

OLA

## Note to the Secretary-General

Communication from certain Ambassadors relating to the financial situation at the  
Special Court for Sierra Leone



1. This is with reference to your remarks on the Itemized List of Incoming Correspondence of 5 October 2010 on the above captioned subject. You had asked the Office of Legal Affairs (OLA) for advice on the communication received from the Ambassadors of Canada, the Netherlands, Nigeria, Sierra Leone, United Kingdom and United States of America.
2. This matter has been examined by OLA and based on their advice, I had, on your behalf, approved your signature for a communication to the Security Council. Attached is a note from OLA on this request and a copy of the letter dispatched to the Security Council.



Vijay Nambiar  
7 October 2010

10-09542  
10-09517

**SG OFFICE**

07/10/10  
#2589



THE SECRETARY-GENERAL

6 October 2010

Dear Mr. President,

I have the honour to write to you regarding the financing of the Special Court for Sierra Leone. It has come to my attention that the Court will run out of funding this month, and that the necessary voluntary contributions to enable the Court to complete its work cannot be found.

The Court was established at the request of the Security Council by an Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone ("the Agreement"). Its mandate is 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 Sierra Leonean law committed within the territory of Sierra Leone.

The Court is funded from voluntary contributions, although financing through assessed contributions is a more viable and sustainable financial mechanism to ensure secure and continuous funding. I, the Management Committee, the Registrar and other senior officials of the Court have made various appeals for funding for the Court. Despite these efforts, there will not be sufficient voluntary contributions for the completion of the work of the Court.

As you are aware, Article 6 of the Agreement provides that "[s]hould voluntary contributions be insufficient for the Court to implement its mandate, the Secretary-General and the Security Council shall explore alternate means of financing the Special Court". Immediate steps need to be taken pursuant to this provision. I wish to propose to members of the Council that one way of addressing the shortfall would be for all of the costs of the Court to be provided by assessment while preserving the independent nature of the Court. A severe shortfall in funding for the Court was addressed similarly during the biennium 2004-2005.

His Excellency  
Mr. Ruhakana Rugunda  
President of the Security Council  
New York



10-09517

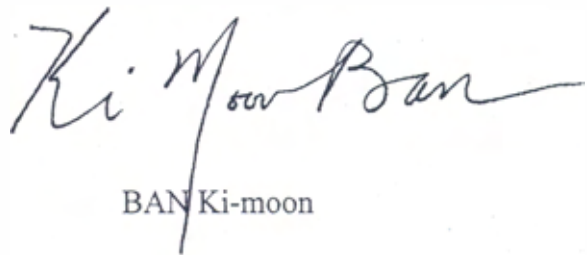
The Court has carried out its mandate successfully thus far despite its perennial funding problems, having prosecuted and convicted eight persons, who are now serving their sentences. The possibility of the Court running out of funds is of particular concern because the Court is currently conducting its final case, the trial of Mr. Charles Taylor, former President of the Republic of Liberia. It is currently projected that the trial and any appeal would be completed in early 2012. A collapse of this trial due to lack of funding would raise very substantial issues for the international community. At risk would be the legacy of the Court and the progress that has been made toward ensuring accountability and restoring peace and security in Sierra Leone and the region.

The shortfall for the period from November 2010 until the closure of the Court in early 2012 will be in the region of US \$18.4 million.

The Security Council may wish to invite me to bring the matter to the attention of the General Assembly with a view to seeking the appropriation of funds for the Court, while preserving the independence of the Court.

I should be grateful if you would bring the present letter to the attention of the members of the Security Council.

Please accept, Mr. President, the assurances of my highest consideration.



BAN Ki-moon

DS (01C/01C)

Mr. (Handwritten)  
Ms. (Handwritten)



**SPECIAL COURT FOR SIERRA LEONE**  
**Management Committee**

New York, September 20, 2010

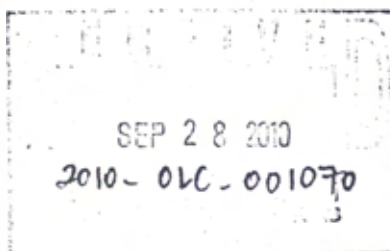
His Excellency Mr. Ban Ki-moon  
Secretary-General of the United Nations  
UN Headquarters, Room NL-03019  
New York, NY

Excellency:

We write as the Ambassadors of the countries which are represented on the Management Committee of the Special Court for Sierra Leone to inform you that the Court faces a financial crisis, and will not, in our view, be able to move forward on voluntary funding alone.

The Court has been working since 2002 to combat impunity "for crimes linked to serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996." The Court's final case, that of former Liberian president Charles Taylor, is approaching the end of its trial phase in The Hague. We expect that judgment in that trial, and all necessary appeals that may follow, will be completed by early 2012, closing this chapter in the history of international criminal justice. Established by treaty between the UN and Sierra Leone, and underpinned by Security Council resolution 1315 (2000), the Court is normally financed through voluntary contributions. We have come to the conclusion, after lengthy efforts, that the necessary voluntary funding for the Court to complete its work cannot be found. We therefore ask that you bring this matter to the attention of the Security Council as a matter of urgency. At present, the Court is projected to exhaust all of its available funds by late October, 2010.

Article 6 of the Treaty between the UN and Sierra Leone establishing the Court states that "the expenses of the Special Court shall be borne by voluntary contributions from the international community. [...] Should voluntary contributions be insufficient for the Court to implement its mandate, the Secretary-General and



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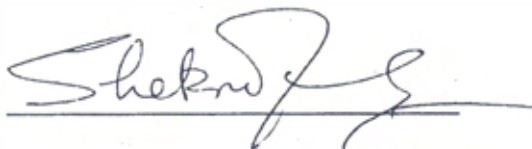
the Security Council shall explore alternate means of financing the Special Court." In 2004, near the beginning of the Court's work, a similar situation arose and was addressed by the Security Council, and additional funding was provided. We note as well that in the absence of additional funding, the completion of the trial of Charles Taylor will be very much at risk, and with it the possibility of bringing a proper closure to the many crimes of which he is accused.

We look forward to your earliest indication that the Security Council has been duly notified of the financial situation of the Court.

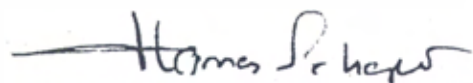
Yours sincerely,



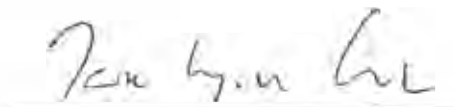
Ambassador John A. McNee  
Permanent Representative of  
Canada to the United Nations



Ambassador Shekou M. Touray  
Permanent Representative of  
Sierra Leone to the United Nations



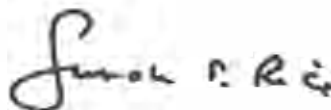
Ambassador Herman Schaper  
Permanent Representative of  
the Netherlands to the United Nations



Ambassador Sir Mark Lyall Grant  
Permanent Representative of  
the United Kingdom to the United Nations



Ambassador U. Joy Ogwu  
Permanent Representative of  
Nigeria to the United Nations

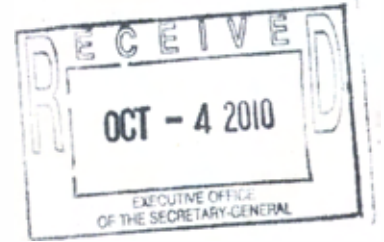


Ambassador Susan E. Rice  
Permanent Representative of  
the United States to the United Nations




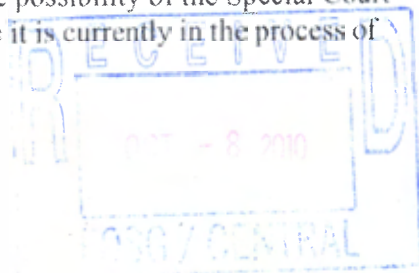
**Note to the Secretary-General**

**Through: Mr. Nambiar**

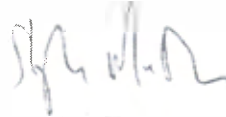


**Financing of the Special Court for Sierra Leone** ✓

1. The Permanent Representatives of the States that are members of the Management Committee of the Special Court for Sierra Leone have sent the attached letter to the Secretary-General, requesting that the Secretary-General urgently notify the Security Council of the financial situation of the Special Court. The Special Court will run out of funding at the end of this month; and the Permanent Representatives have concluded that the necessary voluntary funding for the Court to complete its work cannot be found. 
2. The completion budget for the Special Court is around \$26.1 million and the shortfall will probably be in the region of \$18.4 million. The Secretary-General and the Security Council have an obligation to explore alternate means of financing pursuant to Article 6 of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, which provides that "[s]hould voluntary contributions be insufficient for the Court to implement its mandate, the Secretary-General and the Security Council shall explore alternate means of financing the Special Court".
3. While the Security Council has always proceeded from the premise that the costs of the Special Court should be borne by Member States in the form of voluntary contributions, the Secretary-General always expressed a preference for financing through assessed contributions as the only viable and sustainable financial mechanism to ensure secure and continuous funding. Accordingly, when authorizing the commencement of the Special Court, the Secretary-General reserved the right to revert to the Council at any time in the course of the Special Court's operation.
4. The Secretary-General may therefore wish to invite the Security Council to agree that the matter should be brought to the attention of the General Assembly with a view to seeking appropriation of the necessary funds. In view of the urgent need for funds, the Assembly may be provided with information that would allow it to take a decision for immediate funding and, if it so decides, to revisit the longer term requirements subsequently when appropriate time could be devoted to the issue. To this end, following consultations with the Controller, I wish to suggest that the Secretary-General send the attached letter to the President of the Security Council.
5. I should recall that the General Assembly approved three subventions to fund the Special Court during the biennium 2004-2005, but this was highly controversial. Against that background, we expect that some States will either raise serious concerns or oppose the proposal outright, both in the Security Council and in the General Assembly. However, assessed contributions are the only feasible alternate means of financing the Special Court. Moreover, the possibility of the Special Court running out of funds is of particular concern because it is currently in the process of



its final case, the high profile trial of Mr. Charles Taylor, former President of Liberia. A collapse of **this** trial due to lack of funding would raise very substantial issues for the United Nations. At risk would be the legacy of the Special Court and the progress that the United Nations has made toward ensuring accountability and restoring peace and security in Sierra Leone and the region.



Stephen Mathias  
4 October 2010

cc: Mr. Yamazaki

mechanism to ensure secure and continuous funding. I, the Management Committee, the Registrar and other senior officials of the Court have made various appeals for funding for the Court. Despite all these efforts, voluntary contributions will soon run out, and there will not be sufficient voluntary contributions for the completion of the work of the **Court**.

As you are aware, Article 6 of the Agreement provides that "[s]hould voluntary contributions be insufficient for the Court to implement its mandate, the Secretary-General and the Security Council shall explore alternate means of financing the Special Court". Immediate steps need to be taken pursuant to this provision. I wish to propose to members of the Council that one way of addressing the shortfall would be for all of the costs of the Court to be provided by assessment while preserving the independent nature of the Court. A severe shortfall in funding for the Court was addressed similarly during the biennium 2004-2005.