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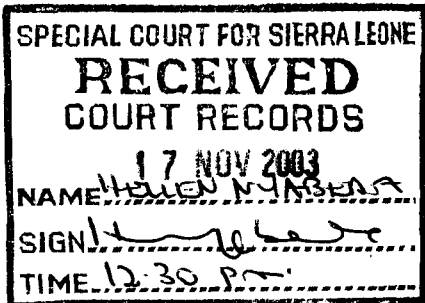
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Defence List of Authorities to

PRELIMINARY DEFENCE MOTION ON

(III) THE LACK OF PERSONAL JURISDICTION

1. S. Beresford and A.S. Muller, "The Special Court for Sierra Leone: An Initial Comment," 14 Leiden Journal of International Law (2001), pp. 635-651.
2. Fourth Report of the Secretary-General on the Situation in Sierra Leone, doc. S/1998/103, 18-03-98.
3. Fifth Report of the Secretary-General on the Situation in Sierra Leone, doc. S/1998/486, 09-06-98.



CURRENT LEGAL DEVELOPMENTS

The Special Court for Sierra Leone: An Initial Comment

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Keywords: crimes against humanity; international humanitarian law; Special Court for Sierra Leone; violations of the Geneva Conventions; war crimes.

Abstract. The proposed establishment of the Special Court for Sierra Leone is a valiant effort to end impunity for the egregious crimes that were committed during the Sierra Leonean civil war. Nonetheless, the Special Court – which will have jurisdiction over crimes against humanity, war crimes, and various offences under Sierra Leonean national law – will have a number of major hurdles to cross in order to fulfill its mandate. Most notably the Court as currently empowered lacks the ability to induce the authorities of third states to comply with its orders and has limited temporal jurisdiction: thereby allowing a number of accused to escape justice. More alarmingly the on-going discussions within United Nations Headquarters concerning the financing of the organisation has substantially eroded the credibility of the institution, especially as large numbers of potential accused have been languishing in jail for significant periods without being formally charged.

1. INTRODUCTION

On 6 January 1999, rebels from the Revolutionary United Front ('RUF') launched an offensive against Freetown, the capital of Sierra Leone. A three-week battle ensued with government troops and the soldiers of the Nigerian-led peace-keeping force from the Economic Community of West African States Monitoring Group ('ECOMOG').¹ As the rebels took control of the capital, they turned their weapons on the civilian population. According to human rights observers "the rebel occupation of Freetown was characterised by the systematic and widespread perpetration of all classes of gross human rights abuses against the civilian pop-

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1. ECOMOG forces have maintained a presence in Sierra Leone, at the invitation of the Government, since 1991 when hostilities between the RUF and government forces commenced. Human Rights Watch, *Sierra Leone: Getting Away with Murder, Mutilation and Rape*, July 1999 (hereinafter 'Human Rights Watch'), available at <http://www.hrw.org/hrw/reports/1999/sierra/index.htm>.

ulation. Civilians were gunned down within their houses, rounded up and massacred on the streets, thrown from the upper floors of buildings, used as human shields and burned alive in cars and houses."² Moreover, as the ECOMOG forces counter-attacked and the RUF retreated through the capital, the rebels abducted hundreds of people, mostly children and young women.

In an attempt to end impunity for the horrendous crimes that were committed during the civil war, the United Nations and the Government of Sierra Leone are on the verge of establishing an independent special court ('the Special Court') to prosecute those most responsible for the atrocities. Characterised in essence as a national court with a large involvement, the Special Court differs in a number of areas from the International Criminal Tribunal for the former Yugoslavia ('ICTY') and the International Criminal Tribunal for Rwanda ('ICTR') (hereinafter 'the *ad hoc* Tribunals'). Instead of being comprised solely of international judges, the Special Court will be made up of both international and Sierra Leone judges. In addition to having subject-matter jurisdiction over those crimes that are beyond doubt part of international humanitarian law, the Special Court will have the authority to prosecute individuals for certain crimes under Sierra Leonean law. Finally, and most importantly, since it will be a treaty-based, *sui generis* court established by an agreement between the United Nations and Sierra Leone, the Special Court will lack the power of the *ad hoc* Tribunals to assert primacy over national courts of third states and to order the surrender of accused persons located therein.

Given its importance to the continued development of international humanitarian law, this commentary – after reviewing the events that led to its establishment – examines the nature and specificity of the Special Court as well as the crimes over which it has jurisdiction. The commentary will then look at the organisational structure of the Special Court and explore the practical difficulties that it may face in order to bring to justice the perpetrators of some of the most heinous crimes that have been committed on the African continent during the last decade. In this connection, it should be noted that these comments are limited in scope and nature, without any detailed insight into the undoubtedly complex negotiations that underlie the agreement reached between the Government of Sierra Leone and the United Nations.

2. BACKGROUND

On 23 March 1991, the RUF, under the leadership of Foday Sankoh, entered Sierra Leone from Liberia and launched a rebellion to overthrow

2. *Id.* For a more complete description of the atrocities that followed the occupation of Freetown, see Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, UN Doc. S/1999/237 (4 March 1999), at paras. 20–30.

the one-party military rule of the All Peoples Congress, whom it accused of rampant corruption, nepotism and fiscal mismanagement.³ After successive military coups, the fighting briefly subsided following the election of Ahmad Tejan Kabbah, head of the Sierra Leone People's Party. On 30 November 1996, the Kabbah government and the RUF signed the Abijan Peace Agreement, which called for a cease-fire, disarmament, demobilisation and the withdrawal of all foreign forces.⁴ Only two months after its signing, however, the Peace Agreement collapsed after intense fighting broke out in the southern Moyamba district.

On 25 May 1997, fourteen months after assuming power, President Kabbah was overthrown by a *coup d'état* orchestrated by a group of disgruntled military officers, the Armed Forces Revolutionary Council ('AFRC').⁵ Upon taking power, the AFRC suspended the constitution, banned political parties, announced rule by military decree and – given their mutual opposition to the President – invited the RUF to join them in the new government. The period which ensued was characterised by political repression, including, in particular, arbitrary arrests and detention, mass rape and abduction of women, forced recruitment of children and summary executions.

The international community widely condemned the coup and in October 1997, the UN Security Council adopted a resolution imposing mandatory sanctions on Sierra Leone, including an embargo on arms and oil imports.⁶ On 23 October 1997, after intense negotiations, the Kabbah government-in-exile signed an agreement with the AFRC/RUF, providing for the return to power of President Kabbah by April 1998. However, in February 1998 – after the AFRC/RUF undermined the implementation of the accord by stockpiling weapons and attacking ECOMOG positions – ECOMOG forces and civilian militias launched an operation to force the AFRC/RUF forces from Freetown. In March 1998, President Kabbah was reinstated and over the next few months ECOMOG forces were able to establish control over roughly two-thirds of the country including all regional capitals.⁷

Having been expelled from the capital, the rebels tried to consolidate

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3. Despite the fact that Sierra Leone is extremely resource-rich, with large deposits of diamonds, gold, rutile and bauxite, it is estimated to be one of the poorest countries in the world. Human Rights Watch, *id.* For an examination of the RUF, see I. Abdullah & P. Muana, *The Revolutionary United Front of Sierra Leone*, in C. Clapham (Ed.), *African Guerrillas* 173 (Oxford: James Currey, 1998).
 4. See Report of the Secretary-General on Sierra Leone, UN Doc. S/1997/80 (1997) (21 October 1997).
 5. The AFRC, which was led by army major Johnny Paul Koroma, cited the Government's failure to implement the Abijan Peace Agreement as the reason for the coup. Human Rights Watch, *supra* note 1.
 6. Security Council Res. 1132, UN Doc. S/RES/1132 (1997) (8 October 1997). The AFRC/RUF alliance was able to evade the ban, however, by purchasing arms through the illegal diamond trade. See S. Dickey, *Sierra Leone: Diamond for Arms*, 7 Hum. Rts. Br. 9 (2000).
 7. Human Rights Watch, *supra* note 1.

their position in other parts of the country and through a series of counter-offensives managed to gain control of the diamond-rich Kono district and several other strategic areas. By the end of 1998, the rebels had gained the advantage militarily and were in control of over half of the country. It was from these positions that the RUF launched its January 1999 attack on Freetown.⁸

Following the retreat of the RUF from the capital, efforts were made once again to secure a negotiated peace to the conflict. After several months of dialogue, on 18 May 1999 the Sierra Leonean Government and the RUF entered into a cease-fire and on 7 July 1999 signed the Lomé Peace Agreement. Under the agreement, there was to be a permanent cessation of hostilities, a complete amnesty for any crimes committed by the members of the fighting factions during the conflict, disarmament, demobilisation and release of all prisoners and abductees.⁹

Although it initially respected the terms of the peace agreement, by October 1999 widespread reports were surfacing of RUF rebels looting villages, burning houses, sexually assaulting women and young girls and abducting children. On 22 October 1999, the UN Security Council approved the UN Mission in Sierra Leone ('UNAMSIL').¹⁰ The operation authorised the deployment of an initial peace-keeping force of 6,000 entrusted with the tasks of assisting the disarmament and demobilisation process, ensuring the security of UN civilian personnel, aiding the delivery of humanitarian aid and providing support for new elections.¹¹ However, the presence of the peace-keeping force did not deter the commission of human rights abuse, which continued virtually unabated. Soon after taking over 500 poorly equipped peace-keepers hostage at the beginning of May 2000,¹² the RUF began an offensive on the Masiaka region. Although heavy reinforcements by the United Nations and British troops – who were deployed early in May 2000 – repulsed the attack, during the week-long occupation of the area, the RUF committed various acts of murder, mutilation, rape, looting and abduction against the civilian population.¹³ At the time of writing, although Foday Sankoh and several hundred of his supporters have been taken into custody and the RUF has entered into a

8. *Id.*

9. *Peace agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone*, UN Doc. S/1999/777, Annex; also available at <http://www.sierra-leone.org/lomeaccord.html> (hereinafter 'Lomé Peace Agreement').

10. Security Council Res. 1270, UN Doc. S/RES/1270 (1999) (22 October 1999).

11. *Id.*

12. For a description of the attacks on and detention of United Nations personnel, see Fourth Report of the Secretary-General on the United Nations Mission in Sierra Leone, UN Doc. S/2000/455 (19 May 2000), at paras. 56–79.

13. See Human Rights Watch, *Fresh Reports of RUF Terror Tactics*, 26 May 2000, available at <http://www.hrw.org/press/2000/05/s10526.htm>.

cease-fire agreement with the Government,¹⁴ an uneasy peace lies over Sierra Leone: the possibility of continued violence being ever present.

3. ESTABLISHMENT OF THE SPECIAL COURT

In order to end the cycle of violence and commence the process of national reconciliation, in a letter to the Secretary-General of the United Nations dated 1 June 2000 President Kabbah requested the establishment of an international court.¹⁵ This request was essentially denied. Instead, on 14 August 2000, the UN Security Council – deeply concerned by the systematic and widespread violations of international humanitarian law that were being committed in Sierra Leone – requested the Secretary-General to negotiate an agreement with the Sierra Leonean Government to create an independent special court to prosecute persons who bear the greatest responsibility for the commission of crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under relevant domestic law committed within the territory of Sierra Leone.¹⁶ By the terms of Resolution 1315 (2000), the Security Council further requested that the Secretary-General submit a report on the implementation of the Resolution, and particularly the legal framework and practical arrangements for the establishment of the Special Court.¹⁷ This report was submitted to the Security Council on 4 October 2000;¹⁸ attached to it was a draft Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone¹⁹ and the Statute of the Special Court.²⁰

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14. The Abuja cease-fire agreement, which was signed on 10 November 2000, provided for a monitoring role for UNAMSIL; full liberty for the United Nations to deploy throughout the country; unimpeded movement of humanitarian workers, goods and people throughout the country; the return of UNAMSIL weapons and other equipment seized by the RUF; and the immediate resumption of the programme of disarmament, demobilisation and reintegration. See Eighth Report of the Secretary-General on the United Nations Mission in Sierra Leone, UN Doc. S/2000/1199 (15 December 2000) (hereinafter 'Eighth Secretary-General's Report').
 15. See Letter from the President of Sierra Leone to the Secretary-General, UN Doc. S/2000/786 (12 June 2000).
 16. Security Council Res. 1315, UN Doc. S/RES/1315 (2000) (14 August 2000).
 17. *Id.*
 18. Report of the Secretary-General on the establishment of a Special Court for Sierra Leone, UN Doc. S/2000/915 (4 October 2000) (hereinafter 'Secretary-General's Report').
 19. *Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*, annex to Secretary-General's Report, 4 October 2000 (hereinafter 'Agreement').
 20. *Statute of the Special Court for Sierra Leone*, enclosure to Secretary-General's Report, 4 October 2000 (hereinafter 'Statute').

4. REPORT OF THE SECRETARY-GENERAL

4.1. Nature and specificity of the Special Court

In his report, the Secretary-General noted that unlike the *ad hoc* Tribunals, which were established by resolutions of the UN Security Council (under the powers vested to it by Chapter VII of the UN Charter) and constituted as subsidiary organs of the United Nations, the Special Court as envisioned by the Council will be a treaty-based court established by the Agreement between the United Nations and the Government of Sierra Leone.²¹ An advantage of this approach is that, having been created in this way, the Court should be able to deflect prospective jurisdictional challenges based on the contention that it was not “established by law” as required by international human rights standards.²² It should be recalled, in this connection, that in the *Tadić* case the question arose as to whether the ICTY was “established in accordance with the appropriate procedures under the United Nations Charter” and whether, “in accordance with the proper international standards,” it provided “all the guarantees of fairness, justice and even-handedness, in full conformity with internationally recognised human rights instruments.”²³ Although these questions were ultimately answered in the affirmative, considerable delays resulted whilst the ICTY Appeals Chamber dispensed with this matter.

The legal nature of the Special Court, however, will also have a critical impact on its powers. Since its establishment was not intended to preclude the exercise of jurisdiction of national courts in the prosecution of persons who have committed atrocities during the Sierra Leone civil war, the Statute asserts that concurrent jurisdiction will exist between the Court and national courts to prosecute such persons.²⁴ Even so, to avoid complications arising from the principle of *non-bis-in-idem* (i.e., a person may not be tried twice for the same crime),²⁵ the Court shall have “primacy” over domestic prosecutions and may, therefore, request national Sierra Leonean courts to defer to its jurisdiction.²⁶

Nonetheless, as a treaty-based institution, the Court lacks the power to assert primacy over national courts in third states or to order the surrender

21. Secretary-General's Report, *supra* note 18, at para. 9.

22. See the International Covenant on Civil and Political Rights, Art. 14; European Convention on Human Rights, Art. 6. See also, e.g., *Prosecutor v. Tadić*, Appeal on Jurisdiction, Case No. IT-94-1-PT, T.Ch. II, 2 October 1995 ('Tadić Appeals Decision'), for an analysis of this decision see G.H. Aldrich, *Jurisdiction of the International Criminal Tribunal for the Former Yugoslavia*, 90 AJIL 64 (1996); *Prosecutor v. Kanyabashi*, Decision on the Defence Motion on Jurisdiction, Case No. ICTR-96-15-T, T.Ch. I, 18 June 1997, for an examination of this decision see V. Morris, *International Decisions: Prosecutor v. Kanyabashi*, *Decision on Jurisdiction*, 92 AJIL 66 (1997).

23. *Tadić Appeals Decision*, *id.*, at para. 45.

24. Statute, *supra* note 20, Art. 8(1).

25. *Id.*, Art. 9.

26. *Id.*, Art. 8(2).

of an accused or the production of documents from any third state and to induce the compliance of its authorities with any such request.²⁷ In the authors' opinion, given the nature and scope of the anticipated investigations and prosecutions, the practical impact of such a limitation may be considerable. Going on the experience of the *ad hoc* Tribunals, the co-operation of third states with the Court will be imperative, for example in the arrest and transfer of suspects, the provision of intelligence and other information, the freezing or seizure of assets and other forms of co-operation and assistance.²⁸ In the absence of powers deriving from Chapter VII of the UN Charter, co-operation with third states would have to be routed through *ad hoc* diplomatic channels or via the normal inter-state mechanisms for judicial assistance, a process which assumes the existence of treaties on judicial co-operation and is, to a large degree, cumbersome and lengthy. The absence of powers *vis-à-vis* third states can be considered, therefore, potentially serious.

A further difficulty that will have to be overcome with the approach taken by the Security Council concerns the relationship between the Special Court and the national judicial system. It is noted that in order to implement the Statute and the Agreement at the national level, these instruments will need to be incorporated into the national laws of Sierra Leone in accordance with constitutional requirements. Given that the Sierra Leonean Constitution provides that the Supreme Court is "the final court of appeal in and for Sierra Leone"²⁹ and that it was not the intention of the drafters of the Statute to have the Court under the supervision of this institution, substantial amendments will be required to entrenched provisions of the Constitution. Tejan-Cole observes these provisions cannot be amended unless they are passed by Parliament after first being approved at a referendum by a two-thirds majority.³⁰ Considering the precarious state of internal security within Sierra Leone and the fact that the RUF still controls a substantial part of the countryside, it is unlikely that such a referendum would be organised in the foreseeable future. In the absence of such a referendum, alternative ways will have to be found to incorporate the Special Court in the national legal system, but such alternative means will in all likelihood lack the same degree of legitimacy as the constitutionally required referendum and will thus always be a source of criticism.

4.2. Competence of the Special Court

In recognition of the principle of legality, in particular *nullem crimen sine lege*, and the prohibition on retroactive criminal legislation, the Secretary-

27. Secretary-General's Report, *supra* note 18, at para. 10.

28. See ICTY Statute, Art. 29; ICTR Statute, Art. 28.

29. Constitution of Sierra Leone, Sec. 122(1).

30. A. Tejan-Cole, *The Special Court for Sierra Leone: Conceptual Concerns and Alternatives*, 1 African Human Rights Law Journal 107, at 114 (2001).

General ensured that the Special Court had subject-matter jurisdiction only over those crimes which were beyond doubt part of customary international law at the time of the alleged commission of the crimes. Three clusters of crimes can therefore be prosecuted under the Statute: namely, crimes against humanity,³¹ war crimes³² and other serious violations of international humanitarian law.³³ By expressly including Article 3 common to the Geneva Conventions of 12 August 1949 and Additional Protocol II of 8 June 1977, the Secretary-General appears, however, to have pre-judged the character of the conflict. In the view of the authors, it would have been more appropriate if the Secretary-General had adopted a formula granting the Court broader subject-matter jurisdiction, leaving the determination of the character of the armed conflict to the Judges.

On account of the lack of evidence that the massive, large-scale killing in Sierra Leone was at any time perpetrated against an identified national, ethnic, racial or religious group with the intent to annihilate the group as such, the Secretary-General did not consider it appropriate to include the crime of genocide in the list of international crimes falling within the jurisdiction of the Court.³⁴ However, upon the recommendation of the Security Council, the Secretary-General chose to extend the subject-matter jurisdiction of the Court to include crimes under Sierra Leonean law, including offences relating to the abuse and abduction of girls as well as the wanton destruction of property.³⁵ Despite notable differences in their subject-matter jurisdiction, the Special Court is expected to be guided by the decisions

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31. Crimes against humanity include widespread or systematic attacks against any civilian population resulting in the following crimes: murder, extermination, enslavement, deportation, imprisonment, torture, rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence. This also includes persecution on political, racial, ethnic or religious grounds and other inhumane acts. Statute, *supra* note 20, Art. 2.
 32. Violations of Art. 3 common to the Geneva Convention and of Additional Protocol II include violence to life, health and physical or mental well-being of persons (in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment), collective punishments, taking hostages, acts of terrorism, outrages upon personal dignity (in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault), pillage, passing of sentences and carrying out of executions without previous judgements pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples. Threats to commit any of these violations are also included. *Id.*, Art. 3.
 33. Serious violations of international humanitarian law include intentionally directing attacks against the civilian population, personnel, installations, material, units or vehicles involved in humanitarian assistance or peace-keeping missions. Abduction and forced recruitment of children under the age of fifteen years into armed forces or groups for the purpose of using them to participate actively in hostilities are also offences. *Id.*, Art. 4.
 34. Secretary-General's Report, *supra* note 18, at para. 13.
 35. The crimes under Sierra Leone law which are included within the Statute are: offences relating to the abuse of girls under the 1926 Prevention of Cruelty to Children Act (abuse of a girl under 13 years of age (Sec. 6), abuse of a girl between 13 and 14 years of age (Sec. 7) and abduction of a girl for immoral purposes (Sec. 12)) and the wanton destruction of property under the 1861 Malicious Damage Act (setting fire to dwelling-houses (Sec. 2), setting fire to public buildings (Secs. 5 and 6) and setting fire to other buildings (Sec. 6)). Statute, *supra* note 20, Art. 5.

of the Appeals Chambers of the *ad hoc* Tribunals, thus ensuring the uniform evolution of international humanitarian law.³⁶ Moreover, the Special Court must apply the Rules of Procedure and Evidence of the ICTR, although the judges have the authority to amend or adopt additional rules, where a specific situation is not provided for.³⁷

Although the Sierra Leone civil war and the attendant atrocities dated back to 1991, the Secretary-General concluded that imposing a temporal jurisdiction on the Special Court reaching back that far “would create a heavy burden for the prosecution and the Court.”³⁸ The date of 30 November 1996 – which corresponded to the conclusion of the Abijan Peace Agreement, the first failed peace agreement between the Government of Sierra Leone and the RUF – was chosen instead as the beginning date of the temporal jurisdiction of the Court as this “would have the benefit of putting the Sierra Leone conflict in perspective without unnecessarily extending the temporal jurisdiction of the Special Court.”³⁹ Since the armed conflict in various parts of Sierra Leone was still ongoing, it was decided that the temporal jurisdiction of the Court should be left open-ended.⁴⁰

The truncated scope of the temporal jurisdiction of the Special Court has been criticised as it may inhibit the successful prosecution of some accused persons.⁴¹ It has further been opined that it may send the wrong signal to the people of Sierra Leone. As observed by Tejan-Cole, prior to 1997 the civil war and the attendant atrocities were confined primarily to the countryside. It was not until 1999 that the fighting reached the streets of the Sierra Leonean capital. By selecting the date of 30 November 1996, the Secretary-General has excluded a significant portion of the crimes committed in the provinces and it has been stated that in doing so, he has inadvertently signaled that “it only matters when the lives of the people of Freetown are affected.”⁴² The authors, however, recognise the difficulties associated with the selection of a starting date for the Court’s temporal jurisdiction and submit that there is still significant authority to bring to justice those most responsible for the crimes committed in Sierra Leone.

The Special Court, like the ICTY, has limited territorial jurisdiction: offences must have been committed in the territory of Sierra Leone.⁴³ Nonetheless, given the alleged involvement of persons from neighbouring countries in the crimes committed during the civil war, it would have been

36. *Id.*, Art. 20(3).

37. When making such amendments, the Judges may be guided, as appropriate, by the 1965 Criminal Procedure Act of Sierra Leone. *Id.*, Art. 14.

38. Secretary-General’s Report, *supra* note 18, at para. 26.

39. *Id.*, at para. 27.

40. *Id.*, at para. 28.

41. Human Rights Watch, *Letter to United Nations Security Council*, 1 November 2000, available at <http://www.hrw.org/press/2000/11/sl-ltr.htm>; see also Tejan-Cole, *supra* note 30, at 116.

42. See Tejan-Cole, *id.*

43. Statute, *supra* note 20, Art. 1.

preferable to have followed the ICTR formula whereby Rwandan citizens may be prosecuted for offences falling within the competence of the court which are committed in neighbouring states.

Questions also arise as regards the personal jurisdiction of the Special Court. In its Resolution 1315 (2000), the Security Council recommended that the Court should have the power to prosecute "persons who bear the greatest responsibility for the commission of the crimes." Interpreting this statement as an indication that the number of accused should be limited by reference to their command responsibility and the gravity and scale of the crime, the Secretary-General restricted the personal jurisdiction to those "most responsible."⁴⁴ Although this restriction permits the prosecution of persons who committed atrocities on a massive scale, in addition to the trial of the political and military leadership, it is opined that language should have been adopted similar to that used in the Statutes of the *ad hoc* Tribunals – which merely refer to "persons responsible" – thereby leaving the decision as to whom to charge to the Prosecutor.⁴⁵

Moreover, the formula applied to the *ad hoc* Tribunals, which focuses more on the seriousness of the violation and less on who is overall the most responsible, has its attractions for a court which aims to contribute to peace and reconciliation. A local commander, who would not necessarily be "most responsible" in the greater picture of things, could have on his conscience a crime which has had a large impact on a particular region or town. Dealing with such an atrocity could be of great importance if the Special Court is to contribute successfully to the process of reconciliation. A final comment, which should be made in respect of the most responsible formula, is that it could be subject to jurisdictional challenges by the accused. Given the fact that the term is not well defined and imprecise, such challenges may not be easily dealt with.

Under the terms of the Lomé Peace Agreement, a sweeping amnesty was granted to all combatants for any crimes they may have committed.⁴⁶ Although recognising the role that an amnesty may play at the end of a civil war to bring about national reconciliation, the Secretary-General noted that amnesty could never be granted in respect of international crimes.⁴⁷ In this connection, it was pointed out that during the signing of the Lomé Agreement, the Special Representative of the Secretary-General

44. See Secretary-General's Report, *supra* note 18, at paras. 29–30.

45. See ICTY Statute, Art. 1; ICTR Statute, Art. 1.

46. Lomé Peace Agreement, *supra* note 9, Art. IX. For a critique of the amnesty provisions under this Agreement, see A. Tejan-Cole, *Painful Peace – Amnesty under the Lomé Peace Agreement*, 3 Law, Democracy and Development 239 (1999).

47. Secretary-General's Report, *supra* note 18, at para. 22. Scharf points out, however, that while the substantive law establishing international offences is extensive, international procedural law imposing a duty to prosecute is far more limited. Consequently, since there is no duty to prosecute crimes against humanity or war crimes committed in a civil war, there are no legal constraints to the negotiation of an amnesty-for-peace arrangement in such conflicts. M.P. Scharf, *The Amnesty Exception to the Jurisdiction of the International Criminal Court*, 32 Cornell Int'l L.J. 507 (1999).

for Sierra Leone entered a reservation on the amnesty provision.⁴⁸ Accordingly, Article 10 of the Statute provides that “an amnesty granted to any person falling within the jurisdiction of the Special Court in respect of the crimes referred to in Articles 2 to 4 of the present Statute shall not be a bar to prosecution.” This provision, however, refers only to international crimes and not offences falling within Article 5 of the Statute, and as a consequence the ability of the Court to successfully prosecute violations of Sierra Leonean law may be seriously affected.

The most difficult dilemma that faced the Secretary-General was how to deal with juvenile offenders. As he recognised:

More than in any other conflict where children have been used as combatants, in Sierra Leone, child combatants were initially abducted, forcibly recruited, sexually abused, reduced to slavery of all kinds and trained, often under the influence of drugs, to kill, maim and burn. Though feared by many for their brutality, most if not all of these children have been subjected to a process of psychological and physical abuse and duress which has transformed them from victims into perpetrators.⁴⁹

On one hand, the Government of Sierra Leone insisted that those responsible for the crimes falling within the jurisdiction of the Court be held accountable no matter what their age. As they stated “the people of Sierra Leone would not look kindly upon a court which failed to bring to justice children who committed crimes of that nature and spared them the judicial process of accountability.”⁵⁰ On the other hand, human rights groups were unanimous in their opposition to trials of anyone below 18 years of age.⁵¹ As a compromise, the Secretary-General proposed that child combatants between fifteen and eighteen years of age be made to go through the judicial process of accountability but with all the internationally recognised guarantees of juvenile justice attached. Furthermore, the penalty of imprisonment was excluded and a number of alternative options of correctional or educational nature were provided for instead.⁵² Thus, the Secretary-General appears to have struck a fair balance between the understandable but opposing views.

4.3. Organisational structure of the Special Court

The Secretary-General recommended that the Special Court should consist of three organs: the Chambers, which shall comprise two Trial Chambers

48. Secretary-General’s Report, *id.*, at para. 23.

49. *Id.*, at para. 33.

50. *Id.*, at para. 35.

51. *Id.*

52. *Id.*, at para. 37. For an examination of the legal basis for the prosecution of children who commit atrocities in the course of internal strife, see C. Reis, *Trying the Future, Avenging the Past: The Implications of Prosecuting Children for Participation in Internal Armed Conflict*, 28 Colum. Human Rights L. Rev. 629 (1997).

and an Appeals Chamber, the Prosecutor's Office and the Registry. This view was not supported by the Security Council, however, who suggested that the Court begin its work with a single Trial Chamber, with the possibility of adding a second Chamber should the developing case-load warrant its creation.⁵³ They did agree with the Secretary-General's proposal that three judges would serve in the Trial Chamber, two appointed by the Secretary-General and the third being appointed by the Government of Sierra Leone.⁵⁴ The Appeals Chamber will be composed of five judges, three appointed by the Secretary-General and the remainder by the Government of Sierra Leone.⁵⁵ It was proposed that the judges will be appointed for a four-year term and shall be eligible for re-appointment.⁵⁶

It was further proposed that the Secretary-General should, after consultation with the Government of Sierra Leone, appoint an independent prosecutor to lead the investigations and prosecutions.⁵⁷ The Prosecutor shall be assisted by a Sierra Leonean Deputy appointed by the Government of Sierra Leone in consultation with the Secretary-General.⁵⁸ In this connection, it would appear that the Prosecutor's powers are severely limited in comparison with the Statutes of the *ad hoc* Tribunals. The legal framework, as it is envisaged, appears to address only the Prosecutor's "responsibility": no reference is made to the active powers of the Prosecutor. In order to perform his functions effectively, the Prosecutor will require the power to take investigative steps such as interviewing suspects and witnesses, collecting evidence and conducting on-site investigations.⁵⁹ While the modalities of these functions may be reserved for the Rules of Procedure and Evidence, the general power to do so should have been contained in the Statute (the Rules being a derivative of the Statute), as

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53. Letter dated 22 December 2000 from the President of the Security Council addressed to the Secretary-General, UN Doc. S/2000/1234 (22 December 2000) (hereinafter 'Security Council's Letter').
54. Statute, *supra* note 20, Art. 12(1)(a). It is noted that it was originally proposed that "one Sierra Leonean judge" should be appointed to each of the Trial Chambers. This phrase was replaced at the request of the government of Sierra Leone by "judges appointed by the government of Sierra Leone." While this does not preclude the appointment of a Sierra Leone judge, it creates the possibility that Sierra Leoneans may not play any adjudicating role in the process. It has opined that in order to enhance the appearance of impartiality, it is crucial that Sierra Leoneans are appointed to serve as judges. Tejan-Cole, *supra* note 30, at 119-120.
55. Statute, *id.*, Art. 12(1)(b). This procedure differs to that followed by the *ad hoc* Tribunals where the judges are elected by the UN General Assembly, after candidates have been short-listed by the Security Council, *see* ICTY Statute, Art. 13; ICTR Statute, Art. 12.
56. The judges, like those appointed to the *ad hoc* Tribunals, must be persons of high moral character, impartiality and integrity, who possess, in their respective countries, the qualifications required for appointment to the highest judicial office. They shall be independent in the performance of their functions, and shall not accept or seek instructions from any government or any other source. Statute, *id.*, Art. 13.
57. The Prosecutor shall be appointed for a four-year term and shall be eligible for re-appointment. Agreement, *supra* note 19, Art. 3(1).
58. *Id.*, Art. 3(2).
59. *See* ICTY Statute, Art. 18(2); ICTR Statute, Art. 17(2).

should the corresponding obligations of Sierra Leone (and possible third states).

Unlike the *ad hoc* Tribunals, which are not located in the states where the atrocities were committed and the majority of the victims (and perpetrators) reside, it is envisioned that the Special Court will be located in Sierra Leone.⁶⁰ This will allow the Court to have ready access to witnesses, documentation and other evidence. Particularly given the collapse and consequent mistrust of official institutions in Sierra Leone, the close proximity to the Court will further enable the people of Sierra Leone to observe the work of an international court that operates in accordance with the highest standards of impartiality and respect for all parties as well as avoid a major criticism of the *ad hoc* Tribunals, namely that they have been perceived locally as a foreign appendage forced upon the region.

4.4. Judgement, penalties and enforcement of sentences

Although provisions relating to the commencement and conduct of trial proceedings are absent, the Statute provides that an accused shall be presumed innocent until proven guilty and shall be entitled to a fair and public hearing.⁶¹ In the determination of any charge against him, the accused shall be entitled to the minimum guarantees as recognised by international human rights instruments, in particular the standards set out in Article 14 of the International Covenant on Civil and Political Rights. It should be noted, however, that the Special Court is empowered to take appropriate measures to protect the safety and well being of victims and witnesses, provided such measures are consistent with the rights of the accused.⁶²

The authority to pronounce judgements and impose sentences and penalties on convicted persons is also set out in the Statute. Judgements must be by a majority of the Judges of the Trial Chamber and must be delivered in public.⁶³ Upon conviction, the Special Court may sentence an accused, other than a juvenile offender, to a period of imprisonment and may order any property, proceeds or assets which have been acquired unlawfully or by criminal conduct to their rightful owner or to the State of Sierra Leone.⁶⁴

Similar to the *ad hoc* Tribunals, both convicted persons and the Prosecutor may appeal decisions made by the Trial Chambers on the grounds that there has been an error on a question of law invalidating the

60. For a discussion on a possible alternative host state, should it be necessary to convene the Special Court outside Sierra Leone, see Secretary-General's Report, *supra* note 18, at paras. 51-54.

61. Statute, *supra* note 20, Art. 17(2) and (3).

62. *Id.*, Art. 17(2).

63. A reasoned opinion made in writing, to which separate or dissenting opinions may be appended, must accompany the judgement. *Id.*, Art. 18.

64. *Id.*, Art. 19.

decision or an error of fact which has occasioned a miscarriage of justice.⁶⁵ The Statute of the Special Court also enables a party to the proceedings to appeal on the ground of a procedural error.⁶⁶ Although not specified, it is assumed that for the purposes of judicial efficiency the notion of "procedural error" shall be linked to the principle of a fair trial and the interests of justice. After hearing such appeals, the Appeals Chamber may confirm, reverse or revise the Trial Chamber's decision. The Appeals Chamber is not entitled, however, to send proceedings back to a Trial Chamber.⁶⁷ The Statute further enables a convicted person or the Prosecutor to apply to either a Trial Chamber or the Appeals Chamber to review its decision if a new fact comes to light which was not known at the time of the proceedings before the Chamber, and that fact could have been a decisive factor in reaching the decision.⁶⁸

Given the hybrid nature of the Special Court, it was decided that convicted persons should serve their sentence in Sierra Leone. Should circumstances so require, imprisonment may be also served in any of the states who have concluded an agreement for the enforcement of sentences with the *ad hoc* Tribunals or otherwise indicated their willingness to accept convicted persons.⁶⁹ With respect to pardon or commutation of sentence, such matters are to be determined by the laws of the state in which the convicted person is imprisoned. If eligible for release, the state concerned shall notify the Special Court, and the President of the Court, in consultation with the judges, shall decide to pardon or commute the sentence of the convicted person "on the basis of the interests of justice and the general principles of law."⁷⁰

5. PRACTICAL ARRANGEMENT FOR THE OPERATION OF THE SPECIAL COURT

As with most endeavours that aim to advance humanity and create an improved world, everything starts and ends with adequate funding. A particular feature of the criminal process, namely that it cannot be done half-heartedly (particularly when it is a process sponsored by the organisation set up to champion that better world), makes the funding issue even more fundamental in the case of the Special Court. National and interna-

65. *Id.*, Art. 20(1)(b) and (c).

66. *Id.*, Art. 20(1)(a).

67. This provision follows the inquisitorial legal system in which appellate courts may determine questions of fact themselves: in adversarial legal systems, appellate courts usually remit such questions to the trial court. *Id.*, Art. 20(2). See also ICTY Statute, Art. 25(2); ICTR Statute, Art. 24(2).

68. Statute, *supra* note 20, Art. 21.

69. The Special Court is also authorised to conclude agreements for the enforcement of sentences with other states, and, in light of the precarious security situation in Sierra Leone, it is likely that such agreements will need to be completed. *Id.*, Art. 22.

70. *Id.*, Art. 23.

tional judicial institutions have repeatedly held that the lack of available finances cannot excuse a violation of the right of an accused to be tried without undue delay. Nor can the lack of financial means justify denying an accused's request to have the documentation pertaining to his case and the court proceedings translated into a language he understands. If a judge, *proprio moto*, or the defence, sees a need to request the testimony of certain witnesses, it is expected that adequate funds will be made available to secure their presence at trial. Moreover, under customarily accepted human rights standards convicted persons who have been the victim of a malicious or otherwise wrongful prosecution have the right to be compensated for which insufficient budgetary means at the national level cannot be an excuse. In other words, a criminal process in accordance with the basic human rights standards agreed in the United Nations context, requires a certain base level funding at all stages of the process – from investigation to judgement on final appeal. The fact that it is envisioned that the Special Court will also have to involve itself in juvenile justice – with all the additional expertise and, thus, expenses involved – will add to the base-level costs and increase the responsibilities associated thereto.

Against this background one cannot be surprised by the conclusion of the Secretary-General in his report of 4 October 2000 that:

The risks associated with the establishment of an operation of this kind with insufficient funds, or without long-term assurances of continuous availability of funds, are very high, in terms of both moral responsibility and loss of credibility of the Organisation, and its exposure to legal liability.⁷¹

The only mechanism which can insure an assured and continuous source of funding are assessed contributions by the participating states.

For whatever reasons, the Security Council has not heeded the Secretary-General's warning and, thus, may have once again exposed the United Nations to a mandate that will be very difficult to execute. In its letter to the Secretary-General dated 22 December 2000, the President of the Council indicated that the members of the Security Council support funding through voluntary contributions.⁷² To nonetheless provide something of a foundation, it was added by the Council that no concrete steps are taken to set up the Special Court unless adequate funds for at least twelve months of operations are guaranteed and pledges are in for another twelve months.

In his reply, the Secretary-General reiterated his assessment of the risks involved in going down the voluntary-contribution road, but grudgingly accepted that he did not have a choice in the matter at the present stage

71. Secretary-General's Report, *supra* note 18, at para. 70.

72. Voluntary contributions could include, besides funding, equipment and services and gratis personnel offered by states, inter-governmental organisations and non-governmental organisations. Security Council's Letter, *supra* note 53.

of the process.⁷³ He therefore suggested a modification of the Security Council's proposal of 22 December 2000 to require that twelve months of funding be at hand and twenty-four months of funding be pledged before the Court is established.⁷⁴ The authors do not have an elaborate insight into the political machinations that will determine whether this is a sufficient basis upon which to proceed. We do, however, share the Secretary-General's fundamental concerns and dread to think what the weight of the Court will be when, after two years and into the conduct of the first trials, it will have to compete for funds with other serious humanitarian disasters which regrettably keep erupting world-wide. In this connection, the proposal by the Security Council to set up a committee for management and oversight with membership from Sierra Leone, the UN Secretariat and the voluntary contributors has not alleviated the authors' concerns.⁷⁵

6. CONCLUDING REMARKS

In light of the ongoing situation in Sierra Leone, there is an urgent need for the Special Court, which is a laudable endeavour in the pursuit of international justice, to commence its operations immediately. Nonetheless, at the time of writing twelve months have passed since the Government of Sierra Leone first approached the United Nations requesting the establishment of the Court and there is still no clear indication as to when it will become operational or, for that matter, when its constitutive instruments will come into effect. This, in itself, is very likely to have an adverse effect on the perceived success of the Court. As has been rightly observed "swift trials conducted immediately after the war and which capture public attention will be more effective than protracted symbolic trials held long after the war."⁷⁶

The delays associated with the establishment of the Special Court are also concerning, given that a significant number of rebels, including Foday Sankoh, have been detained by the Government of Sierra Leone for several months under the emergency provisions of the Constitution.⁷⁷ The longer it takes to establish the Court, the greater the dilemma of the Sierra Leonean Government. Since no one should be subject to arbitrary arrest and detention in contravention of the applicable instruments of international human rights law, the Government will either have to prosecute these persons for an ordinary crime under national law or release them. Either

73. See Letter dated 12 January 2001 from the Secretary-General addressed to the President of the Security Council, UN Doc. S/2001/40 (12 January 2001).

74. *Id.*

75. Security Council's Letter, *supra* note 53.

76. Tejan-Cole, *supra* note 30, at 120.

77. As at 1 December 2000, 291 persons were detained without charge under the emergency powers. Eighth Secretary-General's Report, *supra* note 14, at para. 49.

option is likely to provoke severe hostility from the Sierra Leonean population.

The large numbers of persons in custody will also create problems for the Special Court once it is finally established. It is not entirely clear whether the Court is responsible for existing cases right away, or whether some formal deferral process is intended in respect of incipient national proceedings. In all likelihood the Court will be criticised for not taking cases, and in those cases where it does exert its jurisdiction, it is probable that the accused will challenge the length of his detention. Both issues will undermine the credibility of the Court from the outset.

The credibility of the institution is, in fact, already being eroded by the ongoing discussions on funding and the apparent unwillingness of the UN members to throw their committed weight behind the project. The longer the commencement of the process of "doing justice" is stalled, the more difficult it will be to start that process and the harder it will be to combat negative perceptions within the very community which the Court will be set up to serve.

In this connection and as a final comment, the authors would strongly advocate that the Special Court should have an active, well thought through programme at the outset to enable it to reach out to the people of Sierra Leone and to make its role and functions understood. It is, for example, very likely that the Court will be perceived as a luxury institution, where those "most responsible" will be treated generously by comparison to the mere foot-soldiers who, if charged at all, will be routed through the underdeveloped and poorly funded national legal system. Perceptions such as these can be dangerous and have a negative impact on the contribution that an institution such as the Special Court can make towards peace and reconciliation in Sierra Leone.⁷⁸ In assessing the costs for the project and making the determination whether adequate funds are available to actually establish the Court, the Secretary-General should be mindful of the need for such an outreach programme.⁷⁹ Reconciliation cannot be imposed and experience suggests that it is impossible in the short term. The significance of the Court lies instead with the potential of its activities. By informing, educating and involving the people of Sierra Leone – thereby increasing the popular perception of its work and encouraging debate – the Court may help the process of change in a country which has been savagely torn by war for over a decade.

78. For other negative perceptions that may be encountered, *see* Tejan-Cole, *supra* note 30, at 126.

79. For a discussion of how the establishment of an outreach programme for the ICTY has facilitated the realisation of some of the objectives of the Tribunal, *see* L. Vohrah & J. Cina, *The Outreach Programme*, in R. May *et al.* (Eds.), *Essays on ICTY Procedure and Evidence: In Honour of Gabrielle Kirk McDonald* 547 (The Hague: Kluwer Law International, 2000).



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FOURTH REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN SIERRA LEONE

I. INTRODUCTION

1. The present report is submitted pursuant to the presidential statement issued by the Security Council on 26 February 1998 (S/PRST/1998/5), by which the Council requested me to submit detailed proposals concerning the role of the United Nations and its future presence in Sierra Leone. It covers the developments in Sierra Leone since the issuance of my third report on 5 February 1998 (S/1998/103).

II. IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1132 (1997)

Action taken by the Economic Community of West African States and the Economic Community of West African States Monitoring Group

2. On 5 February 1998, the Economic Community of West African States (ECOWAS) Committee of Five on Sierra Leone came to New York to brief the members of the Security Council and myself on the situation in Sierra Leone. The Chairman of the Committee of Five, the Foreign Minister of Nigeria, Chief Tom Ikimi, said an impasse had been reached in the implementation of the Conakry Agreement. He pointed out that the junta had raised three issues which, in its view, stood in the way of the implementation of the Agreement, namely, the release of Corporal Foday Sankoh, the proposed exemption of the Republic of Sierra Leone Military Forces from the disarmament process and the composition of the ECOWAS Monitoring Group (ECOMOG) which consisted primarily of Nigerian troops.

3. Minister Ikimi noted that because of this impasse, ECOMOG had been unable to deploy in Sierra Leone to carry out the disarmament and demobilization of the Sierra Leonean combatants, and it had therefore not been possible to deploy United Nations military observers alongside ECOMOG.

4. Minister Ikimi requested my support in launching a high-level effort to support ECOWAS through the establishment of a group of friends of Sierra Leone, and expressed the view that the Security Council should endorse the 22 April 1998 deadline for the restoration of constitutional authority and the full implementation of the Conakry Agreement of 23 October 1997.



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5. I reaffirmed to the Committee of Five the desire of the United Nations for close cooperation between the United Nations and ECOWAS, and stated that ECOMOG needed to develop a concept of operations on the basis of which the United Nations could finalize its own deployment plan. ECOMOG should also compile a statement of its own logistical requirements in order to attract the necessary support from potential donors.

6. On the same day, responding to an attack by junta forces on their position at Lungi, ECOMOG launched a military attack on the junta, which culminated approximately one week later in the collapse of the junta and its expulsion by force from Freetown after heavy fighting. The fall of the city on 13 February, which was accompanied by widespread looting and some reprisal killings, led to the flight or capture of many soldiers and leaders of the junta. ECOWAS has assured me that the International Committee of the Red Cross (ICRC) has been allowed to visit prisoners detained by ECOMOG in Freetown. However, some of the former leaders of the Armed Forces Revolutionary Council (AFRC), including its Chairman, Johnny Paul Koroma, are believed to be still at large. Acting in concert with the local Kamajors and other traditional hunter militia (known as the Civil Defence Unit), ECOMOG has subsequently taken control of the towns of Bo, Kenema and Zimmi in the south of the country, and Lunsar, Makeni and Kabala in the north. ECOMOG has also reported the capture of Daru, which would mean that the remnants of the junta have now been dislodged from every major town except for Kailahun. Following scattered fighting in the latter part of February, the country now appears to be quiet. A number of foreign aid workers and missionaries taken hostage by armed elements in February were later released unharmed. However, press reports in mid-March indicated that Revolutionary United Front (RUF) members in Kono had murdered civilians and taken 200 hostages, reportedly including foreign nationals.

7. On 18 February, accompanied by the Executive Secretary of ECOWAS, Mr. Lansana Kouyaté, Minister Ikimi visited Sierra Leone to assess the situation on the ground. They interviewed some former junta soldiers now detained by ECOMOG and visited the State House complex and the Parliament buildings. Many of the government buildings were found to have been looted and were in poor condition, and a number of unexploded bombs were scattered about. However, the ECOWAS team, which was enthusiastically greeted by crowds, found that in many respects life had returned to normal in the capital. As noted below, my Special Envoy also visited Freetown on the same day.

8. From 25 to 27 February 1998, the Committee of Five met in the margins of the meeting of the Organization of African Unity (OAU) Council of Ministers held in Addis Ababa to review the situation in Sierra Leone. The Committee issued a communiqué, which was subsequently circulated as document S/1998/170.

9. On 4 March 1998, the members of the Committee of Five returned to New York and met again with members of the Security Council and with me. Chief Ikimi briefed me on his visit to Freetown on 18 February and his subsequent meeting with President Tejan Kabbah in Conakry. Following this meeting, it was announced that President Kabbah would return to his country on 10 March 1998.

10. ECOMOG has also prepared a detailed list of logistical requirements for its operations in Sierra Leone. During the visit to New York of the Committee of

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Five, Chief Ikimi requested the assistance of the United Nations and the international community in ensuring that these requirements could be met. That request was reaffirmed by the Chairman of ECOWAS, General Sani Abacha, in his statement at the ceremony held to mark the return of President Kabbah to Freetown on 10 March.

Action taken by the United Nations

11. On 18 February 1998, a few days after ECOMOG had established control over most of the city of Freetown, my Special Envoy, Mr. Francis G. Okelo, led a security and humanitarian assessment mission to the capital and to Lungi comprising United Nations and non-governmental organization officials. The mission determined the most immediate needs of the population. Mr. Okelo handed over a quantity of medicines donated by the World Health Organization (WHO) to local hospitals and began preparations for the re-establishment of a United Nations presence in Freetown. A few days later, the World Food Programme (WFP) delivered 857 metric tons of food to Freetown by ship.

12. Early in February, pursuant to a request by members of the Security Council for a technical assessment of the humanitarian situation in Sierra Leone since the coup d'état of 25 May 1997, an inter-agency mission travelled to the subregion. Its report is contained in document S/1998/155. Further information on the humanitarian situation in Sierra Leone can be found in section III of the present report.

13. Pursuant to the statement issued by the President of the Security Council on 26 February, I have initiated the necessary action to establish a Trust Fund for Sierra Leone. Contributions would help finance logistical assistance to ECOMOG, rehabilitation assistance to the Government of Sierra Leone and activities, including disarmament, demobilization and human rights.

14. On 7 March 1998, my Special Envoy reopened the United Nations office in Freetown, which had been closed shortly after the 25 May 1997 coup d'état and was temporarily relocated in Conakry, Guinea. The office is now being strengthened to comprise civilian political and humanitarian officers, a military adviser and, in due course, human rights and civilian police advisers and public information personnel. The function of the office is to liaise with the Government of Sierra Leone, ECOWAS, ECOMOG and the United Nations and its agencies, as well as non-governmental organizations, and to act as the overall authority for all United Nations activities in the country. My proposals for deploying military liaison personnel as part of the United Nations presence on the ground can be found in section IV of the present report. My Special Envoy will also temporarily retain a small office in Conakry, but he expects to be fully established in Freetown by the end of March, thus paving the way for the return of all United Nations agencies to Sierra Leone.

Action taken by the Government of Sierra Leone

15. On 13 February 1998, President Kabbah called a meeting in Conakry of potential donors, including the European Union, Germany, the United Kingdom of Great Britain and Northern Ireland and the United Nations, to discuss his Government's priorities; the nature of the assistance the international

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community could provide; and the urgent provision of humanitarian assistance. The President announced that he had created a task force to prepare the ground for the resumption of work by his Government, to assess damage to the infrastructure and to prepare for the resumption of education. President Kabbah identified the immediate priorities of his Government as the provision of humanitarian supplies and petroleum products, the reactivation of international aid programmes and the disarmament and demobilization of former combatants. Three other areas that required special attention have been identified as the training and restructuring of the police force, the creation of job opportunities for young people and the construction of low-cost housing. President Kabbah also indicated that he intended to streamline his administration and appoint technical experts to cabinet positions.

16. Following the removal by ECOMOG of the military junta from power, President Kabbah issued a statement announcing his intention to submit proposals to Parliament concerning the rebuilding of his country. The President also spoke out against the reprisal killings, which, in some cases, had accompanied the seizure of control from the junta.

17. On 10 March 1998, accompanied by General Sani Abacha, Chairman of ECOWAS and Head of State of Nigeria, as well as the Heads of State of Guinea, Mali and Niger, President Lansana Conteh, President Alpha Oumar Konare and President Ibrahim Bare Mainassara, and the Vice-President of Gambia, President Tejan Kabbah returned to Freetown to resume his office as Head of State of Sierra Leone. He was greeted by large and enthusiastic crowds. Mr. Ibrahima Fall, Assistant Secretary-General for Political Affairs, delivered on my behalf a message of congratulations to the President stating that his return represented the accomplishment of a major objective not only of the people of Sierra Leone, but also of ECOWAS, OAU, the United Nations and the entire international community. I expressed my deep regret at the violence, loss of life and property and immense suffering undergone by the people of Sierra Leone since the coup d'état and extended my condolences to the families of those who lost their lives in opposing it. Furthermore, I informed the President that the United Nations looked forward to working closely with him in helping his Government to reassert its authority and strengthen its capacity throughout the country.

18. In a statement made at the ceremony marking his return to Sierra Leone, President Kabbah declared his intention to embark on the process of national reconciliation and reconstruction of the country, to form a broad-based Government and to appoint a policy advisory committee. In his first meeting with my Special Envoy after his return, President Kabbah stressed the need for an early deployment of United Nations military personnel, the urgent provision of humanitarian assistance and the prompt establishment of the Trust Fund for Sierra Leone.

Military and security situation in Sierra Leone

19. Freetown is now fully under the control of ECOMOG and is increasingly secure. Some unexploded ordnance and landmines have been found, but these are not a threat to security. The peninsula on which the capital stands has also been secured. With the capture of almost every other major town in the country,

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and through its deployment further into the countryside in the north, south and east, ECOMOG has established itself successfully across most of the country.

20. Nevertheless, the fact that many of the senior junta leaders, including the former Chairman of the AFRC, Johnny Paul Koroma, have not thus far been apprehended, as well as the continuing violence inflicted on civilians during their retreat from ECOMOG forces by RUF and other armed elements, indicate that the security situation in Sierra Leone is still a source of concern. Though ECOMOG has begun to collect weapons in Freetown, a major disarmament, demobilization and reintegration exercise will be needed to ensure security.

21. ECOMOG has also developed a concept of operations for its deployment throughout Sierra Leone that sets out the preliminary planning for the disarmament and demobilization of Sierra Leonean combatants. In summary, the tasks ECOMOG has set for itself include:

- (a) Deployment throughout Sierra Leone;
- (b) Manning of selected entry points by land, sea or air in order to ensure that no arms, ammunition or war matériel are brought into the country;
- (c) Disarmament of ex-combatants at designated sites;
- (d) Establishment of road blocks to check the movement of arms and ammunition and to assist in extending protection to refugees and internally displaced persons;
- (e) Conducting patrols to create an atmosphere conducive to freedom of movement and the restoration of established authority;
- (f) Providing security for key individuals, United Nations personnel, including military personnel, and non-governmental organizations.

22. The plan calls for the deployment of 15,000 troops in four sectors: western, northern, southern and eastern. The western sector, comprising Freetown and the airports of Lungi and Hastings, is further subdivided, and would support the deployment of seven battalions, an air force detachment and an artillery brigade. This appears to be an ample level of force for the protection of the capital and its airport.

23. In the northern sector, ECOMOG would deploy a brigade headquartered at Makeni, with battalions located at Port Loko, Magburaka and Kabala. In the south, ECOMOG will locate its brigade headquarters at Bo and deploy battalions at Moyamba, Pujehun and Kenema. Naval assets would also be required. The eastern sector is described as strategic in view of its mineral resources, the presence of heavy RUF and Kamajor concentration, and the border with Liberia. ECOMOG therefore considers that operations in the east could prove difficult and risky and demand a robust approach, alertness and deployment in strength. Battalions would be located at Yengema, Zimmi and Kailahun.

24. ECOMOG would also establish a disarmament committee which would be charged, inter alia, with selecting disarmament sites; setting standards and guidelines

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for disarmament; conducting the disarmament, coordination of resources and cooperation with other organizations; classifying and transporting recovered weapons and ammunition; disseminating information about the process and providing security for all participants. A ceasefire violations committee and a humanitarian services committee would also be created.

25. My Special Envoy and his staff are actively discussing with the Government and with ECOMOG the further elaboration and implementation of its concept of operations, which provides a suitable basis for the possible subsequent deployment of United Nations military personnel, subject to the authorization of the Security Council. I will revert to the Council with further recommendations on such deployment following a further assessment by my Special Envoy.

Other action taken pursuant to resolution 1132 (1997)

26. Since my previous report, a number of States have written to me, in compliance with paragraph 13 of resolution 1132 (1997), concerning the steps they have taken to give effect to the provisions contained in paragraphs 5 and 6 of the resolution relating to the sanctions imposed by the Council on Sierra Leone. The latest list of those States can be found in a separate report to the Security Council contained in document S/1998/112.

27. In a letter dated 9 March 1998 addressed to the President of the Security Council (S/1998/215), the Chargé d'affaires a.i. of the Permanent Mission of Sierra Leone to the United Nations conveyed a request from his Government for the convening of an urgent meeting of the Security Council to consider the lifting of the sanctions imposed on the importation of petroleum and petroleum products into the country in paragraph 6 of resolution 1132 (1997). On 16 March, the Council adopted resolution 1156 (1998) terminating, with immediate effect, the prohibitions on the sale or supply to Sierra Leone of petroleum and petroleum products referred to in resolution 1132 (1997).

III. HUMANITARIAN SITUATION

28. A number of United Nations humanitarian assessment missions have now been undertaken to Freetown, Kambia, Bo, Kenema and Makeni. These missions determined that the current humanitarian situation in Sierra Leone remains serious. The primary health care system has been devastated by lack of supplies, looting and the exodus of medical personnel at all levels. Widespread neglect of water and sanitation facilities has increased the exposure of hundreds of thousands to disease. The normal distribution of food to vulnerable groups has been disrupted, affecting children in particular. Many children have also suffered exposure to acts of violence by being sent into battle as combatants. The public education system has collapsed; all schools have been closed since the coup d'état last May. The combination of fighting and looting has led to extensive damage to housing and infrastructure in the provincial towns. The number of internally displaced people has increased, and the welfare of some 14,000 Liberian refugees remains a matter of concern, as many fled from their camps during the recent fighting. The majority of Sierra Leoneans who took refuge in Conakry during the fighting in Freetown have returned. However, some 24,000 Sierra Leoneans have arrived in Liberia since mid-February and the

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influx continues, albeit at a reduced rate. A further influx of 3,000 refugees from the Kailahun area, still not under ECOMOG control, has been registered by the Office of the United Nations High Commissioner for Refugees (UNHCR) at its camp in Kissidougou, Guinea.

29. United Nations agencies prepared a consolidated inter-agency flash appeal, which was launched on 3 March 1998. Through this appeal, I am seeking financial contributions from Member States in the amount of \$11.2 million to meet priority humanitarian needs in Sierra Leone over the next three months. Priority needs include support to agriculture through the provision of seeds and tools, the re-establishment of basic health and education services, the resumption of food aid distributions and the provision of assistance and protection to the most vulnerable groups affected by the current conflict. The flash appeal complements the 90-day programme of the Government of Sierra Leone, which serves as a framework for action following the restoration of democratic civilian rule in the country.

30. The full deployment of ECOMOG and the restoration of the legitimate Government is expected to provide increased opportunities for the humanitarian community to accelerate its activities in response to the humanitarian crisis in Sierra Leone, and will also encourage the return to their homes of internally displaced persons. It is hoped that the international community will contribute generously to the humanitarian programme outlined in the flash appeal, in order to provide the crucial assistance needed to sustain lives and to promote stability in Sierra Leone.

31. Medium-term tasks, such as the assisted repatriation of Sierra Leonean refugees and reintegration of ex-combatants, are not covered in the flash appeal. However, United Nations agencies are already re-establishing their offices in Freetown and are eager to restart their social and economic development programmes, important components of which must be the re-building of the capacity of the Government of Sierra Leone to deliver services, stimulate economic recovery and promote national reconciliation and reconstruction.

Commencement of the repatriation of refugees

32. At the request of President Kabbah, and with the help of a donation of \$120,000 from the Government of Japan, UNHCR has begun to prepare for the repatriation from Conakry of up to 5,000 Sierra Leonean refugees, including 200 civil servants who fled Freetown after the May coup d'état and who will be engaged in the administration of the country.

33. ECOMOG control of major towns in southern Sierra Leone is also likely to encourage the early repatriation by road of Sierra Leonean refugees from Liberia. It is further expected that the removal of the junta could lead to the repatriation of the 400,000 Sierra Leonean refugees in the West African subregion.

34. Of the total caseload of Liberian refugees in Sierra Leone, some 2,800 have thus far been re-registered with UNHCR, about half of them requesting repatriation. UNHCR has begun making arrangements for them to be repatriated by sea.

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United Nations Development Programme mission to Sierra Leone

35. A multi-unit mission to Sierra Leone dispatched by the United Nations Development Programme (UNDP) has proposed four projects for immediate implementation following their approval by the Government. These are:

- (a) A start-up project for the demobilization of various categories of combatants;
- (b) Support for national institutions to enable a rapid return to normal functioning;
- (c) Resettlement with emphasis on quick-impact micro-projects, reconciliation and youth development;
- (d) Awareness-raising in order to help the country come to terms with the problems it faces and to promote national reconciliation and peace-building.

36. The mission is also assisting the Government to prepare a document for a donors' consultation proposed to be held in Brussels on 31 March 1998. UNDP plans to close its Coordination Office in Conakry by the end of March if the security situation continues to stabilize, and to return the staff of its Country Office to Freetown.

IV. OBSERVATIONS AND RECOMMENDATIONS

37. The developments that have taken place in Sierra Leone since the submission of my last report should be seen as positive in the context of the wider situation in which they transpired. The removal of the junta by the action of ECOMOG has opened the way for the re-establishment not just of the legitimate Government, but also of civil order, the democratic process and the beginnings of economic and social development. The return of President Kabbah to Freetown on 10 March therefore presents the people of Sierra Leone and the international community with a challenge and an opportunity which must be grasped with a sense of urgency. We must not let slip the chance to restore Sierra Leone to the ranks of democratic nations and to help strengthen the stability of the subregion.

38. I commend the consistent diplomacy of ECOWAS and, in particular, its Committee of Five on Sierra Leone, and the contribution made by ECOMOG officers and men to the removal of the military junta. I call on ECOWAS and ECOMOG to continue their efforts to bring peace to Sierra Leone in accordance with the relevant provisions of resolution 1132 (1997) and of the Charter of the United Nations. Sierra Leoneans committed to the democratic system also played their part in maintaining a stubborn resistance to the illegal regime. These included not only the members of the Civil Defence Forces, but also countless unarmed civilians who persistently withheld their cooperation from the regime and denied it legitimacy. I salute the courage of the Sierra Leonean people and honour the memory of those who died opposing the junta.

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39. I also congratulate President Ahmad Tejan Kabbah on his resumption of his responsibilities as Head of State of Sierra Leone following his return. The United Nations should give his Government every possible assistance in its efforts to promote national reconciliation among his people and to strengthen the authority and capacity of his Government.

40. As I stated in my message to the annual summit meeting of the Organization of African Unity at Harare, and in the special message which was delivered by my Special Envoy, Mr. Ibrahima Fall, on the occasion of President Kabbah's return, Africa can no longer tolerate or accept as *faits accomplis* coups d'état against elected Governments or the illegal seizure of power by military cliques.

Strengthening the office of the Special Envoy

41. In order to take full and prompt advantage of the changed situation, I wish to propose a comprehensive set of measures to assist the Government and people of Sierra Leone in both their immediate and longer-term needs. As a first step, I intend to strengthen the office of my Special Envoy in Freetown. In order to contribute to the restoration of respect for the rule of law, civil order and human rights in Sierra Leone, I have consulted with the United Nations High Commissioner for Human Rights concerning the possible deployment of human rights observers. In the meantime, a human rights officer will be attached to the office of my Special Envoy at an early date.

42. I am also considering attaching to the office two civilian police officials to advise the Government on police training and procedures in a democratic society. An additional political officer and a military adviser would assist my Special Envoy in his consultations with ECOMOG on the development of planning for disarmament and demobilization, while a humanitarian officer would facilitate the coordination of activities of the United Nations and non-governmental organizations in Sierra Leone and advise my Special Envoy on all issues involving non-governmental organizations. The office will also require a public information programme to disseminate information among the population about its activities, in particular in connection with the disarmament and demobilization of ex-combatants and their reintegration into society.

Deployment of military liaison personnel

43. I also recommend the deployment to Sierra Leone of up to 10 United Nations military liaison officers, whose functions would be as follows:

(a) To liaise closely with ECOMOG and to report on the military situation in the country;

(b) To ascertain the state of and to assist in the finalization of planning by ECOMOG for future tasks such as the identification of the former combatant elements to be disarmed and the design of a disarmament plan.

44. Should the Security Council decide to authorize the deployment of these military liaison officers, as well as the military and civilian police advisers, as indicated in my third report (S/1998/103, para. 35), the costs relating

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thereto should be considered an expense of the Organization to be borne by Member States in accordance with Article 17, paragraph 2, of the Charter of the United Nations and the assessments to be levied on Member States should be credited to the special account to be established for Sierra Leone. The related cost estimates will be issued shortly as an addendum to the present report.

45. The military liaison team would complement the role of the military advisers who will, under the authority of my Special Envoy, continue to assist the Government of Sierra Leone to resolve issues related to the disarmament process. The military advisers will also be instrumental in assisting the Government of Sierra Leone in the development of planning for bilateral programmes to restructure and rebuild appropriate security forces for Sierra Leone in the future. In view of the importance of such retraining, I appeal to potential donors to show generosity in providing bilateral assistance.

46. The presence of United Nations military liaison officers, perhaps later supplemented by human rights observers, could also assist in the process of national reconciliation in Sierra Leone. Their close cooperation with ECOMOG in the countryside and their impartial reporting to my Special Envoy would reassure former combatants that they can surrender their weapons in safety.

Provision of humanitarian assistance

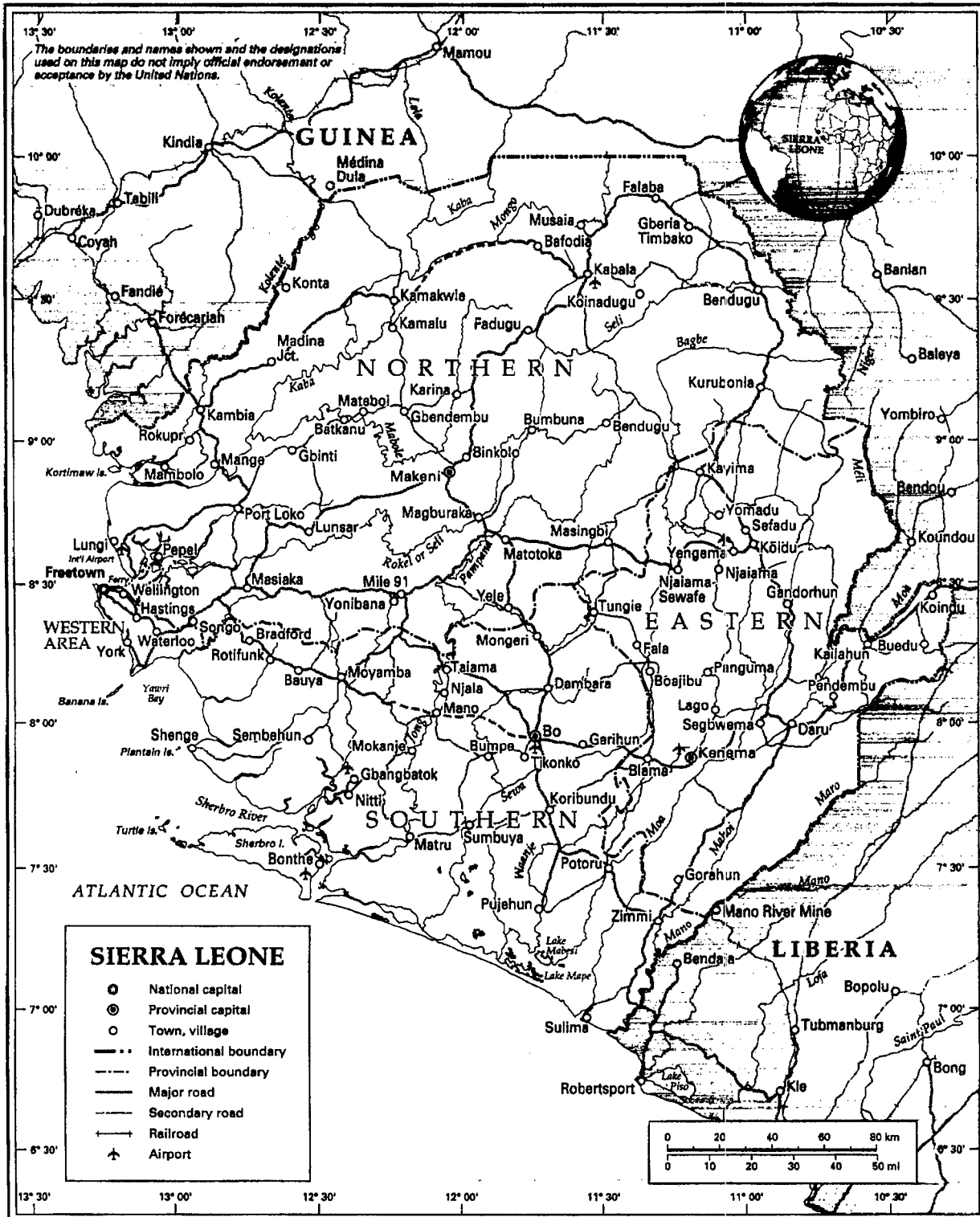
47. The provision of humanitarian assistance must also proceed expeditiously. The plight of Sierra Leoneans deprived of food, medical care and shelter by the recent fighting and the abuses of junta rule is acute, and it must be addressed as a matter of urgency with all the resources available to the aid agencies. While I remain deeply concerned about the humanitarian situation in many parts of the country, I am encouraged by news that humanitarian needs are beginning to be addressed. Food aid and emergency medical supplies have entered the country through the port of Freetown and have been delivered to some provinces by plane, helicopter and overland in a prompt and coordinated manner.

Contributions to the Trust Fund

48. I call on Member States to display generosity in contributing to the Trust Fund for Sierra Leone which, with the encouragement of the Security Council, I have established. My appreciation goes to the Government of the United Kingdom, which has already announced its readiness to contribute \$2 million, and has been actively assisting in the provision of aid to Sierra Leoneans. I also urge all Member States to provide generous assistance to ECOMOG to enable it to meet its logistical requirements and to fulfil its mandate in Sierra Leone.

49. The events that have taken place in Sierra Leone over the past year carry a warning that similar crises may arise and challenge the international community to consider how it should respond to them. Democracy in Sierra Leone may have deep roots, but it is a fragile plant and must be nurtured. The international community must maintain its vigilance and support, not least in the prompt provision of emergency bilateral and multilateral aid. Assistance for the laudable efforts of ECOWAS and the logistical requirements of ECOMOG as it continues its deployment through the countryside will also be required. I trust that such support will be forthcoming.

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FIFTH REPORT OF THE SECRETARY-GENERAL
ON THE SITUATION IN SIERRA LEONE

I. INTRODUCTION

1. By paragraph 5 of its resolution 1162 (1998) of 17 April 1998, the Security Council authorized the deployment, with immediate effect, of up to 10 United Nations military liaison and security advisory personnel in accordance with paragraph 44 of my report of 18 March 1998 (S/1998/249) to Sierra Leone for a period of up to 90 days, to work under the authority of my Special Envoy, to coordinate closely with the Government of Sierra Leone and with ECOMOG, the Monitoring Group of the Economic Community of West African States (ECOWAS), to report on the military situation in the country, to ascertain the state of and to assist in the finalization of planning by the Government of Sierra Leone and ECOMOG for future tasks, such as the identification of the former combatant elements to be disarmed and the design of a disarmament plan, as well as to perform other related security tasks as identified in other paragraphs of my above-mentioned report.

2. By paragraph 10 of that resolution, the Council requested me to report periodically, including on the activities of those military liaison and security advisory personnel and on the work of the office of my Special Envoy in Sierra Leone, within the reporting time-frame set out in paragraph 16 of resolution 1132 (1998) of 8 October 1997. The present report is submitted in accordance with that time-frame, by which the Security Council requested the submission of a report every 60 days.

II. DEVELOPMENTS SINCE MY LAST REPORT

Action taken by the Government of Sierra Leone

3. Following its restoration on 10 March 1998, the Government of Sierra Leone has acted to consolidate its authority throughout the country as far as possible. On 16 March, President Kabbah, acting with the support of Parliament, proclaimed a state of emergency empowering him to take measures to ensure security and stability. These measures included the right to detain suspects and restrict their movements, the imposition of a curfew and the right to



- requisition property. The Government also announced the expulsion of 22 persons and the deprivation of 10 others of Sierra Leonean citizenship for collaborating with the junta and for economic crimes and immigration irregularities.
4. On 20 March 1998, President Kabbah announced that his new streamlined Cabinet would comprise persons of known competence and integrity. The members of the Cabinet, which consists of 15 Ministers, 11 Deputy Ministers and 5 Ministers of State, have all been confirmed by Parliament, as have the President's nominees for the post of Chief Justice and many positions in parastatal bodies. The President has also appointed a Policy Advisory Committee to guide the Government on crucial issues of national interest and to monitor the functioning of the public institutions.
5. The Government has also taken steps to establish a National Commission for Reconstruction, Resettlement and Rehabilitation, responsible for stimulating and coordinating related donor, Government and non-governmental activities. In accordance with its terms of reference, the National Commission would, in close collaboration with domestic and international funding agencies, draw up a two-year national rehabilitation, resettlement and reconstruction plan involving, inter alia, the repatriation and resettlement of internally displaced persons and refugees.
6. On 27 March 1998, the Minister for Foreign Affairs of Zimbabwe, Mr. Stan Mudenge, led a five-person Commonwealth delegation on a visit to Freetown in order to explore ways in which the Commonwealth could assist Sierra Leone in the task of national reconstruction and peace-building. At the conclusion of the visit, the participants announced that they would urge all member Governments of the Commonwealth to assist Sierra Leone bilaterally in every practicable way in its efforts to achieve national reconstruction and reconciliation, and to contribute to the Trust Fund to support peacekeeping and related activities in Sierra Leone.
7. On 21 April 1998, a three-man team of British police experts visited Sierra Leone to advise the Government on the restructuring of the police force and the improvement of its equipment. The team also discussed the recruitment and role of police advisers and relations between the police and armed forces, among other matters. The United Kingdom of Great Britain and Northern Ireland has also provided the Government with communications equipment for the police.
8. From 4 to 8 May 1998, the Government received a multi-donor joint mission by the World Bank, the United Nations Development Programme (UNDP), the African Development Bank (AfDB), the United Kingdom Department for International Development and the European Union (EU) to discuss a range of development-related matters. The joint mission also discussed the demobilization and reintegration of ex-combatants, as described in more detail in section V below.
9. As described in section III below, on 6 May 1998, the Government instituted, in Freetown, the trials of a number of persons accused of plotting, participating in or collaborating with the coup d'état and the illegal junta.

10. On 22 May 1998, President Kabbah, in a comprehensive policy statement delivered at the State opening of the second session of Parliament, outlined major national policies his Government intends to pursue. These include: establishing guidelines for development activities, a framework for the creation of a new army and the restructuring and retraining of the police force; improving relations with neighbouring countries; reviving the national economy; strengthening key sectors of activity; and promoting civic education to sensitize Sierra Leoneans to the true meaning of peace and democracy. The President has also called for national reconciliation.

11. From 30 to 31 May 1998, the Minister of Internal Affairs, Mr. Charles Margai, and the Deputy Defence Minister, Chief Hinga Norman, visited Makeni and Kenema and called on all remnants of the Armed Forces Revolutionary Council/Revolutionary United Front (AFRC/RUF) forces to surrender within two weeks, promising them that they would be protected and treated fairly in accordance with the law.

12. On 4 June 1998, at a summit meeting of the leaders of the three Mano River Union countries, President Conteh and President Kabbah of Sierra Leone met at Conakry to discuss mutual cooperation in the subregion and relations between Liberia and Sierra Leone. Liberia was represented by the Vice-President, Mr. Enoch Dogolea.

Action taken by the Monitoring Group of the Economic Community of West African States

13. Following the expulsion of the illegal military junta from the capital, Freetown, in mid-February and the restoration of the democratically elected Government of President Ahmad Tejan Kabbah in the capital, ECOMOG moved swiftly to secure the area around Freetown, as well as the northern and southern provinces of the country, especially the towns of Makeni, Kambia and Kabala in the north and Bo and Kenema in the south. ECOMOG forces also advanced eastwards towards the Kono and Kailahun districts, where the forces of the former junta were concentrated.

14. Though ECOMOG has continued to make progress, it is severely overextended and its advance has been beset by logistical constraints, as well as by fierce resistance from elements of the AFRC and the RUF, the partners in the former junta. In mid-May, however, ECOMOG seized Koindu and Buedu on the eastern border of Sierra Leone with Guinea.

15. As ECOMOG troops approached, armed former junta elements attacked the local civilian population, killing, raping and mutilating hundreds of them, causing tens of thousands of Sierra Leoneans to flee into Liberia and Guinea in the last few weeks and tens of thousands more to flee into the interior of Sierra Leone. Hundreds of patients have been admitted to hospitals suffering from amputation of limbs and ears and severe lacerations. Humanitarian organizations fear that the actual number of victims may be much larger (see sect. III below).

16. ECOMOG is being supported by units of the Sierra Leonean Civil Defence Force (CDF), which is composed of irregular community-based fighters who fought the junta before the restoration of the legitimate Government. The Civil

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Defence Force includes Kamajors, who are regionally based rural militia mainly from the south and parts of the east, as well as Tamaboros from the Koinadugu district, Donsos from the Kono district and Kapras, who are mainly from the Tonkolili district in the north. Though many CDF members are hunters who use traditional weapons, others are primarily farmers or students who joined the armed struggle against the junta. They are armed with a wide variety of weapons and often lack formal training and discipline. Though technically under ECOMOG control, their command and control structures are loose and informal.

17. On 4 and 5 May 1998 at Accra, my Special Envoy attended the seventeenth meeting of ECOWAS Chiefs of Staff convened to discuss the situation in Sierra Leone. At the meeting, the Nigerian Chief of Defence Staff, Major-General A. A. Abubakar, outlined ECOMOG's objectives in Sierra Leone as follows: the attainment of peace, the training of a new Sierra Leonean army, and the disarmament, demobilization and reintegration of Sierra Leonean combatants into society, accompanied by humanitarian assistance. The achievement of these objectives would be followed by the withdrawal of ECOMOG.

18. ECOMOG has deployed three brigades and an independent battalion, altogether comprising approximately 12,000 men, in Sierra Leone and has appealed for a further 6,000 to enable it to carry out its functions more effectively. A number of participants expressed willingness, in principle, to contribute forces to ECOMOG's operations in Sierra Leone. However, the countries concerned stressed that they were not in a position to do so without substantial financial and logistical assistance.

Action taken by the United Nations

19. Beginning on 4 May 1998, pursuant to resolution 1162 (1998), eight military liaison personnel were deployed in Freetown under the authority of my Special Envoy. The military officers, who are led by a Brigadier-General from India, are from Kenya (two), the Russian Federation (two), the United Kingdom (one) and Zambia (two). Two police advisers, one from Namibia and one from Kenya, as well as an adviser on planning for disarmament and demobilization, are expected to be deployed shortly. Some vehicles and communications equipment have also been deployed to Sierra Leone for the use of the officers.

20. The liaison officers have begun to travel through parts of the country to assess the situation with a view to finalizing plans for their deployment and for the disarmament of former combatants. The ECOMOG Force Commander, Brigadier-General Maxwell Khobe, has welcomed their arrival and promised his full cooperation.

21. The office of my Special Envoy has also been strengthened by the addition of a political affairs officer and a human rights adviser. In addition, I have taken steps to strengthen the human rights element of the office of my Special Envoy and have approached a number of Governments on an urgent basis to request them to make available suitably qualified trial monitors.

22. From 26 to 29 May 1998, my Special Representative for Children in Armed Conflict, Mr. Olara A. Otunnu, visited Sierra Leone to assess the plight of children affected by the conflict. During his visit, Mr. Otunnu met with

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President Kabbah, Ministers and Parliamentarians, as well as with the Force Commander of ECOMOG, the National Coordinator of CDF and representatives of United Nations agencies and non-governmental organizations. He visited Daru, Segbwema and Kenema, accompanied by the Minister for Social Welfare, Gender and Children's Affairs, Mrs. Shirley Gbujama, my Special Envoy, the United Nations Resident Coordinator and the representative of UNICEF.

23. In discussions with the Government, ECOMOG and CDF, important commitments were made to my Special Representative in relation to the rights, protection and welfare of children. It was agreed that a joint task force for the demobilization of child combatants, comprising the Government, ECOMOG, CDF, the United Nations and international humanitarian agencies, would be constituted. The Government agreed not to recruit children under 18 years of age into a new national army. The Civil Defence Force committed to stop recruiting and initiating children under 18 and to begin the process of demobilization of child combatants within their ranks. Along with ECOMOG, CDF also undertook that children captured in or fleeing from areas held by junta elements would receive special protection. President Kabbah directed that a coordination group consisting of relevant Ministries, United Nations agencies and non-governmental organizations, be established to coordinate an effective national response to the needs of children affected by armed conflict. Following their discussion with Mr. Otunnu, an all-party group of Parliamentarians constituted a caucus to serve as parliamentary advocates for the rights, protection and welfare of children affected by armed conflict in Sierra Leone.

24. At the conclusion of his visit, Mr. Otunnu proposed that the international community make Sierra Leone one of the pilot projects for a more concerted and effective response in the context of post-conflict peace-building.

Military and security situation in Sierra Leone

25. The security situation in Freetown continues to be favourable, with a strong but discreet ECOMOG presence and widespread deployment of the Sierra Leonean police. Schools, banks and markets are functioning normally, some international air links to the airport at Lungi have been restored and food and fuel products are widely available. Nevertheless, ECOMOG has continued to recover weapons in house-to-house searches conducted on the basis of information received about the presence in Freetown of former junta members and common criminals.

26. Despite ECOMOG's initial success in driving the elements of the junta rebels back towards the east of the country, several groups of rebels appear to have broken out of the Kailahun district and have moved northwards and westwards in an apparent attempt to re-establish some of their former bush camps in the north. They have been attacking towns and villages, terrorizing local communities and extorting food from them. The situation in the north is now considered unsatisfactory and food convoys have to be guarded by armed escort.

27. Moreover, in the course of their retreat towards the eastern part of the country, former junta elements inflicted extensive damage and engaged in indiscriminate looting and property destruction. In particular, hospitals in most communities lack beds, drugs and equipment.

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28. The United States has contributed \$3.9 million to ECOMOG over a four-month period through the logistics services company Pacific Architects and Engineers, which provided services to ECOMOG in Liberia. Some vehicles have already been made available. It is anticipated that this assistance will result in further gains by ECOMOG against the former junta forces. However, this contribution is not expected to assist in the deployment of additional ECOMOG forces, for which further contributions, whether bilaterally or through the Trust Fund to support peacekeeping and related activities in Sierra Leone, will be needed.

29. There are reports that many of the fighters supporting the former junta in the east are in fact Liberian nationals. The Monitoring Group of the Economic Community of West African States believes it has identified some of the dead combatants as Liberians after clashes with junta elements and has reportedly captured more than 100 Liberian fighters in the vicinity of Kailahun and in Kono district.

30. On 5 May 1998, President Taylor wrote to me deprecating the "disturbing allegation" that the Government of Liberia was involved in the conflict in Sierra Leone and stressing his commitment to the maintenance of peace in the region. President Taylor informed me that he had proposed to the Chairman of ECOWAS that ECOMOG "cordon off" the border between the two countries, and said he would welcome the concurrence of the United Nations with his suggestion that United Nations monitors be deployed in the border area.

31. On 7 May 1998, the Liberian Government issued a policy statement reaffirming that it would not permit its territory to be used to destabilize any neighbouring country and stating that President Taylor had approved the deployment of an ECOMOG observer unit at the border between Liberia and Sierra Leone in Lofa County, Liberia.

32. The Government of Sierra Leone has welcomed the issuance of the policy statement and has disclosed that a Liberian delegation visiting Freetown to attend the funeral of the late spouse of the President, Mrs. Patricia Kabbah, had met with President Kabbah and discussed the improvement of relations between the two countries.

33. In some parts of the country, misconduct by some members of CDF, arising from their indiscipline and lack of training, has given rise to complaints from civilians.

III. HUMAN RIGHTS

34. Since early May 1998, a human rights adviser has been attached to the office of my Special Envoy. His main tasks have included the observation of the treason trials and, in close consultation with the Special Envoy and the United Nations High Commissioner for Human Rights, examining modalities to increase the capacity of the office to monitor the human rights situation in Sierra Leone and to assist the Government in meeting its international human rights obligations in a sustainable manner. In carrying out its human rights functions, the office will work closely with all relevant elements of civil society, including national and international non-governmental organizations. Both the

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Attorney-General and the Chief Justice of Sierra Leone have offered their full cooperation to my Special Envoy and his staff in the exercise of his human rights functions.

35. The main focus of human rights concerns since my last report has been the attacks on civilians by armed, uniformed groups, which are consistently reported to be members of the rebel forces. They have systematically mutilated or severed the limbs of non-combatants around the towns of Koidu and Kabala, in a zone that stretches as far west as Masiaka, south of Port Loko. The scale of the attacks can be estimated from the accounts of victims who have been admitted to hospital. For instance, in the period from 6 April to 21 May 1998, 225 people were admitted to Connaught Hospital in Freetown with war wounds. All but one were reported to be civilians. Of these, a quarter were amputees and half were victims of deep lacerations. The patients report that for every one person who reached the hospital, some five other victims of attacks are either dead or missing. In the same period, there have been some 500 admissions of war-wounded persons to other hospitals in Sierra Leone.

36. Of those victims who have received treatment, most are male, ranging in age from 8 to 60 years. The youngest amputee admitted to hospital is, however, a six-year-old girl, one of whose arms was completely severed. Victims also report that babies have been taken from their mothers' arms and burned alive. There are numerous reports of rape, including one of the multiple rape of a 12-year-old girl. Doctors at one hospital state that lacerations inflicted on one 60-year-old woman are the result of a failed attempt to behead her.

37. The office of my Special Envoy continues to receive information about human rights abuses perpetrated by forces loyal to the junta in the period before the restoration of the Government. From all parts of the country there are reports of extrajudicial killings, rape, arbitrary detention, including for purposes of sexual abuse, torture of children (especially of child-combatants), forced labour and the looting and destruction of residential and commercial premises and property. It will remain important to document these actions with a view to tackling issues of impunity and as an element in the process of promoting reconciliation and healing of society.

38. Information has also been received regarding widespread acts of extrajudicial revenge killings perpetrated against alleged junta collaborators following the restoration of the Government. In just one town, Kenema, there are reports of some 50 revenge killings. Some of those killed were children, with at least one case occurring in Freetown. There are reportedly still many people in hiding for fear of being subjected to revenge attacks. Reportedly some 100 of those hiding in the Freetown area are children. The Government has given assurances that revenge attacks will be investigated and prosecuted.

39. Reports indicate that elements of the Kamajors are responsible for violation of the human rights and rights under humanitarian law of both combatants and non-combatants. This militia force continues to include large numbers of male children. Concerns have been expressed to the Government on these matters and it has indicated that it is taking action to correct the situation (see paras. 22-24 above).

40. My Special Envoy continues to monitor the implementation of the state of emergency declared by the President on 10 March 1998, under which, inter alia, persons may be detained indefinitely without being charged or tried. There are more than 1,000 such detainees held at Pademba Road Prison in Freetown. The Government has established a screening committee to expedite the process of releasing detainees and bringing others to trial.

41. The Government is prosecuting 59 persons in the regular courts for charges, variously, of treason, murder and arson. Another trial of some 20 people is scheduled to start in the coming weeks, as are a number of courts martial. The civilian trials have, so far, proceeded in conformity with normal criminal procedure. Matters of concern are brought to the attention of the Government. The office of my Special Envoy will continue to observe the trials and will seek to augment its capacity in this regard.

42. On 27 May 1998, a delegation of Amnesty International, which had been studying the situation in Sierra Leone, met with my Special Envoy. The purpose of the Amnesty mission was to examine incidents that had occurred during the period of junta rule, as well as the extent of atrocities currently being committed by the remnants of the junta. Amnesty International is also reviewing the detention and trial in Freetown of persons accused of participating in or collaborating with the junta.

IV. HUMANITARIAN SITUATION

43. The humanitarian situation in Sierra Leone is fluid. In the western area and the southern and eastern provinces (with the exception of Kailahun district), aid agencies have begun to reactivate programmes as they have benefited from improved security and access. In northern and north-eastern Sierra Leone, however, the situation has continued to deteriorate as a result of the activity of the former junta forces described above.

44. The humanitarian consequences of the wave of atrocities are very severe. Government hospitals in Makeni, Magburaka and Kabala and health clinics throughout the north have been overwhelmed by the influx of civilians suffering from amputations and maimings and are hampered by staff shortages and logistical constraints.

45. There has already been an outbreak of measles in two camps in the north and there is a severe risk of further outbreaks of epidemics such as cholera with the imminent onset of the rainy season. Furthermore, the non-governmental organization Action contre la Faim, which operates therapeutic feeding centres in Makeni and Magburaka, has reported a large influx of malnourished children under the age of five. Admissions have doubled during the past week. Malnutrition levels are increasing, and there are indications that the 10 per cent global acute malnutrition threshold, at which an emergency response is required, is being breached. If the security situation in the north continues to deteriorate, there is a serious risk that the harvest will be looted by armed elements, thus further undermining the food security of the rural population.

46. The Office of the United Nations High Commissioner for Refugees (UNHCR) has reported that refugees from Sierra Leone are continuing to flow into Faranah, Kissidougou and Guéckédou prefectures in eastern Guinea at a rate of 300 people per day. Many new arrivals, particularly children, suffer from malnutrition. UNHCR has documented the recent cases of at least 82 victims of rebel atrocities, including 28 who were mutilated. The refugees come mainly from the districts of Kailahun, Kono and Kenema. The influx is taking place despite reported attempts by the remnants of the junta to prevent people from leaving those areas. At the same time, about 40,000 internally displaced persons have flooded into the towns of Masingbi, Makeni, Kabala and Magburaka. Over the past three months, some 237,000 Sierra Leoneans have poured into Guinea and Liberia, bringing the total number of Sierra Leonean refugees in the two neighbouring countries to 530,000 people since the start of the conflict in 1991.

47. On 2 June 1998, UNHCR issued an urgent appeal for \$7.3 million to help refugees who have fled from the rebel forces. The amount is designed to cover relief assistance to new arrivals in Guinea and Liberia until the end of the year. This followed a visit to Freetown from 2 to 3 June 1998 by the Assistant High Commissioner for Refugees, Mr. Soren Jessen-Petersen.

48. The humanitarian response to the crisis in the north has been severely constrained by the difficulty of access owing to security risks. Road travel from Freetown to Makeni and Koidu is restricted, since agencies are reluctant to travel by road for fear of attacks. Furthermore, many aid agency staff were threatened by AFRC/RUF elements during the period of the ECOMOG intervention and no relief agency has deployed international staff permanently up-country since then.

49. Nevertheless, the United Nations Children's Fund (UNICEF), the World Health Organization (WHO) and the non-governmental organization Médecins sans Frontières have sent medicines, bedding and plastic sheeting to the north. The International Committee of the Red Cross (ICRC) and Médecins sans Frontières have offered to coordinate the joint distribution of medical supplies to hospitals in Makeni, Magburaka and Kabala. UNICEF has delivered supplies to Kenema and supported efforts by the local authorities to immunize more than 400 children against measles, and the World Food Programme (WFP) is providing assistance to health institutions.

50. From 5 to 6 May 1998, the Humanitarian Assistance Coordination Unit also co-sponsored a workshop for community leaders in the Bo district concerning the code of conduct that governs the activities of relief workers. The workshop was planned in response to incidents of the commandeering of vehicles by Kamajors and ECOMOG in the area. Non-governmental organizations have since reported that the Kamajors have facilitated the safe passage of relief supplies and it is now intended to conduct similar workshops in other parts of the country, including Kenema.

51. An inter-agency mission led by the United Nations Humanitarian Coordinator on 19 May 1998 to Daru and Segbwema found the situation in the south-east of the country, which had been inaccessible for some months for security reasons, more favourable than expected in some respects. However, large numbers of

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unaccompanied children were identified who are in need of family-tracing services, feeding and health care.

52. Mr. Sergio Vieira de Mello, Under-Secretary-General for Humanitarian Affairs, will visit Sierra Leone from 10 to 12 June 1998 in order to observe at first hand the ongoing humanitarian programmes and the current difficulties faced by the humanitarian community.

V. DISARMAMENT AND DEMOBILIZATION

53. Both the Abidjan Agreement of 30 November 1996 between the Government of Sierra Leone and RUF and the Conakry Agreement of 23 October 1997 between ECOWAS and AFRC contain provisions for the disarmament and demobilization of Sierra Leonean fighters and their reintegration into society. In his statement at the State opening of Parliament, President Kabbah called on all remnants of the AFRC/RUF to surrender, offering them assurances that they would be treated humanely in accordance with the Geneva Convention and its additional Protocols. The President also indicated that elements of the Conakry Agreement and the Abidjan Agreement would be taken into consideration in the implementation of the disarmament and demobilization programme. The prompt implementation of such a programme is regarded as essential to the stability of Sierra Leone and of the subregion in general.

54. Following the removal of the junta by force by ECOMOG in February and the subsequent ECOMOG action throughout the rest of the country, the Abidjan Agreement and the Conakry Agreement are considered to have been effectively superseded. However, in the parts of the country that have now been brought under Government control, some aspects of those instruments that govern the disarmament and demobilization of former Sierra Leonean fighters might still be applicable. These include the following categories: members of the former Republic of Sierra Leone Military Forces (RSLMF), including members of AFRC, the country's former army, which has now effectively been dissolved; members of RUF; members of CDF; and child soldiers.

55. Both ECOMOG and the Government have developed plans for the disarmament and demobilization of former combatants and for their reintegration into society. Pursuant to the recommendations of the joint mission described in paragraph 8 above, the Government has adopted a comprehensive framework for the disarmament, demobilization, reinsertion and reintegration of ex-combatants and their families. The plan envisages the establishment of a Sierra Leone veterans assistance board to be chaired by President Kabbah, which would, in close cooperation with ECOMOG, the United Nations and donors, supervise the disarmament and demobilization of an estimated 32,000 former combatants in three phases, provisionally over the next 19 months. A small executive secretariat will be charged with the implementation of the policies of the Board in close coordination with ECOMOG and the United Nations.

56. The demobilization process will begin with a rigorous registration process to ensure that eligible ex-combatants receive identification documents. The first priority is the demobilization of some 5,000 to 7,000 former members of the Republic of Sierra Leone Military Forces already disarmed by ECOMOG and

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assembled in camps around Freetown, i.e., at Wilberforce Barracks, Benguema Training Centre and Lungi. ECOMOG has recently reported that the numbers of men at each camp have fallen, apparently because some of the men have been provisionally released. Units of CDF in parts of the country deemed secure by the Government and local authorities will also be demobilized in phase I and will undergo a similar and registration exercise. Some CDF units have already returned to their communities of origin in preparation for the disarmament process, though many CDF fighters have also recently been moved up to the Daru area, apparently to join the offensive against the former junta forces at Kailahun. On 25 March 1998, President Kabbah formally requested the international community to provide food for the maintenance of the 7,000 ex-combatants for a two-month period.

57. Preliminary estimates indicate that there are some 1,000 disabled soldiers, 500 female ex-combatants and about 2,500 children. Under the plan, all adult ex-combatants will receive the same reinsertion assistance, the level and nature of which will be determined by the Sierra Leone Veterans Assistance Board, in consultation with donors. The reinsertion assistance will be provided in instalments in order to provide a transitional safety net to ex-combatant families, to encourage them to remain in their areas of resettlement and to monitor their reintegration progress. Furthermore, the Government intends to provide a community-based social and economic reintegration assistance to assist ex-combatants to return to sustainable and productive lives in their communities. Particularly vulnerable groups of ex-combatants, such as child soldiers and the disabled, will receive specialized assistance.

58. The Government intends to proceed with the disarmament, demobilization, reinsertion and reintegration process as far as possible, notwithstanding continuing fighting in some parts of the country. The rapid demobilization of the encamped RSLMF will reduce the security and cost burden borne by the Government and ECOMOG in maintaining the camps. Insofar as adequate reinsertion and reintegration assistance and effective monitoring systems are put in place as planned, the Government is confident that this process will contribute to national reconciliation and reconstruction.

59. Though the plan envisages specific phases, provisionally scheduled to culminate in January 2000, these depend in part on the willingness of those who are still resisting ECOMOG's advance and terrorizing civilians in the north to surrender. It is not clear at this time whether these men, who appear to include the most violent and ruthless supporters of the former junta, intend to surrender or, if so, under what circumstances this might take place.

60. Another important aspect of the plan that remains to be clarified concerns the source of the funding. The plan is not accompanied by a cost estimate, but an earlier Government assessment of the likely costs arrived at a figure of some \$14 million. Since that estimate was arrived at in respect of a more modest operation, the likely cost of the current exercise is likely to exceed it. No commitment has yet been made by donors for the funding of the exercise. However, the Government believes it has made some progress in identifying sufficient funds to continue to feed the surrendered soldiers for the next two months or so.

61. On 5 June 1998, my Special Envoy convened a meeting of United Nations agencies, non-governmental organizations and donor representatives to discuss the coordination of international support and contributions to the disarmament, demobilization and reintegration of the 7,000 ex-combatants.

62. On 12 June 1998, the World Bank, which participated in the multi-donor joint mission mentioned in paragraph 8 above, will send two consultants to Sierra Leone to discuss with all participants the further refinement of the plan, including practical arrangements to make it operationally effective. These arrangements are expected to include the provision of strong technical assistance to the executive secretariat of the Sierra Leone Veterans Assistance Board.

VI. PROPOSED ACTION TO BE TAKEN BY THE UNITED NATIONS

63. In the complex and volatile situation currently prevailing in Sierra Leone, the priority task is to promote stability and security by disarming and demobilizing as many former combatants as possible, as soon as possible. The plan adopted by the Government on the advice of the multi-donor joint mission provides a useful basis to accomplish this goal, though much remains to be done in terms of identifying sources of funding and determining the precise roles to be played by the international community. In general terms, I would envisage that, under the overall authority of the Government, my Special Envoy would ensure that the various donors continued to coordinate their activities closely. Within that framework the United Nations Development Programme (UNDP), working through the United Nations Office for Project Services, and in close cooperation with donors and implementing partners, would carry out the arrangements put in place for disarmament and demobilization prior to the May 1997 coup.

64. In this context, I intend to convene a high-level conference in the near future in order to mobilize assistance for the disarmament, demobilization and reintegration process, and for the reconstruction, rehabilitation of Sierra Leone. The conference would also address the need to provide logistical and other support to ECOMOG in order to improve its capacity to carry out its peacekeeping role, as well as for emergency and humanitarian needs.

65. Moreover, I believe the United Nations could render immediate assistance to Sierra Leone by deploying a limited number of unarmed military observers to assist in tasks of pressing importance. Such a deployment at this stage could lend much-needed impetus to a fragile but vital process, which deserves the support of the international community. It could also assist my Special Envoy to avert further bloodshed among civilians and combatants alike - both ECOMOG and Sierra Leonean - by helping to encourage the surrender of former junta elements in the event that this appeared to be possible. Finally, a more visible United Nations presence could serve to bolster the confidence of the Government and people of Sierra Leone in the commitment to their cause of the international community and encourage more substantial donor support for disarmament, demobilization and longer-term rehabilitation and development.

66. I have therefore developed a concept of operations for a United Nations peacekeeping observer mission, initially for a six-month period, whose immediate objectives would be the following:

(a) To monitor the military and security situation in the country as a whole with a view to assisting the Government and ECOMOG in the subsequent implementation of disarmament and demobilization phases as outlined in the Government's plan;

(b) To monitor the demobilization of former combatants already disarmed by ECOMOG and concentrated in secure areas of the country. This would involve collaboration with ECOMOG in its activities, including the provision of security and arms collection and destruction;

(c) To assist in monitoring respect for international humanitarian law at disarmament and demobilization sites;

(d) To monitor the voluntary disarmament and demobilization of members of CDF in their home regions and to monitor progress in the creation of a new national army;

(e) To observe, as security conditions permit, the situation in the north and east of the country, with a view to assisting in the disarmament and demobilization of surrendering former junta forces;

(f) To continue to provide my Special Envoy for Sierra Leone with regular information concerning the military and security situation in the country as a whole.

67. The mission would be known as the United Nations Observer Mission in Sierra Leone (UNOMSIL) and would be led by my Special Envoy, Mr. Francis G. Okelo, who would be designated Special Representative for Sierra Leone. The Chief Military Observer would be Brigadier-General Subhash C. Joshi (India), who is currently the team leader of the small military liaison cell deployed to Sierra Leone pursuant to resolution 1162 (1998). UNOMSIL would subsume the office of my Special Envoy and its staff and the related cost estimates will be issued shortly as an addendum to the present report.

68. The activities described above would require up to 70 officers, as well as a medical unit of up to 15 persons, with the necessary equipment and civilian administrative support staff.

69. In view of the volatile security situation outside the capital, the deployment would take place in phases, with the first group of approximately 40 military observers being deployed, starting during the month of July 1998, to Freetown, Hastings and Lungi. The timing of subsequent deployments would then depend on the security situation, the progress of implementation of the Government's disarmament and demobilization plan and the availability of the necessary logistical equipment and resources. In this connection, I would call on the Government of Sierra Leone to be prepared to make available to the mission such premises and services as they can. At this stage, I would provisionally anticipate that the second phase of deployment would then take place in August-September, with the final phase beginning in October.

70. The observers would be deployed at each of the three camps where former Republic of Sierra Leone Military Forces are now being detained, i.e.,

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Wilberforce Barracks, Benguema Training Centre and Lungi; at the three ECOMOG Brigade headquarters at Hastings, Makeni and Bo; and at a headquarters location to support the Chief Military Observer. During the next phases, subject to the considerations identified above, observers could be deployed outside the immediate area of Freetown, including to the home regions of CDF members returning to undertake voluntary disarmament and demobilization as and when they considered their home communities sufficiently secure.

71. The mission would be provided with adequate air support in order to ensure mobility and security, as well as casualty and medical evacuations. A boat would also be required to facilitate travel and communications between Lungi and Freetown.

72. Should the Security Council agree to these measures, I will establish security arrangements for United Nations personnel with the Chairman of ECOWAS and conclude a status of mission agreement with the Government of Sierra Leone.

73. The deployment described above would require a commensurate expansion in the size of the office of the Special Representative, including information and political officers, as well as the necessary administrative and support staff.

74. I would also propose to increase to four the number of human rights officers attached to the office of my Special Envoy. These officers, under the direction of the Special Representative, and in close cooperation with the United Nations High Commissioner for Human Rights, would have a monitoring role and the task of addressing the country's long-term human rights institution building needs.

75. An increase in the number of civilian police advisers from two to five would also be required. These officers would advise the Government and local police officials on police practice, training and recruitment, in particular on the need to respect internationally accepted standards of policing in democratic societies. They would also monitor the progress of the restructuring of the Sierra Leonean police force.

76. At this point, it is difficult to assess whether an expansion of the mission might be needed six months from now and, if so, what form it might take. My recommendations on this matter will depend on ECOMOG's progress in restoring security throughout the country. If the presence of United Nations personnel in areas of continuing insecurity is considered desirable in order to reduce bloodshed by encouraging armed elements to surrender, or if areas of Sierra Leone now secure come under threat from hostile elements, thought must be given to ensuring the security of United Nations personnel. Although ECOMOG is a capable force and has indicated it would guarantee the security of the observers, it is also a potential target of attacks by the remnants of the junta. Unarmed military observers under its protection might not be regarded as neutral by hostile armed elements and their safety might therefore be jeopardized.

77. For those reasons, I could envisage the possibility, at a future stage, of recommending the deployment of a highly mobile unit of armed United Nations troops, operating in close cooperation with ECOMOG but independent of it, to

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protect observers in locations where their security might be at risk, but where their neutral presence may be helpful in encouraging armed elements to surrender. However, I do not believe that the time is ripe to make such a recommendation to the Council at this stage.

78. The deployment of ECOMOG troops at the border with Liberia could help lay to rest allegations of the influx of arms or the provision of armed assistance to the junta by foreign forces. I commend the Government of Liberia for its policy statement reaffirming that it will not permit its territory to be used to destabilize any neighbouring country. Verification that this was the case would, in my view, improve the security climate throughout the entire subregion and improve mutual confidence among its member countries. I hope there will be further discussions between the Heads of State of the subregion on these matters.

79. I therefore intend to pursue with President Taylor his proposal for the deployment of a small contingent of United Nations military observers at the border with Sierra Leone, in order to assist in verifying that Liberian territory is not being used to destabilize Sierra Leone and that foreign forces are not assisting the remnants of the former junta there. I will also discuss the matter with President Kabbah and with the Chairman of ECOWAS and revert to the Council in due course.

VII. OBSERVATIONS AND RECOMMENDATIONS

80. Since my last report, the situation in Sierra Leone has in some respects improved considerably. Since its restoration on 10 March 1998, the Government has moved rapidly to reassert its authority throughout much of the country. President Kabbah has nominated a compact Cabinet of acknowledged experts in their fields, all of whom have been confirmed by Parliament, as well as a Chief Justice.

81. However, in the eastern part of Sierra Leone and parts of the north, the remnants of the former junta continue to resist ECOMOG forces and attack Sierra Leonean civilians. I join with the Council in deploring the continued resistance to the legitimate Government, in calling on the supporters of the junta to lay down their arms, and in condemning the mutilations, rapes, looting and other atrocities carried out by junta elements against the civilian population. I also align myself with the commendation expressed for ECOWAS and ECOMOG in the presidential statement adopted on 20 May 1998 (S/PRST/1998/13) for the important role they are playing to restore peace and security in Sierra Leone, and support the call for Member States to provide technical and logistical support to assist ECOMOG to continue to enhance its ability to carry out its peacekeeping role and contribute to bringing an end to the atrocities being committed against the people of Sierra Leone. In this context, I welcome the logistical assistance provided by the United States. I am also grateful for the contribution made by the United Kingdom, and invite other Member States to make contributions to the Trust Fund to support peacekeeping and related activities in Sierra Leone.

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82. It is clear that there are a significant number of victims of rebel atrocities who remain in the bush or who are otherwise unable to receive medical attention. I applaud the efforts of United Nations humanitarian personnel, ECOMOG and the non-governmental organizations in locating and aiding victims. However, more must be done as a matter of urgency, including the provision of additional medical and surgical capacity, including hospital beds. In the longer term, the agencies and the non-governmental organizations concerned will need to offer support in the form of prosthesis services for all amputees and psycho-social treatment of traumatized victims and their families. In this context, I welcome the intention of ICRC to dispatch a surgical team to Sierra Leone to augment local medical facilities.

83. I call on the Government of Sierra Leone to continue to show the necessary resolve to adhere to international human rights standards and its own distinguished legal traditions in ensuring that those accused of the gravest crimes against the State and its people receive fair trials. I am aware that the Government has held to this course so far in the face of strongly voiced public contempt for the accused.

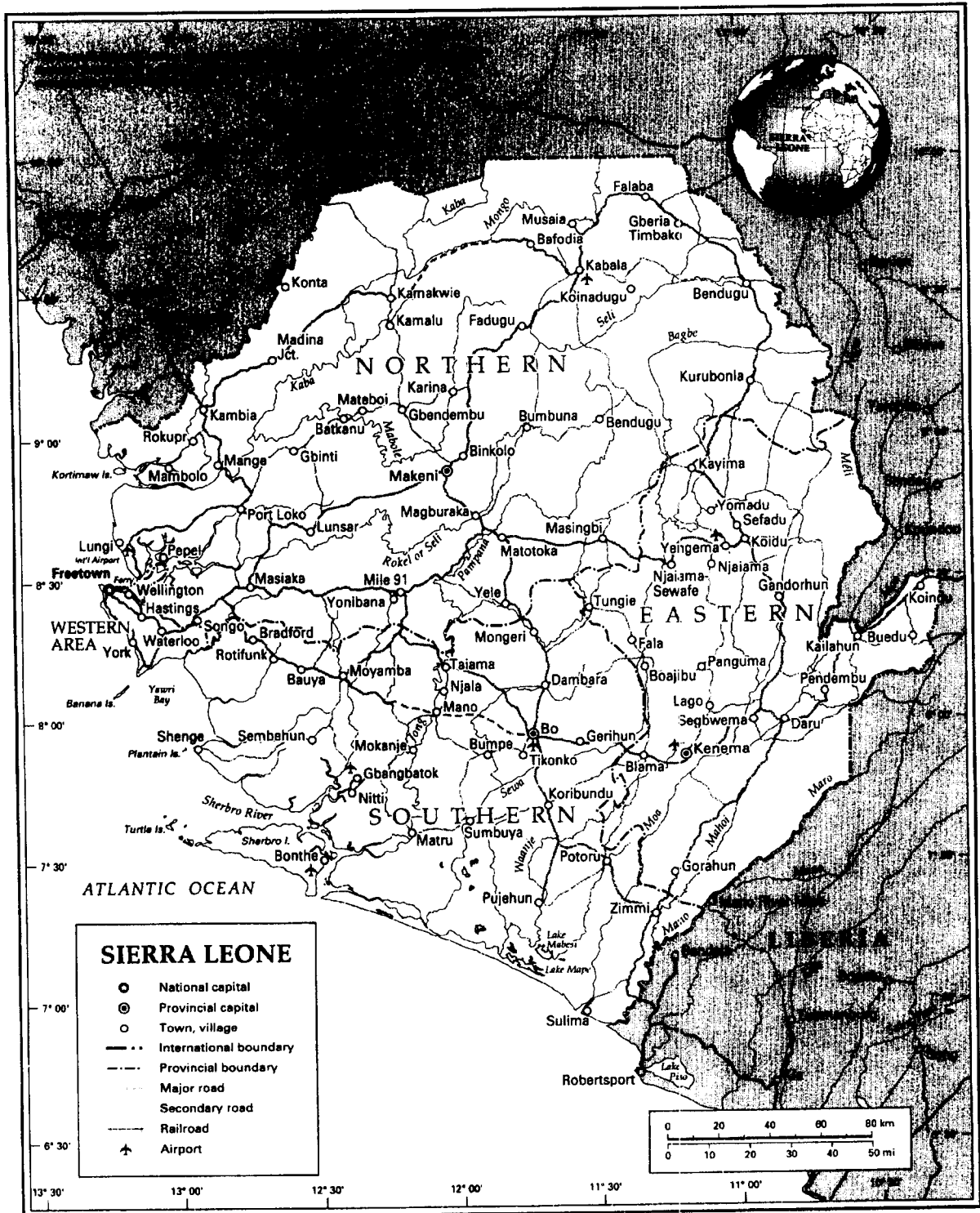
84. I express my appreciation to those Member States and others who have contributed to the flash appeal for humanitarian assistance and for various humanitarian projects.

85. I recommend that the Security Council establish an observer mission in Sierra Leone, to be known as the United Nations Observer Mission in Sierra Leone (UNOMSIL), with the mandate and concept of operations described in paragraphs 66 to 71 above and with the necessary augmentation of civilian and civilian police staff as set out in paragraphs 73 to 75 above.

86. During the six-month period of the mandate, I would keep the situation closely under review and would make further recommendations to the Council concerning a possible extension or expansion of the mission as the circumstances permitted.

87. I support the recommendation of my Special Representative for Children in Armed Conflict that Sierra Leone be made one of the pilot projects for a more concerted and effective response in the context of post-conflict peace-building.

88. Finally, I wish to express my appreciation to my Special Envoy and to all United Nations staff in Sierra Leone for their efforts over the past several weeks.



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