

No. 30084

**UNITED NATIONS
and
CANADA**

**Cooperation Service Agreement (with annex). Signed at New
York on 16 June 1993**

Authentic text: English.

Registered ex officio on 16 June 1993.

**ORGANISATION DES NATIONS UNIES
et
CANADA**

**Accord de coopération en matière de services (avec annexe).
Signé à New York le 16 juin 1993**

Texte authentique : anglais.

Enregistré d'office le 16 juin 1993.

COOPERATION SERVICE AGREEMENT¹ BETWEEN THE UNITED NATIONS AND THE GOVERNMENT OF CANADA

Whereas the United Nations Security Council in its resolution 780 (1992)² has requested the Secretary-General to establish an impartial Commission of Experts (“Commission”) to examine and analyze the information submitted pursuant to its resolutions 771³ and 780 (1992) with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions⁴ and other violations of international humanitarian law committed in the territory of the former Yugoslavia;

And whereas the Commission has determined that a legal investigative team would be useful to conduct on-site investigations and the Government of Canada has expressed its willingness to make available its experts to assist the Commission in such on-site investigations as the Commission selects;

Now therefore the United Nations as represented by the Legal Counsel and the Government of Canada as represented by the Permanent Representative of Canada to the United Nations in New York (hereinafter called “the Parties”) have agreed as follows:

Article I

DURATION OF THE AGREEMENT

The Agreement shall commence on 16 June, 1993 and shall expire on 16 August, 1993. The Agreement may be renewed on the consent of both Parties, on the same conditions, for further two month terms. The Agreement shall in any event terminate upon conclusion of the work of the Commission.

Article II

OBLIGATIONS OF THE GOVERNMENT OF CANADA

1. The Government of Canada shall make available for the duration and purposes of this Agreement, the lawyers and investigators listed in the Annex hereto (the Team). Changes and modifications to the Annex may be made from time to time by agreement between the Parties.

2. The Team shall carry out such on-site investigations as the Commission may specify, and any necessary supplemental investigations thereto. The investigations shall be carried out as described in the plans of action agreed upon between the Parties. These plans of action will be agreed upon between the Parties as represented by the Chairman of the Commission for the United Nations and the Legal Advisor to External Affairs and International Trade Canada and the Judge Advocate General for Canada.

¹ Came into force on 16 June 1993, in accordance with article 1.

² United Nations, *Official Records of the Security Council, Forty-seventh Year, Resolutions and Decisions of the Security Council (S/INF/48)*, p. 36.

³ *Ibid.*, p. 25.

⁴ United Nations, *Treaty Series*, vol. 75, pp. 31, 85, 135 and 287.

3. The Team shall submit to the Commission periodical reports on its findings. It shall also provide a final report on the completion of an investigation to the Commission, containing its findings and opinions along with all evidence upon which such findings were based.

4. The Government of Canada shall be responsible for payment of all salaries to which the members of the Team are entitled. The Government of Canada shall not be responsible for any other costs associated with the participation of the Team in Commission related activities.

Article III

TERMS AND OBLIGATIONS OF THE TEAM

The Government of Canada agrees to the terms and obligations specified below, and shall accordingly ensure that the Team members performing services under this Agreement comply with these obligations:

(a) The Team shall function under the general supervision and control of the Commission;

(b) The Team shall perform its functions in full compliance with the mandate of the Commission;

(c) The Team shall not seek instructions regarding the services to be performed under this Agreement from any authority external to the United Nations;

(d) Team members shall refrain from any conduct which would adversely reflect on the United Nations, and shall not engage in any activity which is incompatible with the aims and objectives of the United Nations or the mandate of the Commission; and

(e) The Team members shall exercise their utmost discretion in all matters relating to the investigation and shall not communicate, at any time, without the authorization of the United Nations, to anyone not party to the Agreement, any information that has not been made public, and which has become known to them by reason of their association with the United Nations. They shall not use any such information without the authorization of the United Nations and in any event, such information shall not be used for individual profit. This authorization may be granted by the Chairman of the United Nations Commission of Experts. This obligation does not lapse upon termination of this Agreement with the United Nations.

Article IV

LEGAL STATUS OF MEMBERS OF THE TEAM

1. The members of the Team shall have the legal status of Experts on Mission in accordance with sections 22 and 23 of Article VI of the Convention on the Privileges and Immunities of the United Nations of 13 February, 1946.¹

2. The members of the Team shall be issued a certificate in accordance with Section 26 of Article VII of the Convention.

¹ United Nations, *Treaty Series*, vol. 1, p. 15 and vol. 90, p. 327 (corrigendum to vol. 1, p. 18).

3. The members of the Team will wear uniforms, carry United Nations identification and wear United Nations insignia.

Article V

COPYRIGHTS

The United Nations shall have the copyright in any findings contained in the reports submitted to the Commission in accordance with this Agreement, and in any working papers and other documents prepared by the members of the Team in connection with the Investigation. In no event shall the contents of such reports of documents be published or otherwise made known by the experts to anyone not a party to this agreement without the written consent of the United Nations. This consent may be given by the Chairman of the Commission of Experts.

Article VI

OBLIGATIONS OF THE UNITED NATIONS

1. The United Nations shall provide, through its Protection Force (UNPROFOR), such protection as is required by the members of the Team for the performance of their functions.

2. The United Nations shall provide suitable local transportation for the Team during the conduct of the investigation. This transportation will be clearly marked with United Nations markings.

3. The United Nations shall provide suitable communications facilities which will permit the Team members to be in contact at all times with the Commander of the Canadian Contingent of the United Nations Protection Force in the former Republics of Yugoslavia. The method of compliance will be as agreed between the Parties in the individual plans of action.

4. The United Nations shall provide any specialized or support equipment required by the Team for the performance of its functions.

5. The United Nations shall provide the Team with such qualified translators as may be necessary for the carrying out of the investigation.

6. The United Nations shall be responsible for the payment of mission subsistence allowance (MSA) directly to the Team members to the same levels as United Nations military observers in the former republics of Yugoslavia.

7. The United Nations will be responsible for the reimbursement to the Government of Canada for the arrangement and payment of all costs associated with the transportation of the Team to and from the mission area.

8. The United Nations will be responsible for all incremental costs associated with a particular mission as agreed upon in the individual plans of action.

Article VII

FINANCIAL ARRANGEMENTS

1. The Government of Canada shall not be responsible for any Commission related costs other than as outlined in Article II, paragraph 4.

2. The United Nations is responsible for expenditures for the activities identified in Article VI above.

3. The cost of any related activity which is the responsibility of the United Nations and which is borne by the Government of Canada, shall be reimbursed to it by the United Nations. The Government of Canada will submit a National Defence Invoice for recovery of all associated costs.

4. All invoices, will be forwarded to the United Nations Secretariat for payment, through the Military Advisor of the Permanent Mission of Canada to the United Nations.

Article VIII

ADDITIONAL SUPPORT

If requested, the Government of Canada may provide additional assistance to the United Nations, at a cost to the United Nations, as specifically identified in a United Nations Letter of Assist (LOA).

Article IX

CONSULTATION

The United Nations and the Government of Canada shall consult with each other in respect of any matter(s) that may from time to time arise in connection with this Agreement.

Article X

ARBITRATION

1. Any controversy or claim arising out of, or in connection with this Agreement or any breach thereof, shall, unless it is settled amicably by direct negotiations, be referred to arbitration in accordance with the UNCITRAL Arbitration Rules then in force. Such arbitration shall be conducted under the auspices of the International Chamber of Commerce which shall also serve as the Appointing Authority. The Parties shall be bound by the arbitration award rendered in accordance with such arbitration, as the final adjudication of any such controversy or claim.

2. Nothing in this Agreement shall be deemed a waiver, expressed or implied, of the privileges and immunities of the United Nations under the Convention on the Privileges and Immunities of the United Nations of 13 February, 1946.

Article XI

AMENDMENT

This Agreement may be modified or amended by written agreement between the Parties. Each Party shall give full and sympathetic consideration to any proposal for an amendment made by the other Party.

IN WITNESS WHEREOF, the Parties hereto, having read and accepted this Agreement, have executed it on 16 June, 1993.

For the United Nations:

[Signed]

Mr. RALPH ZACKLIN
Director and Deputy to the Under-Secretary General
in charge of the Office of Legal Affairs

For the Government of Canada:

[Signed]

Mme LOUISE FRÉCHETTE
Ambassador and Permanent Representative
to the United Nations in New York

ANNEX

MEMBERS OF THE CANADIAN WAR CRIMES INVESTIGATION TEAM

Team Leader:

Lieutenant Colonel K. S. Carter

Team Deputy Leader:

Major B. Herfst

Team Members:

Major L. Boutin

Warrant Officer Murray Ford

Sergeant Lemieux

PO2 J. Ross

Master Corporal

Alternate Member:

Major Van Veen
