SPECIAL COURT FOR SIERRA LEONE
OUTREACH AND PUBLIC AFFAIRS OFFICE

Saturday's Outreach at the Northern Polytechnic in Makeni, which targeted women and children.

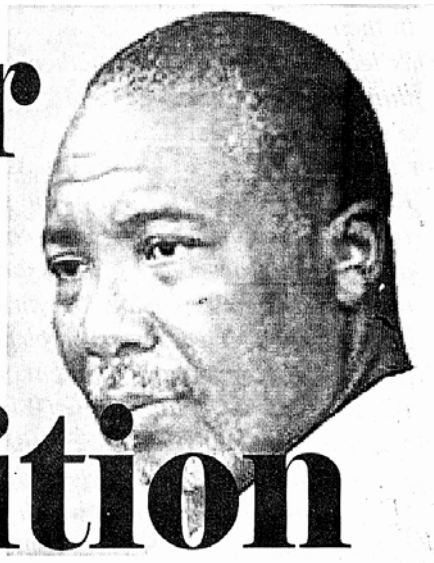
PRESS CLIPPINGS

Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Outreach and Public Affairs Office
as at:
Monday, 17 November 2008

Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
Martin Royston-Wright
Ext 7217

The Spark
Monday, 17 November 2008

Charles Taylor supplies Arms and Ammunition to Foday Sankoh



Charles Ghankay Taylor

When the trial of Charles Taylor resumed sittings in the Hague yesterday prosecuting counsel Ms. Brenda Hollis continued the examination of witness TF1-045 Augustine Sama Mallah who testified that he once met with Foday Sankoh at Gendema shortly after his return with arms and ammunition which he had collected from Charles Taylor in Gbarnga. The witness spoke about radio communications between Sankoh and Taylor, during which the former told the latter about security operations in RUF territory. Prosecution counsel asked the witness to explain what he meant by security operations. The witness explained that Sankoh updated Taylor on the movement of RUF fighters, areas under their control, areas under government control, arms and ammunition captured from the enemy soldiers, etc. The witness spoke about RUF operations to stop civilians from voting in 1996.The witness explained that Foday Sankoh gave the orders and that he told them to kill civilians to stop them from voting. He said Sankoh specifically told them to cut cut off the hands of civilians so that they will take their hands off the elections

CONTINUED PAGE 7

FROM PAGE 1

On his trip to Tongo to Mine for Mike Lamin the witness stated that Mike Lamin sent him to Tongo to go and mine for him. Ms. Hollis asked the witness to tell the court how long he stayed in Tongo and where he went after that. The witness responded that he stayed in Tongo for two months and that he returned to Kenema, where he stayed until ECOMOG soldiers dislodged the AFRC/RUF junta from power in February 1998.

The witness testified that when ECOMOG dislodged the AFRC/RUF junta from Freetown, Bockarie told them that they should prepare to leave Kenema as the ECOMOG soldiers will be attacking the town. The witness said he saw Bockarie load three trucks with looted items from a shop owned by one Mammy Saad, a business woman in Kenema. He said that Bockarie told them that they should launch Operation Pay Yourself and get whatever they wanted before leaving Kenema. The witness said that together with other rebels, they embarked on a looting spree of houses and shops in Kenema and that they took away the loots when they were leaving the town.

The witness said that together with Bockarie, they left Kenema and moved to Buedu. When leaving Kenema, the witness said that many rebels took away female civilians to serve as their wives. The witness referenced seeing a 13 year old sister of another colleague who told him their house was attacked by rebels, her parents ran away and that a rebel called Ibrahim had taken her as his wife

The witness testified about the killing of 65 individuals in Kailahun, whom Bockarie had accused of being Kamajors. He said that Kamajors had attacked RUF positions and that when these individuals were captured, Bockarie suspected them to be Kamajors. He said that Bockarie order Augustine Gbao, the head of the Internal Defence Unit (IDU) to investigate the matter as to whether they were indeed Kamajors. The men were transfered to Kailahun town. The witness said that after sometime, Bockarie traveled to kailahun and asked Gbao about the status of the investigation. He said that Gbao told Bockarie the people were all kamajors and that they were not fit to live. He said that Bockarie ordered the MP Commander, Joe Fatorma to open the cell and get the men out. He said that all the individuals were executed on the orders of Sam Bockarie.The witness testified about the transfer of Johnny Paul Koroma and others from Kono to Buedu after the junta forces had been removed from power. The witness said that after the retreat from Freetown, the AFRC/RUF officers traveled to Makeni. He said at some point, they moved from Makeni to go to Kono. On their way, the witness received orders to travel with Major Gweh in order to open the road from Bunumbu to Gandohun. The witness said that on their way, they attacked several towns until they got to Gandohun where they met Issa Sesay and told him

Bockarie asked that they all move to Buedu. He said that Issa moved with them to get Johnny Paul Koroma and together with other officers like Mike Lamin, Sammy etc, they all moved to Buedu.

The witness spoke about a meeting summoned by Johnny Paul Koroma when they got to Buedu. He said this meeting took place at the house occupied by Bockarie in Buedu. He said that among those present at the meeting were Johnny Paul, Bockarie, Sammy, Maj. Dumbuya, CO. Issa, the witness himself and other senior officers. He said that Johnny Paul thanked Bockarie for the effort he had made to get him and his family to Buedu. He said that Johnny Paul told them that while in Freetown, he used to receive diamonds mined by AFRC/RUF soldiers in Tongo and Kono. Johnny Paul asked for direction on how to proceed since he had not had much contact with Charles Taylor while in Freetown. He said that Bockarie told them that once they had moved from Freetown and were now in the bush, it was necessary for Johnny Paul to listen to him for directions on how to proceed. He said that Bockarie then asked that all diamonds and monies in Johnny Paul's possession be handed over to him. Bockarie took them all from Johnny Paul. The witness said that while in Tongo, he saw civilians used for mining purposes by the AFRC/RUF soldiers. When asked about the treatment meted out to civilians, the witness said that they were treated very badly. He said that some civilians were severely beaten and some were even executed. The witness said that he was also involved in private mining while in Tongo.

Standard Times
Sunday, 16 November

Ministry of Justice Hosts Discussion on Legal Aid Scheme for Sierra Leone

The Ministry of Justice in collaboration with the Justice Sector Development Programme (JSDP) has concluded a round-table discussion on a National Legal Aid Scheme for Sierra Leone, on Thursday 13th November 2008 at the Hotel Barmoi. Aberdeen.

Legal Aid refers to the free or inexpensive services provided to respond to the legal needs of people who cannot afford to pay a lawyer. JSDP commissioned a report on the feasibility of a Legal Aid system in Sierra Leone in 2006. The broad recommendation of that report was that an independent and separate entity be established which would be responsible for the provision and administration of Legal Aid in Sierra Leone.

Further to Initial consultations held with key stakeholders, this round-table discussion was held to achieve a consensus on a Legal Aid Scheme with regards to the model of delivery and structure that would be sustainable in Sierra Leone.

Participants included representatives from the Human Rights Commission, the World Bank, the Ombudsman's Office, the Bar Association, the Police, the Prisons Service, the Special Court for Sierra Leone, the Sierra Leone Law School, the Justice Sector Coordination Office, Access to Justice Law Centre, Makeni, Parliament, Timap for Justice, Campaign for Good Governance, Prison Watch Sierra Leone and Amnesty International.

Topics covered included The Need for Legal Aid in Sierra Leone by Mr. Nana Busia, Country Director, UNDP, and JSDP Legal Aid Initiative, by Peter Viner, Programme Manager JSDP.Presentation on key issues for decision was made by Mr. Melron Nicol-Wilson, lead facilitator and Coordinator of the Legal Aid component, JSDP.

At the end of the round-table discussion, participants came to the conclusion that there is the need for a Pilot Legal Aid Scheme to be initiated and that a hybrid module should be tested and to be administered by a body, which although autonomous, should receive full support and commitment from government.

At present there is no national Legal Aid scheme in Sierra Leone. The State provides limited assistance in Freetown, administered by the Master and Registrar to accused persons tried for capital offences such as murder. Various civil society organisations provide some services ranging from legal advice to legal representation in court. However, this work is not coordinated between the organisations and the State-funded programme and there is little or no linkage between the projects. The schemes run by NGOs are heavily dependent on donor funding and thus impact gravely on sustainability.

"The pilot project is proposed with a view to demonstrating the value and to inform policy development in relation to a scheme that would eventually extend to all regions in Sierra Leone to help less fortunate members of our communities access justice" stated the Hon Attorney-General & Minister of Justice, Mr. Abdul F. Serry-Kamal.

International Herald Tribune
Friday, November 14, 2008

Death by child; Selective memory

Of all the combatants during the civil war in Sierra Leone in the 1990's, none were feared more than the child soldiers, who raped, murdered and plundered their way across that hapless country. Torn from families, often hopped up on drugs, they were dragged off into the bush to fight wars for drug lords, terrorists, gun runners, diamond dealers and cynical politicians.

Since the late 1980's, there have been millions of children recruited into combat around the world. A UN report in the mid-1990's found that over 2 million had died since 1988 alone. The report shamed the world, and slowly the international community began to respond.

In 2003, as prosecutor at the Special Court for Sierra Leone, I indicted those who bore the greatest responsibility for war crimes, and moved to include, for the first time in history, the unlawful recruitment of children under 15 into an armed force. The measure was upheld as a new international crime by our appellate chamber at the Special Court for Sierra Leone and most of the 13 indictees were convicted of unlawful recruitment.

On Oct. 3, 2008, the Child Soldiers Accountability Act was signed in law by President Bush. Designed to identify potential perpetrators and to prosecute them under U.S. domestic law, this important law is another example of leading the way in stamping out this scourge. Despite its importance, implementation lags in the U.S. bureaucracy. I fear this slow roll will make passage of the Child Soldier Accountability Act a pyrrhic victory. Officials need to establish the regulations necessary to ensure that those who have destroyed children's lives are punished.

U.S. leadership in this area is vital. Otherwise, the lost generations of child soldiers and their victims will come back to haunt us.

David M. Crane, Syracuse, New York College of Law, Syracuse University

United Nations Nations Unies

United Nations Mission in Liberia (UNMIL)

UNMIL Public Information Office Complete Media Summaries 14 November 2008

[The media summaries and press clips do not necessarily represent the views of UNMIL.]

Newspaper Summary

UN Police Officer Assaults Local Police Officer following altercation – UNMIL Probes Incident
(The Inquirer, Public Agenda, New Democrat, Daily Observer, New Vision and The Informer)

- Most dailies reported on an altercation involving a Jordanian Formed Police Officer within the UN Mission in Liberia (UNMIL) and an officer of the Liberian National Police in which the former reportedly assaulted the latter, leaving him with severe wounds on Wednesday morning. The incident resulted from an argument between the two officers.
- UNMIL promptly reacted to the incident, assuring that a full investigation is being conducted and the findings of the investigation will be shared with the Liberian authorities.
- The incident occurred after Jordan pledged an additional unit to United Nations police here in response to Secretary General Ban Ki-moon's call for extra forces to support local officers as Liberia continues its recovery from a disastrous decade-long civil war.
- The electronic media general portrayed the incident as an unfortunate situation, particularly in view of the fact that the Jordanian Formed Police Unit continues to make outstanding contribution to the security of Liberia.

Two Men arrested with more than US$2 Million Counterfeit Money in Buchanan
(The National Chronicle)

- Agents of the Drugs Enforcement Agency (DEA) have arrested two men with 2.5 million US dollars in counterfeit bills in Buchanan, Grand Bassa County, some 142 kilometres south of the capital, Monrovia.
- The men were picked up in the streets of Buchanan following a tip off from a 'good' citizen.
- The two men were in Buchanan for three days from Monrovia. The counterfeit notes were sealed up in transparent papers and labelled "donated to UN war affected countries."
- The counterfeit notes were in the denominations of five, ten, twenty, fifty and hundred notes.
- The men have been turned over to the Grand Bassa County Police Detachment for further investigation.
- A similar arrest took place in Buchanan three months ago when Police seized 250,000 dollars in counterfeit notes.

Western Cluster Re-Bidding Halted
(The Analyst)

- [sic] Western Cluster Iron ore project bidding process which was won by Delta Mining Company, a South African concessionaire that the government recently revoked without justification has now been subjected to final hearings in two weeks. According to a decision of the Public Procurement and Concessions Commission (PPCC), the government is ordered to stay all proceedings or action in the re-bidding of the Western Cluster Iron Ore Project in Liberia, which would have nullified the previous decision that empowered Delta Mining to carry out the contract. The commission reasoned that the government announced in February 2008 that Delta Mining Consolidated (Delta) was the provisional winner of the Western Cluster Iron Ore concession in Liberia but revoked that decision in September 2008. Commissioners ruled that after awarding the concession to Delta, which followed the fact that, the company had undergone independent due diligence process conducted by Deloitte and Touche as required under Liberian law, Delta was found to be the most suitable bidder. The PPCC also saw that following the due diligence process, the Ministry of Lands, Mines and

Energy again recommended for Delta be awarded the US$1,6bn concession. Despite a formal request by Delta's lawyers, Webber Wentzel, the Liberian government had failed to provide Delta with detailed reasons for its actions and instead relied on the Government's alleged discretion to cancel any bid and commence a new tender process at any time. Due to the determination of the government to go ahead of its decision without abiding by all previous actions regarding the contract, the company on 27 October 2008 submitted a formal complaint to the PPCC claiming that the Government's conduct in failing to award the concession to it was unlawful and lacking in due process. Delta argued in its complaint to the Commission that the government's conduct contravened the PPCC Act, because the action was without due process but relying on allegations which, by the Government's own admission, were not supported by any evidence. Delta also argued that the government did not have what it called "an open ended discretion to cancel a tender and restart the process." It can be recalled that the Public Procurement and Concession Commission was created in 2005 under the Public Procurement and Concession Act with the power to review and set aside decisions taken by the Government in contravention of this Act.

BFF Launches Youth Development Campaign
(The Analyst)

- Better Future Foundation, Inc. (BFF) has concluded a weeklong peace building and youth leadership campaign. The campaign seeks to enhance the moral and intellectual development of the youths in Paynesville, outside Monrovia.
- The campaign, BFF President, Augustine Arkoi said, is part of the foundation's ongoing youth development initiative. It was organized in observance of Global Youth Day held on October 29, 2008 at the New Hope Academy located on Peace Island, Monrovia.
- The campaign, sponsored and facilitated by BFF is in line with quest to supporting community actions toward ensuring youth participation, not only in decision making, but also national development process.
- The 40 beneficiaries are members of a local organization, Youth for Moral Protection (YMP). They represent 8 communities including Peace Island, Jacob Town, in Paynesville.

Radio Summary

Star Radio *(News monitored today at 10:45 am)*

Over US$2 Million Counterfeit Money Seized in Buchanan - Two Men Arrested
(Also reported on ELBC, Radio Veritas, Sky FM)

UNMIL Probes Altercation between Jordanian Police Officer and LNP Officer

ELBC *(News monitored today at 2:00pm)*

Norwegian Government approves debt cancellation for Liberia

- The Norwegian Government has agreed to cancel US$ 35 million of Liberia's debt to Norway. This constitutes 90 per cent of Liberia's debt to Norway.
- "I am glad we have agreed to cancel most of Liberia's debt to Norway. It is important to support the positive developments that have taken place since the election of President Johnson-Sirleaf four years ago," said Minister of the Environment and International Development Erik Solheim.
- According to Mr. Solheim, this, together with other debt cancellation, will make Liberia's debt manageable.
- The debt relief package for Liberia is part of the Heavily Indebted Poor Countries Initiative, an international initiative to reduce the debts of the poorest and most indebted countries. The debt relief package is based on a multilateral framework agreement concluded in the Paris Club, a forum for creditor countries, in April this year.

- In accordance with the Norwegian Debt Relief Strategy, the debt cancellation for Liberia was carried out without taking any funds from the development budget. The cancellation does not therefore affect the development assistance provided to other poor countries. Mr. Solheim said Liberia's remaining debt to Norway will be cancelled when the country reaches the completion point defined under the Indebted Poor

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US Department of State
Friday, 14 November 2008

U.S. Perspectives on International Criminal Justice

John B. Bellinger, III, Legal Adviser to the Secretary of State

Remarks at the Fletcher School of Law and Diplomacy,
Medford, Massachusetts

I'd like to thank the Fletcher School and the sponsors of this event for the invitation to address this conference. During my last four years as Legal Adviser, I have spent a very considerable amount of time on issues relating to international criminal justice, especially the International Criminal Court, and I am delighted to be here to tonight to share some thoughts and discuss these issues with you.

Tonight, I'd like to discuss the United States' approach to international criminal justice generally, and in particular, our views on the various international criminal tribunals. Let me start by making a few points about the overall U.S. approach in this area.

First, the United States has been a consistent supporter of international criminal justice. This fact is often lost on critics, who tend to focus on the United States' objections to certain aspects of the International Criminal Court. There is sometimes a mistaken impression that this Administration opposes international tribunals, including international criminal tribunals. Not so. The fact is that U.S. support is vital to the operation of these institutions, and the United States is among the largest providers of financial, political, and technical support for international criminal justice. Indeed, the United States recognizes that international criminal tribunals, in the right circumstances, play a key role in ensuring accountability for those who commit war crimes, genocide, and crimes against humanity.

Second, where the United States has expressed concerns about international tribunals – leaving aside the ICC for the moment – those concerns have generally **not** been about tribunals' ultimate purposes, but rather to ensure that tribunals function efficiently. In the United States, we of course have the saying that "justice delayed is justice denied." The same is often true of international tribunals. Not only do delays and inefficiencies thwart the purpose of meting out justice; they undermine what is often one of the essentials purposes of international tribunals: to redress serious crimes in a manner that allows **all** sides to a violent conflict to come to terms with what has happened and reconcile their differences.

Third, in the United States' view, local institutions are the preferred avenue for dispensing justice. Solutions that empower local institutions of criminal justice also inspire local ownership of results. We believe that fostering domestic institutions is central to the promotion and development of the rule of law. In appropriate circumstances, however, international tribunals can supply the resources or technical capacity that local courts may lack; they can provide legitimacy and fairness where local institutions are inchoate or mistrusted; and most important, they can provide the political will to carry out justice where that will is absent, or insufficient, at the domestic level. But it is critically important that we rely on local criminal-justice institutions where they are available and up to the task, and, where they are not, that we work to develop those institutions. An example of the United States' approach in this area has been our support for the Iraq High Tribunal, which the Iraqis determined was the best way to achieve justice and reconciliation in their country. The United States stood virtually alone, however, in supporting the tribunal, perhaps because of lingering international pique over the Iraq war and in part because some countries and human rights groups preferred an international tribunal. This was unfortunate. International tribunals should not be the presumptive option: where, as in Iraq, justice can be handled locally, that is where it should be done.

Fourth, dispensing justice through international tribunals is not an easy or straightforward business. As the history both of the Yugoslavia and Rwanda tribunals and of the United States' experience with military commissions suggests, establishing new institutions requires the development or adoption of an appropriate framework of substantive and procedural law – for example, rules of evidence addressing hearsay or involuntary testimony and

substantive definitions of the scope of criminal offenses. In the West, our longstanding judicial and criminal-justice institutions have already worked out their "kinks." For international tribunals, major substantive and procedural issues often have to be worked out on the fly, in the course of investigating and prosecuting individual defendants.

With these points in mind, I'd like to survey recent developments in the various criminal tribunals and in U.S. policy in this area.

ICTY and ICTR

Let me start with the two tribunals created by the UN Security Council to address the horrible crimes committed during the conflicts in Yugoslavia and Rwanda. The United States has strongly supported these tribunals – financially and otherwise – in order to ensure that the perpetrators of these crimes are held accountable and ultimately to encourage reconciliation among the parties to the conflicts in those regions. In fact, the United States – and the Office of the Legal Adviser in particular – was instrumental in setting up these tribunals. And let me say we are quite proud that so many private American citizens – including professional judges and prosecutors – have worked at the two tribunals. Among them is Ted Meron, a U.S. national and a former counselor in the Legal Adviser's office, who currently serves as an appeals judge on the ICTY – the International Criminal Tribunal for the former Yugoslavia – and for several years served as a very effective president of the institution.

The tribunals are funded through assessed UN contributions, and the United States is the largest contributor to both institutions. We have provided about one quarter of the cost of the ICTY and the ICTR – the International Criminal Tribunal for Rwanda. All told, our total contributions to the tribunals since their inception exceeds half a billion dollars.

Along with these financial contributions, the United States has offered significant political and technical support to the tribunals. Secretary Rice made a point of meeting with the presidents and chief prosecutors of the ICTY and ICTR within months of entering office. And over the years we have actively cooperated with requests by the tribunals for information or access to witnesses – both from the prosecution **and** the defense – in order to ensure fair trials. For example, we have provided the ICTY with imagery of mass graves at Srebrenica, which has been used by prosecutors to help establish the facts surrounding the slaughter of approximately 8000 men and boys in the summer of 1995 – an act of genocide that shocked the world.

This summer saw a notable success for the ICTY in the arrest and transfer of Radovan Karadzic to The Hague this past July. The United States applauds Serbian authorities for taking this important step. We now must continue to work toward the arrest of remaining fugitives, particularly Ratko Mladic, and at the ICTR, Felicien Kabuga.

The time is approaching, however, when both tribunals need to wrap up their work, consistent with the "Completion Strategy" laid out by the Security Council. The tribunals have taken steps to increase efficiency, but it is clear that the timelines for finishing work are slipping. We encourage continued improvement in efficiency, and note that, given that the delay is due in part to the recent capture of fugitives, it will be necessary to make some reasonable accommodation.

We are now working in New York with other members of the Security Council to define which functions will be assigned to the residual mechanism (or mechanisms) that will handle certain limited matters once the tribunals have completed their current work, probably in 2011. The United States would like to see a mechanism with a limited mandate, but also with the capacity to ramp up and handle trials of Mladic and Kabuga if they are not apprehended and tried before the tribunals' operations cease.

At the same time, we need to work to build the capacity of domestic courts to try war crimes. This has not only been critical to the success of the ICTY and the ICTR completion strategies, but is also essential for lasting justice and reconciliation. The United States has been a significant supporter of building the capacity of local courts, particularly in Bosnia, but to some extent in Croatia and Serbia as well, and the ICTY has been able to transfer a

number of cases to courts in the region for prosecution. The ICTR has had difficulty transferring certain cases to Rwanda, and transferring individuals for genocide prosecutions in European national courts has not proved to be a straightforward alternative. Nevertheless, as ethnic and political reconciliation slowly take hold in the former Yugoslavia and in Rwanda, we need to be mindful that local political entities will ultimately need to exercise responsibility for addressing the remaining issues that stem from their respective conflicts.

Special Court for Sierra Leone

The Special Court for Sierra Leone, which I will discuss next, represents a hybrid model of international criminal justice – and the first of its kind – in that it combines local and international components. Unlike the ICTY and the ICTR, which were created directly by the Security Council through Chapter VII resolutions, the Special Court was established through an agreement between the UN and the Government of Sierra Leone, undertaken by the UN Secretary General in accordance with a resolution of the UN Security Council. The court has jurisdiction to prosecute crimes under both Sierra Leonean and international law, and includes judges appointed by the Government of Sierra Leone and by the UN Secretary General.

The United States has been the Special Court's principal supporter. Here, however, the court's funding consists entirely of voluntary contributions from the international community. The United States has provided approximately $60 million in funds to-date – which is roughly forty percent of all voluntary contributions to the court and more than the total funds provided by the next three largest contributors **combined**. The United States has also provided extensive technical and political support to the Special Court. Although we are not under a legal obligation to assist the Special Court as we are the ICTY and the ICTR, we have nevertheless cooperated with the Special Court in the same manner.

Last year saw the start of the trial of former Liberian President Charles Taylor in The Hague. This was a significant moment: Taylor is the first African president to be indicted by an international court for war crimes, crimes against humanity, and other serious international crimes. The United States went to extraordinary lengths to help locate Taylor, bring him to Liberia, and facilitate his trial. Secretary Rice was personally instrumental in these efforts, and I remember personally calling ICC President Philippe Kirsch to tell him we had no objection to the use of ICC facilities for the trial. Although we do have concerns about the ICC, which I will discuss in a moment, we do not have concerns about the use of its bricks and mortar.

We were disappointed that European countries, when asked to incarcerate Taylor if convicted, were reluctant to help. Some countries are vocal about international criminal justice, and are quick to criticize the United States over the ICC, but have often failed to take concrete action themselves to support the work of the other international tribunals. Tony Blair is to be applauded for cutting through the red tape and agreeing to take Taylor, if convicted.

Khmer Rouge Tribunal

Like the Special Court for Sierra Leone, the Khmer Rouge Tribunal is a "hybrid" court established by agreement between the UN and the Cambodian government to bring to justice those responsible for the deaths of as many as two million Cambodians under the Khmer Rouge regime in the late 1970's. One notable feature of the Tribunal is that, although it consists of both Cambodian personnel and UN-appointed personnel, Cambodians are entitled to a majority of judges in both the Trial and appellate Chambers of the Tribunal. This distinguishes the Tribunal from the Special Court for Sierra Leone, for example, which has a majority of judges appointed by the UN Secretary General.

The United States strongly supports the goal of bringing Khmer Rouge leaders to justice, and is committed to the work of the Tribunal and to helping Cambodia build a society based on the rule of law. We have, however, also had serious concerns about the ability of the Tribunal to meet international standards of justice and address corruption.

Of late, the Tribunal has made notable progress on management and corruption issues, but there is more work to be done. If the Tribunal continues to make progress, the United States intends to make available $1.8 million for the Tribunal this year.

Special Tribunal for Lebanon

The Special Tribunal for Lebanon represents yet another model for international criminal justice. The Tribunal was created, in accordance with UN Security Council Resolution 1757, to bring to justice those responsible for the murder of former Lebanese Prime Minister Rafik Hariri and others. The Tribunal's mandate is to prosecute violations of Lebanese **domestic** law. This distinguishes the tribunal from the ICTY and the ICTR, whose jurisdiction covers war crimes, genocide, and crimes against humanity. The Lebanon Special Tribunal is, in other words, an **international** institution set up to prosecute **domestic** crimes. Usually the prosecution of such crimes is left to a state's internal legal process, but Lebanon was a case where that process was itself subverted by threats of violence and terrorism. We therefore believe an international criminal justice mechanism is necessary in order to deter further political assassinations and to protect the sovereignty of Lebanon.

The Tribunal process is now underway, and, as the UN Secretary General has affirmed, that process is irreversible. The Tribunal will sit in The Hague, and we are grateful once again to the Dutch for their willingness to host, particularly in light of the security and safety challenges the Lebanon Tribunal presents. The United States has been a principal supporter of the Tribunal. So far, we have contributed $14 million toward the set up and first-year operations of the Tribunal, and we expect to continue to be among the Tribunal's strongest backers. In addition, we fully support the work of Daniel Bellemare, Commissioner of the UN International Independent Investigation Commission, or UNIIC. We look forward to his next report and recommendations on whether to extend UNIIIC's mandate or open the Tribunal. In the end, it is important that the Tribunal will ultimately punish those responsible for the assassination of former Prime Minister Hariri and others in Lebanon and help ease civil discord.

International Criminal Court

And finally, let me turn to the International Criminal Court, the tribunal which tends to overshadow all the others even though it has yet to try a single case. Of course, in international law circles, the ICC is a hot topic right now. And there is considerable speculation about what the next Administration will do with respect to the ICC. I obviously cannot say for sure what will happen on this score, so let me instead describe some aspects of the U.S. approach over the last few years.

It is important to note at the outset that the United States' fundamental concerns about the ICC have been remarkably consistent across successive Administrations and Congresses controlled by both Democrats and Republicans. Time will tell if the next Administration will take a different approach, but I think it is unlikely, in the absence of significant changes to the Rome Statute to address these concerns, that the United States will become a party to the Rome Statute any time in the foreseeable future. Rather, I believe that the future of the relationship between the United States and the ICC will be defined mainly by the extent to which the United States and ICC supporters can agree to disagree about the Rome Statute and find constructive and practical ways to work together to advance our shared interest in promoting international criminal justice.

While long a proponent of the idea of a permanent international criminal court, during the run-up to the Rome Statute in the 1990's, the United States consistently stressed that establishing an international criminal court was not an end in itself. Rather, we believed, a court's effectiveness would depend on the powers given to the court and the ways in which those powers were integrated into the existing international system for peace and security. In particular, Clinton Administration representatives at Rome made clear that the ICC must operate in coordination, not in conflict, with the UN Security Council. They opposed proposals to give the court's prosecutor the authority to commence investigations on his or her own initiative, without a referral from the Security Council. They emphasized that the United States and other governments participate together in military alliances and peacekeeping operations around the world, and that the soldiers undertaking these important tasks need to be able to do their jobs without exposure to potentially politicized prosecutions from the court. They also expressed concerns with proposals to have the court exercise jurisdiction over crimes, such as a crime of aggression, which had a very different character than war crimes, genocide, and crimes against humanity.

While U.S. negotiators worked hard to secure agreement on a treaty that would meet these objectives, the negotiations at Rome failed to produce acceptable terms. The concerns the United States made clear at Rome were the basis for President Clinton's decision, announced in December 2000, that the United States would sign the

Rome Statute but that he would not submit it to the Senate for advice and consent to ratification. President Clinton stated: "I will not, and do not recommend that my successor submit the treaty to the Senate for advice and consent until our fundamental concerns are satisfied."

My point here is that concerns about the ICC did not begin, and likely will not end, with the present Administration. Of course, this Administration has been criticized for its approach to the ICC, particularly in the first term, when the United States formally notified the UN Secretary-General that it did not intend to become a party to the Rome Statute. This has been widely misunderstood as a confrontational U.S. rejection of the ICC. In fact, the central motivation was to resolve any confusion whether, as a matter of treaty law, the United States had residual legal obligations arising from its signature of the Rome Statute not to take steps inconsistent with the treaty's "object and purpose."

I want to be clear here that it was not the policy of the United States to try to kill the ICC. We have respected the decisions of other states to become parties to the Rome Statute. Under Secretary of State Marc Grossman emphasized this very principle in his 2002 announcement that the United States did not intend to become a party to the Statute. He said: "the United States respects the decision of those nations who have chosen to join the ICC; but they in turn must respect our decision not to join the ICC or place our citizens under the jurisdiction of the court." Our policies have been consistent with this approach – including the so-called "un-signing," and our efforts to secure Article 98 agreements with other states, which were designed to protect U.S. personnel from the jurisdiction of the court, not to interfere with the decisions made by Rome Statute parties to subject their own nationals to the court's jurisdiction.

The concerns, however, that underlay the Clinton Administration's actions and the decision in 2002 to inform the UN that the United States did not intend to become a party are still relevant today. They reflect the unique role and interests of the United States as a global military power and as a permanent member of the Security Council, as well as our historically-rooted concern that institutional power must be subject to appropriate checks. Even if the next Administration decides, despite these concerns, that it would like to pursue having the United States become a party to the Rome Statute, it may be quite difficult to muster support from two-thirds of the Senate. It is important for supporters of the court overseas to appreciate these political realities in the United States.

Still, even if the United States is not a party to the Rome Statute, there are many ways for the United States and ICC parties to work constructively on international criminal justice issues. In recent years, this Administration has sought to steer the focus away from unnecessary wrangling over the issues that divide the ICC's supporters and opponents and toward finding practical and constructive ways to cooperate in advancing our common values and our shared commitment to international justice.

We've re-emphasized as a core principle of our policy our respect for the decisions of other states to join the ICC, and have acknowledged that the court can have a valuable role to play in certain cases. On this point, Darfur is exhibit A. In 2005, in one of the first major policy decisions of Secretary Rice's tenure at the State Department, the United States accepted the decision of the UN Security Council to refer the Darfur situation to the ICC. We have said that we want to see the ICC's Darfur work succeed and indicated our willingness to consider an appropriate request for assistance from the ICC in connection with the Darfur matter, consistent with applicable U.S. law. And in recent months, we have opposed efforts by some countries to invoke Article 16 of the ICC Statute to defer the investigation and prosecution of Sudanese President Al Bashir. The irony of the United States' support for the court in opposing an Article 16 deferral is often noted by the press; what I hope will get equal attention is the still-greater irony that some strong supporters of the court seem so willing to consider interfering with the Court's prosecution of an individual responsible for genocide. And beyond Darfur, the President has waived restrictions under U.S. law on assistance to a number of countries that had not signed Article 98 agreements with the United States in order to ensure the continuation of important aid to those countries.

It is now time for ICC supporters to overcome their own reluctance to build a more constructive relationship with the United States. As Under Secretary Grossman said in 2002, "We believe that there is common ground, and ask those nations that have decided to join the Rome Statute to join us there." And, I am glad to say that finally on Monday of this week, ICC supporters expressed a willingness to do so. For the first time, after three years of opposition, ICC supporters included language in this year's version of the annual UN General Assembly resolution

on the ICC that emphasizes the importance of cooperation by States parties with States that are not parties to the Rome Statute and that notes that the upcoming review conference provides an opportunity to address the concerns of non-parties. This signals, I hope, a new willingness by ICC supporters to stop fighting their ideological battles and trying to convert the United States and instead to cooperate with us and address our legitimate concerns.

For its part, the new Administration will no doubt look at a range of issues as it contemplates how best to protect American interests. For example, both the Clinton and Bush Administrations have recognized from the outset the risks posed by the possibility of the Rome Statue parties adopting a definition of the crime of aggression that does not meet U.S. redlines. Much of the work on the definition has been done by a Special Working Group, but that group's work is now coming to an end, with meetings next week – at the meeting of the Assembly of States Parties in The Hague – and at the final "resumed sessions" scheduled to take place at the beginning of next year. It is quite unlikely that the Working Group will bridge the very profound differences in points of view about the definition, and the issue will remain unresolved as the parties head toward the Rome Statute Review Conference that is to take place in 2010. With the efforts of the Working Group behind it, the new Administration will need to consider how best to position the United States to deal with this important issue going forward. One thing is for certain: if Rome Statute parties adopt an unacceptable definition of the crime of aggression and then amend the Rome Statute so that it applies to non-parties like the United States, they risk triggering a new crisis in their relationship with the United States.

ICC supporters will undoubtedly press the new Administration to become parties to Rome Statute. As I have noted, absent very basic changes to the Rome Statute, the same "fundamental concerns" that led President Clinton to decide not to submit the treaty for ratification will continue to be salient for a new Administration and make this, in my view, exceedingly unlikely. The new Administration may be pressed to participate as observers in the Assembly of States Parties, to share intelligence and law enforcement information with the ICC, to seek repeal of the American Service members Protection Act, and perhaps even somehow to renounce the "un-signing" of the Rome Statute, and it will be interesting to see how it deals with these issues. The 2010 Review Conference provides an opportunity to address concerns raised by non-parties, and the extent to which ICC supporters constructively use this opportunity can significantly affect the ability of Rome Statute parties and non-parties to work constructively on our shared interests in promoting justice rather than focusing endlessly on our differences about the Court.

Conclusion

In sum, there are difficult issues ahead for the United States and the ICC, to be sure. But those issues should not cloud the United States' strong and consistent support for international criminal justice – in the former Yugoslavia, in Rwanda, and in Sierra Leone, Cambodia, and Lebanon. Whatever the outcome of the various issues surrounding the ICC, international institutions of criminal justice will continue, in appropriate circumstances, to be important practical tools for ensuring accountability for serious crimes, in particular war crimes, genocide, and other crimes against humanity. We must not forget that that is what is ultimately at stake here: the need to address crimes of the gravest and most heinous nature – crimes that the entire human race condemns. It is an honorable and necessary enterprise, and one the United States fundamentally supports.