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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.

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 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;

“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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