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Open letter to members of the Sierra Leone Parliament

Dear Member of Parliament

Bilateral agreement with the United States of America concerning the International Criminal Court

Amnesty International is concerned that on 31 March 2003 in Freetown the Government of Sierra Leone signed a bilateral agreement with the Government of the United States of America which would oblige the government not to surrender to the new International Criminal Court (ICC) United States (US) nationals accused of genocide, crimes against humanity and war crimes. This agreement violates Sierra Leone's obligations as a state party to the Rome Statute of the ICC and under international law. It goes against the will of the vast majority of the international community to ensure that no one, regardless of nationality or status, can plan and commit these heinous crimes with impunity.

Amnesty International is therefore writing to all members of the Sierra Leone Parliament, including members of the parliamentary Human Rights Committee, to urge them not to ratify this agreement.

In recent months, the US government, as part of its worldwide campaign against the ICC, has been asking states to enter into bilateral agreements not to surrender US nationals to the ICC. As of 1 April 2003, as a result of strong lobbying, including threats to withdraw military and other assistance from states which refuse to sign, 27 states have signed such agreements; no agreement, however, has yet been subsequently ratified by the legislature of these states.

More recently, in response to the refusal by many other states to sign bilateral impunity agreements, the US has imposed a deadline of 1 July 2003 by which date it would withdraw military aid, or other assistance, if states refused to enter into such agreements.

Amnesty International has been working towards the establishment of the ICC for nearly 10 years, believing that it is an essential mechanism to end impunity for the worst crimes known to humanity. No one should have impunity for these crimes. Amnesty International, together with the majority of the international community, believes that the US

government's concerns that the ICC will be used to bring politically motivated prosecutions against US nationals are wholly unfounded; the substantial safeguards and fair trial guarantees in the Rome Statute would ensure that such a situation would never arise. Amnesty International is confident that the ICC in practice, with 18 of the highest qualified and respected judges in the international community and a highly qualified and experienced Prosecutor, will allay the US government's concerns and that the US government will in due course change its position.

In August 2002 Amnesty International issued the attached document, *International Criminal Court: US efforts to obtain impunity for genocide, crimes against humanity and war crimes* (AI Index: IOR 40/025/2002), which analyses the agreement which the US government has been asking states to enter into. The organization concludes that any state which enters into such an agreement would violate its obligations under the Rome Statute and international law.

The European Union's legal experts have also analysed the agreement and have reached the same conclusion: "[e]ntering into US agreements - as presently drafted - would be inconsistent with ICC States Parties' obligations with regard to the ICC Statute and may be inconsistent with other international agreements to which ICC States Parties are Parties." The European Union further issued guiding principles which Amnesty International analyses in *International Criminal Court: The need for the European Union to take more effective steps to prevent members from signing US impunity agreements* (AI Index: IOR 40/030/2002), which is also attached.

The agreement signed by the Sierra Leone and US governments on 31 March 2003 – which, if ratified by Parliament, effectively undermines the ICC - sits ill with the Sierra Leone government's previous strong support for the ICC and the leading role which it has played. In June 1998, during the conference in Rome on the creation of a permanent international criminal court, the delegation of Sierra Leone cited the experience of Sierra Leone as evidence of the need for the establishment of such a court. Sierra Leone was among the first countries to become a state party to the Rome Statute when it ratified the Statute on 15 September 2000.

In addition, this agreement is inconsistent with the Sierra Leone government's commitment to end impunity for the grave crimes committed during Sierra Leone's internal armed conflict as demonstrated by its agreement with the United Nations to establish the Special Court for Sierra Leone to try those who bear the greatest responsibility for crimes against humanity, war crimes and other serious violations of international humanitarian law. It should also be noted that the US government has strongly supported the establishment of the Special Court.

Amnesty International hopes that you will refuse to ratify this or any other agreement which seeks to undermine the ICC and provide impunity to anyone accused of genocide, crimes against humanity and war crimes.

Yours sincerely

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