d) transfer its funds or currency from Sierra Leone, or within Sierra Leone, or to the United Nations or any other agency, free of any charges or restrictions.

Premises of Special Court.

9. The Government shall endeavour to provide to the premises of the Special Court such utilities, facilities and other services as may be necessary for the operation of the Special Court and shall ensure that the Special Court is not dispossessed of all or any part of the premises of the Special Court without the express consent of the President of the Special Court.

PART III—EXERCISE OF JURISDICTION OF SPECIAL COURT

Jurisdiction, procedure and evidence.

10. The Special Court shall exercise the jurisdiction and powers conferred upon it by the Agreement in the manner provided in the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda in force at the time of the establishment of the Special Court as adapted for the purposes of the Special Court by the judges of the Special Court as a whole.

Special Court may sit in Sierra Leone.

11. (1) The Special Court may sit in Sierra Leone in such place as may be determined by the President of the Special Court after consultation with the Attorney-General for the purpose of performing its functions under the Agreement.

(2) The Special Court shall not form part of the Judiciary of Sierra Leone.

Special Court may administer oaths.

12. The Special Court may, at any of its sittings, administer an oath or affirmation giving an undertaking as to truthfulness.

Offences before Special Court.

13. Offences prosecuted before the Special Court are not prosecuted in the name of the Republic of Sierra Leone.

Request for deferral or discontinuance of proceedings.

14. Where, pursuant to Article 8 of the Statute of the Special Court, the Attorney-General receives any request for deferral or discontinuance in respect of any proceedings, he shall grant the request, if in his opinion there are sufficient grounds for him to do so.

PART IV—MUTUAL ASSISTANCE BETWEEN SIERRA LEONE AND SPECIAL COURT

REQUEST TO SIERRA LEONE FOR ASSISTANCE

Request by Special Court for assistance.

15. (1) The Attorney-General shall, upon receiving from the Special Court a request for assistance, including an urgent request for assistance, consider such request without any undue delay.

(2) A request for assistance made by the Special Court may include, but shall not be limited to—

(a) identification and location of persons;

(b) service of documents;

(b) arrest or detention of persons; and

(d) transfer of an indictee to the Special Court.

(3) Nothing in this Act shall—

(a) limit the type of assistance the Special Court may request under the Agreement; or

(b) prevent co-operation with the Special Court otherwise than pursuant to this Act, including co-operation of an informal nature.

Execution of request for assistance.

16. (1) Subject to subsection (2), if the Special Court makes a request for assistance, it shall be dealt with in accordance with the relevant procedure.

(2) If the request for assistance specifies that it should be executed in a particular manner or by using a particular procedure that is not prohibited by Sierra Leone law, the Attorney-General shall use his best endeavours to ensure that the request is executed in that manner or using that procedure.

Confidentiality of request.

17. A request for assistance and any supporting documents shall be kept confidential by the Sierra Leone authorities who deal with any aspect of the request, whenever the request includes a stipulation that it shall be kept confidential, except to the extent that disclosure is necessary for execution of the request.

Response to request.

18. (1) The Attorney-General shall notify the Special Court, without undue delay, of his response to a request for assistance and the outcome of any action that has been taken in relation to it.

(2) If the Attorney-General decides to refuse or postpone the assistance requested, in whole or in part, he shall notify the Special Court accordingly and shall set out the reasons for that decision.

(3) If the request for assistance cannot be complied with for any other reason, the notification to the Special Court shall set out the reasons for the inability or failure to comply with the request.

(4) If the request for assistance relates to material that may be prejudicial to the national security of Sierra Leone, the Attorney-General shall, without undue delay, notify the Special Court of that fact together with the reasons therefor.

(5) If—

(a) the Special Court has been notified under subsection (4); and

(b) a judge of the Special Court nevertheless orders disclosure of the material;

that material shall be transferred to the Special Court.

(6) The disclosure of material to the Special Court under subsection (5) shall be deemed to be an authorised disclosure for the purposes of the Treason and State Offences Act, 1963. Act No. 10 of 1963.

REQUEST TO SPECIAL COURT FOR ASSISTANCE

19. (1) The Attorney-General may make a request for assistance to the Special Court for the purposes of any investigation into or trial in respect of any act or omission that may constitute a crime within the jurisdiction of the Special Court. Request by Attorney-General for assistance.

(2) A request for assistance by the Attorney-General may include, but shall not be limited to—

(a) the transmission of statements, documents or other types of evidence obtained in the course of an investigation or trial conducted by the Special Court; and

(b) the questioning of any person detained by order of the Special Court.

PART V—ORDERS OF SPECIAL COURT

20. For the purposes of execution, an order of the Special Court shall have the same force or effect as if it had been issued by a Judge, Magistrate or Justice of the Peace of a Sierra Leone court. Orders of Special Court.

21. (1) Any person executing an order of the Special Court shall comply with any direction specified in that order. Execution of orders.

(2) Notwithstanding any other law, every natural person, corporation, or other body created by or under Sierra Leone law shall comply with any direction specified in an order of the Special Court.

(3) Without prejudice to the generality of subsection (1), any person executing an order of the Special Court shall deliver forthwith any books, documents, photographs, tangible objects or other physical objects seized during the execution of that order into the custody of the Special Court.

(4) If a person to whom an order of the Special Court is directed is unable to execute that order, he shall report forthwith the inability to the Special Court and give the reasons therefor.

Forfeiture orders of Special Court.

22. (1) When a forfeiture order issued by the Special Court is executed and property, proceeds or assets are delivered to the State, the Minister of Internal Affairs shall—

(a) if a use is specified in the forfeiture order, use the property, proceeds or assets according to that use; or

(b) if no use is specified in the order, either—

(i) use the property, proceeds or assets for a purpose aimed at addressing the consequences of the armed conflict in Sierra Leone between 1991 and 2002; or

(ii) sell such property, proceeds or assets as may be sold and deposit the amount realised together with any money forfeited under the forfeiture order into the War Victims Fund established under the Lomé Agreement.

(2) The Minister of Internal Affairs shall make such regulations as are necessary to give effect to subsection (1).

PART VI—ARREST AND DELIVERY OF PERSONS

Warrant of arrest.

23. For the purposes of execution, a warrant of arrest issued by the Special Court shall have the same force or effect as if it had been issued by a Judge, Magistrate or Justice of the Peace of a Sierra Leone court.

Execution of warrant of arrest.

24. Where a warrant of arrest issued under section 23 is executed, the arresting officer shall serve on the person against whom the warrant is issued certified copies of—

(a) the warrant of arrest issued by the Special Court;

(b) where appropriate, the indictment;

(c) a statement of the rights of the accused; and

(d) if necessary, a translation thereof into a language understood by the accused.

Delivery of persons arrested.

25. Where a warrant of arrest is executed, the person arrested shall be delivered forthwith into the custody of the Special Court.

Detention after delivery.

26. Notwithstanding formal delivery of a person into the custody of the Special Court, a Sierra Leone prison may continue to detain that person on behalf of the Special Court if so requested or ordered by the Special Court.

Execution of warrant of arrest.

27. (1) Where a warrant of arrest is issued against a prisoner of Sierra Leone, the arresting officer shall present the warrant of arrest to the Director of Prisons or the officer in charge, who shall deliver the prisoner into the custody of the arresting officer.

(2) After delivery of the prisoner of Sierra Leone into the custody of an arresting officer under subsection (1), the arresting officer shall deal with the prisoner in accordance with sections 24 and 25.

Arrest without warrant.

28. Where a person against whom a warrant of arrest is issued under section 23 escapes or is unlawfully at large, he may be arrested without warrant by an arresting officer and, if so arrested, shall be delivered into the custody of the Special Court.

Official position of accused no bar to prosecution, etc.

29. The existence of an immunity or special procedural rule attaching to the official capacity of any person shall not be a bar to the arrest and delivery of that person into the custody of the Special Court.

PART VII—JUDGEMENTS AND SENTENCES

JUDGEMENTS

Proof of orders or judgments.

30. (1) Any order or judgement of the Special Court purporting to bear the seal of the Special Court, or to be signed by a person in his capacity as a judge or official of the Special Court, shall be deemed to have been duly sealed or signed by that person, as the case may be.

(2) A document, duly authenticated, which purports to be a copy of any order made or judgement given by the Special Court shall be deemed to be a true copy.

Evidence regarding Special Court procedure and orders.

31. (1) For the purposes of this Act, a statement contained in a document, duly authenticated, which purports to have been received in evidence or to be a copy of a document so received, or to set out or summarise evidence given, in proceedings before the Special Court shall be admissible as evidence of any fact stated in it.

(2) Nothing in this section shall be taken to affect the admission of any evidence, whether contained in a document or otherwise, which is admissible apart from this section.

SENTENCES

Enforcement of sentences of imprisonment.

32. (1) Where a sentence of imprisonment imposed by the Special Court is to be served in Sierra Leone, it shall be served in accordance with the terms of the imprisonment.

(2) Subject to subsection (1), the conditions of imprisonment shall be governed by the relevant laws of Sierra Leone.

Modification of sentences.

33. (1) The length of a sentence shall only be modified or altered by the Special Court.

(2) If the length of the sentence is modified or altered by the Special Court, upon notification of the modification or alteration to the Director of Prisons, the length of the sentence of a Special Court prisoner serving his sentence in a Sierra Leone prison shall be modified or altered accordingly.

Supervision of sentences.

34. (1) The imprisonment being served by a Special Court prisoner in a Sierra Leone prison shall be subject to supervision by the Special Court.

(2) In allowing the Special Court to supervise the conditions of imprisonment, the Director of Prisons shall ensure—

(a) the facilitation of communication between the Special Court prisoner and the Special Court, including the confidentiality of that communication; and

(b) the provision of any information, report or expert opinion as requested by the Special Court about the imprisonment of the Special Court prisoner; and

(c) the access of a judge or other official of the Special Court to a Special Court prisoner without the presence of any other person, except with the consent of the Special Court prisoner.

(3) Nothing in this section shall prevent the Director of Prisons from complying with any other request of the Special Court in relation to the supervision of sentences.

Pardon or commutation of sentences.

35. (1) A Special Court prisoner may only be pardoned or have his sentence commuted by order of the Special Court.

(2) If it appears to the President of the Republic of Sierra Leone that a Special Court prisoner is eligible for pardon or commutation of sentence under the relevant laws of Sierra Leone, he shall notify the Special Court of that fact together with the reasons therefor.

Concurrent Sierra Leone sentences.

36. (1) Where a Special Court prisoner is also subject to a Sierra Leone sentence imposed before his sentence of imprisonment is imposed by the Special Court, any sentence of imprisonment imposed by the Special Court shall be deemed to run concurrently with the Sierra Leone sentence, unless the Special Court orders otherwise.

(2) Where a Special Court prisoner is also subject to a Sierra Leone sentence imposed after his sentence of imprisonment is imposed by the Special Court, any sentence of imprisonment imposed by the Special Court shall be deemed to run concurrently with the Sierra Leone sentence, unless the Sierra Leone court orders otherwise.

PART VIII—OFFENCES AGAINST ADMINISTRATION OF JUSTICE AND OTHER OFFENCES

OFFENCES AGAINST ADMINISTRATION OF JUSTICE

Obstructing justice.

37. (1) Any person who wilfully obstructs, perverts or defeats the course of justice in relation to the Special Court commits an offence and shall be liable, on conviction to a fine not exceeding two million leones or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

(2) Without prejudice to the generality of subsection (1), a person is deemed wilfully to obstruct, pervert or defeat the course of justice who, in any existing or proposed proceeding of the Special Court—

(a) dissuades or attempts to dissuade a person by threats, bribes or other corrupt means from giving evidence; or

(b) accepts, obtains, agrees to accept or attempts to obtain a bribe or other corrupt consideration to abstain from giving evidence.

Obstructing officials.

38. Any person who resists or wilfully obstructs—

(a) an official of the Special Court in the execution of his duty, or any person lawfully acting in aid of such an official; or

(b) any person executing an order of the Special Court,

commits an offence and shall be liable, on conviction, to a fine not exceeding two million leones or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Bribery of judges and officials.

39. Subject to articles 12 and 13 of the Agreement, any person who—

(a) being a judge or an official of the Special Court, corruptly accepts, obtains, agrees to accept or attempts to obtain for himself or any other person any money, valuable consideration, office, place or employment—

(i) in respect of anything done or omitted to be done in his official capacity; or

(ii) with intent to interfere in any other way with the administration of justice of the Special Court; or

(b) gives or offers, corruptly, to a judge or an official of the Special Court any money, valuable consideration, office, place or employment—

(i) in respect of anything done or omitted to be done in his official capacity; or

(ii) with intent to interfere in any other way with the administration of justice by the Special Court,

commits an offence and shall be liable on conviction to a fine not exceeding thirty million leones or to a term of imprisonment not exceeding ten years or to both such fine and imprisonment.

Intimidation of officials and witnesses.

40. Any person who, wrongfully or without lawful authority, for the purpose of compelling another person to abstain from doing anything that he has a lawful right to do, or to do anything that he has a lawful right to abstain from doing, in relation to a proceeding of the

Special Court, causes the other person reasonably, in all the circumstances, to fear for his safety or the safety of any other person commits an offence and shall be liable on conviction to a fine not exceeding two million leones or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Fabricating evidence.

41. Any person who, with intent to mislead the Special Court in an existing or proposed proceeding, by any means other than perjury or incitement to perjury—

(a) fabricates anything with intent that it be used as evidence before the Special Court; or

(b) knowingly makes use of fabricated evidence;

commits an offence and shall be liable on conviction to a fine not exceeding two million leones or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Offences outside Sierra Leone.

42. Any person who commits outside Sierra Leone any act or omission in relation to the Special Court that, if committed in Sierra Leone, would be an offence under this Act, may be tried as if he had committed the act or omission in Sierra Leone.

OTHER OFFENCES

Illegal possession of property.

43. (1) Any person who possesses any property or any proceeds of property knowing that all or part of the property or proceeds were obtained or derived directly or indirectly as a result of—

(a) any act or omission that constitutes a crime within the jurisdiction of the Special Court; or

(b) the commission of any offence under this Act;

commits an offence and shall be liable on conviction to a fine not exceeding thirty million leones or to a term of imprisonment not exceeding ten years or to both such fine and imprisonment.

(2) A person is not guilty of an offence under this section by reason only that he possesses property or the proceeds of property mentioned in subsection (1) for the purpose of—

(a) executing an order of the Special Court;

(b) complying with a request by the Special Court; or

(c) otherwise acting for the purpose of a lawful investigation.

Money laundering

44. (1) Any person who—

(a) knowingly uses, transfers the possession of, sends or delivers to another person or to any place, transports, transmits, alters, disposes of or otherwise deals with, in any manner or by any means, any property or any proceeds of property with intent to conceal or convert the property or proceeds; or

(b) knowing or believing that all or part of the property or proceeds referred to in paragraph (a) was obtained or derived directly or indirectly as a result of—

(i) any act or omission that constitutes a crime within the jurisdiction of the Special Court; or

(ii) the commission of any offence under this Act,

commits an offence and shall be liable on conviction to a fine not exceeding thirty million leones or to a term of imprisonment not exceeding ten years or to both such fine and imprisonment.

(2) A person is not guilty of an offence under this section by reason only that he is in possession of property or the proceeds of property mentioned in subsection (1) for the purpose of—

(a) executing an order of the Special Court;

(b) complying with a request by the Special Court; or

(c) otherwise acting for the purpose of a lawful investigation.

PART IX—MISCELLANEOUS

Compensation of victims.

Act No. 32 of 1965.

45. Any person who has been a victim of a crime within the jurisdiction of the Special Court, or persons claiming through him, may claim compensation in accordance with the Criminal Procedure Act, 1965 if the Special Court has found a person guilty of that crime.

Obligations imposed by Agreement.

46. Unless this Act provides otherwise, for the purposes of any provision of the Agreement that confers a power, or imposes a duty or function on the State, that power, duty or function may be exercised or carried out on behalf of the Government of Sierra Leone by the Attorney-General.

Regulations.

47. The Attorney-General may, after consultation with the Special Court, make regulations to give effect to this Act.

SCHEDULE

AGREEMENT BETWEEN THE UNITED NATIONS AND THE GOVERNMENT OF SIERRA LEONE ON THE ESTABLISHMENT OF A SPECIAL COURT FOR SIERRA LEONE

WHEREAS the Security Council, in its resolution 1315 (2000) of 14 August 2000, expressed deep concern at the very serious crimes committed within the territory of Sierra Leone against the people of Sierra Leone and United Nations and associated personnel and at the prevailing situation of impunity;

WHEREAS by the said resolution, the Security Council requested the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent special court to prosecute persons who bear the greatest responsibility for the commission of serious violations of international humanitarian law and crimes committed under Sierra Leonean law;

WHEREAS the Secretary-General of the United Nations (hereinafter "the Secretary-General") and the Government of Sierra Leone (hereinafter "the Government") have held such negotiations for the establishment of a Special Court for Sierra Leone (hereinafter "the Special Court");

NOW, THEREFORE, the United Nations and the Government of Sierra Leone have agreed as follows:

ARTICLE 1
ESTABLISHMENT OF THE SPECIAL COURT

1. There is hereby established a Special Court for Sierra Leone to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November, 1996.

2. The Special Court shall function in accordance with the Statute of the Special Court for Sierra Leone. The Statute is annexed to this Agreement and forms an integral part thereof.

ARTICLE 2
COMPOSITION OF THE SPECIAL COURT AND APPOINTMENT OF JUDGES

1. The Special Court shall be composed of a Trial Chamber and an Appeals Chamber with a second Trial Chamber to be created if, after the passage of at least six months from the commencement of the functioning of the Special Court, the Secretary-General, the Prosecutor or the President of the Special Court so request. Up to two alternate judges shall similarly be appointed after six months if the President of the Special Court so determines.

2. The Chambers shall be composed of no fewer than eight independent judges and no more than eleven such judges who shall serve as follows:—

(a) Three judges shall serve in the Trial Chamber where one shall be appointed by the Government of Sierra Leone and two judges appointed by the Secretary-General, upon nominations forwarded by States, and in particular the member States of the Economic Community of West African States and the Commonwealth, at the invitation of the Secretary-General;

(b) In the event of the creation of a second Trial Chamber, that Chamber shall be likewise composed in the manner contained in subparagraph (a) above;

(c) Five judges shall serve in the Appeals Chamber, of whom two shall be appointed by the Government of Sierra Leone and three judges shall be appointed by the Secretary-General upon nominations forwarded by States, and in particular the member States of the Economic Community of West African States and the Commonwealth, at the invitation of the Secretary-General.

3. The Government of Sierra Leone and the Secretary-General shall consult on the appointment of judges.

4. Judges shall be appointed for a three-year term and shall be eligible for re-appointment.

5. 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.

ARTICLE 3

APPOINTMENT OF A PROSECUTOR AND A DEPUTY PROSECUTOR

1. The Secretary-General, after consultation with the Government of Sierra Leone, shall appoint a Prosecutor for a three-year term. The Prosecutor shall be eligible for re-appointment.

2. The Government of Sierra Leone, in consultation with the Secretary-General and the Prosecutor, shall appoint a Sierra Leonean Deputy Prosecutor to assist the Prosecutor in the conduct of the investigations and prosecutions.

3. The Prosecutor and the Deputy Prosecutor shall be of high moral character and possess the highest level of professional competence and extensive experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor and the Deputy Prosecutor shall be independent in the performance of their functions and shall not accept or seek instructions from any Government or any other source.

4. The Prosecutor shall be assisted by such Sierra Leonean and international staff as may be required to perform the functions assigned to him or her effectively and efficiently.

ARTICLE 4
APPOINTMENT OF A REGISTRAR

1. The Secretary-General, in consultation with the President of the Special Court, shall appoint a registrar who shall be responsible for the servicing of the Chambers and the Office of the Prosecutor, and for the recruitment and administration of all support staff. He or she shall also administer the financial and staff resources of the Special Court.

2. The Registrar shall be a staff member of the United Nations. He or she shall serve a three-year term and shall be eligible for re-appointment.

ARTICLE 5
PREMISES

The Government shall assist in the provision of premises for the Special Court and such utilities, facilities and other services as may be necessary for its operation.

ARTICLE 6
EXPENSES OF THE SPECIAL COURT

The expenses of the Court shall be borne by voluntary contributions from the international community. It is understood that the Secretary-General will commence the process of establishing the Court when he has sufficient contributions in hand to finance the establishment of the Court and 12 months of its operations plus pledges equal to the anticipated expenses of the following 24 months of the Court's operation. It is further understood that the Secretary-General will continue to seek contributions equal to the anticipated expenses of the Court beyond its first three years of operation. Should voluntary contributions be insufficient for the Court to implement its mandate, the Secretary-General and the Security Council shall explore alternate means of financing the Court.

ARTICLE 7
MANAGEMENT COMMITTEE

It is the understanding of the Parties that interested States may wish to establish a management committee to assist the Special Court in obtaining adequate funding, provide advice on matters of Court administration and be available as appropriate to consult on other non-judicial matters. The management committee will include representatives of interested States that contribute voluntarily to the Special Court, as well as representatives of the Government of Sierra Leone and the Secretary-General.

ARTICLE 8
INVIOLABILITY OF PREMISES, ARCHIVES AND ALL OTHER DOCUMENTS

1. The premises of the Special Court shall be inviolable. The competent authorities shall take whatever action may be necessary to ensure that the Special Court shall not be dispossessed of all or any part of the premises of the Court without its express consent.

2. The property, funds and assets of the Special Court, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

3. The archives of the Court, and in general all documents and materials made available, belonging to or used by it, wherever located and by whomsoever held, shall be inviolable.

ARTICLE 9
FUNDS, ASSETS AND OTHER PROPERTY

1. The Special Court, its funds, assets and other property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except insofar as in any particular case the Court has expressly waived its immunity. It is understood, however, that no waiver of immunity shall extend to any measure of execution.

2. Without being restricted by financial controls, regulations or moratoriums of any kind, the Special Court:

(a) May hold and use funds, gold or negotiable instruments of any kind and maintain and operate accounts in any currency and convert any currency held by it into any other currency;

(b) Shall be free to transfer its funds, gold or currency from one country to another, or within Sierra Leone to the United Nations or any other agency.

ARTICLE 10
SEAT OF THE SPECIAL COURT

The Special Court shall have its seat in Sierra Leone. The Court may meet awa from its seat if it considers it necessary for the efficient exercise of its functions, an may be relocated outside Sierra Leone, if circumstances so require, and subject to th conclusion of a Headquarters Agreement between the Secretary-General of th United Nations and the Government of Sierra Leone, on the one hand, and th Government of the alternative seat, on the other.

ARTICLE 11
JURIDICAL CAPACITY

The Special Court shall possess the juridical capacity necessary to:

(a) Contract;

(b) Acquire and dispose of movable and immovable proper

(c) Institute legal proceedings;

(d) Enter into agreements with States as may be necessary the exercise of its functions and for the operation of Court.

ARTICLE 12
PRIVILEGES AND IMMUNITIES OF THE JUDGES, THE PROSECUTOR AND THE REGISTRA

1. The Judges, the Prosecutor and the Registrar, together with their fami forming part of their household, shall enjoy the privileges and immunities, exempt and facilities accorded to diplomatic agents in accordance with the 1961 Vie Convention on Diplomatic Relations. They shall, in particular, enjoy—

(a) Personal inviolability, including immunity from arrest or detention;

(b) Immunity from criminal, civil and administrative jurisdiction in conformity with the Vienna Convention;

(c) Inviolability for all papers and documents;

(d) Exemption, as appropriate from immigration restrictions and other alien registrations;

(e) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents by the Vienna Convention;

(f) Exemption from taxation in Sierra Leone on their salaries, emoluments and allowances.

2. Privileges and immunities are accorded to the Judges, the Prosecutor and the Registrar in the interest of the Special Court and not for the personal benefit of the individuals themselves. The right and the duty to waive the immunity, in any case where it can be waived without prejudice to the purpose for which it is accorded, shall lie with the Secretary-General, in consultation with the President.

ARTICLE 13

PRIVILEGES AND IMMUNITIES OF INTERNATIONAL AND SIERRA LEONEAN PERSONNEL

1. Sierra Leonean and international personnel of the Special Court shall be accorded:

(a) Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue to be accorded after termination of employment with the Special Court;

(b) Immunity from taxation on salaries, allowances and emoluments paid to them.

2. International personnel shall, in addition thereto, be accorded:

(a) immunity from immigration restriction;

(b) the right to import free of duties and taxes, except for payment for services, their furniture and effects at the time of first taking up their official duties in Sierra Leone.

3. The privileges and immunities are granted to the officials of the Special Court in the interest of the Court and not for their personal benefit. The right and duty to waive the immunity in any particular case where it can be waived without prejudice to the purpose for which it is accorded shall lie with the Registrar of the Court.

ARTICLE 14
COUNSEL

1. The Government shall ensure that the counsel of a suspect or an accused who has been admitted as such by the Special Court shall not be subjected to any measure which may affect the free and independent exercise of his or her functions.

2. In particular, the counsel shall be accorded:

(a) Immunity from personal arrest or detention and from seizure of personal baggage;

(b) Inviolability of all documents relating to the exercise of his or her functions as a counsel of a suspect or accused;

(c) Immunity from criminal or civil jurisdiction in respect of words spoken or written and acts performed in his or her capacity as counsel. Such immunity shall continue to be accorded after termination of his or her functions as a counsel of a suspect or accused.

(d) Immunity from any immigration restrictions during his or her stay as well as during his or her journey to the Court and back.

ARTICLE 15
WITNESSES AND EXPERTS

Witnesses and experts appearing from outside Sierra Leone on a summons or a request of the Judges or the Prosecutor shall not be prosecuted, detained or subjected to any restriction on their liberty by the Sierra Leonean authorities. They shall not be subjected to any measure which may affect the free and independent exercise of their functions. The provisions of article 13, paragraph 2(a) and (d), shall apply to them.

ARTICLE 16

SECURITY, SAFETY AND PROTECTION OF PERSONS REFERRED TO IN THIS AGREEMENT

Recognizing the responsibility of the Government under international law to ensure the security, safety and protection of persons referred to in this Agreement and its present incapacity to do so pending the restructuring and rebuilding of its security forces, it is agreed that the United Nations Mission in Sierra Leone shall provide the necessary security to premises and personnel of the Special Court, subject to an appropriate mandate by the Security Council and within its capabilities.

ARTICLE 17

COOPERATION WITH THE SPECIAL COURT

1. The Government shall cooperate with all organs of the Special Court at all stages of the proceedings. It shall, in particular, facilitate access to the Prosecutor to sites, persons and relevant documents required for the investigation.

2. The Government shall comply without undue delay with any request for assistance by the Special Court or an order issued by the Chambers, including, but not limited to:

(a) Identification and location of persons;

(b) Service of documents;

(c) Arrest or detention of persons;

(d) Transfer of an indictee to the Court.

ARTICLE 18

WORKING LANGUAGE

The official working language of the Special Court shall be English.

ARTICLE 19

PRACTICAL ARRANGEMENTS

1. With a view to achieving efficiency and cost-effectiveness in the operation of the Special Court, a phased-in approach shall be adopted for its establishment in accordance with the chronological order of the legal process.

2. In the first phase of the operation of the Special Court, Judges, the Prosecutor and the Registrar will be appointed along with investigative and prosecutorial staff. The process of investigations and prosecutions of those already in custody shall be initiated.

3. In the initial phase, judges of the Trial Chamber and the Appeals Chamber shall be convened on an *ad hoc* basis for dealing with organizational matters, and serving when required to perform their duties.

4. Judges of the Trial Chamber shall take permanent office shortly before the investigation process has been completed. Judges of the Appeals Chamber shall take permanent office when the first trial process has been completed.

ARTICLE 20
SETTLEMENT OF DISPUTES

Any dispute between the Parties concerning the interpretation or application of this Agreement shall be settled by negotiation, or by any other mutually agreed-upon mode of settlement.

ARTICLE 21
ENTRY INTO FORCE

The present Agreement shall enter into force on the day after both Parties have notified each other in writing that the legal requirements for entry into force have been complied with.

ARTICLE 22
AMENDMENT

This Agreement may be amended by written agreement between the Parties.

ARTICLE 23
TERMINATION

This Agreement shall be terminated by agreement of the Parties upon completion of the judicial activities of the Special Court.

IN WITNESS WHEREOF, the following duly authorized representatives of the United Nations and of the Government of Sierra Leone have signed this Agreement.

DONE at Freetown, on 16 January 2002 in two originals in the English language.

Hans Corell
For the United Nations

Solomon Berewa
For the Government of Sierra Leone

STATUTE OF THE SPECIAL COURT FOR SIERRA LEONE

Having been established by an Agreement between the United Nations and the Government of Sierra Leone pursuant to Security Council resolution 1315 (2000) of 14 August 2000, the Special Court for Sierra Leone (hereinafter "the Special Court") shall function in accordance with the provisions of the present Statute.

ARTICLE 1
COMPETENCE OF THE SPECIAL COURT

1. The Special Court shall, except as provided in subparagraph (2) have the power to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996, including those leaders who, in committing such crimes, have threatened the establishment of and implementation of the peace process in Sierra Leone.

2. Any transgressions by peacekeepers and related personnel present in Sierra Leone pursuant to the Status of Mission Agreement in force between the United Nations and the Government of Sierra Leone or agreements between Sierra Leone and other Governments or regional organizations, or, in the absence of such agreement, provided that the peacekeeping operations were undertaken with the consent of the Government of Sierra Leone, shall be within the primary jurisdiction of the sending State.

3. In the event the sending State is unwilling or unable genuinely to carry out an investigation or prosecution, the Court may, if authorized by the Security Council on the proposal of any State, exercise jurisdiction over such persons.

ARTICLE 2

CRIMES AGAINST HUMANITY

The Special Court shall have the power to prosecute persons who committed the following crimes as part of a widespread or systematic attack against any civilian population:

(a) Murder;

(b) Extermination;

(c) Enslavement;

(d) Deportation;

(e) Imprisonment;

(f) Torture;

(g) Rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence;

(h) Persecution on political, racial, ethnic or religious grounds;

(i) Other inhumane acts.

ARTICLE 3

VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II

The Special Court shall have the power to prosecute persons who committed or ordered the commission of serious violations of article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include:

(a) Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;

(b) Collective punishments;

(c) Taking of hostages;

(d) Acts of terrorism;

(e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

(f) Pillage;

(g) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples;

(h) Threats to commit any of the foregoing acts.

ARTICLE 4

OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

The Special Court shall have the power to prosecute persons who committed the following serious violations of international humanitarian law:

(a) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

(b) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

(c) Conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities.

ARTICLE 5

CRIMES UNDER SIERRA LEONEAN LAW

The Special Court shall have the power to prosecute persons who have committed the following crimes under Sierra Leonean law:

(a) Offences relating to the abuse of girls under the Prevention of Cruelty to Children Act, 1926 (Cap. 31):

(i) Abusing a girl under 13 years of age; contrary to section 6;

(ii) Abusing a girl between 13 and 14 years of age, contrary to section 7;

(iii) Abduction of a girl for immoral purposes, contrary to section 12.

(b) Offences relating to the wanton destruction of property under the Malicious Damage Act, 1861:

(i) Setting fire to dwelling-houses, any person being therein, contrary to section 2;

(ii) Setting fire to public buildings, contrary to sections 5 and 6;

(iii) Setting fire to other buildings, contrary to section 6.

ARTICLE 6

INDIVIDUAL CRIMINAL RESPONSIBILITY

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 4 of the present Statute shall be individually responsible for the crime.

2. The official position of any accused persons, whether as Head of State or Government or as a responsible government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

3. The fact that any of the acts referred to in articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior had failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him or her of criminal responsibility, but may be considered in mitigation of punishment if the Special Court determines that justice so requires.

5. Individual criminal responsibility for the crimes referred to in article 5 shall be determined in accordance with the respective laws of Sierra Leone.

ARTICLE 7

JURISDICTION OVER PERSONS OF 15 YEARS OF AGE

1. The Special Court shall have no jurisdiction over any person who was under the age of 15 at the time of the alleged commission of the crime. Should any person who was at the time of the alleged commission of the crime between 15 and 18 years of age come before the Court, he or she shall be treated with dignity and a sense of worth, taking into account his or her young age and the desirability of promoting his or her rehabilitation, reintegration into and assumption of a constructive role in society, and in accordance with international human rights standards, in particular the rights of the child.

2. In the disposition of a case against a juvenile offender, the Special Court shall order any of the following: care guidance and supervision orders, community service orders, counselling, foster care, correctional, educational and vocational training programmes, approved schools and, as appropriate, any programmes of disarmament, demobilization and reintegration or programmes of child protection agencies.

ARTICLE 8

CONCURRENT JURISDICTION

1. The Special Court and the national courts of Sierra Leone shall have concurrent jurisdiction.

2. The Special Court shall have primacy over the national courts of Sierra Leone. At any stage of the procedure, the Special Court may formally request a national court to defer to its competence in accordance with the present Statute and the Rules of Procedure and Evidence.

ARTICLE 9

NON BIS IN IDEM

1. No person shall be tried before a national court of Sierra Leone for acts for which he or she has already been tried by the Special Court.

2. A person who has been tried by a national court for the acts referred to in articles 2 to 4 of the present Statute may be subsequently tried by the Special Court if:

(a) The act for which he or she was tried was characterized as an ordinary crime; or

(b) The national court proceedings were not impartial or independent, were designed to shield the accused from international criminal responsibility or the case was not diligently prosecuted.

3. In considering the penalty to be imposed on a person convicted of a crime under the present Statute, the Special Court shall take into account the extent to which any penalty imposed by a national court on the same person for the same act has already been served.

ARTICLE 10

AMNESTY

An amnesty granted to any person falling within the jurisdiction of the Special Court in respect of the crimes referred to in articles 2 to 4 of the present Statute shall not be a bar to prosecution.

ARTICLE 11

ORGANIZATION OF THE SPECIAL COURT

The Special Court shall consist of the following organs:

(a) The Chambers, comprising one or more Trial Chambers and an Appeals Chamber;

(b) The Prosecutor; and

(c) The Registry.

ARTICLE 12
COMPOSITION OF THE CHAMBERS

1. The Chambers shall be composed of not less than eight (8) or more than eleven (11) independent judges, who shall serve as follows:

(a) Three judges shall serve in the Trial Chamber, of whom one shall be a judge appointed by the Government of Sierra Leone, and two judges appointed by the Secretary-General of the United Nations (hereinafter "the Secretary-General").

(b) Five judges shall serve in the Appeals Chamber, of whom two shall be judges appointed by the Government of Sierra Leone, and three judges appointed by the Secretary-General.

2. Each judge shall serve only in the Chamber to which he or she has been appointed.

3. The judges of the Appeals Chamber and the judges of the Trial Chamber, respectively, shall elect a presiding judge who shall conduct the proceedings in the Chamber to which he or she was elected. The presiding judge of the Appeals Chamber shall be the President of the Special Court.

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.

ARTICLE 13
QUALIFICATION AND APPOINTMENT OF JUDGES

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. They shall be independent in the performance of their functions, and shall not accept or seek instructions from any Government or any other source.

2. In the overall composition of the Chambers, due account shall be taken of the experience of the judges in international law, including international humanitarian law and human rights law, criminal law and juvenile justice.

3. The judges shall be appointed for a three-year period and shall be eligible for reappointment.

ARTICLE 14
RULES OF PROCEDURE AND EVIDENCE

1. The Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda obtaining at the time of the establishment of the Special Court shall be applicable *mutatis mutandis* to the conduct of the legal proceedings before the Special Court.

2. The judges of the Special Court as a whole may amend the Rules of Procedure and Evidence or adopt additional rules where the applicable Rules do not, or do not adequately, provide for a specific situation. In so doing, they may be guided, as appropriate, by the Criminal Procedure Act, 1965, of Sierra Leone.

ARTICLE 15
THE PROSECUTOR

1. The Prosecutor shall be responsible for the investigation and prosecution of persons who bear the greatest responsibility for serious violations of international humanitarian law and crimes under Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996. The Prosecutor shall act independently as a separate organ of the Special Court. He or she shall not seek or receive instructions from any Government or from any other source.

2. The Office of the Prosecutor shall have the power to question suspects, victims and witnesses, to collect evidence and to conduct on-site investigations. In carrying out these tasks, the Prosecutor shall, as appropriate, be assisted by the Sierra Leonean authorities concerned.

3. The Prosecutor shall be appointed by the Secretary-General for a three-year term and shall be eligible for re-appointment. He or she shall be of high moral character and possess the highest level of professional competence, and have extensive experience in the conduct of investigations and prosecutions of criminal cases.

4. The Prosecutor shall be assisted by a Sierra Leonean Deputy Prosecutor, and by such other Sierra Leonean and international staff as may be required to perform the functions assigned to him or her effectively and efficiently. Given the nature of the crimes committed and the particular sensitivities of girls, young women and children victims of rape, sexual assault, abduction and slavery of all kinds, due consideration should be given in the appointment of staff to the employment of prosecutors and investigators experienced in gender-related crimes and juvenile justice.

5. In the prosecution of juvenile offenders, the Prosecutor shall ensure that the child rehabilitation programme is not placed at risk and that, where appropriate, resort should be had to alternative truth and reconciliation mechanisms to the extent of their availability.

ARTICLE 16
THE REGISTRY

1. The Registry shall be responsible for the administration and servicing of the Special Court.

2. The Registry shall consist of a Registrar and such other staff as may be required.

3. The Registrar shall be appointed by the Secretary-General after consultation with the President of the Special Court and shall be a staff member of the United Nations. He or she shall serve for a three-year term and be eligible for re-appointment.

4. The Registrar shall set up a Victims and Witnesses Unit within the Registry. This Unit shall provide, in consultation with the Office of the Prosecutor, protective measures and security arrangements, counselling and other appropriate assistance for witnesses, victims who appear before the Court and others who are at risk on account of testimony given by such witnesses. The Unit personnel shall include experts in trauma, including trauma related to crimes of sexual violence and violence against children.

ARTICLE 17
RIGHTS OF THE ACCUSED

1. All accused shall be equal before the Special Court.

2. The accused shall be entitled to a fair and public hearing, subject to measures ordered by the Special Court for the protection of victims and witnesses.

3. The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.

4. In the determination of any charge against the accused pursuant to the present Statute, he or she shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he or she understands of the nature and cause of the charge against him or her;

(b) To have adequate time and facilities for the preparation of his or her defence and to communicate with counsel of his or her own choosing;

(c) To be tried without undue delay;

(d) To be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing; to be informed, if he or she does not have legal assistance, of this right; and to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her;

(f) To have the free assistance of an interpreter if he or she cannot understand or speak the language used in the Special Court;

(g) Not to be compelled to testify against himself or herself or to confess guilt.

ARTICLE 18

JUDGEMENT

The judgement shall be rendered by a majority of the judges of the Trial Chamber or of the Appeals Chamber, and shall be delivered in public. It shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended.

ARTICLE 19
PENALTIES

1. The Trial Chamber shall impose upon a convicted person, other than juvenile offender, imprisonment for a specified number of years. In determining th terms of imprisonment, the Trial Chamber shall, as appropriate, have recourse to th practice regarding prison sentences in the International Criminal Tribunal fo Rwanda and the national courts of Sierra Leone.

2. In imposing the sentences, the Trial Chamber should take into accoun such factors as the gravity of the offence and the individual circumstances of th convicted person.

3. In addition to imprisonment, the Trial Chamber may order the forfeiture of the property, proceeds and any assets acquired unlawfully or by criminal conduct and their return to their rightful owner or to the State of Sierra Leone.

ARTICLE 20
APPELLATE PROCEEDINGS

1. The Appeals Chamber shall hear appeals from persons convicted by the Trial Chamber or from the Prosecutor on the following grounds:

(a) A procedural error;

(b) An error on a question of law invalidating the decision,

(c) An error of fact which has occasioned a miscarriage of justice.

2. The Appeals Chamber may affirm, reverse or revise the decisions taken by the Trial Chamber.

3. The judges of the Appeals Chamber of the Special Court shall be guided by the decisions of the Appeals Chamber of the International Tribunals for the former Yugoslavia and for Rwanda. In the interpretation and application of the laws of Sierra Leone, they shall be guided by the decisions of the Supreme Court of Sierra Leone.

ARTICLE 21
REVIEW PROCEEDINGS

1. Where a new fact has been discovered which was not known at the time of the proceedings before the Trial Chamber or the Appeals Chamber and which could have been a decisive factor in reaching the decision, the convicted person or the Prosecutor may submit an application for review of the judgement.

2. An application for review shall be submitted to the Appeals Chamber. The Appeals Chamber may reject the application if it considers it to be unfounded. If it determines that the application is meritorious, it may, as appropriate:

(a) Reconvene the Trial Chamber;

(b) Retain jurisdiction over the matter.

ARTICLE 22
ENFORCEMENT OF SENTENCES

1. Imprisonment shall be served in Sierra Leone. If circumstances so require, imprisonment may also be served in any of the States which have concluded with the International Criminal Tribunal for Rwanda or the International Criminal Tribunal for the former Yugoslavia an agreement for the enforcement of sentences, and which have indicated to the Registrar of the Special Court their willingness to accept convicted persons. The Special Court may conclude similar agreements for the enforcement of sentences with other States.

2. Conditions of imprisonment, whether in Sierra Leone or in a third State, shall be governed by the law of the State of enforcement subject to the supervision of the Special Court. The State of enforcement shall be bound by the duration of the sentence, subject to article 23 of the present Statute.

ARTICLE 23
PARDON OR COMMUTATION OF SENTENCES

If, pursuant to the applicable law of the State in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the Special Court accordingly. There shall only be pardon or commutation of sentence if the President of the Special Court, in consultation with the judges, so decides on the basis of the interests of justice and the general principles of law.

ARTICLE 24

WORKING LANGUAGE

The working language of the Special Court shall be English.

ARTICLE 25

ANNUAL REPORT

The President of the Special Court shall submit an annual report on the operation and activities of the Court to the Secretary-General and to the Government of Sierra Leone.

PASSED in Parliament this *19th* day of *March*, in the year of our Lord two thousand and two.

J. A. CARPENTER,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

J. A. CARPENTER,
Clerk of Parliament.

Note:—(This Act No. 9 of 2002 supersedes the Act No. 7 of 2002 by the same title published in Government Notice No. 122 as supplement to the Sierra Leone Gazette No. 17 dated 4th April, 2002).

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