

**AMENDED AGREEMENT BETWEEN  
THE SPECIAL COURT FOR SIERRA LEONE  
AND  
THE GOVERNMENT OF THE REPUBLIC OF RWANDA  
ON THE ENFORCEMENT OF SENTENCES  
OF THE SPECIAL COURT FOR SIERRA LEONE**

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

The Government of the Republic of Rwanda (hereinafter “the Government of Rwanda”),

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

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

NOTING the willingness of the Government of Rwanda to enforce sentences imposed by the Special Court for violations of international humanitarian law and Sierra Leonean law in the territory of Sierra Leone since 30 November 1996;

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

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

HAVE AGREED as follows:

## **Article 1**

### *Purpose and Scope of the Agreement*

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

## **Article 2**

### *Procedure*

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

## **Article 3**

### *Enforcement*

1. In enforcing the sentence pronounced by the Special Court, the Government of Rwanda shall be bound by the duration of the sentence so pronounced and ensure the sentence is served in a prison facility identified and agreed to by the parties.
2. The conditions of imprisonment shall be governed by the laws of the Government of Rwanda, exclusive of Article 4.2 of Organic Law No. 31/2007 of 25/07/2007 relating to the Abolition of the Death Penalty, and any other provisions relating to holding convicted persons in isolation.
3. The conditions of imprisonment shall be subject to the supervision of the Special Court, as provided for in Articles 6 to 8 and paragraphs 2 and 3 of Article 9 below.

4. The conditions of imprisonment shall be consistent with the widely accepted international standards governing treatment of prisoners.

#### **Article 4**

##### *Transfer of the convicted person*

1. The Registrar shall make appropriate arrangements for the transfer of the convicted person from the Special Court to the competent authorities of the Government of Rwanda. Prior to his transfer, the convicted person will be informed by the Registrar of the contents of this Agreement.
2. If, after the transfer of the convicted person to the Government of Rwanda, the Special Court, in accordance with its Rules of Procedure and Evidence, orders that the convicted person appears in a proceeding before it, the convicted person shall be transferred temporarily to the Special Court for that purpose, conditioned upon his return to the Government of Rwanda within the period decided by the Special Court.
3. The Registrar shall transmit the order for the temporary transfer of the convicted person to the national authorities of the Government of Rwanda. The Registrar shall ensure the proper transfer of the convicted person from the Government of Rwanda to the Special Court and back to the Government of Rwanda for the continued imprisonment after the expiration of the period of temporary transfer decided by the Special Court. The duration of the temporary transfer shall be deducted from the overall sentence to be served in the Government of Rwanda.

#### **Article 5**

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

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

#### **Article 6**

##### *Inspection*

1. The competent authorities of the Government of Rwanda shall allow the inspection of the conditions of detention and the treatment of the prisoner(s) at any time and on a periodic basis by the International Committee of the Red Cross (hereinafter the ICRC) or such other body or person as the Special Court may designate for that purpose. The frequency of visits will be determined by the ICRC or the designated body or person. The Special Court may furthermore request the ICRC or the designated body or person to carry out such an inspection. The ICRC or the designated body or person will submit a confidential report based on the findings of these inspections to the Government of Rwanda and to the President and the Registrar of the Special Court.
2. Representatives of the Government of Rwanda, the President and the Registrar of the Special Court shall consult each other on the findings of the reports referred to in the previous paragraph. The President of the Special Court may thereafter request the

Government of Rwanda to report to him or her any changes in the conditions of detention suggested by the ICRC or the designated body or person.

**Article 7**  
*Information*

1. The Government of Rwanda shall immediately notify the Registrar of the following:
  - a. if the convicted person has completed his sentence, two months, or as soon as practicable, prior to such completion;
  - b. if the convicted person has escaped from custody;
  - c. if the convicted person has deceased;
2. Notwithstanding the previous paragraph, the Registrar of the Special Court and the Government of Rwanda shall consult each other on all matters relating to the enforcement of the sentence upon the request of either party.

**Article 8**  
*Early release, pardon and commutation of sentences*

1. If, pursuant to the applicable national law of the Government of Rwanda, the convicted person is eligible for early release, pardon or commutation of the sentence, the Government of Rwanda shall notify this to the Registrar of the Special Court in advance of such eligibility, and shall include in any such notification all the circumstances pertaining to the eligibility for early release, pardon or commutation of the sentence.
2. In the determination of eligibility of the convicted person, consideration shall be given to the length of the sentence imposed by the Special Court and the necessity to ensure equality of treatment among convicted persons.
3. The President of the Special Court shall determine, in consultation with the Judges of the Special Court, whether any early release, pardon or commutation of the sentence is appropriate in the interest of justice and the general principles of law. The Registrar of the Special Court shall inform the Government of Rwanda of the President's decision. If the President determines that early release, pardon or commutation of the sentence is not appropriate, the Government of Rwanda shall act accordingly.

**Article 9**  
*Termination of enforcement*

1. The enforcement of the sentence shall terminate:
  - a. when the convicted person has completed his sentence;
  - b. when the convicted person has died;
  - c. when the convicted person has been released as a result of being granted early release, pardon or commutation of sentence;

- d. when the Special Court has issued a decision as referred to in paragraph 2;
2. The Special Court may at any time decide to request the termination of the enforcement in the Government of Rwanda and transfer the convicted person to another State or to the Special Court.
3. The competent authorities of the Government of Rwanda shall terminate the enforcement of the sentence as soon as it is informed by the Registrar of any decision or measure as a result of which the sentence ceases to be enforceable.
4. Upon the termination of the enforcement of a sentence, the Registrar shall in consultation with the Government of Rwanda make the appropriate arrangements for the transfer of the convicted person from the Government of Rwanda or, in the case of death, the repatriation of the convicted person's body.

#### **Article 10**

##### *Impossibility to enforce sentence*

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

#### **Article 11**

##### *Costs*

1. Unless the parties agree otherwise, the Special Court shall bear the expenses related to the following:
  - a. the transfer of the convicted person to and from the Government of Rwanda, at the beginning and at the end of the sentence, including the temporary transfer to and from the Special Court for the purposes of appearing in a proceeding before the Special Court;
  - b. in case of death, the cost of transportation and return of the body of the deceased to the family members of the deceased, for burial, or if and when necessary, the costs of the burial by the Rwanda authorities, in the event that the family of the deceased does not take possession of the body; and
  - c. upkeep and maintenance costs (related to meals, sanitation and communications) as well as incidentals and special medical care which may entail extraordinary costs in respect of a convicted person who is to serve a sentence in the Government of Rwanda pursuant to this Agreement.
2. The Government of Rwanda shall pay all other expenses incurred by the enforcement of the sentence, including:

- a. safety and security of the identified quarters for persons convicted by the Special Court;
  - b. prison wardens' remuneration and basic utilities (water, electricity, sewage, etc);
  - c. any travel document necessary to authorize the convicted person to exit Rwanda upon completion of his sentence, in accordance with Rwanda laws.
3. The Government of Rwanda and the Registrar will conclude a Memorandum of Understanding detailing the average yearly costs that are to be borne by the Special Court for Sierra Leone, in accordance with paragraph 1 above.

**Article 12**  
*Substitution Clause*

Upon completion of the mandate of the Special Court for Sierra Leone, as per Article 23 of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone, and Article 1 of the Statute of the Special Court, its designated successor body, mandated to discharge all residual functions of the Special Court, will take over all functions of the President, the Registrar and the Judges pertaining to the execution of this Agreement.

**Article 13**  
*Entry into force*

This Agreement shall enter into force provisionally upon the signature of both parties, and definitely upon the date of notification by the Government of Rwanda of ratification or approval of the Agreement by its competent authorities.

**Article 14**  
*Duration of the Agreement*

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

**Article 15**  
*Amendment*

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

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

Done at Kigali, on the Eighteenth day of March in the year Two Thousand and Nine, in duplicate, in English and French, both texts being equally authentic, with Articles 3.2 and 8.2 having been amended on this Sixteenth day of September in the year Two Thousand and Nine, in English.

**FOR THE SPECIAL COURT  
FOR SIERRA LEONE**



Binta Mansaray,  
Acting Registrar of the Special Court  
for Sierra Leone

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF RWANDA**



H.E. Mrs. Rosemary Museminali,  
Minister of Foreign Affairs and  
Cooperation of the Republic of Rwanda