

THE SPECIAL COURT AGREEMENT (RATIFICATION)
ACT, 2002
(Act No. 9 of 2002)

THE SPECIAL COURT AGREEMENT (RATIFICATION)
REGULATIONS, 2004

Short title.

In exercise of the powers conferred on him by section 47 of the Special Court Agreement, 2002 (Ratification) Act, 2002, the Attorney-General and Minister of Justice hereby makes the following regulations:—

PART I—PRELIMINARY

1. In these Regulations, unless the context otherwise requires— Interpretation

“Agreement” means the Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Special Court for Sierra Leone signed on 16 January, 2002, as contained in the Schedule to the Special Court Agreement, 2002 (Ratification) Act, 2002;

“archives” include all papers and documents in whatever form and all materials sent to or from the Special Court.

“competent authorities” means national, provincial, municipal and other competent authorities under the law of the host country;

“counsel” means a person referred to as such in Article 14 of the Agreement and includes co-counsel;

"President" means the President of the Special Court as referred to in Article 2 of the Agreement and in Article 12 of the Statute;

"Prosecutor" means the Prosecutor of the Special Court appointed by the Secretary-General of the United Nations pursuant to Article 3 of the Agreement;

"Registrar" means the Registrar of the Special Court appointed by the Secretary-General of the United Nations pursuant to Article 4 of the Agreement;

"Rules of Procedure and Evidence" means the Rules of Procedure and Evidence referred to in Article 14 of the Statute;

"Sierra Leonean and international personnel" means the staff of the Special Court as referred to in Article 13 of the Agreement;

"Special Court" means the Special Court for Sierra Leone established by the Agreement between the United Nations and the Government of Sierra Leone, and includes any organ of the Special Court;

"Special Court Agreement, 2002, (Ratification) Act 2002" means the Special Court Agreement, 2002, (Ratification) Act, 2002 (No. 9 of 2002) as amended by the Special Court Agreement, 2002, (Ratification) (Amendment) Act, 2002 (No. 16 of 2002);

"Statute" means the Statute of the Special Court, annexed to the Agreement;

"suspect" means a person referred to as such in Article 14 of the Agreement, in the Statute and in the Rules

protection of the premises of the Special Court, the preservation of law and order on the premises of the Special Court or in the immediate vicinity thereof, and for the removal of persons therefrom.

(2) Special Court close protection officers and Special Court security officers designated by the Registrar and who have been issued a regular license, may possess and carry small caliber firearms while on duty in accordance with their orders and the relevant laws of the host country.

PART III—PROPERTY, FUNDS AND ARCHIVES OF SPECIAL COURT

Property, funds and assets of Special Court.

5. (1) The Special Court, its property, funds and assets shall enjoy the immunities set forth in Article 8(2) and 9 of the Agreement.

(2) In particular, the Special Court shall enjoy treatment not less favourable than that accorded by the Government to any intergovernmental organization or diplomatic mission in respect of rates of exchange for its financial transactions.

Archives and documents of Special Court.

6. The archives and all documents and materials of the Special Court shall be inviolable, in accordance with Article 8(3) of the Agreement.

PART IV—FINANCIAL MATTERS

Exemption from taxes and duties.

7. (1) Within the scope of its official functions, the Special Court, its assets, income and other property shall be exempt from all direct taxes, which include, but are not limited to, income tax, capital tax and corporation tax, as well as direct taxes levied by local and provincial authorities.

(2) Within the scope of its official functions, the Special Court, its assets and other property shall be exempted from import and export duties and taxes, licence fees, or any other restriction related to the import or export of goods.

(3) Goods acquired or imported under paragraph (2) shall not be sold, given away, or otherwise disposed of, except in accordance with conditions agreed upon with the National Revenue Authority.

(4) While the Special Court will not generally claim exemptions from indirect taxes which constitute part of the cost of goods purchased or services rendered to the Special Court, including goods or services for its official use, on which such taxes have been charged or are chargeable, the National Revenue Authority shall make adequate administrative arrangements for the remission or refund of such taxes or duties.

(5) This regulation shall not apply to taxes and duties that are considered to be charges for public utility services, provided at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized.

8. (1) The Special Court shall have the right to establish, maintain and operate a commissary at its headquarters for the benefit of the international personnel of the Special Court, and the commissary may provide goods of consumable nature and other articles to be specified in advance, but the Special Court shall take all necessary measures to prevent abuse of such commissary and the sale of such goods to persons other than international personnel of the Special Court and their resale to any person, and shall give sympathetic consideration to observations or requests of the Government concerning the operation of the commissary.

(2) Goods that are for resale in the commissary shall be exempted from import duty, taxes, handling costs at the port of entry in the host country or any other restriction.

9. (1) The Special Court shall be entitled to generate electricity for its use and to transmit and distribute such electricity within its premises and at the request of the Registrar, or an official designated by the Registrar, any license required pursuant to Part III of the National Power Authority Act, 1982, shall be granted free of charge, without undue delay and subject to regulation 4 (2). Licensing requirements and fees.

PART VI—PRIVILEGES AND IMMUNITIES

Privileges and immunities of Judges, Prosecutor, Deputy Prosecutor and Registrar.

12. (1) The Judges, the Prosecutor, the Deputy Prosecutor and the Registrar shall enjoy the privileges and immunities set forth in Article 12(1) of the Agreement.

(2) The Judges, the Prosecutor, the Deputy Prosecutor and the Registrar shall continue to enjoy immunity from legal process of every kind in respect of words spoken or written and acts performed by them in their official capacity after termination of their employment.

Privileges and immunities of Sierra Leonean and international personnel.

13. (1) Sierra Leonean and international personnel of the Special Court shall enjoy the privileges and immunities set forth in Article 13 of the Agreement.

(2) International personnel shall, in addition thereto, be entitled to re-export free of duties and taxes at the termination of their employment with the Special Court such furniture and effects, including motor vehicles, they imported pursuant to Article 13 (2)(b) of the Agreement.

(3) International personnel shall furthermore have the right to import for personal use, free of customs duty and other levies, motor vehicles and limited quantities of certain articles intended for personal use or consumption, in accordance with the laws of the host country applicable to members of diplomatic missions of comparable ranks accredited to the Government.

Personnel recruited locally and assigned to hourly rates.

14. (1) Personnel recruited by the Special Court locally and assigned to hourly rates shall be accorded immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity and such other facilities as may be necessary for the independent exercise of their functions for the Special Court.

(2) Such immunity shall continue to be accorded after termination of employment with the Special Court.

(3) The privileges and immunities are granted to such personnel in the interest of the Court and not for their personal benefit.

(3) The privileges and immunities are granted to counsel in the interest of the Special Court and not for their personal benefit. The right and the duty to waive the immunity referred to in Article 14 of the Agreement in any particular case where it can be waived without prejudice to the purpose for which it is granted, shall be with the President.

Witnesses and
experts.

17. (1) Witnesses and experts shall enjoy the privileges and immunities set forth in Article 15 of the Agreement, including the immunity from being detained or subject to any restriction of their liberty by the Sierra Leone authorities.

(2) The immunity provided for in paragraph (1) shall continue to be accorded after their appearance and testimony before the Special Court, subject to the production of the document referred to in paragraph (3). In case of experts called to appear from outside Sierra Leone, such immunity should cease when the witness or expert having had, for a period of fifteen consecutive days from the date when their presence is no longer required by the Special Court, an opportunity of leaving, has nevertheless remained in the territory of the host country, or having left it, has returned, unless such return is on another summons or request of the Special Court.

(3) The Government shall recognize as valid the document issued by the Registrar, or an official designated by the Registrar, to witnesses and experts who enjoy the privileges and immunities referred to in paragraph (1), certifying that their appearance is required by the Special Court and specifying a time period during which such appearance is necessary.

(4) Where the Registrar deems it is in the interest of a witness or of the Special Court to have a person accompanying a witness, such person shall be accorded the privileges and immunities necessary for the performance of his or her function.

(5) The Government shall recognize as valid the document issued by the Registrar, or an official designated by the Registrar, to persons referred to in paragraph (4), certifying that they are

accompanying a witness and by such accompaniment is necessary;

(6) The privileges and immunities are granted to witnesses and experts in the interest of the Special Court and not for their personal benefit. The right and the duty to waive the immunity referred to in this article in any particular case where it can be waived without prejudice to the purpose for which it is granted, shall lie with the President.

18. (1) In accordance with Article 8 of the Statute, the host country shall not exercise its criminal jurisdiction over persons present in its territory, who are to be or have been transferred as a suspect or an accused to the custody of the Special Court pursuant to a request or order of the Special Court, in respect of acts, omissions or convictions prior to their transfer to the custody of the Special Court. The suspect or accused.

(2) The immunity from jurisdiction provided for in paragraph (1) shall cease when the person has been acquitted, served his or her sentence, or has otherwise been finally released by the Special Court.

(3) In the case of suspects or accused coming from outside Sierra Leone, the immunity from jurisdiction provided for in paragraph (1) shall cease when the person, has been acquitted, served his sentence, or has otherwise been finally released by the Special Court and having had, for a period of fifteen consecutive days from the date of their release an opportunity of leaving, has nevertheless remained in the territory of the host country, or having left it, has returned.

19. (1) All persons referred to in regulations 12 to 17, notified as such by the Registrar to the Government pursuant to paragraph (1) of regulation 22, shall have the right of unimpeded entry into, exit from, and movement within, the host country, as appropriate and for the official purposes of the Special Court and the competent authorities, wherever located, shall grant them a valid entry visa free of charge and without undue delay. Entry into, exit from and movement within host country.

(4) The Government undertakes to keep confidential any information received pursuant to paragraph (1) or (2), except insofar as its disclosure to the competent authorities is necessary for the purpose for which the notification is given.

Identification documents.

23. (1) The competent authorities shall recognize and accept the identification documents, including where appropriate, the Special Court identity card, issued to persons referred to in these Regulations as a valid certification of their status pursuant to the Agreement and these Regulations.

Flag, emblem and markings.

24. (1) The Special Court shall be entitled to display its flag, emblem and markings at its premises, and to display its flag on vehicles used for official purposes.

(2) The vehicles of the Special Court shall be entitled to "diplomatic corps" plates, and the corresponding status.

PART VIII—MISCELLANEOUS

Settlement of disputes.

25. (1) The Special Court shall make provision for appropriate modes of settlement of—

- (a) disputes arising out of contracts and other disputes of a private law character to which the Special Court is a party;
- (b) disputes involving an official of the Special Court who, by reason of his official position, enjoys immunity, if such immunity has not been waived.

(2) Any dispute between the Parties concerning the interpretation or application of these Regulations or the regulations of the Special Court, which cannot be settled amicably, shall be submitted, at the request of either Party to the dispute, to an arbitration tribunal, composed of three members. Each Party shall appoint one