

No. 48491*

**Netherlands
and
Special Court for Sierra Leone**

Agreement between the Kingdom of the Netherlands and the Special Court for Sierra Leone in connection with the transportation and storage of the archives of the Special Court. Freetown, 26 November 2010 and 9 December 2010 and The Hague, 10 December 2010 and 14 December 2010

Entry into force: *14 December 2010, with retroactive effect from 10 December 2010, in accordance with its provisions*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 29 April 2011*

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**Pays-Bas
et
Tribunal spécial pour la Sierra Leone**

Accord entre le Royaume des Pays-Bas et le Tribunal spécial pour la Sierra Leone relative au transport et au stockage des archives du Tribunal spécial. Freetown, 26 novembre 2010 et 9 décembre 2010 et La Haye, 10 décembre 2010 et 14 décembre 2010

Entrée en vigueur : *14 décembre 2010 et avec effet rétroactif à compter du 10 décembre 2010, conformément à ses dispositions*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Pays-Bas, 29 avril 2011*

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[ENGLISH TEXT – TEXTE ANGLAIS]

Nr. I

SPECIAL COURT FOR SIERRA LEONE

Freetown, 26 November 2010

Agreement between the Kingdom of the Netherlands and the Special Court for Sierra Leone in connection with the transportation and storage of the archives of the Special Court

The Special Court for Sierra Leone (hereinafter referred to as “Special Court”) presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and has the honour to refer to the consultations between the Ministry and the National Archives of the Netherlands (the *Nationaal Archief*, an Agency of the Ministry of Education, Culture and Science) on the one hand, and the Special Court, on the other hand, on the transportation of the archives of the Special Court to, and the storage of these archives at, the premises of the National Archives of the Netherlands (hereinafter “Transportation and Storage”).

As a result of these consultations held in connection with the Transportation and Storage of the Special Court’s archives, the Special Court has the honour to propose the following:

Article 1

1. The Transportation and Storage of the Special Court's archives shall be at the expense of the Special Court.

2. The Kingdom of the Netherlands shall only bear liability for damages and losses occurred to the archives of the SCSL in case these damages and losses are the result of gross negligence and intentional acts of its officers in connection with the Transportation of the archives by the Royal Netherlands Air Force.

Article 2

During the Transportation and Storage of the Special Court's archives, the Special Court (and upon its succession, the Residual Special Court) shall at all times retain exclusive ownership of the archives and remain exclusively responsible for the "Chain of Custody" of the archives.

Article 3

In accordance with Article 2 of the Headquarters Agreement between the Kingdom of the Netherlands and the Special Court for Sierra Leone, of 19 June 2006, the provisions of the Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, concluded at New York on 29 July 1994, as amended (hereinafter referred to as "the Agreement"), shall apply, *mutatis mutandis*, in connection with the Transportation and Storage, in particular:

a) The archives of the Special Court, and in general all documents and materials made available, belonging to or used by the Special Court, shall be inviolable, as mentioned in Article IX of the Agreement;

b) The assets, income and other property of the Special Court, shall be exempt from all direct taxes, as mentioned in Article X of the Agreement;

c) All persons referred to in Article XIV, XV, XVII, XVIII and XIX of the Agreement shall have the right of unimpeded entry into, exit from and movement within the Kingdom of the Netherlands, and they shall be granted facilities for speedy travel as mentioned in Article XXIII of the Agreement.

Article 4

1. Operational arrangements shall be made in connection with the Transportation and Storage.

2. The conditions of storage and access to the Special Court's archives shall be regulated by a Memorandum of Understanding between the Special Court and the Kingdom of the Netherlands.

If the abovementioned proposal is acceptable to the Ministry, the Special Court has the honour to propose that this Note, together with the affirmative Note in reply from the Ministry, shall constitute an Agreement between the Special Court for Sierra Leone and the Kingdom of the Netherlands in connection with the Transportation and Storage of the archives of the Special Court. This Agreement shall apply to the territory of the Kingdom of the Netherlands in Europe, and shall enter into force on the date of the affirmative Note in reply from the Ministry, with retroactive effect as per 10 December 2010.

The Special Court for Sierra Leone avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Kingdom of the Netherlands the assurances of its highest consideration.

BINTA MANSARAY
Registrar
Special Court for Sierra Leone

*Ministry of Foreign Affairs
The Hague*

Nr. II

MINISTERIE VAN BUITENLANDSE ZAKEN

The Hague, 14 December 2010

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Special Court for Sierra Leone and has the honour to refer to the special Courts' Note of 26 November 2010, which reads as follows:

(Zoals in Nr. I)

The Ministry has the honour to inform the Special Court that the proposals set forth in the Special Court's Note are acceptable to the Ministry and to confirm that the Special Court's Note and this Note shall constitute an Agreement between the Kingdom of the Netherlands and the Special Court for Sierra Leone in connection with the Transportation and Storage of the archives of the Special Court. This Agreement shall apply

to the territory of the Kingdom of the Netherlands in Europe, and shall enter into force on the date of this affirmative Note in reply, with retro-active effect as per 10 December 2010.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Special Court for Sierra Leone the assurances of its highest consideration.

*Special Court for Sierra Leone
Jomo Kenyatta Road
Freetown
Sierra Leone*

Nr. III

SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD
FREETOWN
SIERRA LEONE

Freetown, 9 December 2010

Ref/REG/688/2010

Excellency

The Special Court for Sierra Leone extends its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and reiterates its gratitude toward your Government for its continued willingness and commitment to assist the Special Court in the transportation and storage of its archives.

Article 2 of the Agreement between the Kingdom of the Netherlands and the Special Court for Sierra Leone in Connection with the Transportation and Storage of the Archives of the Special Court dated 26 November 2010 declares:

“During the Transportation and Storage of the Special Court’s archives, the Special Court (and upon its succession, the Residual Special Court) shall at all times retain exclusive ownership of the archives and remain exclusively responsible for the “Chain of Custody” of the archives.”

In addition to the ordinary meaning of Article 2 the Special Court for Sierra Leone interprets Article 2 to mean that:

“It is understood that the United Nations and the Government of Sierra Leone may at any time agree to re-locate the archives to Sierra Leone when there is a suitable facility for their preservation and sufficient security for maintaining the archives in accordance with international standards.”

The Special Court for Sierra Leone would like to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

BINTA MANSARAY
Registrar

*Mr Joost Andriessen
Ambassador for International Organisations
Ministry of Foreign Affairs
The Kingdom of the Netherlands*

Nr. IV

MINISTERIE VAN BUITENLANDSE ZAKEN

The Hague, 10 December 2010

DJZ/IR-285/2010

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Special Court for Sierra Leone (hereinafter referred to as “SCSL”) and has the honour to refer to the Agreement between the Kingdom of the Netherlands and the Special Court for Sierra Leone in connection with the Transportation and Storage of the

Archives of the Special Court (hereinafter referred to as “the Agreement”), and to the Note of the SCSL of 9 December 2010 (Ref/REG/688/2010).

In the Note the SCSL proposes to interpret Article 2 of the Agreement, in addition to its ordinary meaning, as follows:

“It is understood that the United Nations and the Government of Sierra Leone may at any time agree to re-locate the archives to Sierra Leone when there is a suitable facility for their preservation and sufficient security for maintaining the archives in accordance with international standards.”

The Ministry of Foreign Affairs of the Kingdom of the Netherlands accepts the proposal of the SCSL and acknowledges the interpretation of Article 2 of the Agreement given to it by the Special Court for Sierra Leone.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Special Court for Sierra Leone the assurances of its highest consideration.

*Special Court for Sierra Leone
Jomo Kenyatta Road
Freetown
Sierra Leone*