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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.