

MIR

SECURITY COUNCIL REPORTS

3 MAY - 30 DEC 1993

PLEASE RETAIN  
ORIGINAL ORDER

UNCLASSIFIED  
EL/WG APR 2009

UNARCHIVES  
SERIES S-1120  
BOX 55  
FILE 6  
ACC. 1998/0278



## Security Council

Distr.  
GENERALS/26927  
30 December 1993

ORIGINAL: ENGLISH

REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS  
ASSISTANCE MISSION FOR RWANDA

## INTRODUCTION

1. The present report is submitted in response to Security Council resolution 872 (1993) of 5 October 1993, by which the Council established the United Nations Assistance Mission for Rwanda (UNAMIR) for a period of six months, subject to the proviso that it would be extended beyond the initial 90 days upon a review by the Council based on a report from the Secretary-General as to whether or not substantive progress had been made towards the implementation of the Arusha peace agreement.

2. By the same resolution, the Security Council also approved the Secretary-General's proposal that the United Nations Observer Mission Uganda-Rwanda (UNOMUR), established by Council resolution 486 (1993), should be integrated within UNAMIR. Finally, the Security Council invited the Secretary-General to report on the progress of UNAMIR following its initial deployment, and resolved to review as appropriate, on the basis of that report, the requirement for further deployments in the scale and composition recommended by the Secretary-General in his report of 24 September 1993 (S/26488).

3. The Arusha peace agreement, signed on 4 August 1993, called on the United Nations to play a major support role during a 22-month transitional period, beginning with the installation of a broad-based transitional government and ending with the holding of national elections. The Security Council in resolution 872 (1993) authorized UNAMIR, inter alia, to contribute to the security of the city of Kigali through the establishment of a weapons-secure area; to monitor observance of the cease-fire agreement, including cantonment, demobilization and integration of the armed forces of the parties; to monitor the security situation during the final period of the transitional government's mandate; to assist with mine clearance, primarily through training programmes; to investigate, at the request of the parties or on its own initiative, instances of alleged non-compliance with the provisions of the Arusha peace agreement; to monitor the process of repatriation of Rwandese refugees and resettlement of displaced persons; to assist in the coordination of humanitarian assistance activities in conjunction with relief operations; and to investigate and report on incidents regarding the activities of the Gendarmerie and police.

## I. POLITICAL ASPECTS

4. My Special Representative, appointed in pursuance of paragraph 10 of Security Council resolution 872 (1993), arrived in Kigali on 23 November 1993 and established his headquarters in the Rwandese capital. Since his arrival, my Special Representative has established contacts and working relations with the parties signatories to the Arusha peace agreement as well as with the diplomatic missions accredited to the Rwandese Government and the religious and traditional leaders of the country. Pursuant to resolution 872 (1993), my Special Representative will help in bringing about the appropriate political environment to promote and enhance a dialogue between the parties to the Arusha peace agreement.

5. In his meetings with representatives of concerned Governments and diplomats, my Special Representative stressed the need to harmonize their efforts and activities with those of UNAMIR in order to reach a successful conclusion of the Arusha peace agreement. Following a series of violent incidents in the months of November and December 1993, which caused the death of some 40 persons, my Special Representative undertook several initiatives in order to help defuse the tension prevalent in the country and to get the parties signatories to the Arusha peace agreement to renew their commitment to implement the peace plan.

6. Those initiatives included the convening of a meeting between the Government of the Rwandese Republic and the Rwandese Patriotic Front (RPF) at Kinyihira, 80 kilometres from Kigali. At that meeting, the two parties issued a joint declaration in which they reaffirmed their commitment to do their utmost in order to achieve the goals set by the Arusha peace agreement, namely peace and national reconciliation. They agreed to set up a broad-based transitional government before 31 December 1993. During that meeting, the Chairman of RPF reaffirmed that the Front was more willing than ever to respect all its commitments, especially the one relating to the cantonment of its security battalion in Kigali.

## II. MILITARY ASPECTS

7. By paragraph 12 of resolution 872 (1993), the Security Council requested me to conclude expeditiously an agreement on the status of UNAMIR and its personnel in Rwanda. The Council requested that this agreement come into force as near as possible to the outset of the operation and no later than 30 days after the adoption of the resolution. Following the adoption of resolution 872 (1993), a draft status of forces agreement was presented to the Government of Rwanda. After consultations with the Government, the agreement was signed on 5 November 1993. A copy of the agreement was then forwarded to RPF, which confirmed its readiness to cooperate in the implementation of its provisions.

8. It will be recalled that in my report of 24 September 1993 (S/26488) I had proposed, and the Council had approved, a concept of operations with an implementation schedule comprising four phases. Phase I commenced on 5 October 1993 with the adoption by the Council of resolution 872 (1993). During this phase, preparations for the establishment of a secure area in Kigali

/...

were to be made, the monitoring of the cease-fire between the two parties in the demilitarized zone (DMZ) was to be undertaken by UNAMIR and the foreign forces stationed in Kigali were to depart. This phase was to last approximately 90 days, until the establishment of the broad-based transitional government in Kigali. Phase II would begin the day after the transitional government was installed and would end when the preparations for the disengagement, demobilization and integration of the armed forces and Gendarmerie were completed. It was estimated that this phase would also last about 90 days. Phase III would comprise the actual disengagement, demobilization and integration process. The duration of this phase was estimated at about 9 months. Finally, during phase IV, which would last 10 months, UNAMIR would assist in maintaining a secure environment and creating conditions conducive to the holding of free and fair elections.

9. As stated in my report of 24 September, it was foreseen that the strength of military personnel required for the implementation of UNAMIR's mandate would stand at 1,428 all ranks by the end of phase I and that it would reach a peak at the end of phase II, with a total of 2,548 military personnel. A process of gradual reduction would begin during phase III, leading to a residual strength of some 930 military personnel by the beginning of phase IV.

10. In my implementation plan, I had indicated that the mission's operations would be divided into five sectors, including a Kigali sector and a demilitarized zone sector. Two other sectors would be located with the Rwandese Government forces (RGF) and the forces of the Rwandese Patriotic Front (RPF) respectively (see attached map). For internal administrative purposes, UNOMUR would be considered as the fifth sector.

11. The Force Commander of UNAMIR, General Romeo A. Dallaire (Canada), arrived in Kigali on 22 October 1993, followed by an advance party of 21 military personnel on 27 October 1993. On 1 November, as foreseen in my report, the OAU Neutral Military Observer Group (NMOG II), which had been monitoring the cease-fire in the DMZ, was integrated into UNAMIR. UNAMIR's headquarters were formally inaugurated on 17 November in the presence of General Juvenal Habyarimana, President of Rwanda. The Force headquarters has been able to fulfil most of its projected tasks for phase I, though under certain logistic constraints due to delays in the arrival of vehicles, communications equipment and other supplies.

12. The Kigali sector headquarters has developed a calendar and operational plans for the establishment of the weapons-secure area, for the movement of an RPF security battalion to Kigali and for the conduct of other tasks in the area, as foreseen in my previous report. The Kigali weapons-secure area was established on 24 December and the RPF security battalion arrived in Kigali on 28 December 1993. Intensive discussions are being held with the parties with a view to facilitating the installation of the transitional government by the end of the month.

13. The demilitarized zone sector headquarters was established upon the arrival of the advance party and became operational on 1 November 1993 when the NMOG II elements were absorbed into UNAMIR. Until now it has not been possible, in the absence of the necessary logistic support, to deploy personnel to Byumba.

/...

However, the deployment of the required equipment is expected to take place in January 1994.

14. The Military Observer Group headquarters was established from elements of the advance party and NMOG II and became operational on 7 November. It has been commanding and administering all deployed military observers. It has also been conducting valuable reconnaissance of both parties' sector headquarters locations, as well as liaison tasks and investigations.

15. In addition, the Military Observer Group has been given the task of following the situation which developed on the southern border of Rwanda following the coup d'état of 21 October 1993 in Burundi. The unexpected flow of Burundese refugees into Rwanda, as well as allegations of cross-border military movement, have taxed the operations of the observers. In this connection, I instructed Under-Secretary-General James O. C. Jonah, who was in Burundi to attend the funeral of President Ndadaye, to visit the southern border area of Rwanda in order to assess the situation. Mr. Jonah travelled from Bujumbura to Kigali by road on 7 December and was thus able to observe the impact of the sudden flow of Burundese refugees in that area. While in Kigali, Mr. Jonah discussed the Burundese crisis with President Habyarimana and urged his assistance in reducing tensions in Burundi.

16. Although the southern region is at present reasonably quiet, the relative ease of access to considerable arms and the ethnic tensions amongst and around the refugees have created a potentially destabilizing situation which had not been foreseen in my initial assessment of requirements for the mission. For the time being, the Force Commander is attempting to reallocate personnel within the overall resources projected in my report of 24 September. This solution may be acceptable for the near term if the flow of observers planned for phase II is deployed on an urgent basis. If, however, experience and circumstances were to require additional observers, I would bring this matter to the attention of the Security Council for its consideration.

17. The RGF and RPF sector headquarters are in the process of being established. A small liaison office was opened in Milindi, within the RPF sector, following tensions in the north-western part of the country. The Military Observer Group is performing the necessary liaison and reconnaissance functions in the RGF zone.

18. It will be recalled that in paragraph 8 of resolution 872 (1993) the Security Council invited me to report on the requirements for further deployments, especially in the demilitarized zone. During the month of November, two separate incidents, in which some 60 civilians were brutally killed, took place in the vicinity of Ruhengeri. The nature of these attacks, directed against civilians primarily in and around the DMZ, has underscored the need for UNAMIR promptly to acquire the capability to monitor the area effectively. The investigations conducted into these killings by UNAMIR observers have revealed that a well-armed and reportedly ruthless group was operating in the area, with a view to disrupting or even derailing the peace process. The precarious security situation in that region confirms the need for a fully equipped infantry battalion, to enable UNAMIR to monitor the

/...

demilitarized zone and provide a safe environment for the large population living in the area.

19. The deployment of the Kigali battalion, composed of contingents from Belgium and Bangladesh, was completed in the first part of December. As a result, the foreign troops stationed in Kigali were able to complete their withdrawal on 15 December 1993. Regarding other elements of UNAMIR, 26 of the 50 members of the projected Medical Platoon have been deployed. Pending completion of the deployment of this unit, the Belgian contingent has agreed to allow the use of its Hercules aircraft for air evacuation in emergency cases. The 20 members of the movement control platoon and the 5 members of the military police group have also been deployed.

20. On 27 December 1993, the composition of UNAMIR consisted of a total of 1,260 military personnel, from Austria (5), Bangladesh (564), Belgium (424), Botswana (9), Brazil (13), Canada (2), the Congo (25), Fiji (1), Ghana (37), Hungary (4), Mali (10), the Netherlands (10), Poland (5), Senegal (39), Slovakia (5), Togo (15), Tunisia (61), Uruguay (21) and Zimbabwe (10). These figures include the 81 military observers serving with UNOMUR (see S/26878).

21. The composition of the military component of UNAMIR has revealed a need for interpreters/translators which had not been anticipated in my report of 24 September. A small number of interpreters/translators will therefore be put at the disposal of UNAMIR to assist its military personnel in the performance of their mandated tasks. I intend to reflect the financial impact in my next report to the General Assembly on the financing of UNAMIR.

### III. CIVILIAN POLICE

22. The Arusha peace agreement called on the United Nations to assist in maintaining public security through the monitoring and verification of the activities of the Gendarmerie and communal police. In my report of 24 September, I had indicated that in order to verify that law and order were maintained effectively and impartially, a small United Nations civilian police unit consisting of 60 police officers would be required by UNAMIR. It has not so far been possible to deploy this personnel. However, some Member States have recently agreed to make civilian police officers available for this operation and it is anticipated that they will be deployed in January 1994.

### IV. HUMANITARIAN ASSISTANCE

23. Since my report of 24 September (S/26488), emergency and rehabilitation efforts for the displaced persons have continued, but new difficulties have arisen as a result of a massive influx of Burundese refugees caused by ethnic violence in neighbouring Burundi as well as by an increasingly serious drought. Of an estimated 685,000 Burundese refugees, some 375,000 have fled to Rwanda. The revised budget of the Office of the United Nations High Commissioner for Refugees (UNHCR) and other United Nations agencies to meet emergency needs of Burundese refugees in the region until May 1994 amounts to \$52 million.

/...



24. UNAMIR, together with the United Nations Development Programme (UNDP), UNHCR and other relevant organizations of the United Nations system, will continue to provide all necessary assistance to facilitate the safe return of refugees as well as the distribution of humanitarian relief supplies to the needy populations. The continued cooperation of the parties with the international community is essential for the successful implementation of the Arusha peace agreement. I hope that the international community will continue to extend sufficient assistance to the refugees and displaced persons in Rwanda, so as to support the unimpeded implementation of the Arusha peace agreement.

#### V. FINANCIAL ASPECTS

25. The Advisory Committee on Administrative and Budgetary Questions (ACABQ) authorized the Secretary-General to enter into commitments not exceeding \$4.6 million for the initial requirements of UNAMIR, for the period from 5 October to 30 November 1993, under the provision of General Assembly resolution 46/187 of 20 December 1991 on unforeseen and extraordinary expenses.

26. The total cost of UNAMIR for the six-month period from 5 October 1993 to 30 April 1994, including the amount of \$4.6 million previously authorized by the Advisory Committee, has been estimated at \$51,120,000 gross (\$50,478,000 net). The Advisory Committee recently recommended that the General Assembly authorize further commitments of up to \$46.5 million gross (\$45.9 million net). A detailed budget showing the breakdown of the estimated amount of \$51.120 million will be submitted to the General Assembly shortly.

#### VI. CONCLUSIONS AND RECOMMENDATIONS

27. In my previous report, I stressed that two essential conditions had to be met to enable the United Nations to discharge its mandate in Rwanda successfully and effectively. First, the parties had to cooperate fully with one another and with the United Nations in carrying out their commitments under the Arusha agreement. Secondly, the United Nations had to be provided in a timely manner with the necessary human and financial resources.

28. Despite recent signs of mutual intransigence, the parties have continued to show good will and cooperation in their contacts with each other and with the United Nations. They have also managed to weather some tense and potentially disruptive moments in the wake of the events in Burundi. In addition, the fact that the cease-fire has generally been respected demonstrates that the parties remain committed to the peace and reconciliation process initiated by the Arusha agreement.

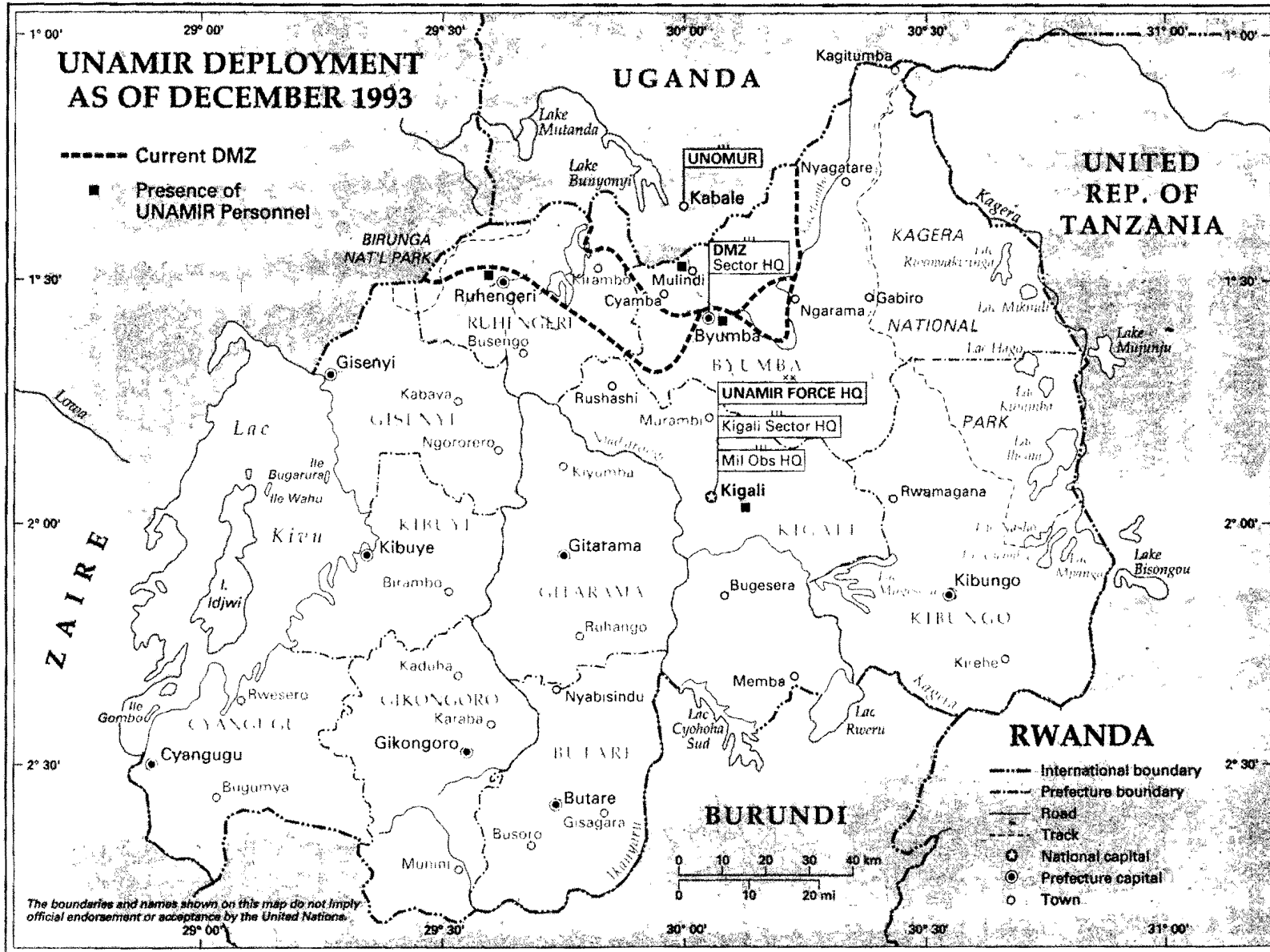
29. For their part, Member States have responded positively to my appeals for the provision of personnel at relatively short notice. As can be seen from section II above, the initial deployment of UNAMIR has proceeded largely on schedule. Although the logistic support capabilities of UNAMIR are for the time being inadequate, there is on the ground a minimum viable force which can respond to the most pressing needs in Kigali. However, the situation in the DMZ and in the north-west of the country remains unstable. Moreover, the situation

/...

in Burundi has created a new source of tension in the south. The deployment of the personnel required for the second phase of the operation should therefore be undertaken on an urgent basis.

30. In the light of the above, I recommend that the Security Council, in carrying out its review of the activities of UNAMIR, agree that this operation should continue to implement the mandate entrusted to it under resolution 872 (1993). In this regard, I intend to proceed with the implementation plan as outlined in my previous report, including the early deployment of the second battalion in the DMZ. I am aware that the Council had asked me to consider ways of reducing the total maximum strength of UNAMIR. I will continue to seek economies through the phased deployment and withdrawal of UNAMIR personnel, in accordance with the timetable set out in my implementation plan. I am however convinced that, under the present circumstances, a reduction in the projected resource levels would negatively affect the performance and credibility of UNAMIR in the discharge of its mandate. It could also jeopardize the peace process in Rwanda.







General Assembly

Distr.  
GENERAL

A/48/785  
17 December 1993

ORIGINAL: ENGLISH

Forty-eighth session  
Agenda item 173

FINANCING OF THE UNITED NATIONS ASSISTANCE MISSION FOR RWANDA

Report of the Advisory Committee on Administrative  
and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the financing of the United Nations Assistance Mission for Rwanda (UNAMIR) (A/C.5/48/40, paras. 110-118).
2. By its resolution 872 (1993) of 5 October 1993 the Security Council, inter alia, decided to establish UNAMIR for a period of six months, subject to the proviso that it would be extended beyond the initial 90 days upon a review by the Council. By the same resolution, the Council approved the proposal that the United Nations Observer Mission for Uganda-Rwanda (UNOMUR) be integrated within UNAMIR.
3. As indicated in paragraph 115 of the Secretary-General's report, for the initial requirements of UNAMIR, the Advisory Committee authorized the Secretary-General to enter into commitments not exceeding \$4.6 million, under the provisions of General Assembly resolution 46/187 on unforeseen and extraordinary expenses, for the period from 5 October to 30 November 1993.
4. As indicated in paragraph 116 of the Secretary-General's report, the total cost of UNAMIR for the period from 5 October to 4 April 1994, including the amount of \$4.6 million previously authorized by the Advisory Committee, has been estimated at \$51,120,000 gross (\$50,478,000 net). The Advisory Committee recommends that the General Assembly authorize further commitments of up to \$46.5 million gross (\$45.9 million net) and that the entire amount of \$51,120,000 gross (\$50,478,000 net) be assessed.

-----



General Assembly

Distr.  
GENERAL

A/48/778  
17 December 1993

ORIGINAL: ENGLISH

Forty-eighth session  
Agenda item 138

ADMINISTRATIVE AND BUDGETARY ASPECTS OF THE FINANCING OF  
THE UNITED NATIONS PEACE-KEEPING OPERATIONS

Report of the Advisory Committee on Administrative  
and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the financing of 17 peace-keeping operations (A/C.5/48/40). In this connection, the Secretary-General states in paragraphs 2 and 3 of his report that items on the agenda of the Fifth Committee related to the financing of peace-keeping operations may have to be postponed until the resumed session of the Assembly in April owing to the priority given for completing consideration of agenda item 123, "Proposed programme budget for 1994-1995". To provide for the operational requirements of the peace-keeping operations, he is therefore requesting that the General Assembly grant him financial authority for the maintenance of those operations through 30 April 1994. The requirements for each operation are briefly outlined in the remainder of his report.
2. The Advisory Committee's comments and recommendations with regard to each peace-keeping operation are contained in separate reports. In this connection, the Committee understands that the Secretary-General's report represents a compilation of the operations' requirements for ease of reference only; the Committee was informed that this approach represented an exceptional measure in order to expedite the approval of resources necessary for the maintenance of the operations. The Committee further understands that this in no way implies an attempt to submit a consolidated overall budget for peace-keeping operations.
3. Each of the peace-keeping operations is dealt with in a separate subsection of the Secretary-General's report. However, the Advisory Committee emphasizes that those subsections in no way constitute the "normal" performance/financing reports submitted by the Secretary-General. The Committee, notwithstanding the explanations provided by the Secretary-General, expresses its serious concern in this regard, noting that it represents a lack of budgetary discipline and erodes the role of the General Assembly.

4. The Advisory Committee regrets the trend in recent years for the late submission of documentation, including reports on the financing of peace-keeping operations. Despite requests for corrective action, the situation in this regard has steadily worsened. Notwithstanding the special circumstances prevailing this year with regard to the review of the proposed programme budget, the Advisory Committee believes that all of the peace-keeping reports should have been submitted in a more timely manner; the circumstances related to the regular budget are irrelevant to the timely submission of the peace-keeping reports.

5. The Committee therefore requests the Secretary-General to take corrective measures to prevent the recurrence of such a situation and report to the Committee on the implementation of those measures. The Committee also requests that all reports which have not yet been submitted be available by 15 January 1994. In preparing these and future reports the Secretary-General should take into account the recommendations of the Committee in its report (A/47/990) in order to improve the presentation and type of information contained in such reports.

6. That being said, the Committee recognizes that resources are required to ensure the continuation of the operations in question. The Committee therefore undertook as best a review as was feasible, given the information before it and time constraints. The Committee points out that in a number of instances its recommendations relate only through 31 March 1994 rather than 30 April. The amounts to be recommended in future by the Committee in respect of the various peace-keeping operations will take into account the performance during the initial months, thereby effecting a de facto adjustment as necessary to the amounts now being recommended.

7. The recommendations of the Advisory Committee with regard to the various peace-keeping operations took into account not only requirements for expenditure but also requisite assessment levels. The recommendations of the Committee in respect of each operation are for commitment authority rather than appropriation in view of the fact that the relevant budgets have not been considered and approved. However, consistent with past practice, amounts authorized by the Assembly for commitment can be assessed and apportioned. In a number of cases, the amount recommended for assessment is less than the amount recommended for commitment in view of available cash balances, or the unencumbered balances of appropriations.

8. The Committee stresses that its agreement to consider the Secretary-General's report and make recommendations thereon derived solely from the need to provide for the continuation of the operations in question. It does not constitute a precedent and should not be viewed as such.

---

---



## Security Council

Distr.  
GENERAL

S/26878  
15 December 1993

ORIGINAL: ENGLISH

---

### SECOND REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS OBSERVER MISSION UGANDA-RWANDA

#### INTRODUCTION

1. The present report is submitted in pursuance of paragraph 2 of Security Council resolution 846 (1993) of 22 June 1993, by which the Security Council established the United Nations Observer Mission Uganda-Rwanda (UNOMUR), to be deployed on the Ugandan side of the border for an initial period of six months, subject to review every six months.

2. By paragraph 3 of the same resolution, the Security Council decided that UNOMUR would monitor the Uganda-Rwanda border to verify that no military assistance reached Rwanda, focus being primarily in that regard on transit or transport, by roads or tracks that could accommodate vehicles, of lethal weapons and ammunition across the border, as well as any other material that could be of military use.

#### I. DEPLOYMENT AND ACTIVITIES

3. In my report of 22 October 1993 (S/26618), I informed the Security Council that, following the conclusion of a status-of-mission agreement with the Government of Uganda on 16 August, UNOMUR had been fully deployed and that it had reached its authorized strength.

4. As of 10 December 1993, UNOMUR was composed of 81 military observers from the following countries: Bangladesh (22), Botswana (9), Brazil (13), Hungary (4), Netherlands (9), Senegal (10), Slovakia (5) and Zimbabwe (9). In addition, 16 international and 6 locally recruited civilian staff provide substantive and administrative support to the Mission.

5. UNOMUR has established its headquarters in Kabale, about 20 kilometres north of the border with Rwanda. For operational purposes, UNOMUR has divided the border area into two sectors. The eastern sector headquarters are collocated with UNOMUR's headquarters in Kabale. The headquarters of the western sector are in Kisoro.

6. In accordance with the concept of operations set out in my report of 20 May 1993 (S/25810), UNOMUR has established observation posts at two major crossing sites, at Katuna and Cyanika, and at three secondary sites, at Bigaga, Kafunzo and Lubirizi, on the Ugandan side of the border. The deployment of UNOMUR is shown on the attached map. The mission also monitors the border area through mobile patrols and is planning to enhance its operational capability in the near future with airborne coverage.

7. During the period under review, the border between the two countries has remained largely closed, although some vehicles have been allowed to cross. UNOMUR has facilitated the transit of several vehicles transporting food and medical supplies to Rwanda for the World Food Programme (WFP) and the International Committee of the Red Cross (ICRC).

8. UNOMUR's activities, consisting of surveillance, patrolling and investigations, have been effective both as a deterrent and as interdiction. As a result, clandestine cross-border traffic has decreased appreciably. There now is only restricted movement along previously well-used routes across the border, and no evidence of any significant traffic in armaments. With the arrival of specialized equipment, UNOMUR's surveillance capacity will be further enhanced.

9. The attitude of the civilian and military authorities in the mission area has generally been cooperative. However, there have been a few isolated attempts to curtail the freedom of movement of UNOMUR patrols. Allegations that the Rwandese Patriotic Front (RPF) was gathering troops on the Ugandan side of the border for a possible resumption of hostilities have been carefully investigated, but they could not be substantiated. These investigations have served as a confidence-building mechanism and helped to defuse tension in the border area.

## II. ADMINISTRATIVE AND FINANCIAL ASPECTS

10. On 5 October, the Security Council adopted resolution 872 (1993) authorizing the establishment of the United Nations Assistance Mission for Rwanda (UNAMIR). The Council also approved the proposal that UNOMUR be integrated within UNAMIR. However, as the members of the Security Council are aware, Uganda has expressed some concern about the proposed integration. In my last report (S/26618), I informed the Council that I was consulting the Government of Uganda on the modalities of this integration. In the light of these consultations, which were held both in New York and in Kampala, the Under-Secretary-General for Peace-keeping Operations addressed a letter to the Permanent Representative of Uganda on 22 October 1993. The letter confirmed that the proposed integration would be purely administrative in nature and that it would in no way affect the mandate of UNOMUR as set out in resolution 846 (1993). Assurances were also provided that the UNOMUR status-of-mission agreement, concluded on 16 August 1993, remained valid and would continue to govern relations between Uganda and the United Nations in this matter.

11. The total cost of UNOMUR for the period 22 June to 21 December 1993, including pre-implementation costs, has been estimated at \$4,392,900 gross (\$4,308,000 net). This cost estimate takes into account the actual dates of

/...

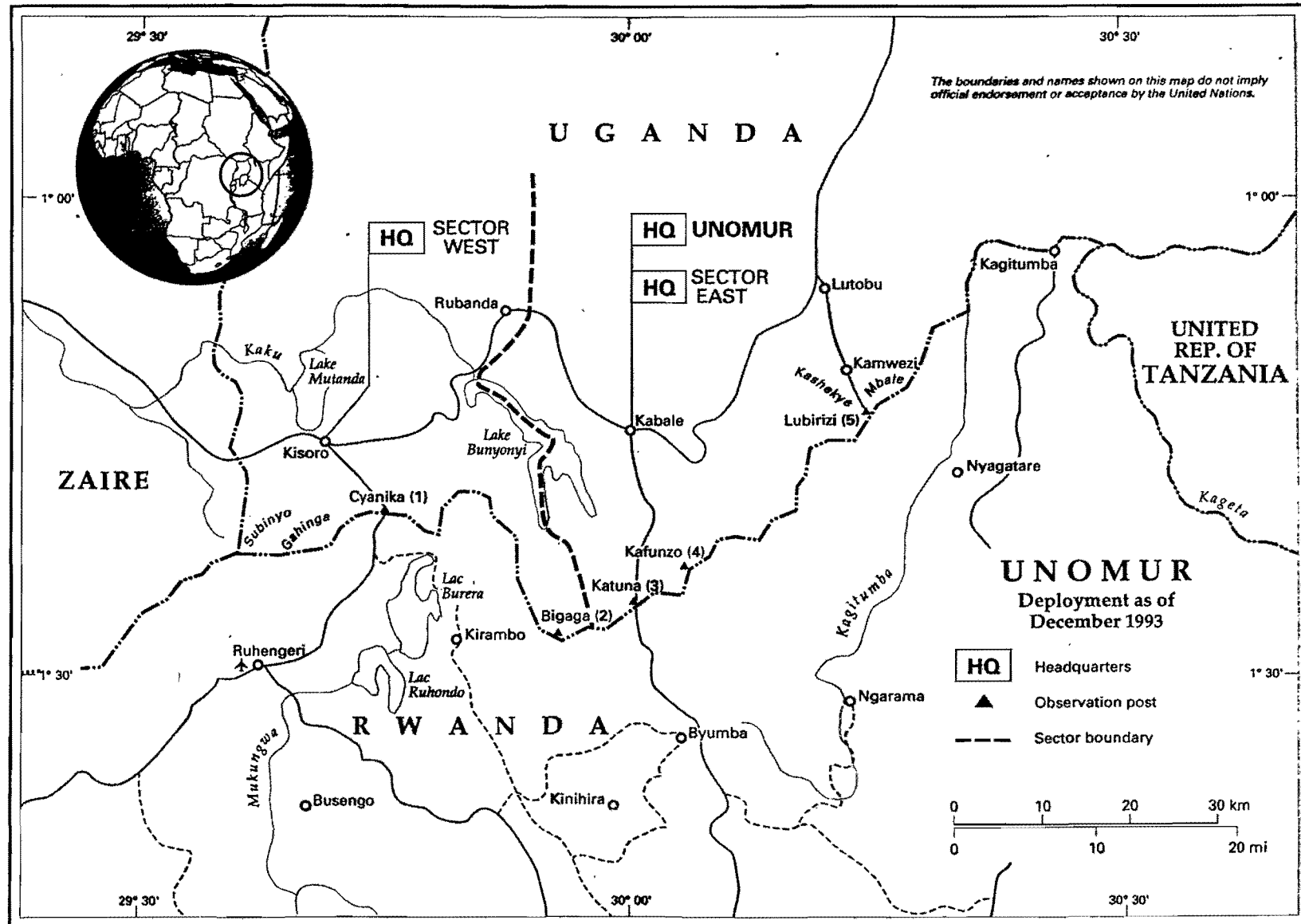
arrival of military and civilian personnel in the mission area and savings made as a result of redeployment to UNOMUR of equipment from other peace-keeping operations. Should the Security Council decide to extend the mandate of UNOMUR, the costs relating to the activities of the mission for the period beyond 21 December 1993 will be included in my report on the financing of UNAMIR, which is under preparation.

### III. CONCLUDING OBSERVATIONS

12. It will be recalled that UNOMUR was established by the Security Council following requests from the Governments of Uganda and Rwanda for the deployment of United Nations observers along their common border (S/25355, S/25356 and S/25797). The establishment of UNOMUR was intended to create an atmosphere conducive to a negotiated settlement of the conflict in Rwanda and to underscore the importance that the international community attaches to the maintenance of peace and security in the region. I believe that UNOMUR has been a factor of stability in the area and that it is playing a useful role as a confidence-building mechanism. It is also my understanding that this view is shared by the Governments of Uganda and Rwanda. I therefore recommend to the Security Council that the mandate of UNOMUR be extended for a period of six months, as envisaged in resolution 846 (1993).

13. In conclusion, I would like to express my appreciation to the Government of Uganda for its cooperation. UNOMUR's ability to discharge its mandate effectively will continue to depend on the assistance and cooperation extended by the Ugandan authorities. I also wish to pay tribute to the military and civilian personnel of UNOMUR for the professionalism with which they have carried out their tasks.

/...



MAP NO. 3778 REV. 2 UNITED NATIONS  
DECEMBER 1993





General Assembly

Distr.  
GENERAL

A/48/707  
14 December 1993

ORIGINAL: ENGLISH

Forty-eighth session  
Agenda item 138

ADMINISTRATIVE AND BUDGETARY ASPECTS OF THE FINANCING  
OF THE UNITED NATIONS PEACE-KEEPING OPERATIONS

Use of civilian personnel in peace-keeping operations

Report of the Secretary-General

I. INTRODUCTION

1. The Secretary-General last reported to the General Assembly on the specific subject of civilian personnel in peace-keeping operations in 1990 (A/45/502). That report, which dealt mainly with personnel provided by Governments, led to the adoption by the Assembly of resolution 45/258 of 3 May 1991, in which it approved the procedures and the basis for the participation of such persons in peace-keeping operations, and requested a further report on the use of civilians in peace-keeping operations, a request reiterated the following year in resolution 47/218 A of 23 December 1992, as well as on a number of other aspects of the administration of such operations.

2. Those earlier requests have been supplemented by the recent adoption of General Assembly resolution 47/218 B of 14 September 1993, as well as by a series of reports by the Advisory Committee on Administrative and Budgetary Questions, notably its report on administrative and budgetary aspects of the financing of peace-keeping operations (A/47/990). Recommendations, suggestions and requests have also been made by the Special Committee on Peace-keeping Operations (A/47/253-S/21269, A/47/386 and more recently A/48/173) and by the General Assembly in its related resolution 47/71 of 14 December 1992. The present report is intended to respond to all those documents. Its use of the terms "mission" and "peace-keeping operation" should be understood as including all field operations of the United Nations.

3. In the preparation of the present report, the Secretary-General has been mindful of the conclusions and recommendations reached by the Joint Inspection Unit in a report on mission staffing (A/48/421, annex); he shares the views as well as the reasoning expressed therein as to the need for outside recruitment

to be more actively pursued. The Secretary-General has also taken account of views expressed by representatives of Member States participating in an informal working group that met at Headquarters between July and October 1993 to consider all aspects of United Nations peace-keeping operations.

4. Since the Secretary-General last reported on civilian personnel in peace-keeping operations (A/45/502) and, as was stated in his report (A/47/965-S/25944) on the implementation of the recommendations contained in "An Agenda for Peace" (A/47/277-S/24111), as well as in his report on the work of the Organization under the heading "Peace-keeping in a changing context", 1/ the use of such personnel has increased considerably. Not only have the number and size of peace-keeping operations grown at an unprecedented rate, but their scope has tended increasingly to extend beyond traditional military concerns into such areas as election monitoring, policing, humanitarian affairs and even, as in the case of the United Nations Transitional Authority in Cambodia (UNTAC), national administration. Thus the civilian personnel, in addition to categories traditionally required for an operation (political and legal affairs, public information, personnel administration, finance and budget, general support functions, etc.), have tended more and more to expand into these new areas. The "new generation" of peace-keeping missions requires additional sources of qualified and readily available civilian personnel. This requirement has not been successfully met in all cases. There is currently a fairly high vacancy rate in authorized posts in some field operations and the anticipated requirements of future operations may well exacerbate the problem. The present report surveys major existing sources of civilian personnel, and suggests the pursuit of an innovative approach towards the alleviation of the shortage in civilian personnel in both existing and future missions.

## II. CIVILIAN PERSONNEL PROVIDED BY GOVERNMENTS

5. As stated by the Secretary-General in his report (A/45/502), there are certain "core" functions in peace-keeping operations that must be performed by United Nations staff members rather than by personnel provided by Governments. Such core functions, in the opinion of the Secretary-General, can be defined as "the political direction and the administration of an operation in all its facets". These include the formulation of policy and functions involving financial or personnel certifying authority (see A/45/801, para. 32). Bearing in mind this limitation, significant numbers of civilian staff have been provided by Governments for recent operations, particularly for short periods in the capacity of election monitors and human rights officers (United Nations Observer Mission to Verify the Referendum in Eritrea, United Nations Transitional Assistance Group in Namibia, United Nations Observer Mission to Verify the Electoral Process in Nicaragua, United Nations Angola Verification Mission and United Nations Transitional Authority in Cambodia). The Secretary-General notes that in its recent report (A/47/990), endorsed by the General Assembly in resolution 47/218 B of 14 September 1993, the Advisory Committee asked for the development of specific guidelines for the participation of civilian personnel provided by Governments along the lines of those already issued for election and police monitors. He is pleased to report the signing, on 13 September 1993, of a memorandum of understanding to that effect with the Government of one Member State within the framework approved by the General

/...

Assembly in its resolution 45/258. Similar memoranda are currently being negotiated with other Governments.

6. In common with Member States, the Secretary-General favours the extensive use in peace-keeping operations of qualified civilian personnel made available - on either a loan or a secondment basis - by Governments. A number of notes verbales to that effect have been circulated. Indeed, the Secretary-General urges Member States to provide not only individuals, but also organized teams of personnel to meet specific and urgent needs of missions, whether as direct providers or as intermediaries with international service agencies incorporated in their respective jurisdictions (as to the latter source of personnel (see paras. 19-37 below).

7. While government nominations have made it possible to strengthen appreciably the rosters of prospective candidates for mission service, this important source is nevertheless insufficient. In particular, it has been proven difficult in practice always to match the qualifications and capacities of persons offered for service by their Governments with the needs of specific operations.

### III. CIVILIAN STAFF ASSIGNED FROM THE SECRETARIAT

8. Staff members assigned from established United Nations offices, principally New York, make up the majority of international civilian personnel in peace-keeping operations. They perform the "core" functions described in paragraph 5 above, as well as support functions in the Professional, Field Service and General Service categories. They have the advantage of being familiar with United Nations policies and practices and, until fairly recently, it has normally been possible to deploy them to the field relatively quickly when new operations have been established or existing ones expanded.

9. Although the Secretary-General has the authority to assign staff members to duty stations anywhere in the world, it has been the policy to assign to peace-keeping operations only those who volunteer for such service. This approach reflects the fact that most peace-keeping assignments are in sites or areas considered "non-family" for reasons of hardship or security. Indeed, when the Organization's peace-keeping responsibilities began expanding rapidly in the late 1980s and early 1990s, large numbers of staff in established offices volunteered for mission service and a great number of them were successfully placed in posts that matched their qualifications and levels of experience. It has become increasingly difficult, however, to draw on this source because staff resources at established offices at Headquarters have become so depleted that other ongoing programmes of the Organization are being delayed and supervisors are less and less willing to release staff, particularly those whose performance is above average. It should further be noted in this context that the qualifications of staff volunteering for mission service often correspond to some actual requirements in the field, but never to all.

10. One factor limiting the number of staff volunteering for mission service is the security risk involved. Another is the perception that such service may impair a staff member's promotion and/or career prospects. This has been one of

/...

the issues addressed on a priority basis by a Secretariat working group on field staffing that was established in January 1993. Remedial action, in the form of new procedures, was taken by the Office of Human Resources Management (OHRM). Other initiatives in this respect are currently being actively pursued. They deal, inter alia, with issues pertaining to assignment to, and reintegration from, the mission area and include the possible introduction of incentives for mission service, as well as a study of how a systematic rotation policy might be developed for the Secretariat.

#### IV. CIVILIAN STAFF PROVIDED FROM OTHER ORGANIZATIONS IN THE UNITED NATIONS SYSTEM

11. The secretariats of the other organizations in the United Nations system are another source of qualified and experienced civilian staff for peace-keeping operations. Although the Secretary-General has made repeated appeals for volunteers from these secretariats, the responses have not always brought about the results expected. The reasons for this may be similar to those indicated in the preceding paragraph with reference to the United Nations Secretariat. The Secretary-General intends to pursue this matter vigorously through the mechanisms of the Administrative Committee on Coordination (ACC).

#### V. CIVILIANS RECRUITED INDIVIDUALLY FROM OUTSIDE THE UNITED NATIONS SYSTEM

12. Recruitment of new staff members from non-governmental sources outside the United Nations system has been actively pursued to help satisfy the increased demand for mission personnel. The pool of potential candidates is very large and is increasing as military establishments in many countries are cut back to reflect the changed international political climate. The names of several thousand potential recruits are on the rosters maintained by OHRM, and measures are being taken to extend those rosters and also to refine them so that candidates with qualifications and skills matching specific mission positions can be more easily and quickly identified. This is one of the areas being pursued by the Secretariat working group referred to in paragraph 10 above.

13. Recruitment of this type has provided excellent staff for many missions. Until recently, however, it has been constrained by checks, clearances and other procedures required by the standard recruitment process. Further, staff recruitment in this category has added significantly to the administrative burdens and costs of mission personnel offices, as they were subject to the provisions of the 100-series of staff rules normally meant to cover non-project United Nations career personnel.

14. Following inter-departmental consultations on this problem within the Secretariat, an accelerated recruitment procedure for missions, involving streamlined arrangements for medical and other clearances, was introduced in April 1993.

15. A related difficulty is that the Organization's staff rules did not provide for a suitable contractual instrument to employ large numbers of personnel for

/...

short assignments. To address this problem, a revision of the 300 series of staff rules has been completed and will be submitted to the General Assembly during its current session. The new rules provide a non-career regime for appointments of limited duration (up to four years) and will do much to speed the recruitment process and alleviate the burden of administering large numbers of staff members in the field under the 100-series staff rules. OHRM and the Field Operations Division (FOD) are also examining other aspects of the staff rules, as well as related policies and procedures, with a view to adjusting them to serve the Organization better in field situations.

16. The improvements listed above will do much to streamline the recruitment and administration of new United Nations staff for core positions. This system, however, does not provide the most suitable means for the rapid mobilization of teams of personnel for non-core functions that need to be deployed urgently, particularly during the start-up, "surge" phase of a mission. Consequently, alternative methods had to be investigated.

#### VI. USE OF UNITED NATIONS VOLUNTEERS

17. The use of significant numbers of United Nations Volunteers in peace-keeping operations is fairly recent. These Volunteers possess a wide range of skills, often have experience with field activities in a United Nations context and are less costly than internationally recruited staff members. Many were employed in UNTAC and significant numbers are also being recruited for the United Nations Operation in Mozambique (ONUMOZ) and for the United Nations Operation in Somalia (UNOSOM). The experience with United Nations Volunteers thus far suggests both the strengths and the limitations of this source of civilian personnel.

18. The UNTAC experience suggests that the Volunteers can be a very useful and cost-effective source of civilian support personnel for tasks such as election monitoring, which require their deployment at the grass-roots level where their interaction with the local population seems to be especially effective. The Secretary-General thus sees no difficulty with the recommendation of the Advisory Committee on Administrative and Budgetary Questions (A/47/990, para. 19) that greater use be made of their services in missions. It should therefore be noted that their mandate, as established by General Assembly resolution 2659 (XXV) of 7 December 1970, may have to be clarified to confirm their involvement in activities beyond those related to development assistance. The administrative aspects of using United Nations Volunteers are normally addressed in the memoranda of understanding signed for individual missions. In this context, it has been clarified that in matters of security, the Volunteers and other United Nations staff shall henceforth be subject to the same conditions, stipulations and entitlements, under the overall authority of the Security Coordinator. It should further be clarified that for the duration of their service in a United Nations peace-keeping mission, the Volunteers should be under the authority of, and accountable to, the Chief of Mission.

/...

## VII. USE OF INTERNATIONAL CONTRACTUAL PERSONNEL

1. Pilot project in the United Nations Protection Force (UNPROFOR)

19. By mid 1992, a serious staff shortage had developed in UNPROFOR, despite strenuous attempts to provide qualified staff through secondment from Governments, assignment from within the United Nations system and recruitment from outside. To alleviate the problem and allow the operation to carry out the mandate, an innovative means of recruitment had to be devised. It was against this background that the pilot project to acquire urgently the services of civilian support personnel by contract through international service agencies, summarized by the Secretary-General to the General Assembly in his report on the financing of UNPROFOR (A/47/741), was begun by the Protection Force in November 1992. This situation provides, in effect, a classic example of the difficulty described in paragraphs 8-12 above: the inadequacy of existing mechanisms and procedures to provide rapidly a large number of personnel needed for the establishment or strengthening of a major peace-keeping operation. It should be noted that in UNPROFOR, the problem was compounded by the political circumstances in the mission area, which made it impractical to use locally recruited staff for a great number of positions. While this kind of difficulty may not arise in every operation, it may well occur in some.

20. In UNPROFOR, the personnel acquired represent a variety of support skills, especially in technical and trades areas. Their services are being provided for 12-month periods through contracts under which the international service agencies concerned undertook responsibility for (a) the nomination of personnel for review and selection by the mission; (b) the recruitment of those selected; (c) their travel to and from the mission; (d) their remuneration; and (e) their insurance. UNPROFOR assumed responsibility for their meals and accommodation and for emergency medical care. These arrangements are in line with those frequently and increasingly employed by Governments to provide similar services, particularly in conjunction with the deployment of military personnel, as well as by the private sector for projects requiring qualified technical support staff.

21. The contracting international service agencies, which provide several candidates for each available post, were specifically requested to offer multinational personnel to the extent possible; at the end of August 1993, the 304 persons employed in UNPROFOR under these arrangements were drawn from more than two dozen countries on five continents.

22. Reporting in December 1992 on the financing of UNPROFOR, ACABQ noted the relatively low cost of the contractual personnel (see also para. 24 below) and expressed the view that similar procedures should be used, where appropriate, in other peace-keeping operations (A/47/778, para. 41).

2. Evaluation of the pilot project

23. From the operational point of view, the pilot project has been a notable success. On average, the contracted personnel have been deployed to their mission stations within 28 days of the signing of the contracts - significantly

/...

faster than would have been possible had staffing proceeded through the normal channels. The differences between their status and that of staff members has not caused difficulties with the local population nor compromised the political objectives of the mission in any way. Their performance on the job is evaluated as at least equal to that which would be expected of United Nations personnel recruited for mission service by OHRM or assigned to a mission from other offices. On this subject, UNPROFOR has reported that the personnel in question are performing satisfactorily and that their standards "are quite high in terms of both professionalism and work ethics"; it considers the pilot project instrumental in enabling the mission to carry out its mandate.

24. The Advisory Committee on Administrative and Budgetary Questions, as indicated in paragraph 22 above, noted the cost-effectiveness of this procedure. Cost, however, has not been the prime criterion in selecting one contracting international service agency in preference to another. Considerable weight has been given to the following factors: the experience and reliability of each contractor; how the contractor proposes to ensure the high quality of the personnel that it nominates; how quickly the contractor can deploy the personnel selected and how well can it support them; the number of qualified female candidates the contractor can nominate; and, finally, the geographic distribution of the personnel that it proposes. Similarly, cost is not the exclusive criterion for the selection of individuals; due account is taken of qualifications, experience, perceived ability to perform effectively and the need for a broad geographic spread.

### 3. Remuneration of contractual personnel

25. In its report to the General Assembly on administrative and budgetary aspects of the financing of United Nations peace-keeping operations, the Advisory Committee on Administrative and Budgetary Questions raised questions related to the remuneration of contractual personnel. It considered that the Assembly should be apprised in particular of the issue of whether their salary rates should reflect primarily their country of recruitment or the quality of the services delivered, due regard being paid to compliance with the principle of equal pay for equal work and safeguards against possible abuse and exploitation (A/47/990, para. 18).

26. The Secretary-General understands and shares the Advisory Committee's concerns. At the same time, it is important to point out that so far, no evidence of exploitation or abuse has emerged in connection with the use by the United Nations of contractual personnel of this kind. Applicants interested in such employment write to the contracting company at their own initiative and are under no obligation to accept any conditions of service offered to them. In fact, in order to attract good candidates, contractors tend to offer a salary and benefits package considered competitive to the pool of potential candidates from which they would recruit.

27. To answer such concerns further, the Secretary-General will review the language of contracts to ensure that full disclosure of the terms of employment is communicated to the applicants and to prohibit any exploitative practices such as hidden or unauthorized deduction from wages. He also intends to review

/...

compensation packages offered by contractors for contract field teams within the more general framework of other contracted personnel to ensure that no abusive or exploitative practices are allowed. In this context, it should be noted further than the international service agencies themselves are subjected to a rigorous pre-selection process to ensure that they are reputable and reliable businesses, as well as companies that adhere to generally accepted business standards and ethics.

28. On the question of pay equality, contractual personnel receive a base salary and a uniform monthly incentive allowance. While there are cases in which persons performing similar functions are not paid the same aggregate amount, such disparities can be attributed to differences in the qualifications and experience of the appointees.

#### 4. Future plans

29. In its report on the staffing of missions the Joint Inspection Unit has recommended that resort to contractual arrangements be further explored and examined (A/48/421, annex, recommendation IV (b)). Furthermore, as indicated in paragraph 5 above the positive outcome of the pilot project in UNPROFOR has encouraged the Secretary-General to envisage using similar arrangements to fill non-core support positions across the whole range of peace-keeping missions when the normal methods of assignment or recruitment prove inadequate to the task of providing qualified personnel in sufficient numbers without unacceptable delays. The use of contractual arrangements in such cases would have a number of advantages, among them the following:

(a) It would greatly accelerate the deployment of qualified support personnel to missions;

(b) It would give the Organization easy access to a reservoir of technical/trade/professional skills that are not readily available in the United Nations system or do not exist at all within it;

(c) It would make available more Field Service staff members for managerial and supervisory functions;

(d) It would significantly reduce the burden on mission administrative staff;

(e) It could eventually become a useful source of staff of proven competence for recruitment to the organizations and programmes of the United Nations system;

Moreover, since personnel obtained through these channels would normally hold one-year contracts with their employers, they would not become a burden on the Organization when missions were reduced in scale or terminated. Those whose performance proved unsatisfactory could be promptly removed and replaced. For these reasons, as well as the others indicated above, personnel costs would be contained.

/...



30. It is intended to refine and improve the candidate selection process further in an effort to achieve even broader geographic distribution of personnel, more women appointees at higher levels and more candidates for each post so as to give the United Nations a greater role in the selection process. At the same time, the contracting international service agencies would be required to propose not just individuals, but contract field teams, i.e. teams of workers complete with their own procedures and administrative support. This provision should improve efficiency and, in addition, would reflect more clearly the distinct character and status of this category of personnel.

31. In light of the above, the Secretary-General would welcome endorsement by the General Assembly of his plans to resort to contractual arrangements as an additional source of civilian personnel in peace-keeping missions, under the terms specified in paragraphs 33-37 below.

32. International contractual personnel are employees of their respective international service agencies. They are not staff members, employees or agents of the United Nations. They are therefore not entitled to the emoluments and benefits of United Nations staff members, employees or agents.

33. International contractual personnel would not perform "core functions" as these functions have been defined in paragraph 5 above. Furthermore, to the extent possible, the functions to be performed by such personnel would relate to technical and mechanical skills, trade and related fields. Whenever possible, the personnel would be organized in self-contained teams. These delineations, are designed to distinguish further among the various categories of personnel engaged in peace-keeping operations and, inter alia, to ensure that contractual personnel would not normally find themselves in supervisory positions as regards United Nations staff members, while still allowing for the proper functioning of such operations.

34. Although international contractual personnel are employees of the contracted international service agencies, they work under the overall authority of the Chief of the Mission for the duration of their tenure with the United Nations peace-keeping operation. The Chief of Mission therefore has the authority, and indeed the obligation, to monitor their services and, when necessary, demand that the relevant service agency replace those persons whose performance or conduct is deemed unsatisfactory. The Secretariat would introduce appropriate internal mechanisms to monitor the performance and the conduct of the contractual personnel and to control the quality of services they perform.

35. The contractual documents to be concluded between the United Nations and the international service agencies would require that they fully indemnify, defend and hold harmless the United Nations from and against third party claims arising from acts or omissions of personnel supplied by them. Such indemnity obligations would be accompanied by financial guarantees in amounts commensurate with the potential exposure of the Organization to such third party claims.

36. International contractual personnel, while not covered under the Convention on Privileges and Immunities of the United Nations, as they are neither officials of the Organization nor experts performing missions for the

/...

Organization, should nevertheless be accorded legal protection. This protection would extend to immunity from legal process in respect of words spoken and written and all acts performed by them in their official capacity, as well as entitlement to repatriation in times of international crisis. This legal protection would be expressly stated and included in the Status of Force Agreements concluded between the United Nations and future host Governments.

#### VIII. LOCAL STAFF

37. About two thirds of the civilian posts in current peace-keeping operations are staffed by locally recruited personnel, usually in the General Service and related categories. These persons are largely clerks, typists, secretaries, drivers, security guards, messengers and other administrative support staff. In general, the difficulties encountered in filling international civilian posts in missions, as described in sections II-VII above, have not applied to these locally recruited posts and vacancy levels have been relatively low.

38. In its report, the Advisory Committee called attention to the "significant number" of international General Service staff employed in such operations and expressed the belief that greater efforts should be made to recruit such personnel locally (A/47/990, para. 15). A similar recommendation has indeed been recently made by the Joint Inspection Unit (A/48/421, annex, recommendation IV (a)). The Secretary-General is prepared to make all reasonable efforts in this direction, but wishes to point out that the ability to make use of local personnel for a particular peace-keeping operation depends largely on (a) the size and nature of that operation and of its staffing table; (b) the labour market in the country in which it is situated, including the language and other more specialized skills available; and (c) political factors, such as the ability of local personnel to move freely and otherwise function within the mission area.

#### IX. SECURITY

39. The Secretary-General has reported separately to the General Assembly and to the Security Council on the security of United Nations operations and the personnel attached to them, both civilian and military (A/48/349-S/26358 of 27 August 1993). The security measures envisaged therein apply to all categories of personnel contributing to United Nations field operations.

#### X. CONCLUSION

40. Experience has shown that no single source can provide the civilian personnel required to support field missions. Although staffing needs can vary enormously from mission to mission, in all but the smallest of missions a mix will usually be required, including seconded or assigned personnel, newly recruited staff, volunteers and contractual personnel. The Secretary-General intends to draw on all the categories described in sections II to VIII of the present report so as to provide existing and future missions with the personnel they need to function effectively and at minimum cost.

/...

Notes

1/ Official Records of the General Assembly, Forty-eighth Session,  
Supplement No. 1 (A/48/1), chap. IV, sect. C.

-----



## General Assembly

Distr.  
GENERALA/48/636  
24 November 1993

ORIGINAL: ENGLISH

Forty-eighth session  
Agenda item 164

## FINANCING OF THE UNITED NATIONS OBSERVER MISSION UGANDA-RWANDA

Report of the Secretary-General

## CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION .....	1 - 19	3
II. MANDATE AND OPERATIONAL PLAN OF THE UNITED NATIONS OBSERVER MISSION UGANDA-RWANDA .....	20 - 27	6
III. INITIAL MEASURES AUTHORIZING COMMITMENTS FOR THE UNITED NATIONS OBSERVER MISSION UGANDA-RWANDA .....	28 - 29	7
IV. COST ESTIMATE FOR THE PERIOD FROM 22 JUNE TO 21 DECEMBER 1993 .....	30	7
V. VOLUNTARY CONTRIBUTIONS .....	31	8
VI. FINANCIAL ADMINISTRATION .....	32	8
VII. OBSERVATIONS .....	33	8
VIII. ACTION TO BE TAKEN BY THE GENERAL ASSEMBLY AT ITS FORTY-EIGHTH SESSION .....	34	9

Annexes

I. Cost estimate for the period from 22 June to 21 December 1993: summary statement .....	10
II. Cost estimate for the period from 22 June to 21 December 1993: supplementary information .....	15
III. Deployment schedules for military and civilian personnel .....	32

93-65168 (E) 021293 061293

/...

CONTENTS (continued)

	<u>Page</u>
IV. Proposed civilian staffing table for the United Nations Observer Mission Uganda-Rwanda ,.....	34
V. Functional titles of the proposed posts in the Professional category and above and the related job description summaries .....	35
VI. Civilian staff and related costs for the period from 22 June to 21 December 1993 .....	36
VII. Proposed vehicle distribution .....	37
VIII. Map of the mission area .....	38

/...

## I. INTRODUCTION

1. Fighting between the Armed Forces of the Government of Rwanda and the Rwandese Patriotic Front (RPF) first broke out in October 1990. Despite a number of cease-fire agreements thereafter, hostilities resumed in early February 1993. Those hostilities interrupted comprehensive negotiations between the Government of Rwanda and the RPF that had been supported by the Organization of African Unity (OAU) and facilitated by the United Republic of Tanzania.
2. In support of resumption of the negotiations, the Governments of Rwanda and Uganda, in separate letters to the President of the Security Council on 22 February 1993, 1/ called for the deployment of United Nations military observers at their common border.
3. Following consultations in the Security Council concerning these letters, the Secretary-General decided to send a goodwill mission to the region to assist him in making recommendations to the Council on the peace process. The goodwill mission visited the region from 4 to 19 March 1993.
4. In the meantime, efforts by the OAU and the United Republic of Tanzania led to an agreement between the Government of Rwanda and the RPF on a reinstatement of the cease-fire and to the resumption of peace talks in Arusha, United Republic of Tanzania. In addition to visiting Rwanda and Uganda from 4 to 19 March 1993, the goodwill mission also visited Dar-es-Salaam and Addis Ababa for consultations with the Facilitator and the Coordinator of the Arusha peace talks respectively.
5. By its resolution 812 (1993) of 12 March 1993, the Security Council, inter alia, took note of the letters from the Governments of Rwanda and Uganda, 1/ welcomed the decision of the Secretary-General to send a goodwill mission to the region, having heard a first oral report on the mission, invited the Secretary-General to examine in consultation with the OAU the contribution that the United Nations, in support of the OAU's efforts, could bring to strengthen the peace process in Rwanda, in particular through the possible establishment of an international force under the aegis of the OAU and the United Nations, and invited the Secretary-General to examine the request by Rwanda and Uganda for the deployment of observers at the border between these two countries.
6. Following the adoption of resolution 812 (1993), the Secretary-General sent a technical team to Uganda and Rwanda with a view to gathering all information relevant to the possible deployment of United Nations military observers on the Uganda/Rwanda border. The mission visited Uganda from 2 to 5 April and Rwanda on 6 April 1993. The mission was instructed to make recommendations, as appropriate, regarding the tasks that could be performed by such observers and to prepare a concept of operations, as well as an estimate of the logistic and administrative support requirements. The mission was also asked to suggest a time-frame for the deployment of observers, following authorization of such an operation by the Security Council.
7. On 20 May 1993, based on the discussions held in Uganda and Rwanda and on a preliminary assessment of conditions on the ground by the technical mission, the

/...

Secretary-General submitted a report to the Security Council. 2/ In his report, the Secretary-General stated that it would be possible to deploy United Nations military observers to monitor the Uganda/Rwanda border and to verify that no military assistance would be provided across the border between the two countries. As the RPF controlled about four fifths of the border and was opposed to the deployment of observers on the Rwanda side, the military observers would be deployed on the Uganda side of the border. The monitoring and verification activities that the observers would perform would focus primarily on transit or transport of lethal weapons and ammunition across the border.

8. The Secretary-General further stated in his report that these monitoring and verification activities could be carried out by an observer mission to be known as the "United Nations Observer Mission Uganda-Rwanda" (UNOMUR). Subject to the approval of the Security Council, UNOMUR would be established for an initial period of up to six months and the duration of the mission would be subject to review, following the conclusion of the Arusha peace talks. If the Council approved the establishment of UNOMUR, the mission would be deployed progressively, with full deployment to be completed within 45 days.

9. On 3 June 1993, the Secretary-General submitted to the Council an addendum to his report 3/ covering the preliminary cost estimates related to the establishment and deployment of UNOMUR. Based on the concept of operations outlined in his main report, it was estimated that an amount of \$8.5 million would be required for the initial six-month period, inclusive of start-up costs and acquisition of capital equipment.

10. With respect to the method of financing, the Secretary-General recommended, in paragraph 3 of the addendum to his report that, should the Security Council agree to the establishment of UNOMUR, the cost relating thereto should be considered as 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 that the assessment to be levied on Member States be credited to a special account for that purpose.

11. By its resolution 846 (1993) of 22 June 1993, the Security Council, inter alia, took note of the interim report of the Secretary-General, decided to establish the United Nations Observer Mission Uganda-Rwanda (UNOMUR) to be deployed on the Ugandan side of the border, for an initial period of six months, as set out in the report of the Secretary-General, and subject to review every six months and requested the Secretary-General to report to the Council on the implementation of resolution 846 (1993) within 60 days of the deployment of UNOMUR.

12. In pursuance of resolution 846 (1993), on 24 August 1993 the Secretary-General submitted a further report to the Security Council, 4/ in which he reported on the results of the Arusha peace talks, as well as on the contribution the United Nations could make to assist the OAU in the implementation of the peace agreement.

13. In that report, the Secretary-General informed the Council that the peace agreement between the Government of Rwanda and the RPF had been signed in Arusha on 4 August 1993. In signing the peace agreement, the two parties agreed that

/...

the war between them had come to an end and that they would spare no effort to promote national unity and reconciliation. They also agreed that all six protocols of agreement, which they had concluded and signed during the Arusha talks, would be attached to the peace agreement, of which they would form an integral part.

14. The Secretary-General also reported that he had sent a reconnaissance mission to Rwanda at the request of the Government of Rwanda and the RPF in order to assess the needs of a proposed neutral international force that would facilitate the implementation of the provisions of the peace agreement. As envisaged by the two parties, a neutral international force would be deployed in Rwanda to monitor and supervise the cease-fire; secure the continued distribution of humanitarian assistance; and assist in the protection of the expatriate community and in the implementation of the provisions of the peace agreement pertaining to the demobilization and encampment of the belligerent forces, their retraining and integration to form a new national army. The mandate of the reconnaissance mission would be to examine the possible functions of such a force and evaluate the human and financial resources that would be needed to carry them out.

15. The Secretary-General stated that, on the basis of the findings of the reconnaissance mission, he would submit a further report to the Security Council regarding the contribution the United Nations could make to facilitate the implementation of the peace agreement.

16. In paragraph 11 of its resolution 846 (1993) of 22 June 1993, the Security Council had requested the Secretary-General to report on the contribution the United Nations could make to assist the OAU in the implementation of a comprehensive peace agreement between the Government of Rwanda and the RPF and to begin contingency planning in the event that the Council decided such a contribution was needed. In pursuance of that request and as previously indicated in his report of 24 August 1993, the Secretary-General submitted a report to the Council on 24 September 1993, 5/ in which he reported on the findings of the reconnaissance mission which had been sent to Rwanda to assess the possibility of the establishment of a neutral international force.

17. On the basis of the findings of the reconnaissance mission, the Secretary-General decided to recommend to the Security Council that it authorize the establishment of a "United Nations Assistance Mission for Rwanda", to be known as UNAMIR, with the mandate of contributing to the establishment and maintenance of a climate conducive to the secure installation and subsequent operation of a transitional Government in Rwanda. The operation would be deployed according to the schedule described in section III of the Secretary-General's report. The Secretary-General indicated that the military observers of UNOMUR would come under the command of UNAMIR, while continuing to discharge the mandate entrusted to them on the Uganda/Rwanda border.

18. In an addendum to his main report, 6/ dated 29 September 1993, the Secretary-General estimated that, based on the operational plan and general assumptions outlined in his main report, an amount of \$62.6 million would be required for the deployment and operation of UNAMIR for a six-month period, inclusive of the costs of start-up and acquisition of capital equipment.

/...



19. By its resolution 872 (1993) of 5 October 1993, the Security Council, having considered the report of the Secretary-General, decided to establish the United Nations Assistance Mission for Rwanda (UNAMIR) for a period of six months subject to the proviso that it would be extended beyond the initial 90 days only upon a review by the Council based on a report from the Secretary-General as to whether or not substantive progress had been made towards the implementation of the Arusha Peace Agreement. By the same resolution, the Council approved the proposal that the United Nations Observer Mission Uganda-Rwanda (UNOMUR) be integrated within UNAMIR.

## II. MANDATE AND OPERATIONAL PLAN OF THE UNITED NATIONS OBSERVER MISSION UGANDA-RWANDA

20. The mandate of the United Nations Observer Mission Uganda-Rwanda is to monitor the Uganda/Rwanda border in order to verify that no military assistance reaches Rwanda, the focus being put primarily in this regard on transit or transport, by roads or tracks that could accommodate vehicles, of lethal weapons and ammunition across the border, as well as any other material which could be of military use.

21. UNOMUR will establish its headquarters in Kabale, a city centrally located close to the border area. It will also have two sector headquarters. In order to perform its monitoring functions effectively, UNOMUR will establish a combination of static observation posts and mobile patrols. The five static observation posts will be established at the five main road crossing sites on the border and will be supported by extensive patrols on the Uganda side of the border, by day and at night. Helicopter patrols using sensory devices will also be required, since ground fog is prevalent in the border area and because of the presence of dense vegetation and the difficulty of the terrain.

22. UNOMUR will be headed in the field by a Chief Military Observer (CMO). In order to carry out its monitoring and verification activities, UNOMUR will have a military component of 81 military observers and a civilian component of 17 international and seven local civilian support staff.

23. According to the operational plan, UNOMUR provided for progressive deployment: an advance party of 21 military observers and some civilian support staff within 15 days of the adoption of Security Council resolution 846 (1993); the remaining personnel in accordance with the emplacement of the necessary logistic support within 45 days.

24. On 22 October 1993, the Secretary-General submitted a report 7/ in pursuance of paragraph 12 of Security Council resolution 846 (1993), which requested the Secretary-General to report to the Council on the implementation of that resolution within 60 days of the deployment of UNOMUR. The Secretary-General reported that, since the adoption of resolution 846 (1993), and with the consent of the Council, Brigadier-General Romeo A. Dallaire (Canada) had been appointed Chief Military Observer of UNOMUR.

25. The Secretary-General also reported that a Status of Mission Agreement had been finalized with the Government of Uganda and had entered into force on

/...

16 August 1993. This Agreement opened the way to deployment of the advance party, which had arrived in the mission area on 18 August 1993.

26. The Secretary-General reported further that UNOMUR had been fully deployed and had reached its authorized strength of 81 military observers. Eleven international civilian staff had also been deployed.

27. Within the first three weeks of its deployment, UNOMUR had concluded a thorough reconnaissance of the Uganda/Rwanda border, set up a communication network and established its Headquarters and a Sector Headquarters in Kabale and a second Sector Headquarters in Kisoro. In accordance with its concept of operations, the mission had also established observation posts at two major crossing sites on the Ugandan side of the border at Katuna and Cyanika and had also been monitoring the border through mobile patrols. UNOMUR was preparing to establish additional observation posts at three secondary crossing sites and to enhance its operational capability with airborne coverage.

### III. INITIAL MEASURES AUTHORIZING COMMITMENTS FOR THE UNITED NATIONS OBSERVER MISSION UGANDA-RWANDA

28. In order to provide for the expenses related to a technical mission that was sent to Uganda and Rwanda in April 1993 and for a fact-finding mission that was sent to the mission area from 15 April to 31 July 1993, the Secretary-General authorized the entering into commitments in an amount of \$96,700 under the authority granted to him in paragraph 1 (a) of General Assembly resolution 46/187 of 20 December 1991, relating to unforeseen and extraordinary expenses for the biennium 1992-1993, under which the Secretary-General is authorized to enter into commitments not exceeding \$3 million in any one year.

29. The Secretary-General subsequently sought the concurrence of the Advisory Committee on Administrative and Budgetary Questions for entering into commitments in an amount not to exceed \$6.7 million, including the amount of \$96,700 previously authorized by him under General Assembly resolution 46/187, for meeting the initial requirements for the deployment of military observers and substantive and administrative support staff and for capital equipment for the period from 22 June to 31 October 1993. Pending the submission of the report of the Secretary-General to the General Assembly on the financing of UNOMUR, the Advisory Committee authorized the Secretary-General to enter into commitments not exceeding \$6 million, including pre-implementation costs, under the provisions of resolution 46/187. The projected commitments for the period from 22 June to 21 December 1993 are now estimated at \$4,392,900 gross (\$4,308,000 net).

### IV. COST ESTIMATE FOR THE PERIOD FROM 22 JUNE TO 21 DECEMBER 1993

30. The total cost of UNOMUR for the period from 22 June to 21 December 1993, including pre-implementation costs, has been estimated at \$4,392,900 gross (\$4,308,000 net). The cost estimate takes into account the actual dates of arrival of military and civilian personnel in the mission area and savings

/...

realized by the redeployment of equipment from other missions to UNOMUR. A summary of the cost estimate for this period is provided in annex I and supplementary information thereon is provided in annex II. The deployment schedules for military and civilian personnel are indicated in annex III. Annex IV provides the proposed civilian staffing table for UNOMUR. The functional titles of the proposed posts in the Professional category and above and the related job description summaries are contained in annex V. Annex VI details civilian staff and related costs for the period.

#### V. VOLUNTARY CONTRIBUTIONS

31. The Secretary-General hereby appeals to Member States to make advances, on a voluntary basis, to meet the initial expenses of UNOMUR pending formal action by the General Assembly. The Secretary-General also appeals to all Governments to consider making available voluntary contributions in support of the continuing operation of UNOMUR.

#### VI. FINANCIAL ADMINISTRATION

32. The Secretary-General recommends the establishment of a special account for UNOMUR under the authority of financial regulation 6.6 for the purpose of accounting for income received and expenditure made in respect of the mission. The financial accounts will be kept in accordance with the approved mandate period. Should the mandate of UNOMUR be extended by the Security Council, appropriate additional accounting arrangements may be proposed to the General Assembly.

#### VII. OBSERVATIONS

33. By its resolution 872 (1993) of 5 October 1993 by which the Security Council decided to establish the United Nations Assistance Mission for Rwanda (UNAMIR), the Council approved the Secretary-General's proposal, contained in his report S/26488 and Add.1, that the United Nations Observer Mission Uganda-Rwanda (UNOMUR) should be integrated within UNAMIR. This integration, however, will be purely administrative in nature and will not affect the mandate of UNOMUR as set out in Security Council resolution 846 (1993). According to the UNAMIR operational plan, the proposed integration of UNOMUR into UNAMIR will take place during the second phase of UNAMIR's deployment. In this regard, the Secretary-General's report on the financing of UNAMIR contains the cost estimate for UNOMUR for the period beyond 21 December 1993 based on the proposed integration. Should a decision be taken to continue UNOMUR as a separate operation beyond 21 December 1993, financial provision for such extension will be reported to the Advisory Committee and the General Assembly, as appropriate.

/...

VIII. ACTION TO BE TAKEN BY THE GENERAL ASSEMBLY AT ITS  
FORTY-EIGHTH SESSION

34. The action that would appear to be required at the present time in connection with the financing of UNOMUR, taking into consideration the authorization provided by the Advisory Committee on Administrative and Budgetary Questions, is the appropriation and apportionment of an amount of \$4,392,900 gross (\$4,308,000 net) for the operation of UNOMUR for the period from 22 June to 21 December 1993.

Notes

1/ S/25355 and S/25356.

2/ S/25810.

3/ S/25810/Add.1.

4/ S/26350.

5/ S/26488.

6/ S/26488/Add.1.

7/ S/26618.

/...

ANNEX I

United Nations Observer Mission Uganda-Rwanda (UNOMUR)

Cost estimate for the period from 22 June to 21 December 1993

Summary statement

(United States dollars)

	<u>Cost estimate</u>
1. <u>Military personnel costs</u>	
(a) <u>Military observers</u>	
Mission subsistence allowance	898 600
Travel costs	229 400
Clothing and equipment allowance	<u>4 700</u>
Subtotal	1 132 700
(b) <u>Military contingents</u>	-
(c) <u>Other costs pertaining to military personnel</u>	-
Total, line 1	1 132 700
2. <u>Civilian personnel costs</u>	
(a) <u>Civilian police</u>	-
(b) <u>International and local staff</u>	
International staff salaries	195 800
Local staff salaries	7 800
Consultants	-
Overtime	-
Common staff costs	130 100
Mission subsistence allowance	150 800
Travel to and from the mission area	86 300
Other official travel costs	<u>12 000</u>
Subtotal	582 800

/...

	<u>Cost estimate</u>
(c) <u>International contractual personnel</u>	-
(d) <u>United Nations Volunteers</u>	-
(e) <u>Government provided personnel</u>	-
(f) <u>Civilian electoral observers</u>	-
Total, line 2	582 800
3. <u>Premises/accommodation</u>	
Rental of premises	37 500
Alterations and renovations to premises	4 500
Maintenance supplies	7 500
Maintenance services	15 000
Utilities	15 000
Construction/prefabricated buildings	-
Subtotal	79 500
4. <u>Infrastructure repairs</u>	-
5. <u>Transport operations</u>	
Purchase of vehicles	460 100
Rental of vehicles	105 600
Workshop equipment	15 000
Spare parts, repairs and maintenance	12 800
Petrol, oil and lubricants	48 200
Vehicle insurance	4 300
Subtotal	646 000
6. <u>Air operations</u>	
(a) <u>Helicopter operations</u>	
Hire/charter costs	594 000
Aviation fuel and lubricants	61 600
Positioning/depositioning costs	75 000
Resupply flights	-
Painting/preparation	15 000
Liability insurance	-
Subtotal	745 600

/...

	<u>Cost estimate</u>
(b) <u>Fixed-wing aircraft</u>	-
(c) <u>Air crew subsistence allowance</u>	-
(d) <u>Other air operations costs</u>	
Air traffic control services	-
Landing fees and ground handling	5 000
Fuel storage containers	<u>-</u>
Subtotal	5 000
Total, line 6	750 600
7. <u>Naval operations</u>	-
8. <u>Communications</u>	
(a) <u>Complementary communications</u>	
Communications equipment	306 600
Spare parts and supplies	18 700
Workshop and test equipment	20 700
Commercial communications	<u>68 500</u>
Subtotal	414 500
(b) <u>Main trunking contract</u>	-
Total, line 8	414 500
9. <u>Other equipment</u>	
Office furniture	13 200
Office equipment	27 600
Data-processing equipment	365 300
Generators	-
Observation equipment	21 000
Petrol tank plus metering equipment	-
Medical and dental equipment	10 000
Accommodation equipment	-
Miscellaneous equipment	15 000
Field defence equipment	-
Spare parts, repairs and maintenance	-
Water purification equipment	<u>-</u>
Subtotal	452 100

/...

	<u>Cost estimate</u>
10. <u>Supplies and services</u>	
(a) <u>Miscellaneous services</u>	
Audit services	10 500
Contractual services	2 500
Data-processing services	-
Security services	45 000
Medical treatment and services	2 500
Maintenance services	-
Claims and adjustments	5 000
Official hospitality	2 500
Miscellaneous other services	<u>4 500</u>
Subtotal	72 500
(b) <u>Miscellaneous supplies</u>	
Stationery and office supplies	25 000
Medical supplies	20 000
Sanitation and cleaning supplies	5 000
Subscriptions	300
Ballistic protective blankets for vehicles	-
Uniform items, flags and decals	2 500
Field defence stores	-
Operational maps	-
Quartermaster and general stores	<u>-</u>
Subtotal	52 800
Total, line 10	125 300
11. <u>Election-related supplies and services</u>	-
12. <u>Public information programmes</u>	-
13. <u>Training programmes</u>	-
14. <u>Mine-clearing programmes</u>	-
15. <u>Assistance for disarmament and demobilization</u>	-
16. <u>Air and surface freight</u>	
Transport of contingent-owned equipment	-
Military airlifts	-
Commercial freight and cartage	<u>75 000</u>
Subtotal	75 000

/...



	<u>Cost estimate</u>
17. <u>Integrated Management Information System</u>	-
18. <u>Support account for peace-keeping operations</u>	49 500
19. <u>Staff assessment</u>	<u>84 900</u>
GROSS TOTAL, lines 1-19	<u>4 392 900</u>
20. <u>Income from staff assessment</u>	(84 900)
NET TOTAL	4 308 000
21. <u>Voluntary contributions in-kind</u>	-
TOTAL RESOURCES	<u>4 308 000</u>

/...

## ANNEX II

United Nations Observer Mission Uganda-Rwanda (UNOMUR)Cost estimate for the period from 22 June to 21 December 1993Supplementary information

(United States dollars)

## I. COST PARAMETERS

1. These estimates were calculated, where applicable, on the basis of the cost parameters indicated below.

(a) Mission subsistence allowance

2. Provision is made for the payment of mission subsistence allowance to military observers and international civilian staff as follows:

(i) For the period from 22 June to 4 October 1993: (a) \$137 per person per day for the first 30 days; and (b) \$85 per person per day thereafter. The rates are subject to supplements of 10 and 25 per cent for civilian staff at the D-1/D-2 and ASG/USG levels, respectively;

(ii) For the period from 5 October to 21 December 1993: (a) \$110 per person per day for the first 30 days; and (b) \$85 per person per day thereafter. The rates are subject to supplements of 10 and 25 per cent for civilian staff at the D-1/D-2 and ASG/USG levels, respectively.

(b) Travel costs

3. The travel of military observers to the mission area has been estimated at an average cost of \$2,700 per person for a one-way trip (basic airfare \$1,100 and 100 kgs. accompanied baggage \$1,600). The travel of international civilian staff to the mission area has been estimated at an average cost of \$4,500 per person for a one-way trip (basic airfare \$1,700 and 100 kgs. accompanied baggage \$2,800).

(c) Civilian personnel costs

4. The proposed civilian staffing strength for UNOMUR is a total of 17 international staff (5 Professional and above, 7 Field Service and 5 General Service) and 7 locally recruited staff.

5. Salaries and common staff costs of international staff are net of staff assessment and are based on New York standard costs except for staff appointed for the Mission. Field Operations standard cost rates have been used for staff in the Field Service category. Salaries for locally recruited staff are based on the scale currently in effect for Kampala, Uganda. A detailed cost breakdown of civilian salaries is contained in annex VI.

/...

## II. REQUIREMENTS

### 1. Military personnel costs

#### (a) Military observers

(i) Mission subsistence allowance ..... 898 600

6. Provision is made for mission subsistence allowance for 81 military observers for a total of 8,671 person-days in accordance with the deployment schedule contained in annex III and as per the rates indicated in paragraph 2 above (\$851,000). Additional provision is made for subsistence expenses related to the military observers who formed part of the technical and fact-finding missions that visited the mission area during the period from April to July 1993 (\$47,600).

(ii) Travel costs ..... 229 400

7. The cost estimate provides for the one-way travel of 81 military observers at the rate indicated in paragraph 3 above (\$218,700). Due to the expected integration of UNOMUR within UNAMIR, no provision is made at this time for repatriation travel costs. Provision is also made for expenses related to the travel of military observers who formed part of the technical and fact-finding missions (\$10,700).

(iii) Clothing and equipment allowance ..... 4 700

8. Provision is made for clothing allowance for 81 military observers at the rate of \$200 per annum per observer, prorated for the period covered.

(b) Military contingents ..... -

9. No provision is required under this heading.

(c) Other costs pertaining to military personnel ..... -

10. No provision is required under this heading.

### 2. Civilian personnel costs

(a) Civilian police ..... -

11. No provision is required under this heading.

(b) International and local staff

(i) International staff salaries ..... 195 800

12. The proposed civilian staffing table for UNOMUR is provided in annex IV. The cost estimate provides for the salaries of 17 international staff (5 Professional, 7 Field Service and 5 General Service) based on the dates of

/...

arrival contained in annex III and on the standard cost rates referred to in paragraph 5 above, and as detailed in annex VI.

(ii) Local staff salaries ..... 7 800

13. The cost estimate provides for the salaries of 7 locally recruited staff based on the dates of arrival contained in annex III and on the local salary scale referred to in paragraph 5 above, and as detailed in annex VI.

(iii) Consultants ..... -

14. No provision is required under this heading.

(iv) Overtime ..... -

15. No provision is required under this heading.

(v) Common staff costs ..... 130 100

16. The calculation of common staff costs for international staff (\$128,700) and local staff (\$1,400) is based on the standard scales referred to in paragraph 5 above and as detailed in annex VI.

(vi) Mission subsistence allowance ..... 150 800

17. Provision is made for mission subsistence allowance for 17 international staff based on the dates of arrival contained in annex III and on the rates indicated in paragraph 2 above, and as detailed in annex VI (\$145,200). Provision is also made for subsistence expenses for civilian staff who formed part of the technical and fact-finding missions (\$5,600).

(vii) Travel to and from the mission area ..... 86 300

18. Provision is made for one-way travel costs for 17 international civilian staff at the rate indicated in paragraph 3 above (\$76,500). Due to the expected integration of UNOMUR within UNAMIR, no provision is made at this time for repatriation travel costs. Additional provision is made for expenses related to the travel of civilian staff who formed part of the technical and fact-finding missions (\$9,800).

(viii) Other official travel costs ..... 12 000

19. The cost estimate provides for two official trips between New York and the mission area at an average cost of \$6,000 per trip including subsistence allowance.

(c) International contractual personnel ..... -

20. No provision is required under this heading.

(d) United Nations Volunteers ..... -

21. No provision is required under this heading.

/...

- (e) Government-provided personnel ..... -
22. No provision is required under this heading.
- (f) Civilian electoral observers ..... -
23. No provision is required under this heading.
3. Premises/accommodation
- (a) Rental of premises ..... 37 500
24. Provision is made for the rental of three premises as follows: (a) mission headquarters in Kabale; (b) sector headquarters in Kabale; and (c) sector headquarters in Kisoro at a monthly rental charge of \$2,500 per premise, costed for a five-month period.
- (b) Alterations and renovations to premises ..... 4 500
25. Provision is made for necessary upgrading and repair of three premises as indicated above at an average cost of \$1,500 per premise.
- (c) Maintenance supplies ..... 7 500
26. Provision is made for maintenance supplies for three premises at an average monthly cost of \$500 per premise, costed for a five-month period.
- (d) Maintenance services ..... 15 000
27. Provision is made for maintenance services for three premises at an average monthly cost of \$1,000 per premise, costed for a five-month period.
- (e) Utilities ..... 15 000
28. Provision is made for water and electricity charges for three premises as indicated above at an average monthly cost of \$1,000 per premise, costed for a five-month period.
- (f) Construction/prefabricated buildings ..... -
29. No provision is required under this heading.
4. Infrastructure repairs ..... -
30. No provision is provided under this heading.

/...

5. Transport operations(a) Purchase of vehicles ..... 460 100

31. Provision is made for the acquisition of 18 vehicles as indicated below. These vehicles were purchased locally as right-hand drive vehicles were required; unit costs include freight charges to the mission area. The number of vehicles redeployed to UNOMUR from UNAVEM (22) have been deducted from the total number of vehicles to be procured, as shown below.

Description	Quantity	Unit cost	Total cost
		\$	\$
Sedan, light	2	21 200	42 400
Sedan, light*	1	13 000	13 000
Jeep, 4 x 4	12	20 500	246 000
Jeep, 4 x 4*	20	20 500	410 000
Minibus	3	24 900	74 700
Pick-up double cabin	1	26 000	26 000
Cargo truck*	<u>1</u>	50 000	<u>50 000</u>
Subtotal	40		862 100
Freight 15% (applied only to vehicles redeployed from United Nations Angola Verification Mission (UNAVEM))			<u>71 000</u>
Total			<u>933 100</u>
*Less: UNAVEM vehicles			
Sedan, light	1	13 000	(13 000)
Jeep, 4 x 4	20	20 500	(410 000)
Cargo truck	<u>1</u>	50 000	<u>(50 000)</u>
Subtotal	22		(473 000)
Total			<u>460 100</u>

/...

(b) Rental of vehicles ..... 105 600

32. Provision is made for the rental of 20 vehicles for three months, pending the delivery of purchased vehicles, at an estimated monthly rate of \$1,600 per vehicle (\$96,000). Additional provision is made for the rental of vehicles for the technical and fact-finding missions (\$9,600).

(c) Workshop equipment ..... 15 000

33. Provision is made for workshop equipment and non-expendable tools.

(d) Spare parts, repairs and maintenance ..... 12 800

34. Provision is made for the purchase of spare parts, repairs and regular maintenance for 40 United Nations-owned vehicles estimated at \$100 per vehicle per month. Based on the expected date of delivery for locally procured vehicles, the cost estimate provides for spare parts for a one-month period (\$1,800); for redeployed vehicles from UNAVEM, the cost estimate provides for a five-month period (\$11,000).

(e) Petrol, oil and lubricants ..... 48 200

35. Provision is made for fuel costs for 20 rental vehicles costed for three months (\$14,000). Provision is also made for fuel costs for 18 locally procured United Nations-owned vehicles costed for one month (\$4,200) and for 22 United Nations-owned vehicles redeployed from UNAVEM costed for five months (\$25,600). Fuel costs are based on an average daily usage of 5 gallons of fuel per vehicle and a unit cost of \$1.52 per gallon.

36. The calculations are as follows:

- For 20 rental vehicles (\$14,000): 20 vehicles x 92 days x 5 gallon/day x \$1.52/gallon = \$14,000
- For 18 UN-owned vehicles costed for one month (\$4,200): 18 vehicles x 31 days x 5 gallon/day x \$1.52/gallon = \$4,200
- For 22 UN-owned vehicles costed for five months (\$25,600): 22 vehicles x 153 days x 5 gallon/day x \$1.52/gallon = \$25,600

Provision is also made for the cost of oil and lubricants at 10 per cent of the cost of fuel (\$4,400).

/...

(f) Vehicle insurance ..... 4 300

37. Provision is made for the cost of third-party liability insurance estimated at \$400 per vehicle per annum for 40 United Nations-owned vehicles, costed for one month for 18 locally procured vehicles (\$600) and for five months for 22 vehicles redeployed from UNAVEM (\$3,700).

6. Air operations

(a) Helicopters

(i) Hire/charter costs ..... 594 000

38. Provision is made for the commercial hiring of three Bell 212 helicopters which will be used for air observation, logistic support, medical evacuation, command liaison and general utility purposes. The monthly charter cost of \$132,000 per helicopter (\$120,000 for the basic hire charge plus an additional 10 per cent for infra-red capability, which is required because of heavy fog conditions in the mission area) includes 75 flying hours. The cost estimate provides for the charter of each helicopter for one-and-one-half months. Charter costs include charges for liability insurance.

(ii) Aviation fuel and lubricants ..... 61 600

39. Provision is made for aviation fuel for three Bell 212 helicopters based on a total of 225 flying hours per month and a fuel consumption of 96 gallons per hour. The type of fuel required is jet fuel A-1 at a cost of \$1.90 per gallon. The calculation is as follows:

225 flying hours x 96 gallons x \$1.90 per gallon x 1.5 months = \$61,600

As the basic charter cost includes charges for lubricants, no provision is made for this item.

(iii) Positioning/depositioning costs ..... 75 000

40. Provision is made for positioning and depositioning costs for three Bell 212 helicopters at a cost of \$25,000 per helicopter.

(iv) Resupply flights ..... -

41. No provision is required under this heading.

(v) Painting/preparation ..... 15 000

42. Provision is made for painting three helicopters in United Nations colours at a cost of \$5,000 per helicopter.

/...



(vi)	<u>Liability insurance</u> .....	-
43.	No provision is required under this heading as costs for liability insurance are included in the basic monthly hire charge.	
(b)	<u>Fixed-wing aircraft</u> .....	-
44.	No provision is required under this heading.	
(c)	<u>Air crew subsistence allowance</u> .....	-
45.	No provision is required under this heading.	
(d)	<u>Other air operations costs</u>	
(i)	<u>Air traffic control services</u> .....	-
46.	No provision is required under this heading.	
(ii)	<u>Landing fees and ground handling</u> .....	5 000
47.	Provision is made for ground handling charges estimated at \$1,100 per helicopter per month for one-and-one-half months.	
(iii)	<u>Fuel storage containers</u> .....	-
48.	No provision is required under this heading.	
7.	<u>Naval operations</u> .....	-
49.	No provision is required under this heading.	
8.	<u>Communications</u>	
(a)	<u>Complementary communications</u>	
(i)	<u>Communications equipment</u> .....	306 600
50.	Provision is made for the acquisition of communications equipment as follows:	

/...

Description	Quantity	Unit cost	Total cost
		\$	\$
<u>HF equipment</u>			
HF static radio	9	9 000	81 000
HF mobile radio	17	7 500	127 500
<u>VHF equipment</u>			
VHF repeater station	3	2 000	6 000
VHF mobile station	14	800	11 200
VHF mobile station*	3	800	2 400
Handie talkie*	100	500	50 000
<u>Satellite equipment</u>			
INMARSAT A terminal*	2	30 000	60 000
<u>Fax equipment</u>			
Cryptofax, secure	1	30 000	30 000
Fax machine, non-secure	3	2 000	<u>6 000</u>
Subtotal			374 100
Freight at 12 per cent			<u>44 900</u>
Total			<u>419 000</u>
<u>*Less: UNTAC equipment</u>			
Handie talkie	100	500	(50 000)
VHF mobile station	3	800	(2 400)
INMARSAT A terminal	2	30 000	<u>(60 000)</u>
Subtotal			<u>(112 400)</u>
Total			<u>306 600</u>

/...

(ii) Spare parts and supplies ..... 18 700

51. Provision is made for the cost of spare parts for repairs and maintenance of the equipment listed above at 10 per cent per annum of the equipment value costed for six months.

(iii) Workshop and test equipment ..... 20 700

52. Provision is made for the acquisition of one communications analyzer (\$15,000), one frequency counter (\$2,000) and one power meter (\$1,500) plus related freight charges (\$2,200).

(iv) Commercial communications ..... 68 500

53. Provision is made for a five-month period as follows:

- INMARSAT user charges estimated at \$5,000 per month (\$25,000);
- telephone, telex and facsimile charges estimated at \$5,000 per month (\$25,000);
- pouch services estimated at \$2,000 per month (\$10,000).

54. Additional provision is made for expenses incurred by the technical and fact-finding missions (\$8,500).

(b) Main trunking contract ..... -

55. No provision is required under this heading.

9. Other equipment

(a) Office furniture ..... 13 200

56. Provision is made for the acquisition of office furniture as follows:

/...

Description	Quantity	Unit cost	Total cost
		\$	\$
Desk*	25	230	5 750
Chair*	125	100	12 500
Filing cabinet*	20	290	5 800
Computer table	24	150	3 600
Storage cabinet	3	180	540
Ancillary furniture (bookcases, conf. tables)	1 lot	5 000	<u>5 000</u>
Subtotal			33 200
Freight at 12 per cent			<u>4 000</u>
Total			<u>37 200</u>
<u>*Less: UNTAC furniture</u>			
Desk	25	230	(5 750)
Chair	125	100	(12 500)
Filing cabinet	20	290	<u>(5 800)</u>
Subtotal			(24 000)
Total			<u>13 200</u>

(b) Office equipment ..... 27 600

57. Provision is made for the acquisition of office equipment as listed below:

/...

Description	Quantity	Unit cost	Total cost
		\$	\$
Copier, medium	3	5 000	15 000
Copier, small	3	1 000	3 000
Typewriter, manual	10	250	2 500
Typewriter, electric	5	700	3 500
Typewriter, electric*	5	700	3 500
Calculator, desk	5	50	<u>250</u>
Subtotal			27 800
Freight at 12 per cent			<u>3 300</u>
Subtotal			31 100
*Less: UNTAC equipment			
Typewriters, electric	5	700	(3 500)
Total			<u>27 600</u>

(c) Data-processing equipment ..... 365 300

58. Provision is made for the acquisition of data-processing equipment as follows:

/...

Description	Quantity	Unit cost	Total cost
		\$	\$
Desktop and printer	5	1 700	8 500
Desktop and printer*	10	1 700	17 000
Desktop and laser printer	5	2 900	14 500
Laptop and printer	5	3 000	15 000
Laptop and printer*	15	3 000	45 000
UPS power source	10	400	4 000
UPS power source*	10	400	4 000
Regulators for UPS	4	400	1 600
Server and software	4	45 000	180 000
Multi-user software	4	10 000	40 000
Single-user software	20	900	18 000
Modems	5	900	4 500
Test equipment/MT 3500 line scanner	1	5 000	5 000
Connectivity elements (cables, hubs)	1 lot	28 000	<u>28 000</u>
Subtotal			385 100
Freight at 12 per cent			<u>46 200</u>
Total			<u>431 300</u>
<b>*Less: UNTAC equipment</b>			
Desktop and printer	10	1 700	(17 000)
Laptop and printer	15	3 000	(45 000)
UPS power source	10	400	<u>(4 000)</u>
Subtotal			(66 000)
Total			<u>365 300</u>

(d) Generators ..... -

59. No provision is required under this heading.

(e) Observation equipment ..... 21 000

60. Twenty-five hand-held night observation devices at a unit value of \$7,000 (\$175,000) will be redeployed from UNTAC. Provision is made only for related freight charges (\$21,000).

/...

- (f) Petrol tank plus metering equipment ..... -
61. No provision is required under this heading.
- (g) Medical equipment and dental equipment ..... 10 000
62. Provision is made for the purchase of medical kits to be used at mission headquarters and at two sector headquarters.
- (h) Accommodation equipment ..... -
63. No provision is required under this heading.
- (i) Miscellaneous equipment ..... 15 000
64. Provision is made for the acquisition of cleaning equipment, security and safety equipment and other miscellaneous equipment that has not been budgeted for elsewhere.
- (j) Field defence equipment ..... -
65. No provision is required under this heading.
- (k) Spare parts, repairs and maintenance ..... -
66. No provision is required under this heading.
- (l) Water purification equipment ..... -
67. No provision is required under this heading.
10. Supplies and services
- (a) Miscellaneous services
- (i) Audit services ..... 10 500
68. Provision is made for audit services throughout the mandate period.
- (ii) Contractual services ..... 2 500
69. Provision is made for cleaning services for three rental premises at an estimated cost of \$500 per month for five months.
- (iii) Data-processing services ..... -
70. No provision is required under this heading.

/...

- (iv) Security services ..... 45 000
71. Provision is made for security services at three rental premises for a five-month period at an estimated monthly cost of \$3,000 per premise.
- (v) Medical treatment and services ..... 2 500
72. Provision is made for medical examinations at an estimated cost of \$500 per month for five months.
- (vi) Maintenance services ..... -
73. No provision is required under this heading.
- (vii) Claims and adjustments ..... 5 000
74. Provision is made to satisfy miscellaneous claims and adjustments arising from the day-to-day operation of the mission, except for third-party vehicle accident claims which are covered under the vehicle insurance policy.
- (viii) Official hospitality ..... 2 500
75. Provision is made for hospitality to government officials, local dignitaries and official delegations visiting the mission.
- (ix) Miscellaneous other services ..... 4 500
76. Provision is made for miscellaneous expenses that were incurred by the technical and fact-finding missions.
- (b) Miscellaneous supplies
- (i) Stationery and office supplies ..... 25 000
77. Provision is made for stationery, data-processing supplies and general office supplies estimated at \$5,000 per month for five months.
- (ii) Medical supplies ..... 20 000
78. Provision is made for medical and dental supplies for military and civilian personnel and for the cost of vaccines for inoculations and follow-up vaccinations.
- (iii) Sanitation and cleaning materials ..... 5 000
79. Provision is made for sanitation and cleaning materials estimated at \$1,000 per month for five months.

/...



(iv) <u>Subscriptions</u> .....	300
80. Provision is made for subscriptions to newspapers and periodicals.	
(v) <u>Ballistic protective blankets for vehicles</u> .....	-
81. No provision is required under this heading.	
(vi) <u>Uniform items, flags and decals</u> .....	2 500
82. Provision is made for United Nations flags and decals.	
(vii) <u>Field defence stores</u> .....	-
83. No provision is required under this heading.	
(viii) <u>Operational maps</u> .....	-
84. No provision is required under this heading.	
(ix) <u>Quartermaster and general stores</u> .....	-
85. No provision is required under this heading.	
11. <u>Election-related supplies and services</u> .....	-
86. No provision is required under this heading.	
12. <u>Public information programmes</u> .....	-
87. No provision is required under this heading.	
13. <u>Training programmes</u> .....	-
88. No provision is required under this heading.	
14. <u>Mine-clearing programmes</u> .....	-
89. No provision is required under this heading.	
15. <u>Assistance for disarmament and demobilization</u> .....	-
90. No provision is required under this heading.	

/...

16. Air and surface freight

(a) Transport of contingent-owned equipment ..... -

91. No provision is required under this heading.

(b) Military airlifts ..... -

92. No provision is required under this heading.

(c) Commercial freight and cartage ..... 75 000

93. Provision is made for shipping and clearing charges not covered elsewhere.

17. Integrated Management Information System ..... -

94. No provision is required under this heading.

18. Support account for peace-keeping operations ..... 49 500

95. In accordance with the methodology proposed for the funding of posts authorized from the support account for peace-keeping operations, provision is made hereunder based on 8.5 per cent of the total cost for salaries, common staff costs and travel of the civilian staff members in the mission area.

19. Staff assessment ..... 84 900

96. Staff costs have been shown on a net basis under budget line item 2 (b). The estimate under this heading represents the difference between gross and net emoluments, that is, the amount of staff assessment to which United Nations staff members are subject, in accordance with the Staff Regulations of the United Nations.

20. Income from staff assessment ..... (84 900)

97. The staff assessment requirement provided for under expenditure budget line item 19 has been credited to the Tax Equalization Fund established by the General Assembly in its resolution 973 A (X) of 15 December 1955. Member States are given credit in proportion to their rates of contribution to the UNOMUR budget.

/...

ANNEX III

United Nations Observer Mission Uganda-Rwanda

Deployment schedules for military and civilian personnel

Deployment schedule for military observers

	Number	Date of arrival	No. of days	MSA
	1	23 June 1993	182	17.0
	10	18 August 1993	1 260	122.7
	9	30 August 1993	1 026	101.3
	3	01 September 1993	336	33.2
	20	02 September 1993	2 220	219.9
	1	03 September 1993	110	10.9
	18	09 September 1993	1 872	185.3
	4	18 September 1993	380	37.1
	10	25 September 1993	880	85.0
	5	02 October 1993	405	38.6
Total	81		8 671	851.0

/...

Deployment schedule for civilian personnel

Level and number	Date of arrival	No. of days	MSA
D-1	07 July-31 October 1993	117	12.7
P-5	24 August 1993	120	11.8
P-5	16 October 1993	67	6.4
P-3	25 October 1993	58	5.7
P-3	15 November 1993	37	3.9
General Service (5 posts)	19 August 1993	125	12.2
	14 September 1993	99	9.7
	22 September 1993	91	8.8
	25 September 1993	88	8.5
	12 October 1993	71	6.8
Field Service (7 posts)	19 August 1993	125	12.2
	06 September 1993	107	10.7
	07 September 1993	106	10.5
	06 October 1993	77	7.3
	16 October 1993	67	6.4
	18 October 1993	65	6.3
	29 October 1993	<u>54</u>	<u>5.3</u>
Total		1 474	145.2
Locally recruited (7 posts)	01 September 1993	112	0.0
	04 October 1993 (3 staff)	237	0.0
	18 October 1993 (2 staff)	130	0.0
	01 November 1993	51	0.0

/...

ANNEX IV

United Nations Observer Mission Uganda-Rwanda

Proposed civilian staffing table

Category	Number of staff
Professional and above	
D-1 Chief Military Observer	1
P-5 Chief Administrative Officer	1
Political Information Officer	1
P-3 Administrative Officer	1
Finance Officer	<u>1</u>
	5
General Service	5
Field Service	<u>7</u>
Total international staff	17
Local staff	<u>7</u>
Total	<u>24</u>

/...

ANNEX V

United Nations Observer Mission Uganda-Rwanda

Functional titles of the proposed posts in the Professional category and above and the related job description summaries

Chief Military Observer (CMO) (D-1)

Responsible for the overall command of military observers assigned to the mission, in observance and fulfilment of the mission's mandate as delineated and authorized by the Security Council.

Chief Administrative Officer (CAO) (P-5)

Responsible for the overall administration, personnel, procurement and finance of the mission; assumes day-to-day management control of the mission.

Political Information Officer (P-5)

Responsible for monitoring the local political situation and advising the Chief Military Observer; consults with and advises Headquarters on the same. Also responsible for the collection of information relevant to the mission, including political, social and economic developments and preparation of materials for public dissemination.

Administrative Officer (P-3)

Under the direction of the Chief Administrative Officer, responsible for supervision of all support services and staff and overall administrative responsibility in the mission area.

Finance Officer (P-3)

Responsible for the overall administration of the mission accounts; develops and produces programme cost estimates; ensures implementation of financial regulations and rules and other financial directives; supervises the staff of the finance unit.

/...

ANNEX VI

United Nations Observer Mission Uganda-Rwanda

Civilian staff and related costs for the period from 22 June to 21 December 1993

(Thousands of United States dollars)

	Number of persons	Person/ months	<u>Annual standard costs</u>			<u>Estimated total costs</u>			Mission subsist- ence allowance
			Salary	Common staff costs	Staff assess- ment	Salary	Common staff costs	Staff assess- ment	
International staff									
D-1 (mission appointee)	1	3.8	64.3	36.8	40.5	20.6	11.8	12.9	12.7
P-5 (NY)	1	3.9	84.7	33.6	35.5	27.8	11.0	11.6	11.8
P-5 (mission appointee)	1	2.2	58.7	33.6	35.5	10.7	6.2	6.5	6.4
P-3 (NY)	1	1.2	60.9	24.2	21.2	6.2	2.4	2.1	3.9
P-3 (mission appointee)	1	1.9	42.2	24.2	21.2	6.7	3.8	3.4	5.7
Field Service	7	19.7	48.5	46.3	18.8	79.6	76.0	30.9	58.7
General Service	5	15.5	34.1	13.5	12.5	44.2	17.5	16.2	46.0
Total international	17					195.8	128.7	83.6	145.2
Local staff	7	17.4	4.9	1.0	0.4	<u>7.8</u>	<u>1.4</u>	<u>1.3</u>	<u>0.0</u>
Total (international and local)	<u>24</u>					<u>203.6</u>	<u>130.1</u>	<u>84.9</u>	<u>145.2</u>

/...

ANNEX VII

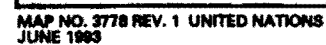
United Nations Observer Mission Uganda-Rwanda

Proposed vehicle distribution

	Light sedan	4X4 Jeep	Cargo truck	Pick-up	Minibus	Total
Mission headquarters	3	8	1	1	3	16
Sector headquarters	-	5	-	-	-	5
Observation post	-	10	-	-	-	10
Forward patrols	-	6	-	-	-	6
Rear patrols	-	3	-	-	-	3
Aviation	-	-	-	-	-	-
	3	32	1	1	3	40

/...





Map of the Mission area



Security Council

Distr.  
GENERAL

S/26488  
24 September 1993

ORIGINAL: ENGLISH

---

REPORT OF THE SECRETARY-GENERAL ON RWANDA

INTRODUCTION

1. The present report is submitted to the Security Council in pursuance of resolution 846 (1993) of 22 June 1993. By paragraph 9 of that resolution, the Council urged the Government of Rwanda and the Rwandese Patriotic Front (RPF) to conclude a comprehensive peace agreement. Paragraph 11 of the same resolution requested me to report on the contribution the United Nations could make to assist the Organization of African Unity (OAU) in the implementation of such an agreement and to begin contingency planning in the event that the Council decided that such a contribution was needed.

2. In my last report on Rwanda (S/26350), I informed the Security Council that the peace agreement between the Government of Rwanda and RPF had been signed at Arusha (United Republic of Tanzania) on 4 August 1993. I indicated that the Government of Rwanda and RPF had called for the establishment of a neutral international force to facilitate the implementation of the peace agreement. I informed the Security Council that I had decided to send a reconnaissance mission to Rwanda, in order to examine the functions that such a force could perform and to assess the human and financial resources that would be needed to carry them out. I stated that, in addition to Rwanda, the mission would also visit Dar-es-Salaam and Addis Ababa for consultations with the Government of the United Republic of Tanzania and the Secretary-General of OAU.

3. The reconnaissance mission, comprising officials of the Department of Political Affairs, the Department of Peace-keeping Operations, the Department of Humanitarian Affairs and the Office of the United Nations High Commissioner for Refugees (UNHCR) visited Rwanda from 19 to 31 August 1993. Its senior officials visited Dar-es-Salaam on 1 and 2 September and Addis Ababa on 3 September.

I. THE ARUSHA PEACE AGREEMENT

4. The Council's attention is drawn to the provisions of the Arusha Peace Agreement and to those of its six protocols that are relevant to the Council's consideration of the contribution the United Nations could make towards the implementation of the agreement (see S/26350, para. 20).

5. The Protocols of Agreement on Power-sharing provides that the institutions for the transitional period, up to the elections for a democratically elected Government, will comprise a broad-based transitional Government with the participation of all main political parties. The major parties identified in the Agreements are the Mouvement républicain pour la démocratie et le développement (MRND), RPF, the Mouvement démocrate républicain (MDR), the Parti social démocrate (PSD), the Parti libéral (PL) and the Parti démocrate chrétien (PDC). The Transitional Assembly will be composed of members appointed by the various political parties.

6. Article 7 of the Agreement provides that the transitional institutions will be set up in Kigali 37 days after the signing of the Agreement, i.e. on 10 September 1993. However, this was based on the assumption that a neutral international force would be deployed by that date and that, with the arrival of that force, foreign troops stationed in Rwanda would withdraw. At that point, in accordance with the Agreement, RPF would deploy a battalion in Kigali to ensure the protection of its political leaders and to enable them to participate fully in the transitional institutions.

7. The Protocol of Agreement on Miscellaneous Issues and Final Provisions states that the duration of the transitional period will be 22 months, with the possibility of one extension, which would have to be approved by a majority of 60 per cent of the Transitional Assembly.

8. The Protocol on the Integration of the Armed Forces of the Two Parties, including the Gendarmerie, specifically requests the assistance of a neutral international force led by the United Nations in the disengagement, disarmament, demobilization and retaining of the military personnel of the parties to be integrated in the national army. It also calls on the establishment of such a force to ensure the overall security of the country, especially the capital city of Kigali, as well as the protection of the expatriate community, and security of the continued distribution of humanitarian assistance.

9. The Protocol defines the neutral international force as a United Nations-led force, integrating as necessary the current OAU Neutral Military Observer Group (NMOG II) and made up of countries representing a cross-section of the international community. The NMOG I force, made up of 50 personnel from OAU countries, monitored the cease-fire from July 1992 to July 1993. In early August 1993, the force was replaced by the NMOG II force, which is currently made up of 132 personnel from OAU member countries.

10. The Protocol on the Repatriation of Refugees and the Resettlement of Displaced Persons calls for the involvement of the United Nations in the repatriation of refugees and is elaborated upon below (see sect. III C).

## II. ACTIVITIES OF THE RECONNAISSANCE MISSION

11. During its visit to Rwanda, the mission was led by Brigadier General Romeo A. Dallaire (Canada), Chief Military Observer of the United Nations Observer Mission Uganda-Rwanda (UNOMUR). Between 19 and 31 August 1993, the mission held consultations with the President of Rwanda, General Juvénal Habyarimana, and with the Chairman of RPF, Colonel Alexis Kanyarengwe,

/...

as well as with other senior members of the Government and RPF, including Mrs. Agathe Uwiliugiyimana, current Prime Minister, Mr. Faustin Twagiramungu, Prime Minister-designate of the broad-based transitional Government, and Mr. Paul Kagamé, Vice-Chairman of RPF and Commanding Officer of its armed forces. The mission also met with members of the diplomatic community accredited to Rwanda, with representatives of United Nations agencies and programmes and with non-governmental organizations (NGOs) executing humanitarian projects in the country. The reconnaissance mission also met with the OAU representative in Rwanda and the Commanding Officer of NMOG II.

12. During their visit to Dar-es-Salaam and Addis Ababa, the senior officials of the reconnaissance mission were joined by Mr. Macaire Pédanou, my Special Representative at the Arusha peace talks. They held consultations with President Ali Hassan Mwinyi and other high officials of the Government of the United Republic of Tanzania and, in Addis Ababa, with Mr. Salim Ahmed Salim, the Secretary-General of OAU, and his senior staff.

13. One of the major points raised by all those with whom the mission met related to the deployment of a neutral international force by 10 September, the date set in the peace agreement for the installation of the transitional institutions in Kigali. The concern of all parties was that, should the neutral international force not be deployed in a timely manner, a political vacuum might occur if the transitional Government was not established in Kigali. The mission responded by clarifying the decision-making process at the United Nations and by stressing that the dispatch of a peace-keeping force to Rwanda would depend on a final determination by the Security Council. President Habyarimana felt that it would be dangerous and hazardous to set up the transitional Government before the arrival of the neutral international force and emphasized that such a force should be strong enough to be credible. For his part, Colonel Kanyarengwe, Chairman of RPF, stated that it was imperative that the security of RPF be ensured by the United Nations and expressed his concern that the vacuum caused by the absence of a United Nations peace-keeping mission might be filled by paramilitary groups in the country.

14. After the reconnaissance mission explained that it would not be realistic to expect the deployment of the proposed neutral international force by 10 September, a number of alternative measures were put forward by the parties and OAU. In addition, the role that an enlarged NMOG might play in the implementation of the agreements was discussed. In this connection, it should be noted that the OAU Secretary-General explained to the mission that he was planning to enlarge NMOG II to a total of approximately 240 all ranks, and that OAU did not have the resources to sustain a larger force. Mr. Salim pointed out that, even for the enlargement of NMOG II to the size of a company, OAU would have to rely, for logistic support, on the contributions of the donor countries which had assisted in the establishment of NMOG I. Most importantly, Mr. Salim informed the mission that the mandate of NMOG II would necessarily be confined to monitoring the cease-fire.

15. Mr. Salim recalled that the mandate of NMOG II would expire on 31 October 1993, adding that if the Security Council authorized United Nations involvement in the implementation of the peace agreement, the expeditious deployment of a United Nations peace-keeping force would be essential. With regard to the possible integration of NMOG II into such a force, Mr. Salim

/...

expressed the view that the United Nations would have to work out arrangements directly with troop-contributing countries.

16. It was also suggested that, since it was not feasible to meet the expectations of the two parties with regard to the deadline of 10 September for the installation of the transitional institutions, the United Nations should reassure the Rwandese people by giving a positive signal regarding its willingness to contribute to the restoration of peace and national reconciliation in Rwanda. In this connection, in a statement issued on 10 September 1993 (S/26425), the President of the Security Council pointed out that the Council was aware of the hopes the Rwandese parties entertained regarding the assistance that the international community would provide for the implementation of the Arusha peace agreement. The President of the Council in his statement also urged the parties to continue to honour the Arusha agreement in accordance with their commitments.

17. Many of those with whom the reconnaissance mission held consultations, including representatives of the diplomatic community, felt that the Arusha accords constituted the best way for the Rwandese people to work together towards peace and stability. They also stressed the urgency of implementing those accords so that the people of Rwanda could proceed with the challenging tasks of reconstruction and economic development. The mission reported that most Governments represented in Rwanda also anxious to see a sound economic recovery programme instituted expressed their willingness to assist the Rwandese people in carrying out the task of economic recovery.

18. During its stay in Rwanda, the reconnaissance mission visited the areas controlled by RPF in the north, as well as government military positions and outposts. It carried out a detailed survey of the forces of the parties, including their respective structures and equipment, troop dispositions and topography, by land and by air. It received detailed briefings from the NMOG II Commander on the present status and role of NMOG II in Rwanda.

19. The mission discussed with the parties the tasks envisaged for the neutral international force in the Arusha agreement in order to determine the contribution that could be made by the United Nations. In particular, the mission undertook an assessment of the essential requirements that would enable the proposed force to execute its monitoring functions in Rwanda. This included an assessment of the following areas: cease-fire compliance in the demilitarized zone (DMZ), establishment of cantonment and assembly areas for weapons and personnel, mine-clearance, security of humanitarian aid efforts, return of the refugees and displaced persons, disarming and demobilization of armed personnel and restructuring of the Rwandese Defence Forces and the Gendarmerie.

20. In regard to relief assistance, the mission worked out arrangements that could enhance the various aspects of ongoing humanitarian activities described below (see sect. III C).

/...

### III. UNITED NATIONS CONTRIBUTION

#### A. Military aspects

21. The main provisions of the Arusha peace agreement relevant to the proposed United Nations peace-keeping mission (herein referred to as "the Mission") are contained in the Protocol on the Integration of the Armed Forces and the Gendarmerie. The principal functions of the Mission could be grouped in four categories: (a) to assist in ensuring the security of the city of Kigali, (b) to monitor the cease-fire agreement, including establishment of an expanded DMZ and demobilization procedures, (c) to continue to monitor the security situation during the final period of the transitional Government's mandate leading up to the elections, and (d) to assist with mine-clearance, including training and mine-awareness programmes.

22. Under article 64 of the Protocol on the Integration of the Armed Forces, the Mission would also be charged with the task of undertaking investigations either on complaints from the parties or on its own, of alleged non-compliance with any of the provisions relating to the agreement. In addition, the Mission would be called upon to provide security for the repatriation of Rwandese refugees and displaced persons.

23. To ensure the effective conduct of the Mission's responsibilities, the Protocol calls for close cooperation and continuing consultations between the Force Commander, or his representative, the new Rwandese Defence Forces High Command Council and the "Conseil de Commandement de la Gendarmerie Nationale". This will be ensured through the holding of regular joint working sessions at all relevant command levels.

#### 1. Concept of operations

24. The Mission would be based on the concept of operations described below.

25. Owing to the presence of several battalions of government forces in Kigali and the introduction into the city of the RPF leadership with a fully equipped RPF battalion, the Mission would establish a weapons secure area in and around Kigali. This zone would be defined as an area of approximately 10 kilometres in radius from the centre of Kigali within which the military units would be required to store their weapons and ammunition, except in those cases previously agreed to by all parties. The security of the city would be accomplished in four ways. First, the Mission would deploy an infantry battalion throughout the Kigali area with the aim of providing security for the international airport, the RPF battalion compound and government buildings and to assist in the recovery of arms from civilians. The battalion would require a wheeled armoured personnel carrier (APC) company for emergency deployment both in Kigali and in the expanded DMZ. Secondly, the Mission would monitor and verify the securing of weapons and the movement of all forces from both parties in the Kigali sector through the use of infantry and military observers. Thirdly, in monitoring the activities involved in the establishment of the new Integrated Rwandese Defence Forces and Gendarmerie, the Mission would deploy liaison officers to the headquarters of these new forces. Fourthly, the Mission would take appropriate

/...

measures, as necessary, to assist in providing security for members of the transitional Government.

26. The Mission would monitor the cease-fire agreement through verification and control of the expanded DMZ and by the concentration, disarming, demobilization and integration of troops of both the parties and the Gendarmerie. This would be achieved by the deployment of military observers and a second infantry battalion (in addition to the two existing infantry platoons of NMOG II) in the DMZ and at the assembly points, cantonment points and integrated training centres. In accordance with the peace agreement, the responsibility for the identification of assembly zones, and thus the demarcation of the new DMZ, would rest with the Mission. A key task for the Force Commander would therefore be to confirm the proposed assembly zones, assembly points, cantonment points, integrated training centres and the demarcation of a new DMZ, in accordance with the agreement. From a total of 48 assembly and cantonment points and integrated training centres proposed by the two parties, the reconnaissance mission recommended that the number be reduced, subject to review by the Force Commander, to approximately 26 assembly and cantonment points and integrated training centres.

27. The reconnaissance mission conducted a survey of all armed forces in the country. The Rwandese Government declared it had an effective strength of 23,100 personnel deployed essentially in the northern part of the country and in the Kigali area. The RPF forces declared a strength of approximately 20,000 personnel concentrated north of the current DMZ. It was reported that the government Gendarmerie is made up of 6,000 personnel deployed essentially in the front lines. RPF does not have a gendarmerie. According to the Protocol, the process of demobilization of all of the forces and the Gendarmerie, and the subsequent training and integration of up to 13,000 personnel for the new National Army and 6,000 personnel for the new National Gendarmerie, is to be completed over a 7 to 9 month period. This process would commence on a date agreed to by the Mission and the transitional Government. The possible need to assist the parties with transporting their personnel, constructing shelters to accommodate the assembled troops and resupplying and/or feeding them would require special attention.

28. The approximately 35,000 (31,000 soldiers and 4,000 Gendarmerie) demobilized personnel who would not form part of the new Rwandese Defence Forces and Gendarmerie would benefit from vocational retraining and employment, in accordance with the Agreement, under the auspices of the Rwandese Ministry of Rehabilitation and Social Reintegration and with the assistance of the United Nations programmes and agencies and NGOs.

29. The reconnaissance mission recommended that the Mission should have the capacity to provide escort and protection for humanitarian activities, as required, until relieved by the new Rwandese Defence Forces and Gendarmerie. It was also recommended that the Mission conduct essential force-related mine clearance. An overall mine-clearance programme is described in section III C below.

30. The effective execution of the Mission's tasks, as well as the rate at which they can proceed, depends not only upon the timely availability of resources, but also on the capacity of the local infrastructure (roads, fuel

/...

supply, power supply, communications, warehousing space and personnel accommodation), as well as the Mission's repair and maintenance capabilities. Taking into account the state of the existing infrastructure in Rwanda, it would be essential for an engineer company to be deployed expeditiously to assist in restoring basic infrastructure, including roads and bridges necessary for the work of the Mission.

## 2. Proposed Force structure

31. The military observers of UNOMUR, established under Security Council resolution 846 (1993), would come under the command of the United Nations Mission in Rwanda, while maintaining their monitoring tasks on the Uganda/Rwanda border. The Mission would incorporate elements of the NMOG II forces already in place in the current DMZ (see annex I) under its command at the earliest opportunity.

32. The Mission's operations would be divided into five sectors. There would be a Kigali sector and a DMZ sector. Two other sectors would be located with the government forces and RPF forces respectively. UNOMUR would constitute the fifth sector. The Mission would be supported by engineer, aviation, communications and medical units, as well as by the necessary logistic and administrative staff. The Mission's Force headquarters would be located in Kigali.

33. A Military Observer Group headquarters would be responsible for command and control of the Military Observer Sectors and for administering all military observers in theatre. It would consist of a total of 20 military observers and would be comprised of the traditional branches of military staff.

34. The Government forces, RPF forces and UNOMUR Sectors would be composed entirely of United Nations military observers. These three Sectors, through their military observer teams, would be responsible for monitoring the implementation of the Protocol of Agreement on the Integration of the Armed Forces of the two parties. The military observer Sectors would be responsible for, inter alia, the following tasks: monitoring the observance by the two parties of modalities for the definite cessation of hostilities as provided for in the peace Agreement; monitoring the assembly zones and the preparation and maintenance of assembly and cantonment points; verifying the disengagement of forces, the movement of troops to assembly points and of heavy weapons to cantonment points; monitoring discipline of troops inside and outside assembly points; verifying inventories of weapons and ammunition of the two parties and monitoring operations for the separation of heavy weapons from light weapons; verifying the identification of military personnel in the assembly points; verifying the distribution of non-lethal supplies to troops in assembly points; monitoring the security of troops in the integrated training centres and monitoring the operations for the demobilization of servicemen and gendarmes.

35. The Kigali and the DMZ Sectors would each consist of an infantry battalion and military observers, who would perform tasks similar to those described in paragraph 34, as well as assist in arms recovery and verification through the use of checkpoints and patrols and in providing security at assembly and

/...



cantonment points. The DMZ Sector would also take under its command the two NMOG II platoons currently serving in Rwanda.

36. The two infantry battalions (800 all ranks each) must be capable of supporting themselves for at least 60 days. They would each consist of a heavy logistics company and four rifle companies.

37. The Mission would also need an engineer company consisting of 203 personnel which would be responsible, inter alia, for supervising the rehabilitation and repair of basic infrastructure to meet the Mission's operational requirements and for undertaking essential demining tasks, including explosive ordnance disposal.

38. The Mission's support elements would consist of a helicopter unit of 40 personnel and 4 utility helicopters and a light twin-engine aircraft, a movement control section of 20 personnel, a logistics company of 200 personnel and a medical platoon of 50 personnel.

### 3. Deployment schedule

39. The military personnel of the Mission would be deployed progressively as shown in Annex II and would conduct the operation in four phases.

40. Phase 1 would commence on the day on which the Security Council adopts the enabling resolution and would end on D-Day, the day on which the transitional Government is installed in Kigali. Given the time required to establish and deploy the proposed Mission, it is estimated that the transitional Government may not be installed until the end of 1993. The objective of this phase would be to establish the essential conditions needed to permit the secure installation of the transitional Government. The necessary command and control, service support, infrastructure and equipment would be put in place. This would require the immediate deployment of the military planning staff of the Mission headquarters (including approximately 25 military, 3 civilian police and 18 civilians). This phase would also see elements of the expanded NMOG II and UNOMUR observers continuing their respective mandates in the DMZ and on the Uganda-Rwanda border, but under command of the Mission. By the end of phase 1, the strength of the Mission would number a total of 1,428 military personnel, of whom 1,217 would be staff officers and formed troops and 211 would be military observers (including 77 military observers from UNOMUR and 54 from NMOG II).

41. Phase 2 would commence on D-Day and last until D-Day+90 or when the process of disengagement, demobilization and integration of the Forces and Gendarmerie begins. This phase would see the continued build up of the Mission to its peak strength. The expanded NMOG II and UNOMUR would be fully integrated as entities into the Mission and would continue to discharge their mandates. The major activities during this phase would be to continue monitoring the DMZ and the Uganda-Rwanda border and assisting in providing security in Kigali, the demarcation of the assembly zones, monitoring the modification of the DMZ and ensuring that all preparations for the disengagement, demobilization and integration process are in place. While the agreement did not specify a date for the start of the demobilization process, it did estimate that one month would be required to set up the support elements needed to conduct this

/...

operation. However, the reconnaissance mission's estimate is that two to three months would be required to ensure that the infrastructure needed for demobilization is in place. By the end of this phase, the strength of the Mission would include a total of 2,548 military personnel, of whom 2,217 would be staff officers and formed troops and 331 would be military observers.

42. Phase 3 would commence on D-Day+90, or when the disengagement, demobilization and integration process begins, and would last until D-Day+360, or when the process is completed. During this phase, the Mission would establish, supervise and monitor the new DMZ with a second infantry battalion, and would continue to monitor the Uganda-Rwanda border. It would establish approximately 26 assembly/cantonment points and integrated training centres, monitor the movement of large bodies of military personnel in and through the DMZ and assist in maintaining general security in the country. Security would also continue to be provided in Kigali. By the end of this phase, the strength of the Mission would be in the process of reduction to approximately 1,240 all ranks.

43. Phase 4 would commence on D-Day+360, or when the disengagement, demobilization and integration process is completed. This phase would last about 10 months. It would see the further reduction of the Mission's strength to the minimum level needed to assist in ensuring the secure atmosphere required in the final stages of the transitional period leading up to the elections. During this phase, the monitoring of the DMZ and of the Uganda-Rwanda border would cease. The residual strength of the Mission would amount to approximately 930 military personnel, of whom 850 would be staff officers and formed troops and 80 would be military observers.

#### B. Civilian police

44. The Arusha peace agreement calls on the United Nations to assist in maintaining public security through the monitoring and verification of the activities of the Gendarmerie and Communal Police.

45. The law and order situation during the transitional phase would be dependent on several internal security considerations: possible political and ethnic tensions; the potential for a dramatic rise in armed banditry after the demobilization of the forces of the parties; the easy availability of weapons; the possible disruption of the humanitarian aid effort; and the inability of local agencies to cope effectively with rising crime in the country, particularly in Kigali.

46. In accordance with the Protocol on the Integration of the Armed Forces, the Gendarmerie would be reduced from a strength of approximately 6,000 to a strength of 1,800 during the demobilization phase. All members of the Gendarmerie would be screened, along with RPF candidates, for positions in the new Gendarmerie or for complete demobilization into the community. The Gendarmerie would subsequently be reconstituted with a maximum force level of 6,000 all ranks.

47. In order to verify that law and order are maintained effectively and impartially, a small United Nations civilian police unit, headed by a Police

/...

Commissioner, would be deployed in Kigali and the nine prefecture capitals and in specific police installations. It is estimated that a total of 60 police officers would be required. The police unit would consist of a headquarters of 10 officers, including a special investigation team; a Kigali district consisting of 20 personnel; and a provincial district consisting of monitoring teams for each of the prefectures (except Kigali), requiring a total of 30 personnel.

#### C. Humanitarian assistance

48. In addition to the provisions of the Protocol on Refugees and Displaced Persons, both the Government and RPF have indicated that international assistance will be essential in bringing about the successful implementation of the peace agreement. Humanitarian agencies will continue to provide assistance based on the principle of humanity, neutrality and impartiality.

49. By March 1993, a total of 900,000 people, or approximately 13 per cent of the nation's population, had been displaced. The Secretary-General launched a consolidated appeal in April 1993 to meet the emergency needs of these displaced people. The international community has made cash and in-kind contributions of up to US\$ 100 million since January 1993. With the signing of the peace agreement, it is estimated that some 600,000 individuals have already returned to their homes. With their return, the emergency situation that arose earlier in the year has eased. For the estimated 300,000 people who remain displaced and continue to rely on emergency assistance in the camps, such assistance will continue to be provided.

50. If a United Nations operation is deployed in Rwanda, humanitarian assistance would need to be coordinated with the Mission's activities. Currently, the United Nations Resident Coordinator ensures coordination among United Nations agencies, and with the donor community and NGOs. He will continue to do so during the transitional period.

51. As a result of the decision of the Governing Council of the United Nations Development Programme (UNDP) in February 1993 on its programme for Rwanda, UNDP and the United Nations Department of Humanitarian Affairs will hold a Round-table Meeting on humanitarian assistance, which will include aspects of demobilization and reconstruction, in early 1994. In addition to local fund-raising efforts, the meeting will provide an excellent opportunity to solicit support from a larger number of donors and to inform them of the latest situation in the country. I hope that the donor community will continue to respond favourably to the financial needs in the humanitarian sector.

52. Regarding assistance to demobilized soldiers, a comprehensive programme catering to their needs is being studied using previous United Nations peace-keeping experience in other regions. The United Nations is encouraging the donor community to examine the possibility of pooling resources for the preparation and implementation of such a programme.

53. Finally, regarding the Rwandese who have taken refuge in neighbouring countries, the starting point of the implementation of the activities envisaged for the repatriation and reintegration of the returnees is the establishment of

/...

the transitional Government. UNHCR has been coordinating refugee activities and has been making advance preparations in the countries of asylum. The return of refugees will be regulated through tripartite agreements among country of origin, country of asylum and UNHCR. The establishment of national committees for repatriation and local integration is also foreseen, as is the establishment of a Commission for Repatriation under the transitional Government.

54. It has been recommended that an information campaign be launched both in the countries of asylum and in Rwanda to promote the provisions of the peace agreement. Information relating to refugees and the options offered to them (repatriation, naturalization or to remain as aliens), should also be part of this information campaign.

55. Mine-clearance has been earmarked as a priority to ease the constant threat to the lives of the displaced persons. It has also been pointed out that, with their removal, a more direct access by humanitarian agencies to areas needing assistance would be possible. This requirement is specifically addressed in article 40 of the Protocol on Refugees and Displaced Persons.

56. It has been estimated that a mine-clearance programme would be confined to a small area of the northern part of the country. The most serious mine problem however, would be the location and detection of mines in tea and banana plantations, as well as on open grassland and on tracks. At present, land mines already pose a serious threat to the local population. This threat will continue to increase as displaced persons return to their villages.

57. The reconnaissance mission recommended that the United Nations initiate a mine-clearance programme, including a survey of existing locations, a mine-awareness campaign for displaced persons and refugees and a training programme in mine deactivation for the government and RPF engineer forces. An engineer element should be included within the military component to provide a local mine-clearance capability on routes necessary to the Mission's operations. In addition, should the training programme for both parties be deemed unworkable or unsafe, a professional mine-clearance company would be subcontracted as has been the practice in other peace-keeping missions.

58. There will be a need to continue substantial humanitarian assistance activities in the future. The United Nations Resident Coordinator will continue to serve as the coordinator for these activities, working in close cooperation with all relevant organizations of the United Nations system. It is anticipated that a capacity would be established in the Mission for liaison and coordination with the humanitarian assistance programme, in particular with respect to adequate security as may be necessary for the distribution of humanitarian relief supplies and the process of demobilization and reintegration of armed forces into society.

#### D. Administrative aspects

59. The Mission would require an administrative component based in Kigali, with two regional offices. One regional office would be located in the northern city of Byumba. The second would be in Kabale, which is the present headquarters of UNOMUR. The administrative component would provide necessary support in areas

/...

of personnel, finance, procurement, communications, travel, compensation, translation and interpretation, electronic data processing, etc. In order to provide information to the general public on the activities of the mission, the Mission would seek access to an established radio station.

60. It is estimated that a total of 127 international staff (26 Professional and 101 Field and General Service staff) and 68 locally recruited staff would be required. These figures include the 17 international staff and 7 locally recruited staff currently working in Uganda with UNOMUR. The 26 Professional staff would include 4 political officers, 2 public information officers, 1 human rights officer and humanitarian assistance officers.

#### IV. CONCLUSIONS AND RECOMMENDATIONS

61. In my report of 24 August (S/26350), I stated that the signing of the Arusha peace agreement had provided the Government of Rwanda and RPF with a political and democratic framework for resolving their conflict. The agreement gives the international community an opportunity to contribute to the successful implementation of the peace process. In this connection, I should like to acknowledge, with deep gratitude, the continuing efforts of the Facilitator, the President of the United Republic of Tanzania, Mr. Mwinyi, and of the Secretary-General of OAU, Mr. Salim Ahmed Salim, to encourage the parties to abide by the commitments they freely entered into when they concluded the Arusha agreement.

62. The Rwandese people face extensive hardship and a critical economic situation. There is a strong grass-roots desire to see an end to the destruction and suffering brought about by a protracted conflict. Both sides seem determined to achieve a durable peace through disarmament, demobilization and national reconciliation. At the same time, there is serious concern over the possibility that any inordinate delay in establishing the transitional Government may endanger the peace process. These concerns have been expressed to my reconnaissance mission by the leadership of both sides, the resident diplomatic community in Rwanda, NGOs and, especially, the Secretary General of OAU. I therefore consider that the United Nations should respond positively to the appeal of the parties for assistance in the implementation of the peace agreement, especially since the mandate of the OAU NMOG II force will terminate by 31 October 1993.

63. The proposed United Nations Mission in Rwanda should be deployed without delay following Security Council authorization in order to allow for the prompt establishment of the transitional institutions. The immediate deployment of an advance party, including the Force Commander, would underscore the determination of the United Nations for the rapid build-up of the military presence needed in Kigali and of the logistic base for deployment of the force. The subsequent introduction of observers and formed units would enable the force to contribute to the implementation of the disengagement, demobilization and integration phase, while providing an adequate level of security and a credible United Nations presence. Finally, the reduction of the military and civilian police components should ensure that the operation is carried out in a cost-effective manner while contributing, at the same time, to the maintenance of the stability required for the period culminating with the elections.

/...

64. The UNOMUR observers currently deployed on the Uganda side of the Uganda-Rwanda border remain a necessary stabilizing factor. It is therefore considered that UNOMOR must continue to monitor that border until the end of the demobilization process. However, UNOMOR's chain of command and future logistics would be integrated into the proposed Mission.

65. I am encouraged by the restraint and desire for a lasting peace and national reconciliation shown by the parties since the signature of the Arusha peace agreement. They have demonstrated their goodwill by holding a number of joint informal working groups and by the support they provided to the reconnaissance mission in all of its fact-finding activities. The two parties also sent a joint delegation to the United Nations, which I met on 15 September. The joint delegation stressed to me the urgency of the establishment of a United Nations force, since the successful implementation of the Arusha agreement was predicated on its deployment. The delegation emphasized that, unless immediate action was taken to deploy the force, the implementation of the peace agreement would be seriously compromised as a result of the vacuum that would be created. I explained to the joint delegation that the decision regarding the establishment of such a force rested with the Security Council and that, even with the approval of the Council, it could take up to three months for such a force to be fully deployed. Under the circumstances, I urged the parties, in the interim, to respect the commitments they had undertaken in Arusha to work together for national reconciliation and the reconstruction of the country and to strictly adhere to the cease-fire.

66. In the light of the above, I recommend that the Security Council authorize the establishment of a United Nations Assistance Mission for Rwanda, to be known as UNAMIR, with the mandate of contributing to the establishment and maintenance of a climate conducive to the secure installation and subsequent operation of the transitional Government. This operation would be deployed according to the schedule described in section III of the present report.

67. I further recommend that the Security Council urge Member States to support the current United Nations aid effort in Rwanda. UNAMIR and the United Nations Resident Coordinator would closely coordinate their respective activities in this regard.

68. Should the Security Council authorize the establishment of UNAMIR, it would be my intention to appoint a Special Representative who would lead the Mission in the field and exercise authority over all its elements. The military component of the Mission would be headed by a Force Commander. The Mission would operate under the command of the United Nations, vested in the Secretary-General under the authority of the Security Council. I would report regularly to the Security Council on the operations of UNAMIR. All matters that might affect the nature of the continued effective functioning of the Mission would be referred to the Security Council for its decision.

69. In accordance with established practice, UNAMIR would need to have freedom of movement, communications and inspection and to enjoy the other rights that would be necessary for the performance of its tasks in Rwanda. UNAMIR and its personnel would also have to be granted all relevant privileges and immunities provided by the Convention on the Privileges and Immunities of the United Nations. Should the Security Council decide to establish UNAMIR, it would be my

/...

intention to initiate consultations with the transitional Government with a view to promptly concluding a status-of-forces agreement along the usual lines.

70. In conclusion, I wish to stress that two essential conditions must be met to enable the United Nations to carry out its recommended role in Rwanda successfully and effectively. First, the parties must cooperate fully with one another and the United Nations in carrying out their commitments under the Arusha agreement. Secondly, the United Nations must be provided in a timely manner with the necessary human and financial resources. At a time of unprecedented financial constraints facing the United Nations, it is imperative that Member States be prepared to assume the obligations resulting from the new mandates they entrust to the Organization.

/...





Annex II

Deployment schedule and strengths by month - military component

	PHASE 1 Preparatory			PHASE 2 Broad-based Transitional Government			PHASE 3 Demobilization/Integration									PHASE 4 Electoral										
MONTH	10. 93	11. 93	12. 93	1. 94	2. 94	3. 94	4. 94	5. 94	6. 94	7. 94	8. 94	9. 94	10. 94	11. 94	12. 94	1. 95	2. 95	3. 95	4. 95	5. 95	6. 95	7. 95	8. 95	9. 95	10. 95	11. 95
	M-DAY			D-DAY												E-DAY										
FORCE HQ	43	54													40										30	0
KIGALI SECTOR HQ	15												0													0
KIGALI INF BN		300	800																						675	0
KIGALI UNMOS	15	78				42							0													0
DMZ SECTOR HQ	18					15								0												0
DMZ INF BN					500	800								700	300											0
DMZ PL	60													0												0
DMZ UNMOS	36					18								0												0
UNMO GROUP HQ	20														80										80	0
UNOMUR SECTOR	77														0											0
RPF SECTOR				66		87							51	15	0											0
GOVT. SECTOR				51		87							51	15	0											0
ENGR COY		100		203						88			0													0
LOG COY		100		200										89	0											0
MED PL		50													0											0
MOV CTL	20															10									10	0
TOTAL	304 a/	928	1 428	1 748	2 248	2 548				2 433			2 216	1 840	1 240	930									795	0

a/ Of total, 191 are already in Rwanda and Uganda with NMOG II and UNOMUR.



## Conseil de sécurité

Distr.  
GENERALE

S/26488  
24 septembre 1993  
FRANCAIS  
ORIGINAL : ANGLAIS

### RAPPORT DU SECRETAIRE GENERAL SUR LE RWANDA

#### INTRODUCTION

1. Le présent rapport est soumis au Conseil de sécurité en application de la résolution 846 (1993) du 22 juin 1993. Au paragraphe 9 de cette résolution, le Conseil appelait le Gouvernement du Rwanda et le Front patriotique rwandais (FPR) à conclure un accord de paix global. Au paragraphe 11, il me priait de lui faire rapport sur la contribution que les Nations Unies pourraient apporter pour aider l'Organisation de l'unité africaine (OUA) à mettre en oeuvre l'accord de paix, et de commencer à faire des plans au cas où le Conseil déciderait que cette contribution est nécessaire.

2. Dans mon dernier rapport sur le Rwanda (S/26350), j'ai informé le Conseil de sécurité que l'accord de paix entre le Gouvernement du Rwanda et le FPR avait été signé à Arusha (République-Unie de Tanzanie) le 4 août 1993. J'ai indiqué que le Gouvernement du Rwanda et le FPR avaient demandé la création d'une force internationale neutre pour faciliter l'application de l'accord de paix. J'ai fait savoir au Conseil que j'avais décidé d'envoyer une mission de reconnaissance au Rwanda, afin d'étudier les fonctions qui pourraient être confiées à une telle force et d'évaluer les ressources humaines et financières nécessaires à cette fin. Après son séjour au Rwanda, la mission devait aussi se rendre à Dar es-Salaam et à Addis-Abeba pour y tenir des consultations avec le Gouvernement de la République-Unie de Tanzanie et le Secrétaire général de l'OUA.

3. La mission de reconnaissance, composée de fonctionnaires du Département des affaires politiques, du Département des opérations de maintien de la paix, du Département des affaires humanitaires et du Haut Commissariat des Nations Unies pour les réfugiés (HCR), s'est rendue au Rwanda du 19 au 31 août 1993. Ses dirigeants se sont rendus à Dar es-Salaam les 1er et 2 septembre et à Addis-Abeba le 3 septembre.

#### I. L'ACCORD DE PAIX D'ARUSHA

4. J'appelle l'attention du Conseil de sécurité sur les dispositions de l'Accord de paix d'Arusha et sur celles de ses six protocoles qui présentent de l'intérêt pour l'examen par le Conseil de la contribution que les Nations Unies pourraient apporter à la mise en oeuvre de l'Accord (voir S/26350, par. 20).

5. Conformément au Protocole d'accord sur le partage du pouvoir, les institutions pour la période de transition, jusqu'à l'élection d'un gouvernement

démocratiquement élu, comprendront un gouvernement de transition à base élargie avec la participation de tous les principaux partis politiques. Les principaux partis identifiés dans les accords sont le Mouvement républicain pour la démocratie et le développement (MRND), le FPR, le Mouvement démocrate républicain (MDR), le Parti social démocrate (PSD), le Parti libéral (PL) et le Parti démocrate chrétien (PDC). L'Assemblée de transition se composera de membres nommés par les divers partis politiques.

6. L'article 7 de l'Accord stipule que les institutions de transition seront mises en place à Kigali 37 jours après la signature de l'Accord, c'est-à-dire le 10 septembre 1993. Cette disposition était toutefois fondée sur l'hypothèse qu'une force internationale neutre serait déployée à cette date et qu'à son arrivée, les troupes étrangères stationnées au Rwanda se retireraient. A ce stade, conformément à l'Accord, le FPR déploierait un bataillon à Kigali pour assurer la protection de ses dirigeants politiques et leur permettre de participer pleinement aux institutions de transition.

7. Le Protocole d'accord portant sur les questions diverses et dispositions finales stipule que la durée de la période de transition est de 22 mois, avec la possibilité d'une seule prolongation qui devrait être approuvée à la majorité de 60 % de l'Assemblée nationale de transition.

8. Le Protocole sur l'intégration des forces armées des deux parties, y compris la gendarmerie, demande expressément l'assistance d'une force internationale neutre dirigée par l'ONU aux fins du dégagement, du désarmement, de la démobilisation et de la sélection des militaires des parties devant être intégrés dans l'armée nationale. Il demande également la création de cette force pour garantir la sécurité générale du pays, en particulier de la capitale, Kigali, protéger la communauté expatriée et faire en sorte que la distribution d'aide humanitaire se poursuive.

9. Le Protocole définit la force internationale neutre comme une force dirigée par les Nations Unies, intégrant, selon que de besoin, l'actuel Groupe d'observateurs militaires neutres de l'OUA (GOMN II) et composée de contingents de pays représentant l'ensemble de la communauté internationale. Le premier Groupe d'observateurs militaires neutres de l'OUA (GOMN I), composé de 50 officiers de pays de l'OUA, a surveillé le respect du cessez-le-feu de juillet 1992 jusqu'à la fin juillet 1993. Au début du mois d'août 1993, il a été remplacé par le GOMN II, qui comprend actuellement 132 militaires de pays membres de l'OUA.

10. Le Protocole sur le rapatriement des réfugiés et la réinstallation des personnes déplacées prévoit la participation des Nations Unies au rapatriement des réfugiés. On trouvera plus loin des informations complémentaires à ce sujet (voir sect. III C).

## II. ACTIVITES DE LA MISSION DE RECONNAISSANCE

11. Durant sa visite au Rwanda, la mission était dirigée par le général Romeo A. Dallaire (Canada), chef du Groupe d'observateurs militaires de la Mission d'observation des Nations Unies Ouganda-Rwanda (MONUOR). Entre le 19 et le 31 août, la mission a tenu des consultations avec le Président du Rwanda, le général Juvénal Habyarimana, et avec le Président du FPR, le colonel Alexis

/...

Kanyarengwe, ainsi qu'avec d'autres hauts fonctionnaires gouvernementaux et responsables du FPR, notamment Mme Agathe Uwiliugiyimana, actuel Premier Ministre, M. Faustin Twagiramungu, Premier Ministre désigné du Gouvernement de transition à base élargie, et M. Paul Kagame, Vice-Président du FPR et commandant de ses forces armées. Les membres de la mission ont également rencontré des membres de la communauté diplomatique au Rwanda, des représentants d'organismes et de programmes des Nations Unies et des organisations non gouvernementales (ONG) exécutant des projets humanitaires dans le pays. Ils se sont également entretenus avec le représentant de l'OUA au Rwanda et avec le chef du GOMN II.

12. M. Macaire Pédanou, mon Représentant spécial aux pourparlers de paix d'Arusha, s'est joint aux dirigeants de la mission de reconnaissance durant leur visite à Dar es-Salaam et à Addis-Abeba. Des consultations ont eu lieu avec le Président Ali Hassan Mwinyi et d'autres hauts fonctionnaires du Gouvernement de la République-Unie de Tanzanie et, à Addis-Abeba, avec M. Salim Hamed Salim, Secrétaire général de l'OUA, et ses principaux collaborateurs.

13. L'un des principaux problèmes soulevés par toutes les personnes avec lesquelles les membres de la mission se sont entretenus avait trait au déploiement d'une force internationale neutre avant le 10 septembre, date fixée dans l'accord de paix pour la mise en place des institutions de transition à Kigali. Toutes les parties craignaient qu'au cas où la force internationale neutre ne serait pas déployée en temps voulu, il n'y ait un vide politique si le Gouvernement de transition n'était pas mis en place à Kigali. La mission a répondu en donnant des éclaircissements au sujet du processus de prise des décisions à l'ONU et en soulignant que l'envoi d'une force de maintien de la paix au Rwanda dépendrait en fin de compte d'une décision du Conseil de sécurité. Le Président Habyarimana pensait qu'il serait dangereux et risqué de mettre en place le Gouvernement de transition avant l'arrivée de la force internationale neutre et a souligné que celle-ci devrait disposer d'effectifs assez nombreux pour être crédible. Le colonel Kanyarengwe, Président du FPR, quant à lui, a déclaré qu'il était indispensable que la sécurité du FPR soit assurée par l'ONU et a exprimé la crainte que le vide créé par l'absence d'une mission de maintien de la paix des Nations Unies ne soit rempli par des groupes paramilitaires dans le pays.

14. La mission de reconnaissance ayant expliqué qu'il ne serait pas réaliste de s'attendre que la force internationale neutre proposée soit déployée au 10 septembre, les parties et l'OUA ont proposé un certain nombre de mesures. En outre, le rôle qu'un GOMN élargi pourrait jouer dans l'application des accords a été examiné. Il convient de noter à cet égard que le Secrétaire général de l'OUA a expliqué à la mission qu'il envisageait de porter les effectifs du GOMN II à un total d'environ 240 hommes, tous grades confondus, et que l'OUA ne disposait pas des ressources voulues pour financer une force plus importante. M. Salim a souligné que même pour doter le GOMN II d'effectifs correspondant à ceux d'une compagnie, l'OUA devrait faire appel, pour l'appui logistique, aux contributions des pays donateurs qui avaient aidé à créer le GOMN I. Fait le plus important, M. Salim a informé la mission que le mandat du GOMN II serait nécessairement limité à la surveillance du respect du cessez-le-feu.

15. M. Salim a rappelé que le mandat du GOMN II venait à expiration le 31 octobre 1993, et a ajouté que si le Conseil de sécurité autorisait les

/...

Nations Unies à participer à la mise en oeuvre de l'accord de paix, il faudrait absolument déployer sans tarder une force de maintien de la paix des Nations Unies. En ce qui concerne l'intégration éventuelle du GOMN II à une telle force, M. Salim a déclaré que l'ONU devrait mettre au point des arrangements bilatéraux directement avec les pays fournissant des contingents.

16. Il a également été dit que, puisqu'il n'était pas possible de répondre aux espoirs des deux parties en mettant les institutions de transition en place à la date du 10 septembre, l'ONU devrait rassurer le peuple rwandais en montrant par un geste concret qu'elle était prête à contribuer au rétablissement de la paix et à la réconciliation nationale au Rwanda. A cet égard, dans une déclaration publiée le 10 septembre 1993 (S/26425), le Président du Conseil de sécurité a souligné que le Conseil avait conscience des espoirs qu'avaient les parties rwandaises que la communauté internationale prêterait assistance à la mise en oeuvre de l'Accord de paix d'Arusha. Le Conseil invitait également les parties à continuer de respecter les accords d'Arusha, ainsi qu'elles s'y étaient engagées.

17. Un grand nombre des personnes avec lesquelles les membres de la mission de reconnaissance ont tenu des consultations, notamment les représentants de la communauté diplomatique, estimaient que les accords d'Arusha constituaient pour les Rwandais le meilleur moyen d'oeuvrer de concert au rétablissement de la paix et de la stabilité. Elles ont également souligné qu'il était urgent de mettre en oeuvre les accords afin que le peuple rwandais puisse s'atteler aux tâches ardues de la reconstruction et du développement économique. Les membres de la mission ont rapporté que la plupart des gouvernements représentés au Rwanda, qui étaient également soucieux de voir mis en place un programme bien conçu de redressement économique, s'étaient déclarés prêts à aider le peuple rwandais à mener à bien sa tâche de redressement économique.

18. Au cours de leur séjour au Rwanda, les membres de la mission de reconnaissance se sont rendus dans les zones contrôlées par le FPR au nord et ont aussi visité des positions militaires et des avant-postes du Gouvernement. Ils ont fait une étude détaillée des forces des parties, notamment de leur structure et de leur matériel, de l'emplacement des troupes et de la topographie, par voie terrestre et par avion. Ils ont reçu du chef du groupe d'observateurs militaires neutres (GOMN II) des informations détaillées sur le statut et le rôle actuels du Groupe au Rwanda.

19. La mission a discuté avec les parties des tâches envisagées pour la force internationale neutre dans l'accord d'Arusha afin de déterminer la contribution qui pourrait être apportée par les Nations Unies. La mission a en particulier procédé à une évaluation des éléments essentiels qui permettraient à la force envisagée de s'acquitter de ses fonctions de surveillance au Rwanda. Cette évaluation a notamment porté sur les domaines ci-après : respect du cessez-le-feu dans la zone démilitarisée, établissement de zones de cantonnement et de rassemblement des armes et du personnel, déminage, sécurité des activités d'aide humanitaire, retour des réfugiés et des personnes déplacées, désarmement et démobilisation du personnel armé et restructuration des forces de défense rwandaise et de la gendarmerie.

/...

20. En ce qui concerne les secours, la mission a mis au point des arrangements susceptibles de donner une impulsion aux divers aspects des activités humanitaires en cours qui sont décrites ci-après (voir sect. III C).

### III. CONTRIBUTION DE L'ORGANISATION DES NATIONS UNIES

#### A. Aspects militaires

21. Les principales dispositions de l'Accord de paix d'Arusha qui intéressent la Mission de maintien de la paix des Nations Unies proposée (ci-après dénommée "la Mission") figurent dans le Protocole d'accord sur l'intégration des forces armées et de la gendarmerie. La Mission aura à s'acquitter essentiellement de quatre fonctions : a) contribuer au maintien de la sécurité dans la ville de Kigali; b) contrôler l'application de l'accord de cessez-le-feu, y compris la création d'une zone démilitarisée élargie et l'institution de procédures de démobilisation; c) continuer à surveiller la situation, du point de vue de la sécurité, pendant la période finale du mandat du Gouvernement de transition devant aboutir aux élections; et d) contribuer au déminage, notamment en exécutant des programmes de formation et d'alerte aux dangers des mines.

22. En vertu de l'article 64 du Protocole sur l'intégration des forces armées, la Mission serait également chargée d'enquêter sur les plaintes émanant des parties ou de procéder de sa propre initiative à des enquêtes sur le non-respect de telle ou telle disposition de l'accord. En outre, la Mission serait appelée à assurer la sécurité lors du rapatriement des réfugiés et des personnes déplacées rwandais.

23. Pour permettre à la Mission de s'acquitter convenablement de ses responsabilités, le Protocole préconise une coopération étroite et des consultations suivies entre le commandant de la Force ou son représentant, le Haut Conseil de commandement des forces de défense rwandaises et le Conseil de commandement de la gendarmerie nationale. A cette fin, des séances de travail conjointes se tiendront régulièrement à tous les niveaux de commandement pertinents.

#### 1. Plan d'opérations

24. Le plan d'opérations de la Mission est décrit ci-après.

25. En raison de la présence de plusieurs bataillons des forces gouvernementales à Kigali et de l'installation dans la ville des dirigeants du FPR ainsi que d'un bataillon entièrement équipé du FPR, la Mission créerait à l'intérieur et autour de Kigali une zone de consignation des armes d'un rayon d'une dizaine de kilomètres à compter du centre de Kigali, à l'intérieur de laquelle les unités militaires seraient tenues d'entreposer leurs armes et leurs munitions, sauf dans les cas dont il serait au préalable convenu par toutes les parties. La sécurité de la ville serait assurée de quatre façons. Premièrement, la Mission déploierait un bataillon d'infanterie dans tout le secteur de Kigali afin d'assurer la sécurité de l'aéroport international, du camp du bataillon du FPR et des bâtiments publics et pour aider à la récupération des armes détenues par des civils. Le bataillon devrait disposer d'une compagnie de véhicules blindés transport de troupe (VBTT) aux fins de déploiement d'urgence aussi bien à Kigali que dans la zone démilitarisée

/...

élargie. Deuxièmement, la Mission surveillerait et vérifierait la consignation des armes et le mouvement de toutes les forces des deux parties dans le secteur de Kigali, en ayant recours à des éléments d'infanterie et des observateurs militaires. Troisièmement, pour surveiller les activités liées à la mise en place des nouvelles forces de défense et de la nouvelle gendarmerie rwandaises intégrées, la Mission détacherait des officiers de liaison auprès des états-majors de ces nouvelles forces. Quatrièmement, la Mission prendrait les mesures qui s'imposent pour aider à assurer la sécurité des membres du Gouvernement de transition.

26. La Mission surveillerait l'application de l'accord de cessez-le-feu en effectuant des opérations de vérification et de contrôle dans la zone démilitarisée élargie et en veillant à la concentration, au désarmement, à la démobilisation et à l'intégration des éléments des deux parties et de la gendarmerie. Cela se ferait en déployant des observateurs militaires et un deuxième bataillon d'infanterie (en plus des deux sections d'infanterie du GOMN II déjà en place) dans la zone démilitarisée et aux points de rassemblement, aux points de cantonnement et aux centres d'instruction intégrés. Conformément à l'Accord de paix, la responsabilité de déterminer l'emplacement des zones de rassemblement et, partant, de délimiter la nouvelle zone démilitarisée, incomberait à la Mission. Une des principales tâches du commandant de la Force serait donc de confirmer les zones de rassemblement, les points de rassemblement, les points de cantonnement et les centres d'instruction intégrés proposés ainsi que la délimitation de la nouvelle zone démilitarisée, conformément à l'Accord. La Mission de reconnaissance a recommandé, sous réserve d'un nouvel examen auquel procéderait le commandant de la Force, que le nombre de points de rassemblement et de cantonnement et de centres d'instruction intégrés soit ramené d'un total de 48 (chiffre proposé par les deux parties) à environ 26.

27. La mission de reconnaissance a procédé à une enquête sur toutes les forces armées présentes dans le pays. Le Gouvernement rwandais a déclaré que ses effectifs militaires se chiffraient à 23 100 hommes déployés essentiellement dans le nord du pays et dans la région de Kigali. Les forces du FPR ont déclaré disposer d'environ 20 000 hommes concentrés au nord de l'actuelle zone démilitarisée. La gendarmerie nationale disposait de 6 000 hommes déployés essentiellement le long des lignes du front. Le FPR ne dispose pas d'une gendarmerie. Selon le Protocole, le processus de démobilisation de toutes les forces et des membres de la gendarmerie et l'instruction d'un maximum de 13 000 hommes et leur intégration ultérieures à la nouvelle armée nationale et de 6 000 hommes pour la nouvelle gendarmerie nationale devraient prendre de 7 à 9 mois. Le processus commencerait à une date à convenir par la Mission et le Gouvernement de transition. Il faudrait attacher une attention particulière à la nécessité éventuelle d'aider les parties à transporter leurs hommes, à construire à leur intention des abris aux points de rassemblement et à les ravitailler et les nourrir.

28. Les quelque 35 000 éléments démobilisés (31 000 soldats et 4 000 gendarmes) qui ne feraient pas partie des nouvelles forces de défense et de la nouvelle gendarmerie rwandaises pourraient suivre des stages de recyclage professionnel et se verraient offrir un emploi, conformément à l'Accord, sous les auspices du Secrétariat d'Etat rwandais à la réhabilitation et à l'intégration sociale avec l'assistance des programmes et organismes des Nations Unies et d'ONG.

/...

29. La mission de reconnaissance a recommandé que la Mission ait les moyens de fournir des escortes pour les activités humanitaires et d'en assurer la protection, selon que de besoin, jusqu'à ce que les nouvelles forces de défense et la nouvelle gendarmerie rwandaises prennent la relève. Elle a également recommandé que la Mission s'occupe des opérations indispensables de déminage. Un programme général de déminage est exposé plus loin, dans la section III C.

30. Le bon déroulement des tâches de la Mission, ainsi que le rythme auquel elles pourront être accomplies, dépendront non seulement de l'acheminement en temps voulu des ressources nécessaires mais également de la capacité de l'infrastructure locale (routes, approvisionnement en carburant et en électricité, communications, entrepôts et logements du personnel), ainsi que des moyens dont disposera la Mission en matière de réparation et d'entretien. Compte tenu de l'état de l'infrastructure du pays, il est indispensable qu'une compagnie du génie soit déployée rapidement pour aider à préparer l'infrastructure de base, y compris les routes et les ponts nécessaires aux travaux de la Mission.

## 2. Structure proposée de la Force

31. Les observateurs militaires de la MONUOR créée par la résolution 846 (1993) du Conseil de sécurité seraient placés sous le commandement de la Mission des Nations Unies au Rwanda tout en conservant leurs fonctions de contrôle le long de la frontière entre l'Ouganda et le Rwanda. La Mission placerait également, dès que possible, sous son commandement les éléments du GOMN II déjà positionnés dans l'actuelle zone démilitarisée (voir l'annexe I).

32. Les opérations de la Mission se dérouleraient dans cinq secteurs. Les deux premiers seraient le secteur de Kigali et le secteur de la zone démilitarisée. Les secteurs suivants correspondraient aux positions des forces gouvernementales et des forces du FPR, respectivement. La zone de déploiement de la MONUOR constituerait le cinquième secteur. La Mission bénéficierait du soutien d'une unité du génie, d'une unité aérienne, d'une unité de transmissions et d'une unité médicale ainsi que du personnel logistique et administratif nécessaire. Le quartier général de la Force de la Mission serait installé à Kigali.

33. Un état-major du Groupe d'observateurs militaires serait chargé du commandement et du contrôle des secteurs de déploiement des observateurs militaires et de l'administration de tous les observateurs militaires sur le théâtre d'opérations. Il comprendrait au total 20 observateurs militaires et les armes traditionnelles de l'état-major militaire y seraient représentées.

34. Les secteurs des forces gouvernementales, des forces du FPR et de la MONUOR se composeraient entièrement d'observateurs militaires des Nations Unies. Ces trois secteurs seraient, par l'entremise des équipes d'observateurs militaires des Nations Unies, responsables du contrôle de l'application du Protocole d'accord sur l'intégration des forces armées des deux parties. Les secteurs des observateurs militaires des Nations Unies seraient chargés, notamment, de s'acquitter des tâches suivantes : surveiller le respect, par les deux parties, des modalités de la cessation définitive des hostilités, comme prévu dans l'Accord de paix; surveiller les zones de rassemblement ainsi que la préparation et l'entretien des points de rassemblement et de cantonnement; vérifier le désengagement des forces, les mouvements de troupes à destination des points de

/...



rassemblement et l'acheminement des armes lourdes jusqu'aux points de cantonnement; veiller au maintien de la discipline chez les hommes de troupe à l'intérieur et à l'extérieur des points de rassemblement; vérifier les inventaires des armes et des munitions des deux parties; contrôler les opérations de tri des armes lourdes et des armes légères; vérifier l'identification des militaires aux points de rassemblement; vérifier la distribution de fournitures non militaires aux troupes dans les points de rassemblement; veiller à la sécurité des troupes dans les centres d'instruction intégrés; et contrôler les opérations de démobilisation des militaires et des gendarmes.

35. Les secteurs de Kigali et de la zone démilitarisée comprendraient chacun un bataillon d'infanterie et des observateurs militaires qui accompliraient des tâches analogues à celles décrites au paragraphe 34; ils aideraient en outre à récupérer et à vérifier les armes en installant des postes de contrôle et en effectuant des patrouilles et contribueraient à assurer la sécurité des points de rassemblement et de cantonnement. Le secteur de la zone démilitarisée prendrait également sous son commandement les deux sections du GOMN II se trouvant actuellement au Rwanda.

36. Les deux bataillons d'infanterie (800 hommes, tous grades confondus) devront être autosuffisants pendant au moins 60 jours. Ils comprendraient chacun une compagnie de logistique lourde et quatre compagnies d'infanterie légère.

37. La Mission aurait également besoin d'une compagnie du génie comprenant 203 hommes, qui serait chargée, notamment, de superviser les travaux de remise en état et de réparation de l'infrastructure de base afin de répondre aux besoins opérationnels de la Mission, d'entreprendre des tâches essentielles de déminage, y compris des opérations de destruction des explosifs.

38. Les éléments d'appui de la Mission comprendraient une unité hélicoptérée de 40 hommes, 4 hélicoptères utilitaires, un avion bimoteur léger, une section du contrôle des mouvements de 20 hommes, une compagnie de logistique de 200 hommes et une section médicale de 50 hommes.

### 3. Calendrier de déploiement

39. Le personnel militaire de la Mission serait déployé progressivement comme il est indiqué à l'annexe II. Cette opération se déroulerait en quatre phases.

40. La phase 1 commencerait le jour où le Conseil de sécurité adoptera la résolution pertinente et se terminerait le jour J, c'est-à-dire le jour où le Gouvernement de transition sera installé à Kigali. Etant donné les délais requis pour établir et déployer la Mission proposée, on estime que le Gouvernement de transition ne pourra pas être mis en place avant la fin de 1993. L'objectif de cette phase serait de définir les conditions essentielles devant être remplies pour permettre l'installation en toute sécurité du Gouvernement de transition. Les mécanismes de commandement et de contrôle, les services d'appui, l'infrastructure et le matériel nécessaires seraient mis en place. Pour ce faire, il faudrait détacher immédiatement du personnel militaire de planification au quartier général de la Mission (y compris environ 25 militaires, 3 policiers civils et 18 civils). Pendant cette phase les

/...

éléments du GOMN II élargi et les observateurs de la MONUOR continueraient à s'acquitter de leurs mandats respectifs dans la zone démilitarisée et le long de la frontière entre l'Ouganda et le Rwanda mais, dorénavant, sous le commandement de la Mission. A la fin de la phase 1, l'effectif total de la Mission comprendrait 1 428 militaires dont 1 217 seraient des officiers d'état-major et des hommes de troupe et 211 des observateurs militaires (y compris 77 observateurs militaires de la MONUOR et 54 du GOMN II).

41. La phase 2 commencerait le jour J et durerait jusqu'au jour J+90 ou lorsque le processus de désengagement, de démobilisation et d'intégration des forces et de la gendarmerie commencera. Au cours de cette phase, la Mission continuerait à se doter des effectifs nécessaires jusqu'à ce que ceux-ci soient au complet. Le GOMN II et la MONUOR seraient entièrement intégrés, en tant qu'unités distinctes, à la Mission et continueraient à s'acquitter de leurs mandats respectifs. Les principales activités au cours de cette phase consisteraient à poursuivre la surveillance de la zone démilitarisée et de la frontière entre l'Ouganda et le Rwanda, à continuer d'assurer la sécurité à Kigali, à délimiter les zones de rassemblement, à contrôler les modifications apportées à la zone démilitarisée et à s'assurer que les préparatifs du processus de désengagement, de démobilisation et d'intégration sont achevés. Bien que l'accord ne précise pas la date à laquelle doit commencer le processus de démobilisation, on y estime qu'un mois sera nécessaire pour installer les éléments d'appui nécessaires au déroulement de cette opération. Néanmoins, la mission de reconnaissance a estimé qu'il faudrait deux à trois mois pour mettre en place l'infrastructure nécessaire à la démobilisation. A la fin de cette phase, les effectifs de la Mission comprendraient 2 548 militaires, dont 2 217 seraient des officiers d'état-major et des hommes de troupe et 331 des observateurs militaires.

42. La phase 3 commencerait le jour J+90, ou lorsque le processus de désengagement, de démobilisation et d'intégration commencera et durerait jusqu'au jour J+360 ou lorsque ce processus sera achevé. Au cours de cette phase, la Mission délimiterait, surveillerait et contrôlerait la nouvelle zone démilitarisée avec l'aide d'un deuxième bataillon d'infanterie, et continuerait à surveiller la frontière entre l'Ouganda et le Rwanda. Elle créerait environ 26 points de rassemblement ou de cantonnement et centres d'instruction intégrés, surveillerait les grands mouvements de troupes de l'intérieur et à travers la zone démilitarisée, et contribuerait au maintien de la sécurité générale dans le pays. La sécurité continuerait également d'être assurée à Kigali. A la fin de cette phase, l'effectif de la Mission commencerait à être ramené à environ 1 240 hommes, tous grades confondus.

43. La phase 4 commencerait le jour J+360, ou lorsque le processus de désengagement, de démobilisation et d'intégration sera achevé. Cette phase durerait environ 10 mois. Au cours de cette phase, les effectifs continueraient d'être réduits encore jusqu'à atteindre le niveau minimum nécessaire pour assurer le climat de sécurité nécessaire aux étapes finales de la période de transition devant aboutir aux élections. Au cours de cette phase, les opérations de surveillance de la zone démilitarisée des frontières entre l'Ouganda et le Rwanda prendraient fin. L'effectif résiduel de la Mission serait d'environ 930 militaires, dont 850 seraient des officiers d'état-major et des hommes de troupe et 80 des observateurs militaires.

/...

#### B. Police civile

44. L'Accord de paix d'Arusha prévoit que l'Organisation des Nations Unies contribuera au maintien de l'ordre en supervisant et en vérifiant les activités de la gendarmerie et de la police communale.

45. Au cours de la phase de transition, le maintien de l'ordre dépendra de plusieurs paramètres de sécurité intérieure : éventualité de tensions politiques et ethniques; possibilité d'une augmentation spectaculaire des actes de banditisme armé après la démobilisation des forces des parties; possibilité d'acquérir facilement des armes; possibilité de désorganisation de l'acheminement de l'aide humanitaire; et, enfin, inaptitude des organismes locaux à faire face efficacement à la montée de la criminalité dans le pays, en particulier à Kigali.

46. En application du Protocole d'accord sur l'intégration des forces armées des deux parties, les effectifs de la gendarmerie passeraient d'environ 6 000 hommes à 1 300 au cours de la phase de démobilisation. Tous les membres de la gendarmerie, de même que les membres du FPR candidats à des postes dans la nouvelle gendarmerie ou à une totale démobilisation et au retour à la vie civile feraient l'objet d'une enquête. La gendarmerie serait ensuite reconstituée et dotée d'un effectif maximal de 6 000 hommes, tous grades confondus.

47. Pour vérifier que l'ordre public est maintenu efficacement et impartialement, une petite unité de police civile des Nations Unies, sous le commandement d'un commissaire de police, serait déployée à Kigali, dans les neuf préfectures et dans certaines installations de police. On estime qu'il faudrait au total 60 officiers de police. L'unité de police comprendrait un état-major de 10 officiers, dont une équipe spéciale d'investigation; le secteur de Kigali, où seraient postés 20 hommes; et le secteur provincial, comprenant les équipes d'observateurs affectées à chacune des préfectures (à l'exception de Kigali), soit au total 30 hommes.

#### C. Assistance humanitaire

48. Le Gouvernement et le FPR ont indiqué qu'outre les dispositions du Protocole d'accord sur le rapatriement des réfugiés et la réinstallation des personnes déplacées, une aide internationale sera indispensable pour mener à bien l'application de l'Accord de paix. Les organismes humanitaires continueront de fournir une assistance sur la base des principes de l'humanité, de la neutralité et de l'impartialité.

49. En mars 1993, 900 000 personnes au total, soit environ 13 % de la population du pays, avaient été déplacées. Le Secrétaire général a lancé en avril 1993 un appel conjoint en vue de répondre aux besoins urgents de ces personnes déplacées. La communauté internationale a versé des contributions en espèces et en nature d'un montant atteignant 100 millions de dollars des Etats-Unis depuis janvier 1993. On estime que grâce à la signature de l'Accord de paix, environ 600 000 personnes sont déjà retournées dans leurs foyers. Du fait de leur retour, la situation d'urgence qui était apparue au début de l'année s'est améliorée. En ce qui concerne les quelque 300 000 personnes toujours déplacées qui continuent de dépendre de l'aide d'urgence dispensée dans les camps, cette assistance continuera d'être fournie.

/...

50. Si une opération des Nations Unies est déployée au Rwanda, l'assistance humanitaire devra être coordonnée avec les activités de la Mission. Actuellement, c'est le Coordonnateur résident des Nations Unies qui assure la coordination entre les organismes des Nations Unies et avec la communauté des donateurs et les ONG. Il continuera de le faire au cours de la période de transition.

51. Comme suite à la décision prise en février 1993 par le Conseil d'administration du Programme des Nations Unies pour le développement (PNUD) concernant le programme du Rwanda, le PNUD et le Département des affaires humanitaires de l'ONU tiendront une table ronde sur l'aide humanitaire, qui portera notamment sur certains aspects de la démobilisation et de la reconstruction, au début de 1994. Outre les activités de collecte de fonds menées au niveau local, cette réunion fournira une excellente occasion de solliciter l'appui d'un grand nombre de donateurs et de les informer de l'évolution de la situation dans le pays. J'espère que la communauté des donateurs continuera d'être sensible aux besoins financiers du secteur humanitaire.

52. En ce qui concerne l'assistance aux soldats démobilisés, un programme détaillé répondant à leurs besoins est à l'étude sur la base de l'expérience acquise dans le cadre d'opérations de maintien de la paix menées précédemment par l'ONU dans d'autres régions. L'ONU encourage la communauté des donateurs à étudier la possibilité de mettre en commun les ressources consacrées à l'établissement et à l'exécution d'un tel programme.

53. Enfin, en ce qui concerne les Rwandais qui se sont réfugiés dans des pays voisins, les activités envisagées en vue de leur rapatriement et de l'intégration des rapatriés commenceront avec l'installation du Gouvernement de transition. Le HCR coordonne les activités en matière de réfugiés et a pris des dispositions dans les pays d'asile en prévision de leur retour, qui sera organisé au moyen d'accords tripartites entre le pays d'origine, le pays d'asile et le HCR. La création de comités nationaux pour le rapatriement et l'intégration locale est également prévue, de même que celle d'une commission du rapatriement relevant du Gouvernement de transition.

54. Il a été recommandé de lancer une campagne d'information dans les pays d'asile et au Rwanda en vue de faire connaître les dispositions de l'Accord de paix. Des informations relatives aux réfugiés et aux choix qui leur sont offerts (rapatriement, naturalisation ou conservation de leur statut d'étranger), devraient également être données dans le cadre de cette campagne.

55. Le déminage a été déclaré prioritaire afin d'éloigner les menaces constantes qui pèsent sur la vie des personnes déplacées. On a aussi souligné que le déminage permettrait aux organismes humanitaires d'accéder plus directement aux zones qui ont besoin d'une aide. Ceci est expressément prévu à l'article 40 du Protocole sur le rapatriement des réfugiés et la réinstallation des personnes déplacées.

56. On estime que le programme de déminage se limiterait à une petite région située dans le nord du pays. Le problème le plus important serait cependant de localiser et de détecter les mines dans les plantations de thé et les bananeraies ainsi que dans les savanes et sur les pistes. A l'heure actuelle,

/...

les mines terrestres constituent déjà un grave danger pour la population locale. Cette menace continuera d'augmenter à mesure que les personnes déplacées retourneront dans leurs villages.

57. La mission de reconnaissance a recommandé que l'ONU mette en route un programme de déminage comprenant un relevé des champs de mines, une campagne d'alerte au danger des mines à l'intention des personnes déplacées et des réfugiés et un programme de formation au déminage destiné aux éléments du génie des forces gouvernementales et du FPR. Une compagnie du génie devrait faire partie de la composante militaire afin que l'on dispose d'une capacité de déminage locale sur les routes qui devront être utilisées pour les opérations de la Mission. En outre, si le programme de formation destiné aux deux parties était jugé impraticable ou dangereux, ces opérations seraient sous-traitées et confiées à une société spécialisée dans le déminage, comme cela s'est fait pour d'autres missions de maintien de la paix.

58. Il faudra poursuivre d'importantes activités d'aide humanitaire dans l'avenir. Le Coordonnateur résident des Nations Unies continuera d'exercer les fonctions de coordonnateur de ces activités, oeuvrant en collaboration étroite avec toutes les organisations intéressées du système des Nations Unies. On compte que la Mission sera dotée d'une capacité de liaison et de coordination avec le programme d'aide humanitaire, notamment pour assurer, le cas échéant, la sécurité de la distribution de secours humanitaires ainsi que du processus de démobilisation des forces armées et de leur réintégration dans la société.

#### D. Aspects administratifs

59. Il faudrait que la Mission comprenne une composante administrative basée à Kigali, et dotée de deux bureaux régionaux. L'un de ces bureaux régionaux serait installé dans la ville de Byumba, dans le nord du pays, l'autre à Kabale, actuel quartier général de la MONUOR. La composante administrative fournirait l'appui nécessaire dans les domaines du personnel, des finances, des achats, des communications, des voyages, des indemnisations, de la traduction et de l'interprétation, du traitement électronique des données, etc. Afin d'informer le grand public sur les activités de la Mission, celle-ci chercherait de s'assurer les services d'une station de radiodiffusion existante.

60. On estime qu'il faudra disposer au total de 127 fonctionnaires recrutés sur le plan international (26 administrateurs et 101 agents du service mobile et des services généraux) et de 68 agents recrutés sur le plan local. Sont inclus dans ces chiffres les 17 fonctionnaires recrutés sur le plan international et les 7 agents recrutés sur le plan local déjà affectés à la MONUOR en Ouganda. Parmi les 26 administrateurs, il y aurait notamment 4 spécialistes des questions politiques, 2 fonctionnaires de l'information, 1 spécialiste des droits de l'homme et des spécialistes de l'aide humanitaire.

#### IV. CONCLUSIONS ET RECOMMANDATIONS

61. Dans mon rapport du 24 août (S/26350), je faisais observer que grâce à la signature de l'Accord de paix d'Arusha, le Gouvernement rwandais et le FPR étaient maintenant dotés d'un cadre politique et démocratique permettant de régler leur différend. L'Accord offre à la communauté internationale l'occasion de contribuer à la mise en oeuvre du processus de paix. Je tiens à cet égard à

/...

exprimer ma profonde gratitude au Facilitateur, M. Mwinyi, Président de la Tanzanie, et à M. Salim Ahmed Salim, Secrétaire général de l'OUA, pour les efforts qu'ils poursuivent en vue d'encourager les parties à se conformer aux engagements qu'elles ont librement contractés en concluant l'Accord d'Arusha.

62. Le peuple rwandais, déjà durement éprouvé, se trouve aux prises avec une situation économique critique. Il tient énormément à voir finir la destruction et la souffrance apportées par un conflit qui n'a que trop duré. Les deux parties semblent résolues, pour leur part, à établir une paix durable par le désarmement, la démobilisation et la réconciliation nationale. La possibilité que l'on tarde à mettre en place le Gouvernement de transition, compromettant ainsi le processus de paix, n'en demeure pas moins un sujet de vive préoccupation. Ce souci a été exprimé à ma mission de reconnaissance par les dirigeants des deux parties, certains des membres du corps diplomatique résidant au Rwanda, les ONG et, en particulier, le Secrétaire général de l'OUA. Je considère donc que l'ONU devrait répondre à l'appel à l'aide lancé par les parties en vue de la mise en application de l'Accord de paix, ce d'autant plus que le mandat du Groupe d'observateurs militaires neutres (GOMN II) de l'OUA vient à expiration le 31 octobre 1993.

63. La Mission des Nations Unies qu'il est envisagé de mettre sur pied au Rwanda devrait être déployée peu après que le Conseil de sécurité en aura autorisé la création, de façon que les institutions de transition puissent être rapidement constituées. Le déploiement immédiat d'un détachement précurseur, dont ferait partie le commandant de la Force, montrerait que l'Organisation est résolue à établir sans tarder la présence militaire nécessaire à Kigali et la base logistique indispensable à cet effet. L'arrivée ultérieure des observateurs et du gros des contingents permettrait à la Force de contribuer à la mise en oeuvre de la phase de dégagement, de démobilisation et d'intégration, tout en assurant la sécurité voulue et une présence crédible des Nations Unies. La réduction des éléments militaire et police civile devrait enfin permettre de contenir le coût de l'opération sans compromettre pour autant le maintien de la stabilité indispensable au cours de la période qui précédera les élections.

64. Les observateurs de la MONUOR qui se trouvent actuellement du côté ougandais de la frontière entre l'Ouganda et le Rwanda demeurent un facteur de stabilisation nécessaire. On considère donc que la Mission devra continuer de surveiller la frontière jusqu'à la fin du processus de démobilisation. Sa chaîne de commandement et la logistique future de ses opérations seraient néanmoins intégrées à la nouvelle mission envisagée.

65. La retenue et le désir de paix durable et de réconciliation nationale dont les deux parties témoignent depuis la signature de l'Accord de paix d'Arusha me paraissent encourageants. Les uns et les autres ont fait preuve de bonne volonté en organisant un certain nombre de groupes de travail mixtes officieux et en aidant la mission de reconnaissance à mener toutes ses activités d'enquête. Une délégation commune a également été envoyée à l'ONU, que j'ai rencontrée le 15 septembre. Elle a insisté auprès de moi sur la nécessité d'établir une force des Nations Unies sans attendre, le déploiement de celle-ci conditionnant le succès avec lequel l'Accord d'Arusha serait mis en oeuvre. Elle a souligné qu'à moins que le nécessaire ne soit immédiatement fait pour déployer la Force, l'exécution de l'Accord de paix serait gravement compromise. J'ai expliqué que c'est au Conseil de sécurité qu'il revient de décider de la

/...

création d'une force et que, même lorsqu'il aurait donné son approbation, le déploiement prendrait jusqu'à trois mois. Cela étant, j'ai conjuré les parties de tenir l'engagement qu'elles ont pris à Arusha de travailler ensemble à la réconciliation nationale et à la reconstruction du pays et de respecter strictement le cessez-le-feu.

66. Compte tenu de ce qui précède, je recommande que le Conseil de sécurité autorise la création de la "Mission des Nations Unies pour l'assistance au Rwanda (MINUAR)", qui aurait pour mandat de contribuer à l'instauration et au maintien d'un climat propre à assurer la mise en place et le fonctionnement du Gouvernement de transition. Cette opération serait déployée suivant le calendrier figurant à la section III du présent rapport.

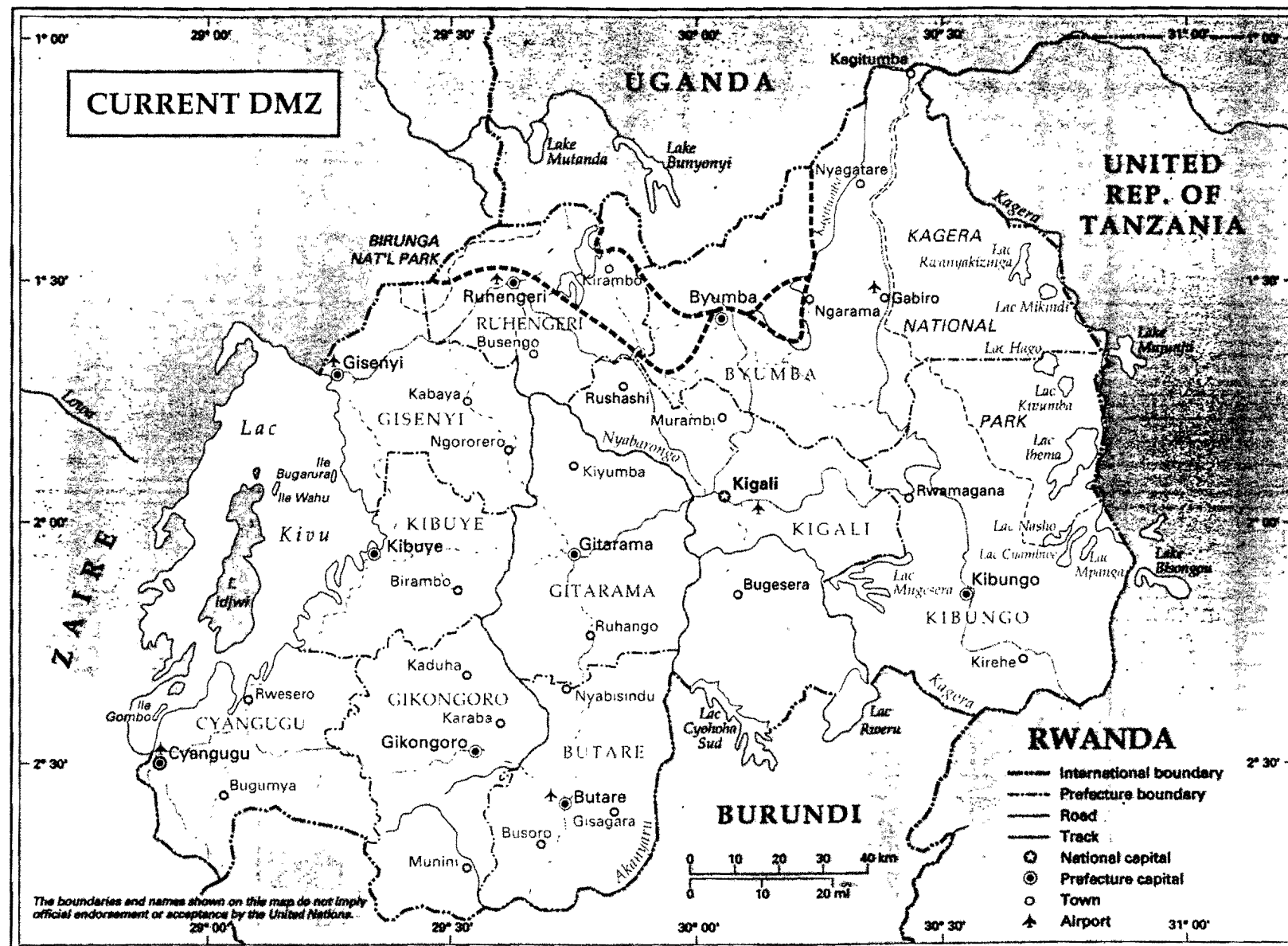
67. Je recommande en outre que le Conseil de sécurité demande instamment aux Etats Membres d'apporter leur appui aux activités d'assistance que l'ONU mène dès à présent au Rwanda. La MINUAR et le Coordonnateur résident des Nations Unies oeuvreraient en étroite coordination à cet égard.

68. Au cas où le Conseil de sécurité autoriserait la création de la Mission, je nommerais un représentant spécial qui la dirigerait sur le terrain et dont l'autorité s'étendrait à tous ses éléments. La Mission serait placée sous le commandement de l'ONU, exercé par le Secrétaire général sous l'autorité du Conseil de sécurité. L'élément militaire serait dirigé par un commandant de la Force. Je rendrais compte régulièrement au Conseil des opérations de la MINUAR, et toutes questions pouvant influencer sur le bon déroulement de la Mission lui seraient soumises pour décision.

69. Conformément à la pratique établie, la liberté de mouvement, de communication et d'inspection, de même que les autres droits qui seraient nécessaires à la MINUAR pour lui permettre de s'acquitter de sa tâche au Rwanda devraient lui être assurés. Il faudrait aussi que toutes les dispositions pertinentes de la Convention sur les privilèges et immunités des Nations Unies s'appliquent à la Mission et à son personnel. Si le Conseil de sécurité décide de créer la MINUAR, j'engagerai avec le Gouvernement de transition les consultations nécessaires en vue de conclure rapidement un accord sur le statut de la Mission conçu suivant les modalités habituelles.

70. En conclusion, je tiens à souligner que deux conditions essentielles doivent être remplies pour que l'ONU puisse jouer comme il convient le rôle que je recommande de lui confier au Rwanda. Premièrement, les parties doivent coopérer pleinement l'une avec l'autre et avec l'Organisation en remplissant les engagements qu'elles ont pris dans l'Accord d'Arusha. Deuxièmement, l'Organisation doit se voir apporter en temps voulu les ressources humaines et financières nécessaires; à un moment où elle se heurte à des difficultés financières sans précédent, il est en effet impératif que les Etats Membres soient prêts à assumer les obligations résultant des nouveaux mandats qu'ils lui assignent.

/...



MAP NO. 3807.1 UNITED NATIONS  
SEPTEMBER 1993



Annexe II

CALENDRIER DE DEPLOIEMENT ET EFFECTIFS PAR MOIS — ELEMENT MILITAIRE

	Phase 1 Activités préparatoires			Phase 2 Gouvernement de transition à base élargie			Phase 3 Démobilisation/intégration										Phase 4 Elections									
MOIS	10. 93	11. 93	12. 93	1. 94	2. 94	3. 94	4. 94	5. 94	6. 94	7. 94	8. 94	9. 94	10. 94	11. 94	12. 94	1. 95	2. 95	3. 95	4. 95	5. 95	6. 95	7. 95	8. 95	9. 95	10. 95	11. 95
	JOUR M			JOUR J													JOUR E									
QG FORCE	43	54													40										30	0
QG SECTEUR KIGALI	15												0													0
BAT. INF. KIGALI		300	800																						675	0
OBS. MIL. KIGALI	15	78				42							0													0
QG SECTEUR ZONE DEMILITARISEE	18					15								0												0
BAT. INF. ZONE DEMILITARISEE					500	800								700	300											0
SECTION ZONE DEMILITARISEE	60													0												0
OBS. MIL. ZONE DEMILITARISEE	36					18								0												0
ETAT-MAJOR GROUPE OB. MIL.	20														80										80	0
SECTEUR MONUOR	77														0											0
SECTEUR FPR				66		87							51	15	0											0
SECTEUR GOUV.				51		87							51	15	0											0
CIE GENIE		100		203						88			0													0
CIE LOGISTIQUE		100		200										89	0											0
SECTION MEDICALE		50													0											0
CONTROLE MOUV.	20															10									10	0
TOTAL	304*	928	1 428	1 748	2 248	2 548				2 433			2 216	1 840	1 240	930									795	0

\* Sur ce total, 191 hommes se trouvent déjà au Rwanda et en Ouganda dans le cadre du GOMN II et de la MONUOR.

Distr.  
GENERAL  
  
S/25704  
3 May 1993  
  
ORIGINAL: ENGLISH

REPORT OF THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 2  
OF SECURITY COUNCIL RESOLUTION 808 (1993)

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction .....	1 - 17	3
I. THE LEGAL BASIS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL .....	18 - 30	6
II. COMPETENCE OF THE INTERNATIONAL TRIBUNAL .....	31 - 68	9
A. Competence <u>ratione materiae</u> (subject-matter jurisdiction) .....	33 - 49	9
B. Competence <u>ratione personae</u> (personal jurisdiction) and individual criminal responsibility .....	50 - 59	14
C. Competence <u>ratione loci</u> (territorial jurisdiction) and <u>ratione temporis</u> (temporal jurisdiction) .....	60 - 63	16
D. Concurrent jurisdiction and the principle of <u>non-bis-in-idem</u> .....	64 - 68	16
III. THE ORGANIZATION OF THE INTERNATIONAL TRIBUNAL .....	69 - 92	18
A. The Chambers .....	72 - 84	18
1. Composition of the Chambers .....	72 - 73	18
2. Qualifications and election of judges .....	74 - 78	19
3. Officers and members of the Chambers .....	79 - 82	21
4. Rules of procedure and evidence .....	83 - 84	21

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
B. The Prosecutor .....	85 - 89	22
C. The Registry .....	90 - 92	23
IV. INVESTIGATION AND PRE-TRIAL PROCEEDINGS .....	93 - 98	24
V. TRIAL AND POST-TRIAL PROCEEDINGS .....	99 - 124	25
A. Commencement and conduct of trial proceedings ....	99 - 105	25
B. Rights of the accused .....	106 - 107	27
C. Protection of victims and witnesses .....	108 - 109	28
D. Judgement and penalties .....	110 - 115	28
E. Appellate and review proceedings .....	116 - 120	29
F. Enforcement of sentences .....	121 - 124	30
VI. COOPERATION AND JUDICIAL ASSISTANCE .....	125 - 127	31
VII. GENERAL PROVISIONS .....	128 - 138	32
A. The status, privileges and immunities of the International Tribunal .....	128 - 130	32
B. Seat of the International Tribunal .....	131 - 132	33
C. Financial arrangements .....	133 - 134	33
D. Working languages .....	135 - 136	34
E. Annual report .....	137 - 138	34
<u>Annex</u> . Statute of the International Tribunal .....		36

/...

Introduction

1. By paragraph 1 of resolution 808 (1993) of 22 February 1993, the Security Council decided "that an international tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991".

2. By paragraph 2 of the resolution, the Secretary-General was requested "to submit for consideration by the Council at the earliest possible date, and if possible no later than 60 days after the adoption of the present resolution, a report on all aspects of this matter, including specific proposals and where appropriate options for the effective and expeditious implementation of the decision [to establish an international tribunal], taking into account suggestions put forward in this regard by Member States."

3. The present report is presented pursuant to that request. 1/

A

4. Resolution 808 (1993) represents a further step taken by the Security Council in a series of resolutions concerning serious violations of international humanitarian law occurring in the territory of the former Yugoslavia.

5. In resolution 764 (1992) of 13 July 1992, the Security Council reaffirmed that all parties to the conflict are bound to comply with their obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949, and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible in respect of such breaches.

6. In resolution 771 (1992) of 13 August 1992, the Security Council expressed grave alarm at continuing reports of widespread violations of international humanitarian law occurring within the territory of the former Yugoslavia and especially in Bosnia and Herzegovina, including reports of mass forcible expulsion and deportation of civilians, imprisonment and abuse of civilians in detention centres, deliberate attacks on non-combatants, hospitals and ambulances, impeding the delivery of food and medical supplies to the civilian population, and wanton devastation and destruction of property. The Council strongly condemned any violations of international humanitarian law, including those involved in the practice of "ethnic cleansing", and demanded that all parties to the conflict in the former Yugoslavia cease and desist from all breaches of international humanitarian law. It called upon States and international humanitarian organizations to collate substantiated information relating to the violations of humanitarian law, including grave breaches of the Geneva Conventions, being committed in the territory of the former Yugoslavia and to make this information available to the Council. Furthermore, the Council decided, acting under Chapter VII of the Charter of the United Nations, that all parties and others concerned in the former Yugoslavia, and all military forces

/...

in Bosnia and Herzegovina, should comply with the provisions of that resolution, failing which the Council would need to take further measures under the Charter.

7. In resolution 780 (1992) of 6 October 1992, the Security Council requested the Secretary-General to establish an impartial Commission of Experts to examine and analyse the information as requested by resolution 771 (1992), together with such further information as the Commission may obtain through its own investigations or efforts, of other persons or bodies pursuant to resolution 771 (1992), with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia.

8. On 14 October 1992 the Secretary-General submitted a report to the Security Council pursuant to paragraph 3 of resolution 780 (1992) in which he outlined his decision to establish a five-member Commission of Experts (S/24657). On 26 October 1992, the Secretary-General announced the appointment of the Chairman and members of the Commission of Experts.

9. By a letter dated 9 February 1993, the Secretary-General submitted to the President of the Security Council an interim report of the Commission of Experts (S/25274), which concluded that grave breaches and other violations of international humanitarian law had been committed in the territory of the former Yugoslavia, including wilful killing, "ethnic cleansing", mass killings, torture, rape, pillage and destruction of civilian property, destruction of cultural and religious property and arbitrary arrests. In its report, the Commission noted that should the Security Council or another competent organ of the United Nations decide to establish an ad hoc international tribunal, such a decision would be consistent with the direction of its work.

10. It was against this background that the Security Council considered and adopted resolution 808 (1993). After recalling the provisions of resolutions 764 (1992), 771 (1992) and 780 (1992) and, taking into consideration the interim report of the Commission of Experts, the Security Council expressed once again its grave alarm at continuing reports of widespread violations of international humanitarian law occurring within the territory of the former Yugoslavia, including reports of mass killings and the continuation of the practice of "ethnic cleansing". The Council determined that this situation constituted a threat to international peace and security, and stated that it was determined to put an end to such crimes and to take effective measures to bring to justice the persons who are responsible for them. The Security Council stated its conviction that in the particular circumstances of the former Yugoslavia the establishment of an international tribunal would enable this aim to be achieved and would contribute to the restoration and maintenance of peace.

11. The Secretary-General wishes to recall that in resolution 820 (1993) of 17 April 1993, the Security Council condemned once again all violations of international humanitarian law, including in particular, the practice of "ethnic cleansing" and the massive, organized and systematic detention and rape of women, and reaffirmed that those who commit or have committed or order or have ordered the commission of such acts will be held individually responsible in respect of such acts.

/...

B

12. The Security Council's decision in resolution 808 (1993) to establish an international tribunal is circumscribed in scope and purpose: the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. The decision does not relate to the establishment of an international criminal jurisdiction in general nor to the creation of an international criminal court of a permanent nature, issues which are and remain under active consideration by the International Law Commission and the General Assembly.

C

13. In accordance with the request of the Security Council, the Secretary-General has taken into account in the preparation of the present report the suggestions put forward by Member States, in particular those reflected in the following Security Council documents submitted by Member States and noted by the Council in its resolution 808 (1993): the report of the committee of jurists submitted by France (S/25266), the report of the commission of jurists submitted by Italy (S/25300), and the report submitted by the Permanent Representative of Sweden on behalf of the Chairman-in-Office of the Conference on Security and Cooperation in Europe (CSCE) (S/25307). The Secretary-General has also sought the views of the Commission of Experts established pursuant to Security Council resolution 780 (1992) and has made use of the information gathered by that Commission. In addition, the Secretary-General has taken into account suggestions or comments put forward formally or informally by the following Member States since the adoption of resolution 808 (1993): Australia, Austria, Belgium, Brazil, Canada, Chile, China, Denmark, Egypt,\* Germany, Iran (Islamic Republic of),\* Ireland, Italy, Malaysia,\* Mexico, Netherlands, New Zealand, Pakistan,\* Portugal, Russian Federation, Saudi Arabia,\* Senegal,\* Slovenia, Spain, Sweden, Turkey,\* United Kingdom of Great Britain and Northern Ireland, United States of America and Yugoslavia. He has also received suggestions or comments from a non-member State (Switzerland).

14. The Secretary-General has also received comments from the International Committee of the Red Cross (ICRC) and from the following non-governmental organizations: Amnesty International, Association Internationale des Jeunes Avocats, Ethnic Minorities Barristers' Association, Fédération internationale des femmes des carrières juridiques, International Criminal Police Organization, Jacob Blaustein Institution for the Advancement of Human Rights, Lawyers Committee for Human Rights, National Alliance of Women's Organisations (NAWO), and Parliamentarians for Global Action. Observations have also been received from international meetings and individual experts in relevant fields.

---

\* On behalf of the members of the Organization of the Islamic Conference (OIC) and as members of the Contact Group of OIC on Bosnia and Herzegovina.

/...

15. The Secretary-General wishes to place on record his appreciation for the interest shown by all the Governments, organizations and individuals who have offered valuable suggestions and comments.

D

16. In the main body of the report which follows, the Secretary-General first examines the legal basis for the establishment of the International Tribunal foreseen in resolution 808 (1993). The Secretary-General then sets out in detail the competence of the International Tribunal as regards the law it will apply, the persons to whom the law will be applied, including considerations as to the principle of individual criminal responsibility, its territorial and temporal reach and the relation of its work to that of national courts. In succeeding chapters, the Secretary-General sets out detailed views on the organization of the international tribunal, the investigation and pre-trial proceedings, trial and post-trial proceedings, and cooperation and judicial assistance. A concluding chapter deals with a number of general and organizational issues such as privileges and immunities, the seat of the international tribunal, working languages and financial arrangements.

17. In response to the Security Council's request to include in the report specific proposals, the Secretary-General has decided to incorporate into the report specific language for inclusion in a statute of the International Tribunal. The formulations are based upon provisions found in existing international instruments, particularly with regard to competence ratione materiae of the International Tribunal. Suggestions and comments, including suggested draft articles, received from States, organizations and individuals as noted in paragraphs 13 and 14 above, also formed the basis upon which the Secretary-General prepared the statute. Texts prepared in the past by United Nations or other bodies for the establishment of international criminal courts were consulted by the Secretary-General, including texts prepared by the United Nations Committee on International Criminal Jurisdiction, 2/ the International Law Commission, and the International Law Association. Proposals regarding individual articles are, therefore, made throughout the body of the report; the full text of the statute of the International Tribunal is contained in the annex to the present report.

I. THE LEGAL BASIS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL

18. Security Council resolution 808 (1993) states that an international tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. It does not, however, indicate how such an international tribunal is to be established or on what legal basis.

19. The approach which, in the normal course of events, would be followed in establishing an international tribunal would be the conclusion of a treaty by which the States parties would establish a tribunal and approve its statute. This treaty would be drawn up and adopted by an appropriate international body (e.g., the General Assembly or a specially convened conference), following which

/...

it would be opened for signature and ratification. Such an approach would have the advantage of allowing for a detailed examination and elaboration of all the issues pertaining to the establishment of the international tribunal. It also would allow the States participating in the negotiation and conclusion of the treaty fully to exercise their sovereign will, in particular whether they wish to become parties to the treaty or not.

20. As has been pointed out in many of the comments received, the treaty approach incurs the disadvantage of requiring considerable time to establish an instrument and then to achieve the required number of ratifications for entry into force. Even then, there could be no guarantee that ratifications will be received from those States which should be parties to the treaty if it is to be truly effective.

21. A number of suggestions have been put forward to the effect that the General Assembly, as the most representative organ of the United Nations, should have a role in the establishment of the international tribunal in addition to its role in the administrative and budgetary aspects of the question. The involvement of the General Assembly in the drafting or the review of the statute of the International Tribunal would not be reconcilable with the urgency expressed by the Security Council in resolution 808 (1993). The Secretary-General believes that there are other ways of involving the authority and prestige of the General Assembly in the establishment of the International Tribunal.

22. In the light of the disadvantages of the treaty approach in this particular case and of the need indicated in resolution 808 (1993) for an effective and expeditious implementation of the decision to establish an international tribunal, the Secretary-General believes that the International Tribunal should be established by a decision of the Security Council on the basis of Chapter VII of the Charter of the United Nations. Such a decision would constitute a measure to maintain or restore international peace and security, following the requisite determination of the existence of a threat to the peace, breach of the peace or act of aggression.

23. This approach would have the advantage of being expeditious and of being immediately effective as all States would be under a binding obligation to take whatever action is required to carry out a decision taken as an enforcement measure under Chapter VII.

24. In the particular case of the former Yugoslavia, the Secretary-General believes that the establishment of the International Tribunal by means of a Chapter VII decision would be legally justified, both in terms of the object and purpose of the decision, as indicated in the preceding paragraphs, and of past Security Council practice.

25. As indicated in paragraph 10 above, the Security Council has already determined that the situation posed by continuing reports of widespread violations of international humanitarian law occurring in the former Yugoslavia constitutes a threat to international peace and security. The Council has also decided under Chapter VII of the Charter that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia and Herzegovina, shall comply with the provisions of resolution 771 (1992), failing which it

/...



would need to take further measures under the Charter. Furthermore, the Council has repeatedly reaffirmed that all parties in the former Yugoslavia are bound to comply with the obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949, and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible in respect of such breaches.

26. Finally, the Security Council stated in resolution 808 (1993) that it was convinced that in the particular circumstances of the former Yugoslavia, the establishment of an international tribunal would bring about the achievement of the aim of putting an end to such crimes and of taking effective measures to bring to justice the persons responsible for them, and would contribute to the restoration and maintenance of peace.

27. The Security Council has on various occasions adopted decisions under Chapter VII aimed at restoring and maintaining international peace and security, which have involved the establishment of subsidiary organs for a variety of purposes. Reference may be made in this regard to Security Council resolution 687 (1991) and subsequent resolutions relating to the situation between Iraq and Kuwait.

28. In this particular case, the Security Council would be establishing, as an enforcement measure under Chapter VII, a subsidiary organ within the terms of Article 29 of the Charter, but one of a judicial nature. This organ would, of course, have to perform its functions independently of political considerations; it would not be subject to the authority or control of the Security Council with regard to the performance of its judicial functions. As an enforcement measure under Chapter VII, however, the life span of the international tribunal would be linked to the restoration and maintenance of international peace and security in the territory of the former Yugoslavia, and Security Council decisions related thereto.

29. It should be pointed out that, in assigning to the International Tribunal the task of prosecuting persons responsible for serious violations of international humanitarian law, the Security Council would not be creating or purporting to "legislate" that law. Rather, the International Tribunal would have the task of applying existing international humanitarian law.

30. On the basis of the foregoing considerations, the Secretary-General proposes that the Security Council, acting under Chapter VII of the Charter, establish the International Tribunal. The resolution so adopted would have annexed to it a statute the opening passage of which would read as follows:

Having been established by the Security Council acting under Chapter VII of the Charter of the United Nations, 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 (hereinafter referred to as "the International Tribunal") shall function in accordance with the provisions of the present Statute.

/...

## II. COMPETENCE OF THE INTERNATIONAL TRIBUNAL

31. The competence of the International Tribunal derives from the mandate set out in paragraph 1 of resolution 808 (1993). This part of the report will examine and make proposals regarding these fundamental elements of its competence: ratione materiae (subject-matter jurisdiction), ratione personae (personal jurisdiction), ratione loci (territorial jurisdiction) and ratione temporis (temporal jurisdiction), as well as the question of the concurrent jurisdiction of the International Tribunal and national courts.

32. The statute should begin with a general article on the competence of the International Tribunal which would read as follows:

### Article 1

#### Competence of the International Tribunal

The International Tribunal shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 in accordance with the provisions of the present Statute.

#### A. Competence ratione materiae (subject-matter jurisdiction)

33. According to paragraph 1 of resolution 808 (1993), the international tribunal shall prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. This body of law exists in the form of both conventional law and customary law. While there is international customary law which is not laid down in conventions, some of the major conventional humanitarian law has become part of customary international law.

34. In the view of the Secretary-General, the application of the principle nullum crimen sine lege requires that the international tribunal should apply rules of international humanitarian law which are beyond any doubt part of customary law so that the problem of adherence of some but not all States to specific conventions does not arise. This would appear to be particularly important in the context of an international tribunal prosecuting persons responsible for serious violations of international humanitarian law.

35. The part of conventional international humanitarian law which has beyond doubt become part of international customary law is the law applicable in armed conflict as embodied in: the Geneva Conventions of 12 August 1949 for the Protection of War Victims; 3/ the Hague Convention (IV) Respecting the Laws and Customs of War on Land and the Regulations annexed thereto of 18 October 1907; 4/ the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948; 5/ and the Charter of the International Military Tribunal of 8 August 1945. 6/

36. Suggestions have been made that the international tribunal should apply domestic law in so far as it incorporates customary international humanitarian

/...

law. While international humanitarian law as outlined above provides a sufficient basis for subject-matter jurisdiction, there is one related issue which would require reference to domestic practice, namely, penalties (see para. 111 below).

#### Grave breaches of the 1949 Geneva Conventions

37. The Geneva Conventions constitute rules of international humanitarian law and provide the core of the customary law applicable in international armed conflicts. These Conventions regulate the conduct of war from the humanitarian perspective by protecting certain categories of persons: namely, wounded and sick members of armed forces in the field; wounded, sick and shipwrecked members of armed forces at sea; prisoners of war, and civilians in time of war.

38. Each Convention contains a provision listing the particularly serious violations that qualify as "grave breaches" or war crimes. Persons committing or ordering grave breaches are subject to trial and punishment. The lists of grave breaches contained in the Geneva Conventions are reproduced in the article which follows.

39. The Security Council has reaffirmed on several occasions that persons who commit or order the commission of grave breaches of the 1949 Geneva Conventions in the territory of the former Yugoslavia are individually responsible for such breaches as serious violations of international humanitarian law.

40. The corresponding article of the statute would read:

#### Article 2

##### Grave breaches of the Geneva Conventions of 1949

The International Tribunal shall have the power to prosecute persons committing or ordering to be committed grave breaches of the Geneva Conventions of 12 August 1949, namely the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (a) wilful killing;
- (b) torture or inhuman treatment, including biological experiments;
- (c) wilfully causing great suffering or serious injury to body or health;
- (d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (e) compelling a prisoner of war or a civilian to serve in the forces of a hostile power;
- (f) wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial;

/...

(g) unlawful deportation or transfer or unlawful confinement of a civilian;

(h) taking civilians as hostages.

Violations of the laws or customs of war

41. The 1907 Hague Convention (IV) Respecting the Laws and Customs of War on Land and the Regulations annexed thereto comprise a second important area of conventional humanitarian international law which has become part of the body of international customary law.

42. The Nürnberg Tribunal recognized that many of the provisions contained in the Hague Regulations, although innovative at the time of their adoption were, by 1939, recognized by all civilized nations and were regarded as being declaratory of the laws and customs of war. The Nürnberg Tribunal also recognized that war crimes defined in article 6(b) of the Nürnberg Charter were already recognized as war crimes under international law, and covered in the Hague Regulations, for which guilty individuals were punishable.

43. The Hague Regulations cover aspects of international humanitarian law which are also covered by the 1949 Geneva Conventions. However, the Hague Regulations also recognize that the right of belligerents to conduct warfare is not unlimited and that resort to certain methods of waging war is prohibited under the rules of land warfare.

44. These rules of customary law, as interpreted and applied by the Nürnberg Tribunal, provide the basis for the corresponding article of the statute which would read as follows:

Article 3

Violations of the laws or customs of war

The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include, but not be limited to:

(a) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;

(b) wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(c) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings;

(d) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;

(e) plunder of public or private property.

/...

Genocide

45. The 1948 Convention on the Prevention and Punishment of the Crime of Genocide confirms that genocide, whether committed in time of peace or in time of war, is a crime under international law for which individuals shall be tried and punished. The Convention is today considered part of international customary law as evidenced by the International Court of Justice in its Advisory Opinion on Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, 1951. 7/

46. The relevant provisions of the Genocide Convention are reproduced in the corresponding article of the statute, which would read as follows:

Article 4

Genocide

1. The International Tribunal shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the other acts enumerated in paragraph 3 of this article.

2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group.

3. The following acts shall be punishable:

- (a) genocide;
- (b) conspiracy to commit genocide;
- (c) direct and public incitement to commit genocide;
- (d) attempt to commit genocide;
- (e) complicity in genocide.

/...

Crimes against humanity

47. Crimes against humanity were first recognized in the Charter and Judgement of the Nürnberg Tribunal, as well as in Law No. 10 of the Control Council for Germany. 8/ Crimes against humanity are aimed at any civilian population and are prohibited regardless of whether they are committed in an armed conflict, international or internal in character. 9/

48. Crimes against humanity refer to inhumane acts of a very serious nature, such as wilful killing, torture or rape, committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds. In the conflict in the territory of the former Yugoslavia, such inhumane acts have taken the form of so-called "ethnic cleansing" and widespread and systematic rape and other forms of sexual assault, including enforced prostitution.

49. The corresponding article of the statute would read as follows:

Article 5

Crimes against humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation;
- (e) imprisonment;
- (f) torture;
- (g) rape;
- (h) persecutions on political, racial and religious grounds;
- (i) other inhumane acts.

/...

B. Competence ratione personae (personal jurisdiction)  
and individual criminal responsibility

50. By paragraph 1 of resolution 808 (1993), the Security Council decided that the International Tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. In the light of the complex of resolutions leading up to resolution 808 (1993) (see paras. 5-7 above), the ordinary meaning of the term "persons responsible for serious violations of international humanitarian law" would be natural persons to the exclusion of juridical persons.

51. The question arises, however, whether a juridical person, such as an association or organization, may be considered criminal as such and thus its members, for that reason alone, be made subject to the jurisdiction of the International Tribunal. The Secretary-General believes that this concept should not be retained in regard to the International Tribunal. The criminal acts set out in this statute are carried out by natural persons; such persons would be subject to the jurisdiction of the International Tribunal irrespective of membership in groups.

52. The corresponding article of the statute would read:

Article 6

Personal jurisdiction

The International Tribunal shall have jurisdiction over natural persons pursuant to the provisions of the present Statute.

Individual criminal responsibility

53. An important element in relation to the competence ratione personae (personal jurisdiction) of the International Tribunal is the principle of individual criminal responsibility. As noted above, the Security Council has reaffirmed in a number of resolutions that persons committing serious violations of international humanitarian law in the former Yugoslavia are individually responsible for such violations.

54. The Secretary-General believes that all persons who participate in the planning, preparation or execution of serious violations of international humanitarian law in the former Yugoslavia contribute to the commission of the violation and are, therefore, individually responsible.

55. Virtually all of the written comments received by the Secretary-General have suggested that the statute of the International Tribunal should contain provisions with regard to the individual criminal responsibility of heads of State, government officials and persons acting in an official capacity. These suggestions draw upon the precedents following the Second World War. The Statute should, therefore, contain provisions which specify that a plea of head of State immunity or that an act was committed in the official capacity of the accused will not constitute a defence, nor will it mitigate punishment.

/...

56. A person in a position of superior authority should, therefore, be held individually responsible for giving the unlawful order to commit a crime under the present statute. But he should also be held responsible for failure to prevent a crime or to deter the unlawful behaviour of his subordinates. This imputed responsibility or criminal negligence is engaged if the person in superior authority knew or had reason to know that his subordinates were about to commit or had committed crimes and yet failed to take the necessary and reasonable steps to prevent or repress the commission of such crimes or to punish those who had committed them.

57. Acting upon an order of a Government or a superior cannot relieve the perpetrator of the crime of his criminal responsibility and should not be a defence. Obedience to superior orders may, however, be considered a mitigating factor, should the International Tribunal determine that justice so requires. For example, the International Tribunal may consider the factor of superior orders in connection with other defences such as coercion or lack of moral choice.

58. The International Tribunal itself will have to decide on various personal defences which may relieve a person of individual criminal responsibility, such as minimum age or mental incapacity, drawing upon general principles of law recognized by all nations.

59. The corresponding article of the statute would read:

#### Article 7

##### Individual criminal responsibility

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime.

2. The official position of any accused person, whether as Head of State or Government or as a responsible Government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

3. The fact that any of the acts referred to in articles 2 to 5 of the present Statute was committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him of criminal responsibility, but may be considered in mitigation of punishment if the International Tribunal determines that justice so requires.

/...



C. Competence ratione loci (territorial jurisdiction) and  
ratione temporis (temporal jurisdiction)

60. Pursuant to paragraph 1 of resolution 808 (1993), the territorial and temporal jurisdiction of the International Tribunal extends to serious violations of international humanitarian law to the extent that they have been "committed in the territory of the former Yugoslavia since 1991".

61. As far as the territorial jurisdiction of the International Tribunal is concerned, the territory of the former Yugoslavia means the territory of the former Socialist Federal Republic of Yugoslavia, including its land surface, airspace and territorial waters.

62. With regard to temporal jurisdiction, Security Council resolution 808 (1993) extends the jurisdiction of the International Tribunal to violations committed "since 1991". The Secretary-General understands this to mean anytime on or after 1 January 1991. This is a neutral date which is not tied to any specific event and is clearly intended to convey the notion that no judgement as to the international or internal character of the conflict is being exercised.

63. The corresponding article of the statute would read:

Article 8

Territorial and temporal jurisdiction

The territorial jurisdiction of the International Tribunal shall extend to the territory of the former Socialist Federal Republic of Yugoslavia, including its land surface, airspace and territorial waters. The temporal jurisdiction of the International Tribunal shall extend to a period beginning on 1 January 1991.

D. Concurrent jurisdiction and the principle of  
non-bis-in-idem

64. In establishing an international tribunal for the prosecution of persons responsible for serious violations committed in the territory of the former Yugoslavia since 1991, it was not the intention of the Security Council to preclude or prevent the exercise of jurisdiction by national courts with respect to such acts. Indeed national courts should be encouraged to exercise their jurisdiction in accordance with their relevant national laws and procedures.

65. It follows therefore that there is concurrent jurisdiction of the International Tribunal and national courts. This concurrent jurisdiction, however, should be subject to the primacy of the International Tribunal. At any stage of the procedure, the International Tribunal may formally request the national courts to defer to the competence of the International Tribunal. The details of how the primacy will be asserted shall be set out in the rules of procedure and evidence of the International Tribunal.

...  
/...  
...

66. According to the principle of non-bis-in-idem, a person shall not be tried twice for the same crime. In the present context, given the primacy of the International Tribunal, the principle of non-bis-in-idem would preclude subsequent trial before a national court. However, the principle of non-bis-in-idem should not preclude a subsequent trial before the International Tribunal in the following two circumstances:

(a) The characterization of the act by the national court did not correspond to its characterization under the statute; or

(b) Conditions of impartiality, independence or effective means of adjudication were not guaranteed in the proceedings before the national courts.

67. Should the International Tribunal decide to assume jurisdiction over a person who has already been convicted by a national court, it should take into consideration the extent to which any penalty imposed by the national court has already been served.

68. The corresponding articles of the statute would read:

#### Article 9

##### Concurrent jurisdiction

1. The International Tribunal and national courts shall have concurrent jurisdiction to prosecute persons for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991.

2. The International Tribunal shall have primacy over national courts. At any stage of the procedure, the International Tribunal may formally request national courts to defer to the competence of the International Tribunal in accordance with the present Statute and the Rules of Procedure and Evidence of the International Tribunal.

#### Article 10

##### Non-bis-in-idem

1. No person shall be tried before a national court for acts constituting serious violations of international humanitarian law under the present Statute, for which he or she has already been tried by the International Tribunal.

2. A person who has been tried by a national court for acts constituting serious violations of international humanitarian law may be subsequently tried by the International Tribunal only if:

(a) the act for which he or she was tried was characterized as an ordinary crime; or

/...

(b) the national court proceedings were not impartial or independent, were designed to shield the accused from international criminal responsibility, or the case was not diligently prosecuted.

3. In considering the penalty to be imposed on a person convicted of a crime under the present Statute, the International Tribunal shall take into account the extent to which any penalty imposed by a national court on the same person for the same act has already been served.

### III. THE ORGANIZATION OF THE INTERNATIONAL TRIBUNAL

69. The organization of the International Tribunal should reflect the functions to be performed by it. Since the International Tribunal is established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia, this presupposes an international tribunal composed of a judicial organ, a prosecutorial organ and a secretariat. It would be the function of the prosecutorial organ to investigate cases, prepare indictments and prosecute persons responsible for committing the violations referred to above. The judicial organ would hear the cases presented to its Trial Chambers, and consider appeals from the Trial Chambers in its Appeals Chamber. A secretariat or Registry would be required to service both the prosecutorial and judicial organs.

70. The International Tribunal should therefore consist of the following organs: the Chambers, comprising two Trial Chambers and one Appeals Chamber; a Prosecutor; and a Registry.

71. The corresponding article of the statute would read as follows:

#### Article 11

##### Organization of the International Tribunal

The International Tribunal shall consist of the following organs:

- (a) The Chambers, comprising two Trial Chambers and an Appeals Chamber;
- (b) The Prosecutor; and
- (c) A Registry, servicing both the Chambers and the Prosecutor.

#### A. The Chambers

##### 1. Composition of the Chambers

72. The Chambers should be composed of 11 independent judges, no 2 of whom may be nationals of the same State. Three judges would serve in each of the two Trial Chambers and five judges would serve in the Appeals Chamber.

/...

73. The corresponding article of the statute would read as follows:

Article 12

Composition of the Chambers

The Chambers shall be composed of eleven independent judges, no two of whom may be nationals of the same State, who shall serve as follows:

- (a) Three judges shall serve in each of the Trial Chambers;
- (b) Five judges shall serve in the Appeals Chamber.

2. Qualifications and election of judges

74. The judges of the International Tribunal should be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. Impartiality in this context includes impartiality with respect to the acts falling within the competence of the International Tribunal. In the overall composition of the Chambers, due account should be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

75. The judges should be elected by the General Assembly from a list submitted by the Security Council. The Secretary-General would invite nominations for judges from States Members of the United Nations as well as non-member States maintaining permanent observer missions at United Nations Headquarters. Within 60 days of the date of the invitation of the Secretary-General, each State would nominate up to two candidates meeting the qualifications mentioned in paragraph 74 above, who must not be of the same nationality. The Secretary-General would forward the nominations received to the Security Council. The Security Council would, as speedily as possible, establish from the nominations transmitted by the Secretary-General, a list of not less than 22 and not more than 33 candidates, taking due account of the adequate representation of the principal legal systems of the world. The President of the Security Council would then transmit the list to the General Assembly. From that list, the General Assembly would proceed as speedily as possible to elect the 11 judges of the International Tribunal. The candidates declared elected shall be those who have received an absolute majority of the votes of the States Members of the United Nations and of the States maintaining permanent observer missions at United Nations Headquarters. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

76. The judges shall be elected for a term of four years. The terms and conditions of service shall be those of the Judges of the International Court of Justice. They shall be eligible for re-election.

77. In the event of a vacancy occurring in the Chambers, the Secretary-General, after consultation with the Presidents of the Security Council and the General

/...

Assembly, would appoint a person meeting the qualifications of paragraph 74 above, for the remainder of the term of office concerned.

78. The corresponding article of the statute would read as follows:

Article 13

Qualifications and election of judges

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

2. The judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-two and not more than thirty-three candidates, taking due account of the adequate representation of the principal legal systems of the world;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the eleven judges of the International Tribunal. The candidates who receive an absolute majority of the votes of States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

3. In the event of a vacancy in the Chambers, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned.

/...

4. The judges shall be elected for a term of four years. The terms and conditions of service shall be those of the Judges of the International Court of justice. They shall be eligible for re-election.

### 3. Officers and members of the Chambers

79. The judges would elect a President of the International Tribunal from among their members who would be a member of the Appeals Chamber and would preside over the appellate proceedings.

80. Following consultation with the members of the Chambers, the President would assign the judges to the Appeals Chamber and to the Trial Chambers. Each judge would serve only in the chamber to which he or she was assigned.

81. The members of each Trial Chamber should elect a presiding judge who would conduct all of the proceedings before the Trial Chamber as a whole.

82. The corresponding article of the statute would read as follows:

#### Article 14

##### Officers and members of the Chambers

1. The judges of the International Tribunal shall elect a President.

2. The President of the International Tribunal shall be a member of the Appeals Chamber and shall preside over its proceedings.

3. After consultation with the judges of the International Tribunal, the President shall assign the judges to the Appeals Chamber and to the Trial Chambers. A judge shall serve only in the Chamber to which he or she was assigned.

4. The judges of each Trial Chamber shall elect a Presiding Judge, who shall conduct all of the proceedings of the Trial Chamber as a whole.

### 4. Rules of procedure and evidence

83. The judges of the International Tribunal as a whole should draft and adopt the rules of procedure and evidence of the International Tribunal governing the pre-trial phase of the proceedings, the conduct of trials and appeals, the admission of evidence, the protection of victims and witnesses and other appropriate matters.

84. The corresponding article of the statute would read as follows:

/...

Article 15

Rules of procedure and evidence

The judges of the International Tribunal shall adopt rules of procedure and evidence for the conduct of the pre-trial phase of the proceedings, trials and appeals, the admission of evidence, the protection of victims and witnesses and other appropriate matters.

B. The Prosecutor

85. Responsibility for the conduct of all investigations and prosecutions of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991 should be entrusted to an independent Prosecutor. The Prosecutor should act independently as a separate organ of the International Tribunal. He or she shall not seek or receive instructions from any Government or from any other source.

86. The Prosecutor should be appointed by the Security Council, upon nomination by the Secretary-General. He or she should possess the highest level of professional competence and have extensive experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor should be appointed for a four-year term of office and be eligible for reappointment. The terms and conditions of service of the Prosecutor shall be those of an Under-Secretary-General of the United Nations.

87. The Prosecutor would be assisted by such other staff as may be required to perform effectively and efficiently the functions entrusted to him or her. Such staff would be appointed by the Secretary-General on the recommendation of the Prosecutor. The Office of the Prosecutor should be composed of an investigation unit and a prosecution unit.

88. Staff appointed to the Office of the Prosecutor should meet rigorous criteria of professional experience and competence in their field. Persons should be sought who have had relevant experience in their own countries as investigators, prosecutors, criminal lawyers, law enforcement personnel or medical experts. Given the nature of the crimes committed and the sensitivities of victims of rape and sexual assault, due consideration should be given in the appointment of staff to the employment of qualified women.

89. The corresponding article of the statute would read as follows:

Article 16

The Prosecutor

1. The Prosecutor shall be responsible for the investigation and prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991.

/...

2. The Prosecutor shall act independently as a separate organ of the International Tribunal. He or she shall not seek or receive instructions from any Government or from any other source.

3. The Office of the Prosecutor shall be composed of a Prosecutor and such other qualified staff as may be required.

4. The Prosecutor shall be appointed by the Security Council on nomination by the Secretary-General. He or she shall be of high moral character and possess the highest level of competence and experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor shall serve for a four-year term and be eligible for reappointment. The terms and conditions of service of the Prosecutor shall be those of an Under-Secretary-General of the United Nations.

5. The staff of the Office of the Prosecutor shall be appointed by the Secretary-General on the recommendation of the Prosecutor.

#### C. The Registry

90. As indicated in paragraph 69 above, a Registry would be responsible for the servicing of the International Tribunal. The Registry would be headed by a Registrar, whose responsibilities shall include but should not be limited to the following:

- (a) Public information and external relations;
- (b) Preparation of minutes of meetings;
- (c) Conference-service facilities;
- (d) Printing and publication of all documents;
- (e) All administrative work, budgetary and personnel matters; and
- (f) Serving as the channel of communications to and from the International Tribunal.

91. The Registrar should be appointed by the Secretary-General after consultation with the President of the International Tribunal. He or she would be appointed to serve for a four-year term and be eligible for reappointment. The terms and conditions of service of the Registrar shall be those of an Assistant Secretary-General of the United Nations.

92. The corresponding article of the statute would read as follows:

/...



Article 17

The Registry

1. The Registry shall be responsible for the administration and servicing of the International Tribunal.
2. The Registry shall consist of a Registrar and such other staff as may be required.
3. The Registrar shall be appointed by the Secretary-General after consultation with the President of the International Tribunal. He or she shall serve for a four-year term and be eligible for reappointment. The terms and conditions of service of the Registrar shall be those of an Assistant Secretary-General of the United Nations.
4. The staff of the Registry shall be appointed by the Secretary-General on the recommendation of the Registrar.

IV. INVESTIGATION AND PRE-TRIAL PROCEEDINGS

93. The Prosecutor would initiate investigations ex officio, or on the basis of information obtained from any source, particularly from Governments or United Nations organs, intergovernmental and non-governmental organizations. The Prosecutor would assess the information received or obtained and decide whether there is a sufficient basis to proceed.
94. In conducting his investigations, the Prosecutor should have the power to question suspects, victims and witnesses, to collect evidence and to conduct on-site investigations. In carrying out these tasks, the Prosecutor may, as appropriate, seek the assistance of the State authorities concerned.
95. Upon the completion of the investigation, if the Prosecutor has determined that a prima facie case exists for prosecution, he would prepare an indictment containing a concise statement of the facts and the crimes with which the accused is charged under the statute. The indictment would be transmitted to a judge of a Trial Chamber, who would review it and decide whether to confirm or to dismiss the indictment.
96. If the investigation includes questioning of the suspect, then he should have the right to be assisted by counsel of his own choice, including the right to have legal assistance assigned to him without payment by him in any such case if he does not have sufficient means to pay for it. He shall also be entitled to the necessary translation into and from a language he speaks and understands.
97. Upon confirmation of the indictment, the judge would, at the request of the Prosecutor, issue such orders and warrants for the arrest, detention, surrender and transfer of persons, or any other orders as may be necessary for the conduct of the trial.
98. The corresponding articles of the statute would read as follows:

/...

Article 18

Investigation and preparation of indictment

1. The Prosecutor shall initiate investigations ex officio or on the basis of information obtained from any source, particularly from Governments, United Nations organs, intergovernmental and non-governmental organizations. The Prosecutor shall assess the information received or obtained and decide whether there is sufficient basis to proceed.

2. The Prosecutor shall have the power to question suspects, victims and witnesses, to collect evidence and to conduct on-site investigations. In carrying out these tasks the Prosecutor may, as appropriate, seek the assistance of the State authorities concerned.

3. If questioned, the suspect shall be entitled to be assisted by counsel of his own choice, including the right to have legal assistance assigned to him without payment by him in any such case if he does not have sufficient means to pay for it, as well as to necessary translation into and from a language he speaks and understands.

4. Upon a determination that a prima facie case exists, the Prosecutor shall prepare an indictment containing a concise statement of the facts and the crime or crimes with which the accused is charged under the Statute. The indictment shall be transmitted to a judge of the Trial Chamber.

Article 19

Review of the indictment

1. The judge of the Trial Chamber to whom the indictment has been transmitted shall review it. If satisfied that a prima facie case has been established by the Prosecutor, he shall confirm the indictment. If not so satisfied, the indictment shall be dismissed.

2. Upon confirmation of an indictment, the judge may, at the request of the Prosecutor, issue such orders and warrants for the arrest, detention, surrender or transfer of persons, and any other orders as may be required for the conduct of the trial.

V. TRIAL AND POST-TRIAL PROCEEDINGS

A. Commencement and conduct of trial proceedings

99. The Trial Chambers should ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence and with full respect for the rights of the accused. The Trial Chamber should also provide appropriate protection for victims and witnesses during the proceedings.

/...

100. A person against whom an indictment has been confirmed would, pursuant to an order or a warrant of the International Tribunal, be informed of the contents of the indictment and taken into custody.

101. A trial should not commence until the accused is physically present before the International Tribunal. There is a widespread perception that trials in absentia should not be provided for in the statute as this would not be consistent with article 14 of the International Covenant on Civil and Political Rights, 10/ which provides that the accused shall be entitled to be tried in his presence.

102. The person against whom an indictment has been confirmed would be transferred to the seat of the International Tribunal and brought before a Trial Chamber without undue delay and formally charged. The Trial Chamber would read the indictment, satisfy itself that the rights of the accused are respected, confirm that the accused understands the indictment, and instruct the accused to enter a plea. After the plea has been entered, the Trial Chamber would set the date for trial.

103. The hearings should be held in public unless the Trial Chamber decides otherwise in accordance with its rules of procedure and evidence.

104. After hearing the submissions of the parties and examining the witnesses and evidence presented to it, the Trial Chamber would close the hearing and retire for private deliberations.

105. The corresponding article of the statute would read:

#### Article 20

##### Commencement and conduct of trial proceedings

1. The Trial Chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence, with full respect for the rights of the accused and due regard for the protection of victims and witnesses.

2. A person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the International Tribunal, be taken into custody, immediately informed of the charges against him and transferred to the International Tribunal.

3. The Trial Chamber shall read the indictment, satisfy itself that the rights of the accused are respected, confirm that the accused understands the indictment, and instruct the accused to enter a plea. The Trial Chamber shall then set the date for trial.

4. The hearings shall be public unless the Trial Chamber decides to close the proceedings in accordance with its rules of procedure and evidence.

/...

B. Rights of the accused

106. It is axiomatic that the International Tribunal must fully respect internationally recognized standards regarding the rights of the accused at all stages of its proceedings. In the view of the Secretary-General, such internationally recognized standards are, in particular, contained in article 14 of the International Covenant on Civil and Political Rights. 10/

107. The corresponding article of the statute would read as follows:

Article 21

Rights of the accused

1. All persons shall be equal before the International Tribunal.
2. In the determination of charges against him, the accused shall be entitled to a fair and public hearing, subject to article 22 of the Statute.
3. The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.
4. In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality:
  - (a) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
  - (b) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
  - (c) to be tried without undue delay;
  - (d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
  - (e) to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (f) to have the free assistance of an interpreter if he cannot understand or speak the language used in the International Tribunal;
  - (g) not to be compelled to testify against himself or to confess guilt.

/...

C. Protection of victims and witnesses

108. In the light of the particular nature of the crimes committed in the former Yugoslavia, it will be necessary for the International Tribunal to ensure the protection of victims and witnesses. Necessary protection measures should therefore be provided in the rules of procedure and evidence for victims and witnesses, especially in cases of rape or sexual assault. Such measures should include, but should not be limited to the conduct of in camera proceedings, and the protection of the victim's identity.

109. The corresponding article of the statute would read as follows:

Article 22

Protection of victims and witnesses

The International Tribunal shall provide in its rules of procedure and evidence for the protection of victims and witnesses. Such protection measures shall include, but shall not be limited to, the conduct of in camera proceedings and the protection of the victim's identity.

D. Judgement and penalties

110. The Trial Chambers would have the power to pronounce judgements and impose sentences and penalties on persons convicted of serious violations of international humanitarian law. A judgement would be rendered by a majority of the judges of the Chamber and delivered in public. It should be written and accompanied by a reasoned opinion. Separate or dissenting opinions should be permitted.

111. The penalty to be imposed on a convicted person would be limited to imprisonment. In determining the term of imprisonment, the Trial Chambers should have recourse to the general practice of prison sentences applicable in the courts of the former Yugoslavia.

112. The International Tribunal should not be empowered to impose the death penalty.

113. In imposing sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.

114. In addition to imprisonment, property and proceeds acquired by criminal conduct should be confiscated and returned to their rightful owners. This would include the return of property wrongfully acquired by means of duress. In this connection the Secretary-General recalls that in resolution 779 (1992) of 6 October 1992, the Security Council endorsed the principle that all statements or commitments made under duress, particularly those relating to land and property, are wholly null and void.

/...

115. The corresponding articles of the statute would read as follows:

Article 23

Judgement

1. The Trial Chambers shall pronounce judgements and impose sentences and penalties on persons convicted of serious violations of international humanitarian law.

2. The judgement shall be rendered by a majority of the judges of the Trial Chamber, and shall be delivered by the Trial Chamber in public. It shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended.

Article 24

Penalties

1. The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chambers shall have recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia.

2. In imposing the sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.

3. In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners.

E. Appellate and review proceedings

116. The Secretary-General is of the view that the right of appeal should be provided for under the Statute. Such a right is a fundamental element of individual civil and political rights and has, inter alia, been incorporated in the International Covenant on Civil and Political Rights. For this reason, the Secretary-General has proposed that there should be an Appeals Chamber.

117. The right of appeal should be exercisable on two grounds: an error on a question of law invalidating the decision or, an error of fact which has occasioned a miscarriage of justice. The Prosecutor should also be entitled to initiate appeal proceedings on the same grounds.

118. The judgement of the Appeals Chamber affirming, reversing or revising the judgement of the Trial Chamber would be final. It would be delivered by the Appeals Chamber in public and be accompanied by a reasoned opinion to which separate or dissenting opinions may be appended.

/...

119. Where a new fact has come to light which was not known at the time of the proceedings before the Trial Chambers or the Appeals Chamber, and which could have been a decisive factor in reaching the decision, the convicted person or the Prosecutor should be authorized to submit to the International Tribunal an application for review of the judgement.

120. The corresponding articles of the statute would read as follows:

Article 25

Appellate proceedings

1. The Appeals Chamber shall hear appeals from persons convicted by the Trial Chambers or from the Prosecutor on the following grounds:

(a) an error on a question of law invalidating the decision; or

(b) an error of fact which has occasioned a miscarriage of justice.

2. The Appeals Chamber may affirm, reverse or revise the decisions taken by the Trial Chambers.

Article 26

Review proceedings

Where a new fact has been discovered which was not known at the time of the proceedings before the Trial Chambers or the Appeals Chamber and which could have been a decisive factor in reaching the decision, the convicted person or the Prosecutor may submit to the International Tribunal an application for review of the judgement.

F. Enforcement of sentences

121. The Secretary-General is of the view that, given the nature of the crimes in question and the international character of the tribunal, the enforcement of sentences should take place outside the territory of the former Yugoslavia. States should be encouraged to declare their readiness to carry out the enforcement of prison sentences in accordance with their domestic laws and procedures, under the supervision of the International Tribunal.

122. The Security Council would make appropriate arrangements to obtain from States an indication of their willingness to accept convicted persons. This information would be communicated to the Registrar, who would prepare a list of States in which the enforcement of sentences would be carried out.

123. The accused would be eligible for pardon or commutation of sentence in accordance with the laws of the State in which sentence is served. In such an event, the State concerned would notify the International Tribunal, which would

/...

decide the matter in accordance with the interests of justice and the general principles of law.

124. The corresponding article of the statute would read as follows:

Article 27

Enforcement of sentences

Imprisonment shall be served in a State designated by the International Tribunal from a list of States which have indicated to the Security Council their willingness to accept convicted persons. Such imprisonment shall be in accordance with the applicable law of the State concerned, subject to the supervision of the International Tribunal.

Article 28

Pardon or commutation of sentences

If, pursuant to the applicable law of the State in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the International Tribunal accordingly. The President of the International Tribunal, in consultation with the judges, shall decide the matter on the basis of the interests of justice and the general principles of law.

VI. COOPERATION AND JUDICIAL ASSISTANCE

125. As pointed out in paragraph 23 above, the establishment of the International Tribunal on the basis of a Chapter VII decision creates a binding obligation on all States to take whatever steps are required to implement the decision. In practical terms, this means that all States would be under an obligation to cooperate with the International Tribunal and to assist it in all stages of the proceedings to ensure compliance with requests for assistance in the gathering of evidence, hearing of witnesses, suspects and experts, identification and location of persons and the service of documents. Effect shall also be given to orders issued by the Trial Chambers, such as warrants of arrest, search warrants, warrants for surrender or transfer of persons, and any other orders necessary for the conduct of the trial.

126. In this connection, an order by a Trial Chamber for the surrender or transfer of persons to the custody of the International Tribunal shall be considered to be the application of an enforcement measure under Chapter VII of the Charter of the United Nations.

127. The corresponding article of the statute would read as follows:

/...



Article 29

Cooperation and judicial assistance

1. States shall cooperate with the International Tribunal in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law.

2. States shall comply without undue delay with any request for assistance or an order issued by a Trial Chamber, including, but not limited to:

- (a) the identification and location of persons;
- (b) the taking of testimony and the production of evidence;
- (c) the service of documents;
- (d) the arrest or detention of persons;
- (e) the surrender or the transfer of the accused to the International Tribunal.

VII. GENERAL PROVISIONS

A. The status, privileges and immunities of the International Tribunal

128. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946 would apply to the International Tribunal, the judges, the Prosecutor and his staff, and the Registrar and his staff. The judges, the Prosecutor, and the Registrar would be granted the privileges and immunities, exemptions and facilities accorded to diplomatic envoys in accordance with international law. The staff of the Prosecutor and the Registrar would enjoy the privileges and immunities of officials of the United Nations within the meaning of articles V and VII of the Convention.

129. Other persons, including the accused, required at the seat of the International Tribunal would be accorded such treatment as is necessary for the proper functioning of the International Tribunal.

130. The corresponding article of the statute would read:

Article 30

The status, privileges and immunities of the International Tribunal

1. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946 shall apply to the International Tribunal, the judges, the Prosecutor and his staff, and the Registrar and his staff.

/...

2. The judges, the Prosecutor and the Registrar shall enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

3. The staff of the Prosecutor and of the Registrar shall enjoy the privileges and immunities accorded to officials of the United Nations under articles V and VII of the Convention referred to in paragraph 1 of this article.

4. Other persons, including the accused, required at the seat of the International Tribunal shall be accorded such treatment as is necessary for the proper functioning of the International Tribunal.

#### B. Seat of the International Tribunal

131. While it will be for the Security Council to determine the location of the seat of the International Tribunal, in the view of the Secretary-General, there are a number of elementary considerations of justice and fairness, as well as administrative efficiency and economy which should be taken into account. As a matter of justice and fairness, it would not be appropriate for the International Tribunal to have its seat in the territory of the former Yugoslavia or in any State neighbouring upon the former Yugoslavia. For reasons of administrative efficiency and economy, it would be desirable to establish the seat of the International Tribunal at a European location in which the United Nations already has an important presence. The two locations which fulfil these requirements are Geneva and The Hague. Provided that the necessary arrangements can be made with the host country, the Secretary-General believes that the seat of the International Tribunal should be at The Hague.

132. The corresponding article of the statute would read:

#### Article 31

##### Seat of the International Tribunal

The International Tribunal shall have its seat at The Hague.

#### C. Financial arrangements

133. The expenses of the International Tribunal should be borne by the regular budget of the United Nations in accordance with Article 17 of the Charter of the United Nations.

134. The corresponding article of the statute would read:

/...

Article 32

Expenses of the International Tribunal

The expenses of the International Tribunal shall be borne by the regular budget of the United Nations in accordance with Article 17 of the Charter of the United Nations.

D. Working languages

135. The working languages of the Tribunal should be English and French.

136. The corresponding article of the statute would read as follows:

Article 33

Working languages

The working languages of the International Tribunal shall be English and French.

E. Annual report

137. The International Tribunal should submit an annual report on its activities to the Security Council and the General Assembly.

138. The corresponding article of the statute would read:

Article 34

Annual report

The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

/...

Notes

1/ On 19 April 1993, the Secretary-General addressed a letter to the President of the Security Council informing him that the report would be made available to the Security Council no later than 6 May 1993.

2/ The 1953 Committee on International Criminal Jurisdiction was established by General Assembly resolution 687 (VII) of 5 December 1952.

3/ Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949, Convention relative to the Treatment of Prisoners of War of 12 August 1949, Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (United Nations, Treaty Series, vol. 75, No. 970-973).

4/ Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915), p. 100.

5/ United Nations, Treaty Series, vol. 78, No. 1021.

6/ The Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, signed at London on 8 August 1945 (United Nations, Treaty Series, vol. 82, No. 251); see also Judgement of the International Military Tribunal for the Prosecution and Punishment of the Major War Criminals of the European Axis (United States Government Printing Office, Nazi Conspiracy and Aggression, Opinion and Judgement) and General Assembly resolution 95 (I) of 11 December 1946 on the Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal.

7/ Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide: Advisory Opinion of 28 May 1951, International Court of Justice Reports, 1951, p. 23.

8/ Official Gazette of the Control Council for Germany, No. 3, p. 22, Military Government Gazette, Germany, British Zone of Control, No. 5, p. 46, Journal Officiel du Commandement en Chef Français en Allemagne, No. 12 of 11 January 1946.

9/ In this context, it is to be noted that the International Court of Justice has recognized that the prohibitions contained in common article 3 of the 1949 Geneva Conventions are based on "elementary considerations of humanity" and cannot be breached in an armed conflict, regardless of whether it is international or internal in character. Case concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Judgement of 27 June 1986: I.C.J. Reports 1986, p. 114.

10/ United Nations, Treaty Series, vol. 999, No. 14668, p. 171 and vol. 1057, p. 407 (proces-verbal of rectification of authentic Spanish text).

/...

Annex

Statute of the International Tribunal

Having been established by the Security Council acting under Chapter VII of the Charter of the United Nations, 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 (hereinafter referred to as "the International Tribunal") shall function in accordance with the provisions of the present Statute.

Article 1

Competence of the International Tribunal

The International Tribunal shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 in accordance with the provisions of the present Statute.

Article 2

Grave breaches of the Geneva Conventions of 1949

The International Tribunal shall have the power to prosecute persons committing or ordering to be committed grave breaches of the Geneva Conventions of 12 August 1949, namely the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (a) wilful killing;
- (b) torture or inhuman treatment, including biological experiments;
- (c) wilfully causing great suffering or serious injury to body or health;
- (d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (e) compelling a prisoner of war or a civilian to serve in the forces of a hostile power;
- (f) wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial;
- (g) unlawful deportation or transfer or unlawful confinement of a civilian;
- (h) taking civilians as hostages.

/...

### Article 3

#### Violations of the laws or customs of war

The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include, but not be limited to:

- (a) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;
- (b) wanton destruction of cities, towns or villages, or devastation not justified by military necessity;
- (c) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings;
- (d) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;
- (e) plunder of public or private property.

### Article 4

#### Genocide

1. The International Tribunal shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the other acts enumerated in paragraph 3 of this article.

2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group.

3. The following acts shall be punishable:

- (a) genocide;
- (b) conspiracy to commit genocide;

/...

- (c) direct and public incitement to commit genocide;
- (d) attempt to commit genocide;
- (e) complicity in genocide.

#### Article 5

##### Crimes against humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation;
- (e) imprisonment;
- (f) torture;
- (g) rape;
- (h) persecutions on political, racial and religious grounds;
- (i) other inhumane acts.

#### Article 6

##### Personal jurisdiction

The International Tribunal shall have jurisdiction over natural persons pursuant to the provisions of the present Statute.

#### Article 7

##### Individual criminal responsibility

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime.

/...

2. The official position of any accused person, whether as Head of State or Government or as a responsible Government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

3. The fact that any of the acts referred to in articles 2 to 5 of the present Statute was committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him of criminal responsibility, but may be considered in mitigation of punishment if the International Tribunal determines that justice so requires.

#### Article 8

##### Territorial and temporal jurisdiction

The territorial jurisdiction of the International Tribunal shall extend to the territory of the former Socialist Federal Republic of Yugoslavia, including its land surface, airspace and territorial waters. The temporal jurisdiction of the International Tribunal shall extend to a period beginning on 1 January 1991.

#### Article 9

##### Concurrent jurisdiction

1. The International Tribunal and national courts shall have concurrent jurisdiction to prosecute persons for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991.

2. The International Tribunal shall have primacy over national courts. At any stage of the procedure, the International Tribunal may formally request national courts to defer to the competence of the International Tribunal in accordance with the present Statute and the Rules of Procedure and Evidence of the International Tribunal.

#### Article 10

##### Non-bis-in-idem

1. No person shall be tried before a national court for acts constituting serious violations of international humanitarian law under the present Statute, for which he or she has already been tried by the International Tribunal.

/...



2. A person who has been tried by a national court for acts constituting serious violations of international humanitarian law may be subsequently tried by the International Tribunal only if:

(a) the act for which he or she was tried was characterized as an ordinary crime; or

(b) the national court proceedings were not impartial or independent, were designed to shield the accused from international criminal responsibility, or the case was not diligently prosecuted.

3. In considering the penalty to be imposed on a person convicted of a crime under the present Statute, the International Tribunal shall take into account the extent to which any penalty imposed by a national court on the same person for the same act has already been served.

#### Article 11

##### Organization of the International Tribunal

The International Tribunal shall consist of the following organs:

(a) The Chambers, comprising two Trial Chambers and an Appeals Chamber;

(b) The Prosecutor, and

(c) A Registry, servicing both the Chambers and the Prosecutor.

#### Article 12

##### Composition of the Chambers

The Chambers shall be composed of eleven independent judges, no two of whom may be nationals of the same State, who shall serve as follows:

(a) Three judges shall serve in each of the Trial Chambers;

(b) Five judges shall serve in the Appeals Chamber.

#### Article 13

##### Qualifications and election of judges

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

/...

2. The judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-two and not more than thirty-three candidates, taking due account of the adequate representation of the principal legal systems of the world;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the eleven judges of the International Tribunal. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-Member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

3. In the event of a vacancy in the Chambers, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned.

4. The judges shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Court of Justice. They shall be eligible for re-election.

#### Article 14

##### Officers and members of the Chambers

1. The judges of the International Tribunal shall elect a President.

2. The President of the International Tribunal shall be a member of the Appeals Chamber and shall preside over its proceedings.

3. After consultation with the judges of the International Tribunal, the President shall assign the judges to the Appeals Chamber and to the Trial Chambers. A judge shall serve only in the Chamber to which he or she was assigned.

4. The judges of each Trial Chamber shall elect a Presiding Judge, who shall conduct all of the proceedings of the Trial Chamber as a whole.

/...

## Article 15

### Rules of procedure and evidence

The judges of the International Tribunal shall adopt rules of procedure and evidence for the conduct of the pre-trial phase of the proceedings, trials and appeals, the admission of evidence, the protection of victims and witnesses and other appropriate matters.

## Article 16

### The Prosecutor

1. The Prosecutor shall be responsible for the investigation and prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991.

2. The Prosecutor shall act independently as a separate organ of the International Tribunal. He or she shall not seek or receive instructions from any Government or from any other source.

3. The Office of the Prosecutor shall be composed of a Prosecutor and such other qualified staff as may be required.

4. The Prosecutor shall be appointed by the Security Council on nomination by the Secretary-General. He or she shall be of high moral character and possess the highest level of competence and experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor shall serve for a four-year term and be eligible for reappointment. The terms and conditions of service of the Prosecutor shall be those of an Under-Secretary-General of the United Nations.

5. The staff of the Office of the Prosecutor shall be appointed by the Secretary-General on the recommendation of the Prosecutor.

## Article 17

### The Registry

1. The Registry shall be responsible for the administration and servicing of the International Tribunal.

2. The Registry shall consist of a Registrar and such other staff as may be required.

3. The Registrar shall be appointed by the Secretary-General after consultation with the President of the International Tribunal. He or she shall serve for a four-year term and be eligible for reappointment. The terms and conditions of service of the Registrar shall be those of an Assistant Secretary-General of the United Nations.

/...

4. The staff of the Registry shall be appointed by the Secretary-General on the recommendation of the Registrar.

#### Article 18

##### Investigation and preparation of indictment

1. The Prosecutor shall initiate investigations ex-officio or on the basis of information obtained from any source, particularly from Governments, United Nations organs, intergovernmental and non-governmental organizations. The Prosecutor shall assess the information received or obtained and decide whether there is sufficient basis to proceed.

2. The Prosecutor shall have the power to question suspects, victims and witnesses, to collect evidence and to conduct on-site investigations. In carrying out these tasks, the Prosecutor may, as appropriate, seek the assistance of the State authorities concerned.

3. If questioned, the suspect shall be entitled to be assisted by counsel of his own choice, including the right to have legal assistance assigned to him without payment by him in any such case if he does not have sufficient means to pay for it, as well as to necessary translation into and from a language he speaks and understands.

4. Upon a determination that a prima facie case exists, the Prosecutor shall prepare an indictment containing a concise statement of the facts and the crime or crimes with which the accused is charged under the Statute. The indictment shall be transmitted to a judge of the Trial Chamber.

#### Article 19

##### Review of the indictment

1. The judge of the Trial Chamber to whom the indictment has been transmitted shall review it. If satisfied that a prima facie case has been established by the Prosecutor, he shall confirm the indictment. If not so satisfied, the indictment shall be dismissed.

2. Upon confirmation of an indictment, the judge may, at the request of the Prosecutor, issue such orders and warrants for the arrest, detention, surrender or transfer of persons, and any other orders as may be required for the conduct of the trial.

/...

Article 20

Commencement and conduct of trial proceedings

1. The Trial Chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence, with full respect for the rights of the accused and due regard for the protection of victims and witnesses.

2. A person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the International Tribunal, be taken into custody, immediately informed of the charges against him and transferred to the International Tribunal.

3. The Trial Chamber shall read the indictment, satisfy itself that the rights of the accused are respected, confirm that the accused understands the indictment, and instruct the accused to enter a plea. The Trial Chamber shall then set the date for trial.

4. The hearings shall be public unless the Trial Chamber decides to close the proceedings in accordance with its rules of procedure and evidence.

Article 21

Rights of the accused

1. All persons shall be equal before the International Tribunal.

2. In the determination of charges against him, the accused shall be entitled to a fair and public hearing, subject to article 22 of the Statute.

3. The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.

4. In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality:

(a) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) to be tried without undue delay;

(d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

/...

(e) to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) to have the free assistance of an interpreter if he cannot understand or speak the language used in the International Tribunal;

(g) not to be compelled to testify against himself or to confess guilt.

#### Article 22

##### Protection of victims and witnesses

The International Tribunal shall provide in its rules of procedure and evidence for the protection of victims and witnesses. Such protection measures shall include, but shall not be limited to, the conduct of in camera proceedings and the protection of the victim's identity.

#### Article 23

##### Judgement

1. The Trial Chambers shall pronounce judgements and impose sentences and penalties on persons convicted of serious violations of international humanitarian law.

2. The judgement shall be rendered by a majority of the judges of the Trial Chamber, and shall be delivered by the Trial Chamber in public. It shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended.

#### Article 24

##### Penalties

1. The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chambers shall have recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia.

2. In imposing the sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.

3. In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners.

/...

Article 25

Appellate proceedings

1. The Appeals Chamber shall hear appeals from persons convicted by the Trial Chambers or from the Prosecutor on the following grounds:

- (a) an error on a question of law invalidating the decision; or
- (b) an error of fact which has occasioned a miscarriage of justice.

2. The Appeals Chamber may affirm, reverse or revise the decisions taken by the Trial Chambers.

Article 26

Review proceedings

Where a new fact has been discovered which was not known at the time of the proceedings before the Trial Chambers or the Appeals Chamber and which could have been a decisive factor in reaching the decision, the convicted person or the Prosecutor may submit to the International Tribunal an application for review of the judgement.

Article 27

Enforcement of sentences

Imprisonment shall be served in a State designated by the International Tribunal from a list of States which have indicated to the Security Council their willingness to accept convicted persons. Such imprisonment shall be in accordance with the applicable law of the State concerned, subject to the supervision of the International Tribunal.

Article 28

Pardon or commutation of sentences

If, pursuant to the applicable law of the State in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the International Tribunal accordingly. The President of the International Tribunal, in consultation with the judges, shall decide the matter on the basis of the interests of justice and the general principles of law.

/...

## Article 29

### Cooperation and judicial assistance

1. States shall cooperate with the International Tribunal in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law.
2. States shall comply without undue delay with any request for assistance or an order issued by a Trial Chamber, including, but not limited to:
  - (a) the identification and location of persons;
  - (b) the taking of testimony and the production of evidence;
  - (c) the service of documents;
  - (d) the arrest or detention of persons;
  - (e) the surrender or the transfer of the accused to the International Tribunal.

## Article 30

### The status, privileges and immunities of the International Tribunal

1. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946 shall apply to the International Tribunal, the judges, the Prosecutor and his staff, and the Registrar and his staff.
2. The judges, the Prosecutor and the Registrar shall enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.
3. The staff of the Prosecutor and of the Registrar shall enjoy the privileges and immunities accorded to officials of the United Nations under articles V and VII of the Convention referred to in paragraph 1 of this article.
4. Other persons, including the accused, required at the seat of the International Tribunal shall be accorded such treatment as is necessary for the proper functioning of the International Tribunal.

## Article 31

### Seat of the International Tribunal

The International Tribunal shall have its seat at The Hague.

/...



Article 32

Expenses of the International Tribunal

The expenses of the International Tribunal shall be borne by the regular budget of the United Nations in accordance with Article 17 of the Charter of the United Nations.

Article 33

Working languages

The working languages of the International Tribunal shall be English and French.

Article 34

Annual report

The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

-----