

Ref.: IOR 63/007/2004

To all
Permanent Representatives of the
Member States of the African Union
Addis Ababa
Ethiopia

5 August 2004

**Open letter to Permanent Representatives at the African Union (AU)
regarding the case of Charles Taylor, former President of Liberia, indicted
for crimes against humanity and war crimes**

Dear Ambassador,

I am writing to express Amnesty International's dismay at the decision on Liberia adopted during the 5th Ordinary Session of the AU Executive Council meeting in Addis Ababa from 30 June to 3 July 2004.

In Paragraph 8 of this decision, the Executive Council:

“CONGRATULATES the Federal Republic of Nigeria for granting asylum to Charles Taylor, former President of Liberia, in accordance with the wishes of the African Union, ECOWAS, and the understanding of the international community. Consequently, REQUESTS that the international community continues to show understanding of the positive contribution of the exit of Charles Taylor from Liberia to the peace process in that country, and to continue to support and encourage Nigeria in this regard”.
[see EX.CL/Dec.152(V)].

This decision is a betrayal of the tens of thousands of African victims of the worst possible crimes imaginable committed during the conflict in Sierra Leone. Charles Taylor has been indicted by the Special Court for Sierra Leone, established at the initiative of Sierra Leone, for “bearing the greatest responsibility” for crimes against humanity, war crimes and other serious violations of international law falling within the Special Court’s jurisdiction and committed against African men, women and children. The crimes with which he is charged include killings, mutilations, rape and other forms of sexual violence, sexual slavery, conscription of children, abduction and forced labour perpetrated by Sierra Leone armed opposition forces with his active support as President of Liberia.

The action by the Government of Nigeria in allowing Charles Taylor to enter Nigerian territory without threat of arrest and prosecution goes against the wish of the international community that impunity for crimes against humanity, war crimes and other grave crimes must come to an end. It denies justice to tens of thousands of African victims of the worst possible crimes in the world and undermines the contribution of the Special Court towards achieving justice, reconciliation and sustained peace in Sierra Leone and the West Africa region. The decision not only shows contempt for African victims, it goes against the very values that led Africa to take the initiative to establish the Special Court and the International Criminal Tribunal for Rwanda, as well as to play a decisive role in the establishment of the International Criminal Court.

By condoning and endorsing the action of the Government of Nigeria, the Executive Council has acted contrary to the Constitutive Act of the AU, as well as international law.

The Constitutive Act commits all member states to cooperate in promoting and ensuring respect for human rights, democratic culture, good governance and the rule of law. Through the Act, African governments pledge and express their determination "to promote and protect human and peoples' rights, consolidate democratic institutions and culture", to "encourage international cooperation taking due account of the Charter of the United Nations and to promote peace and security".

International law requires that those responsible for crimes against humanity, war crimes and other breaches of international law must be brought to justice. More than three decades ago, the United Nations General Assembly declared in Resolution 3074 (XXVIII) of 3 December 1973, adopted with Nigeria's support, that "war crimes and crimes against humanity, wherever they are committed, shall be subject to investigation and the persons against whom there is evidence that they have committed such crimes shall be subject to tracing, arrest, trial and, if found guilty, to punishment". It recognized no exceptions to this duty.

Moreover, each state which is a party to the Geneva Conventions, as is Nigeria, is under a strict legal obligation to investigate those suspected of having committed or ordered grave breaches of the Conventions and, if there is sufficient admissible evidence, to prosecute them in its own courts, to extradite them to another country willing and able to do so or to transfer them to an international criminal court. Some of the conduct with which the former President of Liberia is charged appears to constitute grave breaches.

This obligation under the Geneva Convention is absolute, without any exceptions whatsoever, and no state can excuse itself or another state from fulfilling it. No one, regardless of his or her status – including a head of state – has immunity for the most serious crimes under international law – crimes against the entire international community that undermine the fabric of international law. Indeed, Nigeria has recognized this obligation under its 1959 Geneva Conventions Act, which provides for no exceptions to this obligation.

In its decision on 31 May 2004, the Special Court upheld the principles of international justice and the rule of law by ruling that Charles Taylor has no immunity from prosecution for crimes against humanity and war crimes. This decision reinforces the need to ensure that he faces the serious charges against him.

Amnesty International's concerns are shared by a number of individuals and non-governmental organizations in Nigeria who have publicly expressed their disquiet at the government's action in harbouring a person indicted for crimes against humanity and war crimes. There are currently legal proceedings before a Nigerian Federal High Court challenging Nigeria's decision to grant "asylum" to such a person and to refuse to surrender that person to the Special Court or to refer his case to a prosecutor for investigation and, if there is sufficient admissible evidence, for prosecution.

The Executive Council's Decision on Liberia reflects arguments made by the Government of Nigeria and other member states of the Economic Community of West African States (ECOWAS) and the AU that allowing Charles Taylor to travel to Nigeria was in the interests of securing a peaceful transition of power in Liberia and an end to the country's internal armed conflict. Amnesty International is aware of the leading role played by Nigeria within ECOWAS in these efforts, which has been widely acknowledged by the international community. Such steps cannot, however, be at the expense of ending impunity and abiding by international law. Durable peace and reconciliation cannot be built on a foundation of impunity.

Amnesty International therefore calls on all member states of the AU to repudiate publicly Paragraph 8 of the Decision on Liberia, and to urge the Government of Nigeria to cooperate fully with the Special Court by arresting Charles Taylor and surrendering him to the Court.

We also call on the Permanent Representatives to urge the Chairman of the AU, President Olusegun Obasanjo, to use his good offices and position to take measures that will ensure the full realization of the objectives and human rights standards articulated in the AU's Constitutive Act and other relevant instruments.

Yours sincerely,

Irene Khan
Secretary General