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TRIBUNAL  
DE GRANDE INSTANCE  
DE PARIS

ISSUANCE OF INTERNATIONAL ARREST WARRANTS

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CHAMBERS  
de Jean-Louis BRUGUIERE  
First Vice-President

Parquet: 97.295.2303-0  
Cabinet: 1341

ORDONNANCE DE SOIT-COMMUNIQUE  
[Order to Execute]

We, Jean-Louis BRUGUIERE, First Vice-President of the *Tribunal de Grande Instance de Paris*,

Having regard to Articles 131 and 145 of the *Code de Procédure Pénale* [Code of Criminal Procedure],

WHEREAS:

On 6 April 1994, at 8:25pm, the Falcon 50 of the President of the Republic of Rwanda registration "9XR-NN", while returning from a summit meeting held in DAR-ES-SALAAM (Tanzania) and approaching the Kanombe international airport in KIGALI (Rwanda), was shot down by two surface-to-air missiles;

All the passengers:

- Juvénal HABYARIMANA, Head of State of Rwanda,
- Cyprien NTARYAMIRA, Head of State of Burundi,
- Déogratias NSABIMANA, Chief of Staff of the *Forces Armées Rwandaises* (F.A.R.),
- Elie SAGATWA, Colonel and head of the military cabinet for the Rwandan Presidential office,
- Thaddée BAGARAGAZA, Major and officer supervisor of the secretariat of the Rwandan Presidential office,
- Juvénal RENZAHO, Foreign affairs advisor to the Rwandan President,
- Emmanuel AKINGENEYE, personal physician to the President of Rwanda,
- Bernard CIZA, Minister of Planning of Burundi,
- Cyriaque SIMBIZI, Communications Minister of Burundi,

and the members of the French crew:

- Jacky HERAUD, pilot,
- Jean-Pierre MINABERRY, co-pilot,
- Jean-Marc PERRINE, flight engineer

perished when the aircraft exploded;

Most of the aircraft debris fell right onto the residential property of President HABYARIMANA where members of his family resided;

JUDICIAL RECORDS/ARCHIVES  
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The attack was rapidly brought to the attention of the Rwandan authorities, and particularly the Presidential Guard, as confirmed by General BAGOSORA, immediately triggering a violent reaction by Hutu extremists, which directly led to the genocide of the Tutsi minority;

The destruction of the presidential aircraft triggered an insurrection, and a climate of extreme confusion, giving rise to numerous rumours concerning the origin of the attack;

For example, on the morning of 7 April, an initial rumour originating in Rwanda accused Belgian soldiers who were members of the United Nations Mission in Rwanda (UNAMIR) as having orchestrated the attack, a rumour which was rapidly refuted by the international press who designated Hutu extremists as being behind the attacks;

In support of this latter theory, it was argued that the President of the Republic, Juvénal HABYARIMANA, had given in to demands of the "*Front Patriotique Rwandais*" (F.P.R.) by announcing at the 6 April 1994 summit that upon his return to KIGALI, he would implement the transitional institutions provided for under the ARUSHA agreements of 4 August 1993;

Notwithstanding the gravity of the situation, which demanded a response equal to the gravity of events, both international institutions and the new F.P.R. led Rwandan Government demonstrated a surprising lack of resolution. President KAGAME even went so far as to formally oppose any investigation into the attack on the presidential aircraft;

However, by 7 April, the Chairman of the United Nations Security Council invited the United Nations Secretary General to gather all useful information concerning the attack by any means available to him and to promptly forward a report to the Council;

On 12 April, the Belgian Council of Ministers asked the International Civil Aviation Organisation (I.A.C.O.) to carry out an investigation;

On 21 April 1994, due to its ongoing grave concerns in relation to the situation in Rwanda, the United Nations Security Council once again invited the Secretary General to report any relevant information concerning the attack;

On 2 May 1994, at the written request of Mr Jean KAMBANDA, Prime Minister of the interim government in Rwanda, addressed to Mr Roger BOOH BOOH, special representative of the Secretary General of the United Nations in Rwanda, General Roméo DALLAIRE, Commander in Chief of military personnel of the Unamir, confirmed in writing to the Prime Minister his availability to create an international commission of inquiry;

On 17 May 1994, the Security Council adopted a new resolution which reiterated its earlier demands to the Secretary General;

In June 1994, members of the "Organisation of African Unity" (O.A.U.) meeting in TUNIS, called for the creation of an impartial commission of inquiry;

A report dated 28 June 1994, authored by Mr René DEGNI SEGUI, special envoy to Rwanda, on behalf of the United Nations Human Rights Commission, disclosed that the attack perpetrated against the presidential aircraft was the cause of events which subsequently

occurred in Rwanda, but that having sought the creation of a commission of inquiry, he was informed that the United Nations had no available budget for this;

Furthermore, in a report dated 3 December 1994 delivered to the United Nations Secretary General, a commission of experts recommended the creation of an international tribunal and recalled the adoption by the sub-committee *"on the necessity of investigating, inter alia, the events which led to the current situation, in particular the attack against the aircraft transporting the Presidents of Burundi and Rwanda"*;

This new initiative had no more impact than earlier ones;

On 21 December 1997, the central body of the O.A.U., meeting at ADDIS ABABA, decided to create an *"international group comprised of public figures who were sufficiently objective and who are perfectly familiar with the region"* to carry out an investigation into the genocide in Rwanda, including the death of President HABYARIMANA. In its final report, filed on 29 April 2002, the O.A.U. recommended that *"the international commission of jurists open an independent inquiry to determine who was responsible for the attack"*;

France, contrary to the Rwandan authorities, had also approached the United Nations, seeking the creation of an international inquiry. This was reported by Mr Bruno DELAYE, heard on 19 May 1998 by the *Commission de la Défense Nationale et des Forces Armées françaises* and the *Commission des Affaires Etrangères* of the *Assemblée Nationale* who on 3 March 1998 created *"the fact-finding mission on military operations led in Rwanda by France and other countries of the United Nations between 1990 and 1994"*;

On 18 March 1994, Mr Kofi ANNAN, Secretary General of the United Nations sought the creation of a commission of inquiry *"on actions of the United Nations Organisation during the Rwandan genocide in 1994"* and the report filed on 15 December 1999 made no reference to any failure to conduct an inquiry into the attack;

Notwithstanding these resolutions or recommendations, no international inquiry has ever been conducted to investigate this attack;

Nor, as already mentioned, did the new F.P.R.- dominated Rwandan government, created on 19 July 1994 after the military victory over the Government of President HABYARIMANA, carry out any investigation, notwithstanding several requests to do so, notably coming from Mr Faustin TWAGIRAMUNGU, Prime Minister of Rwanda, Alphonse Marie NKUBITO, Minister of Justice, Sixbert MUSANGAMFURA, Head of the central intelligence service, or from the Government of Burundi, who wished to know the truth behind the assassination of President Cyprien NTARYAMIRA;

All requests were formally rejected by General Paul KAGAME, who at that time was Vice-President of the Republic and Minister of Defence;

The position taken by Paul KAGAME was corroborated notably by Simon ISONERE, Director General of the Rwandan Foreign Affairs Ministry, who reported during his testimony of 8 September 2000 that during the final mandate of his ministerial duties, he learned that a request for an international investigation had been sought by the Prime Minister and the Minister of Justice Alphonse Marie NKUBITO and that this request, presented by letter to the representative of the United Nations in Rwanda, was intercepted by Paul

KAGAME who, furious at this initiative, demanded the destruction of any trace of this correspondence;

This was also corroborated by Sixbert MUSANGAMFURA, appointed Secretary General of the Government prior to occupying cumulative duties as Supervisor of the central intelligence services and Secretary for the *Commission Nationale de Sécurité* led by General Paul KAGAME;

During his appearance on 15 April 2002 in Finland, Sixbert MUSANGAMFURA testified that, on 7 January 1995, he was summoned to the residence of Paul KAGAME in the company of Lieutenant Colonel Karake KARENZI, head of military intelligence. During this interview, it was suggested to Paul KAGAME that he create a team of investigators responsible for carrying out an investigation into the attack against the presidential aircraft with a view to providing responses to any questions raised by any foreign government or the international press. That suggestion was violently rejected by KAGAME. Subsequently, Karake KARENZI advised him to no longer concern himself with this matter unless he wanted to create problems for himself;

One is left with the conclusion that, notwithstanding the fact that "*the attack of the aircraft constitutes the gordian knot of this matter*", to adopt the expression of Mr René DEGNI SEGUI, Ivory Coast jurist, special rapporteur of the United Nations Human Rights Commission, Paul KAGAME has steadfastly and consistently opposed any measure which might shed light on this attack;

In a parallel development, a double parliamentary commission was created in Belgium: on 24 July 1996 following the assassination of ten of its soldiers in Rwanda, the Foreign Affairs Commission of the *Assemblée Nationale* created an "*ad hoc* group" responsible for determining what intelligence the Belgian military and civil authorities had available on Rwanda during the period between the Arusha Agreements (4 August 1993) and the triggering of the genocide (April 1994). On 28 February 1997, the Belgian Senate created the "Rwandan Special Commission" which was designated to continue the work of the "*ad hoc* group";

On 3 March 1998, the *Commission de la Défense Nationale et des Forces Armées Françaises* [National Defence and French Armed Forces Commission] and the *Commission des Affaires étrangères* [Foreign Affairs Commission] created in France the "*Mission d'information sur les opérations militaires menées au Rwanda par la France, d'autres pays et l'O.N.U. entre 1990 et 1994*" [Fact-finding mission on military operations carried out in Rwanda by France, other countries and the UN between 1990 and 1994];

It is finally noteworthy that the International Criminal Court for Rwanda, which was created on 8 November 1994 by resolution 955 of the United Nations Security Council to determine the facts underlying the genocide and crimes against humanity committed in Rwanda between 1 January and 31 December 1994, refrained from carrying out any investigations into the 6 April 1994 attack;

Against this backdrop of inaction and occasional obstruction of any initiatives intended to create a commission of inquiry to investigate the attack of 6 April 1994, on 31 August 1997 Madame Sylvie Marie, Simone MINABERRY, daughter of Mr Jean-Pierre MINABERRY, pilot of the Rwandan Presidential Falcon 50 aircraft, filed a complaint with the *Doyen* (Chief

Justice) of the *Juges d'instruction de Paris* with constitution of a civil party against X, alleging counts of terrorist acts causing the death of one or more persons and criminal conspiracy to commit those crimes;

On 27 March 1998, the aforementioned judicial indictment was opened under the count of assassination in relation with a terrorist enterprise, covering events provided for and constituting offences by Articles 221-3, 421-1-1, 421-3 of the *Code Pénal* and 706-16 *et seq.* of the *Code du Procédure Pénale*;

Following an order of *soit-communié* [order to execute legal process] dated 27 October 2006, a further indictment added the counts of assassination in relation with a terrorist enterprise, conspiracy to commit assassination in connection with a terrorist enterprise – being the passengers and members of the crew of the Presidential Falcon 50 aircraft of the Republic of Rwanda registration 9XRNN who perished during this attack – and criminal conspiracy for the purpose of preparing acts of terrorism was issued by the *Parquet de Paris* on 31 October 2006;

Subsequently, the following persons sued as civil parties to this indictment: Madame Annick PERRINE, widow of Mr Jean-Michel PERRINE, flight engineer on the Falcon 50 and Madame Françoise HERAUD, spouse of the captain of the aircraft and Messrs Bernard HABYARIMANA RUGWIRO, Jean-Luc HABYARIMANA, Léon Jean-Baptiste Aimable and Mesdames Marie Merci HABYARIMANA, NTILIUAMUNDA Jeanne, Marie Aimée HABYARIMANA NTILIUAMUNDA and Agathe KANZIGA, spouse HABYARIMANA;

The investigation led by the *Division Nationale Anti-Terroriste* (D.N.A.T.), since renamed the *Sous-Direction Anti-Terroriste* (S.D.A.T.), examined the geopolitical context surrounding this assassination, the circumstances which gave rise to the project, its planning and the conditions of its execution;

For purposes of this investigation, any trials heard by national bodies, political authorities, members of international organisations, international press and even rumour were meticulously reviewed and any corroborative evidence was cross-checked;

In this regard, the investigation consulted and reviewed parliamentary works carried out by the *Commission de la Défense Nationale et des Forces Armées françaises* and the *Commission des Affaires Etrangères* which created on 3 March 1998 the “*Mission d'information sur les opérations militaires menées au Rwanda par la France, d'autres pays et l'O.N.U. entre 1990 et 1994*” [Fact-finding mission on military operations carried out in Rwanda by France, other UN countries between 1990 and 1994], the findings of the two Belgian parliamentary commissions of 24 July 1996 and 28 February 1997, testimony gathered either in France or further to international rogatory commissions examining representatives of the Hutu community, but particularly of members of the F.P.R. or its armed wing, the A.P.R. some of whom were very close to President Paul KAGAME, and also reviewed material evidence;

The first indictment and evidence filed in support discloses five principal theories concerning the sponsors and perpetrators of the attack:

The first theory accuses elements of the Burundi army, with its strong Tutsi majority, hostile to President Cyprien NTARYAMIRA;

The possible involvement of the Burundi army was also investigated due to its participation in past acts of violence against Hutu public figures;

During an attempted putsch, on 22 October 1993, soldiers of this mono-ethnic army assassinated President Melchior NDADAYE, the first Hutu ethnic democratically elected on 1 June 1993;

This assassination allegedly was a reaction against a project of President NDADAYE to reform the Burundi army which exercised undue influence on political life in the country;

His successor, Cyprien NTARYAMIRA continued with the reform, as he also was of the view that the Burundi army was too influential;

Parallel to these initiatives, rumours of assassination attempts against President NTARYAMIRA had circulated in 1993, some of which were spread by Tutsi political parties;

Since President Juvénal HABYARIMANA had information that the President of Burundi, Melchior NDADAYE risked being assassinated, he sent Paul BARRIL to BUJUMBURA in October 1993 to carry out a risk assessment, during the course of which he received intelligence concerning an imminent "*coup d'état*" being prepared by Tutsi soldiers supported by Rwandan soldiers advised by Paul KAGAME, who at that time held a Burundi passport;

Furthermore, it appears that on 5 April 1994, members of the border and customs police at the Franco-Swiss airport of GENEVA-COINTRIN carried out a check at entry into France from Geneva of the Burundi citizen Athemon RWAMIGABO, Lieutenant Colonel of the Burundi air force and pilot of the presidential Falcon 50 of the Republic of Burundi. During this cross-border check, this Tutsi soldier was found to be transporting political documentation inside a briefcase which related to opposition movements and handwritten sketches which appeared to show the approach trajectory of an aircraft;

Although RWAMIGABO, a close collaborator of General Pierre BUYOYA who had seized power by overturning President Sylvestre NTIDANTUNGANYA, successor of President Cyprien NTARYAMIRA, could not be forced to testify due to his diplomatic immunity, further investigations of this documentation disclosed that they were not operational, and were more in the nature of propaganda or even instruments of political provocation for internal use;

Notwithstanding the inter-ethnic tensions also reigning in Burundi, the theory of an attack organised by the Burundi army should be dismissed;

Based on the evidence of a number of witnesses obtained during this investigation, it appears that President Cyprien NTARYAMIRA only decided to return in company of the Rwandan President in the aircraft of the latter at the very last minute prior to departure from DAR-ES-SALAAM, rendering the material organisation of an attack which would have targeted him on Rwandan soil impossible;

This unexpected boarding was also confirmed by a declassified American diplomatic telegram which was sent on 7 April 1994 to the Deputy-Secretary of State for African Affairs, Georges MOOSE, who at that

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time was on a mission to SRI-LANKA and telegrams sent to various other diplomatic American offices;

The involvement of political opponents to President Juvénal Habyarimana known as "moderate Hutus" with soldiers of the "*Forces Armées Rwandaises*" (F.A.R.) was also considered;

This theory did not hold up any better than the previous one;

It was allegedly based on a meeting held on 4 April 1994 at the home of Madame Prime Minister Agathe UWILINGIYIMANA, member of the "*Mouvement Démocratique Républicain*" (M.D.R.);

According to the proponents of this theory, during this evening meeting which brought together several civilians and low ranking officers of the F.A.R., all originating from the south of Rwanda, Agathe UWILINGIYIMANA, after observing the deadlocks in the negotiation of the Arusha Agreements, allegedly suggested it was appropriate to overturn President Habyarimana;

It appears in fact that this meeting never had the purpose attributed to it by certain quarters, but that its occurrence allowed radio "R.T.M.L.", a station associated with Hutu extremist circles, to broadcast disinformation to discredit Madame UWILINGIYIMANA, the incumbent Prime Minister by spreading a false rumour on the preparation of a *coup d'état*. Madame UWILINGIYIMANA was in fact assassinated on the day following the attack by members of the Presidential Guard while she was under the protection of Belgian soldiers of the Unamir;

This provocation relayed over "R.T.M.L." airwaves, whether intended or not, resulted in the murder of Madame UWILINGIYIMANA by "interahamwe" militia men who suspected her of being associated with the F.P.R.;

Other rumours accused "foreigners" as being behind this attack;

This generic term in fact referred to two countries, Belgium and France;

The involvement of Belgium originates in the "anti-Belgian climate" reigning at that time in Kigali, which was nourished by several factors resulting from the role played by the Belgian contingent of the Unamir;

In fact, the entry into Kigali on 28 December 1993 by the A.P.R. battalion to set up quarters at the "*Conseil National pour le Développement*" (C.N.D.) [National Development Council] under protection of the Belgian battalion of the latter, and particularly the questionable conduct of Belgian soldiers of the Unamir constitute one of the causes of this resentment. Furthermore, a mission considered suspicious was carried out by a group of Belgian soldiers on 6 April 1994, when they escorted F.P.R. "officials" into the national park of Akagera, a mission whose objective could not be ascertained by the Belgian parliamentary commission. The fact that the commission failed to identify the F.P.R. "officials" escorted on this occasion, notwithstanding the fact that ten of them were murdered on 7 April 1994 by F.A.R. military personnel who accused them of perpetrating the attack, have greatly contributed to credit this theory;

Notwithstanding these zones of uncertainty which can largely be blamed on the climate reigning at that time in KIGALI and the failure of the Unamir to control the situation, no evidence gathered during this enquiry supports the hypothesis of any involvement of Belgium in this attack;

France has also been blamed as being involved in this operation;

In June 1994, a Belgian journalist accused French soldiers of having participated in the attack based on a handwritten document which she had received, where the signatory confesses to having organised the attack with two other directors of the "*Coalition pour le Défense de la République*" (C.D.R.) party, the execution of which was allegedly carried out by two French soldiers posted in Rwanda;

In this same article, rumours also appeared which circulated abroad immediately after the attack, alleging that two officers of the *Direction Générale de la Sécurité Extérieure* (D.G.S.E.) were behind the shooting of the missiles;

In August 1994, a mysterious organisation called the "International Strategic and Tactical Organisation" (I.S.T.O.) delivered a document to the Rwandan ambassador in Canada titled "*Résultats de l'enquête sur l'assassinat des Présidents Cyprien NTARYAMIRA du Burundi et Juvénal HABYARIMANA du Rwanda, le 6 avril 1994 – source: document de la Central Intelligence Agency*" [Results of the investigation into the assassination of Presidents Cyprien NTARYAMIRA of Burundi and Juvénal HABYARIMANA of Rwanda on 6 April 1994 – source: document of the Central Intelligence

Agency] revealing to the Rwandan government in exile the alleged involvement and participation of the French government in the attacks executed by officers of the D.G.S.E.;

In-depth investigations carried out on this hitherto unknown organisation and of its presumed activities and services allegedly pedalled for remuneration led to the conclusion that it was comprised of a group of con men who were well informed concerning the military and political situation of the Great Lakes and who had sought to gain advantage from the public disclosure by France of its intent to intervene in Rwanda within the framework of a humanitarian operation. This announcement triggered a protest by the "*Front Patriotique Rwandais*" (F.P.R.) on 16 June 1994, at which time they declared that French troops would be considered as hostile forces;

The highly dubious activities of this allegedly international organisation of Anglo-Saxon origin, which had the aim of carrying out fraudulent financial transactions, should also be cross-checked against intelligence gathered by two different sources, the first Belgian and the second British, on two missiles used during the attack, which allegedly came from stock seized by the French army in 1991 during the war against Iraq;

This intelligence, which was presented as cross-checked, as in the case of the I.S.T.O., tended to incriminate France in the attacks of 6 April 1994. However, it was formally contradicted by investigations carried out on the origin of missiles, which proved that they came from an official delivery of weapons from the U.S.S.R. to UGANDA;

This consequently would appear to be a form of disinformation which could have been initiated or facilitated by a foreign intelligence service to discredit France for political



purposes in the absence of any independent investigation. This would also appear to be the case with respect to the intervention of the I.S.T.O., whose activities suggest links with the C.I.A. and who were pursuing the same objectives for commercial gain;

Investigations carried out and witnesses heard do not support any finding that accusations that France is behind the attack;

Members of the HABYARIMANA clan known as "Akazu" were also accused of being involved in the attack, having allegedly acted with "Hutu extremists" of the "*Coalition pour la Défense de la République*" and soldiers of the "*Forces Armées Rwandaises*" (F.A.R.);

Shortly after the attack, certain members of the international press accused the spouse of President HABYARIMANA as having organised the attack on behalf of members of the "Akazu" who were greatly disturbed to see the Head of State agreeing to implement the Arusha Agreements through weakness which was contrary to their interests;

However, an analysis of events which followed the attacks demonstrated that amidst the general panic which prevailed at all levels of the F.A.R., who were clearly not prepared for the death of the Head of State and the Chief of Staff of the Armed Forces, influential public figures of the government and members of the "Akazu" sought refuge in western embassies;

Even the spouse of the President and her family had to be evacuated to the Central African Republic on 9 April;

In order to deal with the assassination of the Head of State, which resulted in the collapse of the governmental apparatus and caught the F.A.R., whose Head of State perished in the attack, unprepared, a crisis committee comprised of military personnel was created during the night from 6 to 7 April 1994 in the presence of the Commander in Chief of the Unamir forces, General Roméo DALLAIRE and his deputy, the Belgian Colonel Luc MARCHAL;

The refusal to place the F.A.R. under the authority of Madame Prime Minister, who was a member of the opposition, was categorical, as she was deemed to be "pro-F.P.R.";

The creation of the crisis committee was interpreted thereafter as a *coup d'état* orchestrated by the F.A.R. On 9 April, an interim government was created without any F.P.R. representation. The Parliamentary President, Théodore SINDIKIUBWABO was appointed interim President of the Republic;

This theory principally developed from a press article published by the "*Tribun du Peuple*", a Rwandan review associated with the F.P.R. which had reported that President HABYARIMANA was killed by four members of his personal guard. Evidence provided in support of this assertion was subsequently contradicted by the investigation, particularly on the basis of testimony provided by soldiers of the Unamir;

Furthermore, members of the C.D.R. had no reason to carry out an attempt on the life of President HABYARIMANA;

In fact, although this latter group referred to as "extremists" initially rejected the Arusha Agreements of 4 August 1993, during early April 1994 they sought and obtained, with the

approval of the international community, the concession that a deputy from their own ranks could sit in the future transitional national assembly;

In this regard, Enoch RUHIGIRA, ex-director of the cabinet of the Rwandan President, stated that, on the evening prior to the holding of the DAR-ES-SALAAM summit, he received instructions from President HABYARIMANA that he meet with Madame Agathe UWILINGIYIMANA on 6 April 1994 to define conditions which would allow the inclusion of a member of the C.D.R. on the list of deputies to compose the future transitional National Accessibility;

On the other hand, this political process was fiercely resisted by the F.P.R., who considered, in the words of Mr Faustin TWAGIRAMUNGU, Prime Minister of the first national union government created on 19 July 1994, during his hearing before the Belgian Parliamentary Commission that "*the introduction of the C.D.R. into Parliament was tantamount to a declaration of war*";

This standoff between the C.D.R. and the F.P.R. was also observed by Belgian Colonel Luc MARCHAL of the Unamir. It was a situation which made application of the Arusha Agreements difficult;

It was established that the F.A.R. was ill-equipped and poorly trained contrary to the A.P.R. and that its heavy artillery was under control of the Unamir;

Furthermore, they had very weak anti-air weaponry and no missiles;

On the other hand, investigations revealed that the A.P.R. had SAM 14 and SAM 16 type surface-to-air missiles;

Thus, the overall evidence, particularly testimonial evidence, refuted the theory which placed blame for the attack upon Hutu extremists, which would have benefited neither the "Akazu" nor the C.D.R., nor even the F.A.R. who were convinced it was necessary to implement the Arusha Agreements;

On the other hand, investigations into the possible involvement of the F.P.R. into the planning of this attack and its execution, support this hypothesis and allow for a determination of the circumstances under which it was carried out;

Testimony provided by witnesses, particularly Tutsi members of the F.P.R., former members of this political movement and former soldiers of the A.P.R., including members of the personal guard of Paul KAGAME, investigations undertaken and material evidence gathered, particularly with respect to the missiles, establish that Paul KAGAME, with members of his staff, conceived, meticulously planned, recruited soldiers charged with carrying it out and supervised the execution of this operation following the Arusha Agreements of August 1993;

Thus, it was possible to determine the circumstances under which the project was conceived as part of a plan to seize power which would otherwise have been impossible to achieve under the Arusha Agreements, at least in the short term. Furthermore, those who participated in defining the criminal conspiracy and the organisation of resources which would allow for execution of the plan on 6 April 1994 while the presidential Falcon 50 returned late from the

DAR-ES-SALAAM summit were identified as being mostly F.P.R. officials, all of whom were closely linked with Paul KAGAME;

Evidence examined during the course of the investigation indicates that the beginnings of this plot to physically eliminate the incumbent Rwandan President, goes back to 1991, the date the multiparty system came into being;

This system allowed political opponents of President HABYARIMANA and the M.R.N.D., the sole governing party led by him, to come out of hiding and to create their own movements;

By 1992, the principal opposition parties, being the "*Mouvement Démocratique Républicain*" (M.D.R.), the "*Parti Libéral*" (P.L.), the "*Parti Démocratique Chrétien*" (P.D.C.) and the "*Parti Social Démocrate*" (P.S.D.) were in government and held the position of Prime Minister and various other ministerial portfolios;

As of that time the latter, under the name "*Forces Démocratiques pour le Changement*" (F.D.C.), organised peace negotiations with the F.P.R., who since the failure of its military invasion on 1 October 1990 had nevertheless pursued armed incursions on Rwandan territory, incursions which triggered reprisals in the form of massacres of Tutsi civilians;

On 5 June 1992, while opposition parties were meeting with Colonel Alexis KANYARENGWE, President of the F.P.R. in BRUSSELS, the A.P.R. breached a ceasefire agreement signed on that same day by taking control of several towns in Rwanda;

Drawing strength from its armed offensives, the F.P.R. sought to impose its leadership and strategy on opposition parties who were its political allies, exerting pressure on them to support their military operations;

However, splits were beginning to appear within the executive arm of the F.D.C. F.D.C. President Faustin TWAGIRAMUNGU aligned himself with the F.P.R., whereas other senior members supported President HABYARIMANA;

During September 1992, another secret meeting was organised in BRUSSELS between the F.D.C. parties and Paul KAGAME. On 5 January 1993, a memorandum of agreement set forth the distribution of portfolios in the future broad-based transitional government (B.B.T.G.), 5 for the F.P.R., 5 for the M.R.N.D., 4 for the M.D.R., 3 for the P.S.D., 3 for the P.L. and 1 for the P.D.C.;

However, in February 1993, following a wide-scale offensive by the F.P.R. in response to the political and ethnic troubles of January 1993, the opposition parties gathered under the banner of "*Forces Démocratique pour le Changement*" experienced further dissent and certain dissidents switched their allegiance to the presidential movement;

Within this context of ethnic and political tensions, and against the backdrop of armed insurrection, the Arusha Agreements were signed in August 1993 in the hope of offering a political settlement to the Rwandan crisis;

These Agreements called for the creation, under the protection of the United Nations, of a State ruled by law under a broad-based transitional government (B.B.T.G.) for a maximum period of 22 months. This would be followed by national elections to be held with a view to

establishing a transitional National Assembly. After these measures, the return of refugees would be organised. A new national army was to be created which would be staffed 60% by F.A.R. members, 40% by A.P.R. members and with officers in equal proportions. The position of Chief of Staff would be assigned to the F.A.R. and that of *Gendarmerie* to the A.P.R.;

It appears from the material and testimonial evidence examined by this court that, in Paul KAGAME's mind, the physical elimination of President HABYARIMANA became imperative as early as October 1993 as the sole way of achieving his political aims;

In fact, due to the numerical inferiority of the Tutsi electorate, the political balance of power did not allow him to win elections on the basis of the political process set forth by the Arusha Agreements without the support of opposition parties;

The refusal of Paul KAGAME to apply the Arusha Agreements has been confirmed by a consistent line of testimony provided by Rwandan and international political figures;

Christophe HAKIZABERA, following the *coup d'état* by General Juvénal HABYARIMANA, joined the ranks of the F.P.R. in 1990. He left the organisation in 1995 out of fear of being assassinated, as had been other dignitaries of the government such as Théoneste LIZINDE and Seth SENDASHONGA. Mr HAKIZABERA reported during his testimony of 6 September 2000 in Milan, that Paul KAGAME declared to his partisans following the Arusha Agreements of 4 August 1993 that the F.P.R. had never wanted or called for negotiations, but that they had "*decided to play the game*" and that there was no reason to place any stock in negotiations and "*to be ready for the fight will be a difficult one*";

Confirming the terms of a letter which he had addressed to the United Nations in August 1999, he disclosed that Paul KAGAME, faced with the failure of the F.P.R. to rally a common front led by him against President HABYARIMANA had "*developed a macabre plan which was to draw the country into chaos: the killing of President HABYARIMANA ... considered as a major obstacle to seizing power by force*";

He also reported that during the political meeting held in Uganda following the Arusha Agreements on 4 August 1993, Paul KAGAME informed his partisans that negotiations would allow them to gain time, both from a military standpoint and in order to neutralise the small parties and to mislead the population with respect to its true intentions;

Christophe HAKIZABERA's statements were corroborated by Jean-Pierre MUGABE, another F.P.R. dissident who belonged to the "Directorate Military Intelligence (D.M.I.)" intelligence service of the "*Armée Populaire Rwandaise*" (A.P.R.);

During the course of his 13 March 2001 testimony, at an earlier stage of these proceedings, Mr MUGABE stated that "*the elimination of the Rwandan president (was) a strategy developed by the FPR. Notwithstanding any advantage he might derive from the agreements, the prospect of elections forthcoming in twenty-two months could only promise victory to him as a ... minority party*" and "*notwithstanding the agreements, Paul KAGAME continued to meet with his troops on the ground, asking them not to place any faith in the agreements and to be prepared to recommence fighting*";

Jean BARAHINYURA, former member of the F.P.R., which he joined in 1990 prior to becoming a member of the executive committee and documentation commissioner, left the movement in 1991. He also confirmed the strategy of Paul KAGAME;

On 30 October 2002, he testified that he and other officers of the F.P.R. and members of KAGAME's "inner circle" had personal knowledge in 1990 of certain confidential information – secrets of the organisation – including *"the most important item at this time, which was the plan to eliminate President HABYARIMANA"* and having learned thereafter that this plan to eliminate the President was beginning to take form, he decided to leave the movement;

This secret plan of the F.P.R. was the result of their analysis of the political situation in 1993, which was not favourable to the hegemonic plans of Paul KAGAME;

In fact, the assassination on 23 October 1993 in Burundi of Mr Melchior NDADAYE, first Hutu President democratically elected on 1 June 1993, by Tutsi ethnic army officers triggered the massacre of numerous Tutsis and reprisals against the Hutu by the Burundi army;

The Burundi killings caused further splits among opposition parties who were still allies of the F.P.R. This ensured the F.P.R. was deprived of any likelihood of obtaining any majority in elections provided for under the Arusha agreements;

This analysis of the situation by the F.P.R. was confirmed by Mr Bernard DEBRE, former Minister of Cooperation. During his 2 June 1998 testimony before the Parliamentary Commission, DEBRE reported remarks made by F.P.R. representatives whom he met towards the end of January 1994 in KIGALI and who stated to him that *"we cannot wait for the elections, we're going to lose them, we're going to seize power earlier even if it entails a bloodbath"*;

American authorities also shared this assessment of both the situation and the intentions of the F.P.R.;

During his testimony before the French Commission of Enquiry on 7 July 1998, Mr Hermann COHEN, Advisor for African affairs to the U.S. Secretary of State for Foreign Affairs from April 1989 to April 1993 testified that the Rwandan Prime Minister and Minister of Foreign Affairs, who were members of the opposition, had stated to him during a meeting at KIGALI on 10 and 11 May 1992 that they *"were opposed to negotiations with the F.P.R. because they feared them"*;

He furthermore added that the United States had sent an observer to the Arusha agreements and that the C.I.A. had carried out a meticulous analysis towards the end of 1992, further to which they concluded that it would prove impossible to enforce the agreements;

This analysis of the C.I.A., as described by Mr Hermann COHEN, was confirmed by another telegram of the C.I.A. which sheds light on the strategy followed by the F.P.R. According to an informer of the agency – a high-ranking F.P.R. officer – the F.P.R. formally agreed to negotiate in order to better cover-up the activism of the A.P.R. which was responsible for seizing power by force;

The first evidence implicating the F.P.R. as being behind the assassination of 6 April 1994 was gathered in February 1997 by investigators of the United Nations posted in KIGALI, working for the International Criminal Tribunal for Rwanda (I.C.T.R.) and acting under the authority of its Prosecutor General, Madame Louise HARBOUR;

The existence of this line of inquiry explored by the I.C.T.R. was revealed in an article published on 1 March 2000 in the English language Canadian newspaper "National Post", citing a report of 1 August 1997 prepared by one of the I.C.T.R. investigators which reported the existence of a unit of the F.P.R. - referred to as the "network" - which participated in the assassination of President HABYARIMANA;

On 27 March 2000, the legal department of the United Nations acknowledged the existence of this report, and that it had been forwarded to Madame President of the I.C.T.R. in ARUSHA;

Notice of an international rogatory commission was served on the relevant authorities of the I.C.T.R. on 23 May 2000, soliciting production of a copy of this report and the "internal memorandum" which was delivered to Madame Louise Madame Louise HARBOUR;

However, in response to this request for judicial cooperation, Madame Navanenethem PILAY, President of the Tribunal, responded that although she possessed the document in question, it was impossible to respond favourably to the French request;

However, on 31 August 2000, upon instruction of the Ministry of Justice, the *Parquet de Paris* [Prosecutor's Office] provided a copy of the report which has been filed with this proceeding as an exhibit;

The documents delivered up by the *Parquet de Paris* were certified by Mr Michael HOURIGAN, former Australian barrister and Attorney in Atlanta (United States) during his hearing in Paris on 29 December 2000;

He declared that from April 1996 to May 1997 he supervised a group of United Nations investigators working for the I.C.T.R. in KIGALI referred to as the "national team" prior to working in the Investigative section of the "Office of Internal Oversight Services" (O.I.O.S.) of the United Nations in New York from July 1997 to January 1998;

With respect to his mission on behalf of the I.C.T.R., Michael HOURIGAN stated that the investigators in his department were authorised by their superiors to investigate the attack as it was deemed to fall within the jurisdiction of the Tribunal. However, while no tangible evidence appeared to indicate the involvement of Hutu extremists, they were drawn towards the trail which appeared to implicate the F.P.R.;

He testified in this regard that one of the investigators of his team was contacted by a senior officer of the A.P.R. who disclosed to him that Paul KAGAME and other senior officers of the A.P.R. were involved in the attack. He added that they had recruited another informer who was also in a position to corroborate this information and to identify one of the two shooters, a soldier of the A.P.R.;

Furthermore, during the same time period, HOURIGAN personally had contact with a former gendarme of the A.P.R. who claimed to be a member of a cell directed by Paul KAGAME referred to as the "network", which was responsible for murders and violent exactions;

According to Michael HOURIGAN, the processing of these sources, who at the outset were prepared to testify, was temporarily suspended while waiting for a response from the I.C.T.R. executive concerning their protection. This was brought on by security considerations, as the investigators were being openly threatened by officers of the F.P.R. who did not agree with their methods and the strategy of the Tribunal;

Michael HOURIGAN furthermore mentioned that he obtained authorisation from his superiors to maintain contact with his informers and to pursue the investigation with a mission to directly report back to Madame Louise HARBOUR in The Hague;

On or about 7 March 1997, he had a telephone conversation with Madame Louise HARBOUR from a secure line in the United States embassy in KIGALI. During the course of this exchange, the latter disclosed to him that she had received information through other channels which confirmed this. At no time did she inform him that the investigation into the attacks did not fall within the jurisdiction of the I.C.T.R.;

He also testified that, following this conversation, he met Michael HALL in KIGALI, the deputy officer for security of the United Nations, who had come on a Mission at the request of the new Secretary General of the United Nations, Mr Kofi ANNAN, to carry out an on ground assessment of threats being made against U.N. personnel;

According to Michael HOURIGAN, Michael HALL, who met with Madame Louise HARBOUR in New York and was informed of evidence concerning the involvement of Paul KAGAME and the F.P.R. in the attack, stated to him that he had received orders from the Secretary General of the United Nations to immediately meet with Madame HARBOUR in The Hague and to ensure that he left no trace behind in KIGALI of reports concerning the assassination;

Twenty-four or forty-eight hours prior to his departure, he recorded "an internal memo" on data discs, containing all the information in his possession, and delivered it to Michael HALL so as to evade the various controls at KIGALI airport without the problems experienced by I.C.T.R. investigators and holders of diplomatic passports who were searched from time to time by officers and Rwandan immigration authorities;

Michael HOURIGAN added that when he travelled to The Hague several days later, Madame Louise HARBOUR unexplainedly and contrary to earlier instructions, publicly and severely chastised him and the investigators of his group for having carried out investigations into the attack. In her opinion, the attack did not fall within the jurisdiction of the I.C.T.R. On her explicit instructions, contacts with informers were broken off;

These facts were also confirmed by Mr James LYONS, a second investigator of the United Nations;

Furthermore in Paris, during his testimony as a witness, he stated that he held positions as a supervisor and special agent of the F.B.I., responsible for supervision of an anti-terrorist unit in New York, prior to assuming command of investigation groups of the I.C.T.R. under the

responsibility of Mr Alphonse BREAU and the Deputy Prosecutor, Honoré REKATOMANANA;

He confirmed that upon creation of the "national investigation group" in April 1996, it was acknowledged by Madame HARBOUR and Mr REKATOMANANA that pursuant to article 4 of the I.C.T.R. Statute the attack against the presidential aircraft fell within their jurisdiction;

He corroborated the events testified to by Michael HOURIGAN and added further corroborative particulars.

For example, he testified that, during late 1997, the team of Michael HOURIGAN entered into contact with three informers *"linked with the F.P.R. who clearly stated that the attack against the aircraft of President HABYARIMANA was carried out by the F.P.R."*, specifying that two of the informers had been introduced to him as members of the intelligence services who had worked for Paul KAGAME as part of a network responsible for carrying out undercover operations and that due to this they had in their possession clear and precise information concerning the attack;

They added that the group of investigators had also received information that, on the evening of 6 April 1994, an F.P.R. radio message was intercepted, announcing *"the target has been hit"*;

Furthermore, James LYONS confirmed Michael HOURIGAN's testimony concerning Madame Louise HARBOUR's abrupt change of position and the rupture of contacts with informers;

Madame HARBOUR did not wish to testify before this enquiry;

A copy of the internal memorandum titled "secret investigation of the national team" was delivered to investigators by Michael HOURIGAN after his testimony;

This memorandum corroborated statements on the intelligence work carried out by investigators of his team, particularly the treatment of three sources which designated the A.P.R. - through the Network - as being responsible for the attack of 6 April 1994;

It is also noteworthy that even prior to investigators coming into possession of this information, Belgian Professor Filip REYNTJENS received correspondence in November 1995 drafted by Mr Sixbert MUSANGAMFURA, a former head of the *"Service Central des Renseignements"* (S.C.R.) [Central Intelligence Agency] of the government created by the F.P.R. While in exile in Nairobi (Kenya), he reported that, following the seizure of power in July 1994, his duties allowed him to carry out a discreet investigation which demonstrated that, contrary to what was being suggested, the F.A.R. was not involved in the attack, which was actually perpetrated by the A.P.R. Sixbert MUSANGAMFURA added that, because he was at considerable risk as long as he remained in exile in Africa, he had asked professor Filip REYNTJENS not to publicly disclose this information;

Follow up on this information was to confirm the validity of this line of inquiry first set into motion by the I.C.T.R.;



Testimony of former members of the F.P.R. or A.P.R. who have left the organisation and live in exile confirm its involvement in the attack against the presidential aircraft and allow for the identification of its principal perpetrators;

Abdul RUZIBIZA, a former A.P.R. officer, testified on 3 July 2003, confirming the existence of the "network commando" to which he had been assigned in February 1993, the mission of which was to carry out kidnappings, attacks and assassinations of political figures who disagreed with the F.P.R. and tracking and infiltration for the resumption of fighting;

Concerning the attack of 6 April 1994, he stated that in February 1994 he formed part of the unit which was infiltrated in Kigali and which had the mission of carrying out reconnaissance of the Masaka-Kanombe sector. He specified that his superior officer was Captain Hubert KAMUGISHA who was in continuous contact with Captain Charles KARAMBA, officer of the D.M.I. then assigned to the C.N.D. in Kigali. The group to which he belonged was comprised of Deputy Lieutenant NGOMANZIZA and Sergeants Jean Bosco NDAYISABA and Emmanuel RUZIGANA;

According to Abdul RUZIBIZA, towards the end of March 1994, he was informed by Sergeant Aloys RUYENZI, posted to the High Command under the orders of Colonel James KABAREBE, that during a meeting held in Mulindi which had been attended by General Paul KAGAME, officers Faustin NYANWASA KAYUMBA, James KABAREBE, Jacob TUMWINE, Charles KARAMBA and Théoneste LIZINDE were given orders to shoot down the aircraft of President HABYARIMANA;

He added that during early April, Captain Hubert KAMUGISHA asked the group responsible for surveillance of the Masaka-Kanombe sector to stand ready because the order had been given to act at the first opportunity;

On 6 April, he witnessed the group comprised of Jean Bosco NDAYISABA, Emmanuel RUZIGANA and NGOMANZIZA receive radio instructions to go to the house located in the Masaka-Kanombe sector which belonged to Jean Marie HUNYANKINDI, a relation of Paul KAGAME,;

They next deployed to ensure security of the team responsible for shooting surface-to-air missiles upon approach of the aircraft while the attack team comprised of Deputy Lieutenant Franck NZIZA, Corporal Eric HAKIZAMANA and Private Patiano NTAMBARA responsible for ensuring their personal protection were driven from the "*Conseil National pour le Développement*" (C.N.D.) in Masaka by Sergeant Didier MAZIMPAKA on a Toyota brand pick-up where the two missile launchers were hidden;

Abdul RUZIBIZA furthermore specified that while at Mulindi headquarters, he learned that surface-to-air missiles that had arrived from the Uganda arsenal during early January 1994 had been transported to the "*Conseil National pour le Développement*" (C.N.D.) in Kigali on a Mercedes truck, hidden under firewood. He added that he had heard spoken of the training of A.P.R. soldiers in Uganda during January 1993, including soldiers Eric HAKIZAMANA, Stevens TWAGIRA and Andrews NYAVUMBA, all of whom were members of the "Missile Section" operating under the command of Lieutenant Alphonse KAYUMBA and his deputy Lieutenant Franck NZIZA;

He furthermore stated with respect to the final phase of the operation that, being aware of the approximate time of the arrival of the flight and identifying the Falcon 50 by its characteristic noise, Eric HAKIZAMANA launched the first missile that missed the target. The second missile fired by Franck NZIZA hit the aircraft, provoking its explosion in mid-flight. Following the operation, the team fled, abandoning the two missile-launching tubes on the ground;

Subsequently, Abdul RUZIBIZA learned that towards 5:30pm Lieutenant-Colonel Charles KAYONGA had received a call from Paul KAGAME warning him that the Presidential aircraft was about to return and that there was no room for failing in the operation. At the time of the attack, Charles KAYONGA was positioned on the top floor of the C.N.D. building where he witnessed the explosion of the aircraft;

Paul KAGAME, informed of the success of the operation by Lieutenant-Colonel James KABAREBE shortly thereafter, gave the order to march to A.P.R. units;

According to Abdul RUZIBIZA, an initial attempt to destroy the Falcon 50 had been envisaged the day previous when the Presidential aircraft was returning from Zaire, but the operation was cancelled due to lack of intelligence;

Another witness heard during this proceeding also confirmed the existence of this "network commando" and its involvement in the attack of 6 April 1994;

Emmanuel RUZIGANA, former Sergeant of the A.P.R., testified on 29 March 2004 that he had been assigned in March 1994 to the "network commando" created in 1993 by James KABAREBE and that, under the cover of being a taxi driver, he directed a group of six soldiers under the orders of Captain Hubert KAMUGISHA, who, two weeks prior to the attack, told him of a plan to shoot down the presidential aircraft;

He stated that on 2 April, after having proceeded with an initial reconnaissance of the site during the previous days, he drove Lieutenant-Colonel KAYONGA and Captain Hubert KAMUGISHA in his taxi to Masaka, more particularly to the location known as "the farm", who had come in order to reconnoitre the shooting site;

He furthermore reported that on 6 April while in Masaka with this group, he witnessed the arrival of a pick-up driven by Sergeant Didier MAZIMPAKA, with on board Deputy-Lieutenant Franck NZIZA, Jean Bosco NDAYISABA, Eric HAKIZAMANA and Patiano NTAMBARA;

Furthermore, he heard Lieutenant Charles KAYONGA announce on his two-way portable radio to Franck NZIZA that the aircraft which was arriving was in fact that of President HABYARIMANA and that he had to "do the job", adding that after the attack he summoned the members of group and rejoined the C.N.D.;

RUZIGANA, who had not been in direct contact with the shooters, specified that he subsequently learned that Franck NZIZA and also Eric HAKIZAMANA had shot down the aircraft;

He confirmed furthermore the statements of RUZIBIZA concerning an initial attempted assault on 5 April which had been postponed;

Furthermore, Aloys RUYENZI, who was cited by Abdul RUZIBIZA as belonging to the "network commando", and in this capacity attended a meeting held towards the end of March 1994 in Mulindi in the presence of General Paul KAGAME during which time the order to shoot down the presidential aircraft was given, also confirmed this testimony;

Aloys RUYENZI testified in Paris on 25 March 2004 that, as a member of the personal guard of Paul KAGAME, he was in the meeting room at Mulindi headquarters on 31 March 1994, during a meeting between KAGAME and officers James KABAREBE, Jacob TUMWINE, Charles KARAMBA, KAYUMBA NYAMWASA and Théoneste LIZINDE. According to his version of events, the meeting was held to plan the operational details of President HABYARIMANA's assassination;

He added that Paul KAGAME stated *"as soon as President HABYARIMANA leaves the ARUSHA meeting and his aircraft is approaching, fire on him. This war will not end until President HABYARIMANA is dead"*;

Aloys RUYENZI also claimed to have witnessed the delivery of two missiles to four soldiers who loaded them into a vehicle forming part of a convoy escorted by the UNAMIR which was destined for the C.N.D. in Kigali;

He added that Deputy-Lieutenant Franck NZIZA and Corporal Eric HAKIZAMANA were inside the vehicle and confided to him at the end of the war that they had participated in the attack. Eric HAKIZAMANA fired the first missile which missed its target, Franck NZIZA however succeeded in hitting and destroying the aircraft;

The testimony of RUYENZI corroborates statements made by Abdul RUZIBIZA and Emmanuel RUZIGANA, testimony by eye-witnesses of the attack, the Belgian soldiers Mathieu GERLACHE and Pascal VOITURON of the UNAMIR, Jean-Luc HABYARIMANA and Jeanne HABYARIMANA, who were respectively son and sister of the President, and the statements made by Belgian Colonel Luc MARCHAL and his Deputy Lieutenant-Colonel André LEROY, members of the "UNAMIR" concerning clandestine transport of weaponry of the F.P.R.;

During his testimony of 7 March 1997 before the Belgian Parliamentary Commission, Luc MARCHAL stated that he had always been convinced that the F.P.R. was using the excuse of seeking firewood in the north as a pretext to transport arms;

During his 19 July 2002 testimony in Brussels, he furthermore specified that he was informed that F.P.R. elements were secretly leaving their C.N.D. barracks during the night and that the F.P.R. had refused permission to Unamir members and U.N. observers to witness the loading of vehicles, thus facilitating the clandestine delivery of arms to Kigali;

This assessment was also shared by Lieutenant-Colonel André LEROY, also heard by the Belgian Parliamentary Commission;

Furthermore, Sergeant Dimitri PAUWELS, a Belgian soldier assigned to the Unamir and heard on 8 July 2002 in Brussels during proceedings of an international rogatory commission, testified that several days prior to the attack, while escorting a convoy of F.P.R. vehicles leaving from Mulindi for the C.N.D. in Kigali, he observed that numerous vehicles which had

initially not been provided for were transporting between 200 and 300 armed persons in both civilian clothes and uniform who had joined the convoy;

These events reported by Belgian soldiers confirmed the statements of former members of the A.P.R., witnesses of the transport of missiles from Mulindi to the C.N.D. in Kigali and the testimony of various witnesses which concern the ongoing reinforcement of F.P.R. personnel in Kigali with a view to resuming hostilities with the Rwandan governmental forces following the attack;

Furthermore, the testimony of two Tutsi Anglophones who were former A.P.R. soldiers assigned to the personal protection of KAGAME, also confirmed his attendance in Mulindi to carry out preparations for the attack. This further corroborated earlier statements made by Abdul RUZIBIZA, Emmanuel RUZIGANA and Aloys RUYENZI concerning the involvement of the F.P.R. led by Paul KAGAME, in this assassination;

Innocent MARARA was heard in Paris on 3 September 2001 after having fled Rwanda where he feared threats made against him. He stated that he remained until February 2001 in the "Urugwiro" residence of President Paul KAGAME after having rejoined the A.P.R. in 1991;

He explained that as a Tutsi ethnic born outside Rwanda and an anglophone, he was selected in 1992 to form part of the personal escort of Paul KAGAME quartered in F.P.R. headquarters in Mulindi;

He stated in this regard that he witnessed three meetings in the Mulindi headquarters where plans were discussed and a final decision was taken to assassinate President HABYARIMANA;

During the first of these three meetings, which he estimates took place one month after the Arusha Accords of 4 August 1993, the majority of officers present expressed their unhappiness and their view that the implementation of the Agreements would prove unfavourable to them, Colonel Stevens NDUGUT, at that time operations officer, suggested eliminating President HABYARIMANA. All the officers present agreed with this proposal without any detailed plan being worked out at that time;

In addition to General Paul KAGAME, James KARAREBE, Charles KAYONGA, Stevens NDUGUTE, William BAGIRE, Samuel KANYEMERA aka Sam Kaka, MUSITU, NYAMWASA KAYUMBA, NGOGA, Dodo TWAHIRWA and Jack NZIZA were in attendance;

He added that he remained approximately one hour inside the room where the meeting was held and that he personally heard Paul KAGAME explain to the officers the reasons for the meeting and openly raise the issue as to what method should best be employed to eliminate President HABYARIMANA;

According to Innocent MARARA, the second meeting was held shortly after the first, prior to year-end 1993. While providing security outside the building, he heard through the skylights of the meeting room Paul KAGAME ask James KABAREBE to explain to the meeting the plan adopted for the assassination;

The latter responded that he had selected certain trustworthy men from his unit to carry out the attack. MARARA furthermore heard the word "missile" uttered, and r heard James KABAREBE list names of the men assigned to this mission, including Deputy-Lieutenant Franck NZIZA, member of the "missiles" group, Corporal Bosco NDAYISABA and Sergeant Didier, identified as being MAZIPANKA;

In connection with this observation, MARARA stated that several weeks later soldier Nyacazundi MUTAYEGA, responsible for the security of Franck NZIZA showed two missiles to him stored under a mattress or a tarp in one of the houses of the Mulindi headquarters;

MARARA stated that the third meeting was held in January or February 1994, at the same location as the two previous meetings, but with a smaller number of participants: Paul KAGAME, Faustin NYAMWASA KAYUMBA, Sam KAKA, James KABAREBE, Jack NZIZA and Stevens NDUGUTE;

He disclosed that he was providing security outside the building and that other members of the security group had reported to him that the decision to carry out an attack had been finalised but without having worked out the details;

Furthermore, according to Innocent MARARA, towards the end of 1994 or early 1995, he drove Deputy-Lieutenant Franck NZIZA to Masaka where the latter possessed a residence. While en route, this officer, who trusted him due to his belonging to Paul KAGAME's personal guard, confided that he had participated in the attack, specifying that the first missile did not hit the aircraft and it was he who had shot it down with the second missile;

In this regard, Franck NZIZA pointed out the location to him where, during the evening of 6 April 1994 and in the company of Jean Bosco NDAYISABA, he had fired on the presidential aircraft, adding that he had been driven in a vehicle to Masaka by Sergeant Didier MAZIMPAKA;

As to the involvement of the soldiers of the High command in the attack, Innocent MARARA also related – an event which he had personally witnessed – that during October 2000 he had escorted Paul KAGAME and other officers to MATIMBA, in KAGITUMBA commune for the celebration of the tenth anniversary of the A.P.R. attack on 1 October 1990. During the ceremony, a group of singers sang a hymn in honour of an A.P.R. soldier native of MATIMBA who was promoted Captain for his participation in the assassination of "KINANI" (nickname of President HABYARIMANA), a hymn interrupted by the security services of Paul KAGAME when the name of Franck NZIZA was uttered;

This episode was confirmed by Brenda TWINOMUJUNI ASIIMWE, sister of Innocent MARARA who also attended the ceremony financed by her employer, the N.G.O. "*Fonds de développement communautaire*";

This promotion of Franck NZIZA was also reported by Evariste MUSONI, who stated that in addition to NZIZA two other soldiers of the High command, Bosco NDAYISABA and Didier MAZIMPAKA participated in the attack and also received the same promotion;

In his testimony given in Paris on 4 September 2001, MUSONI declared, as had Soldier Innocent MARARA who belonged to the same unit, that during February or March 1994 in

Mulindi, while providing security outside a building where officers of the High command had gathered, he was ordered by Captain Tom BYABAGAMBA to find a two-way portable radio which had been ordered by Paul KAGAME. Upon entering the meeting room to deliver the device to KAGAME he heard an officer state *"if the plane is shot down we can reach our objective"* without being able to identify that person;

However, upon leaving the room he saw and heard Colonel Faustin NYAMWASA KAYUMBA utter *"there is no way of proceeding other than to shoot down his plane"*;

He added that it was the sole occasion that he heard any remarks in Mulindi concerning the assassination of President HABYARIMANA. However, during the evening of 6 April while he was on duty, he heard said that soldiers assigned to transmissions had received a coded message announcing that "Kinari" was shot down and he observed that immediately thereafter units had been placed on high alert and the order to march had been given to some of them;

This order to march following the assassination was corroborated by the testimony of Jean-Baptiste MBERABHIZI, member of the F.P.R. who also reported that during his presence on 6 April 1994 in A.P.R. headquarters in Mulindi, he saw Captain Tom BYABAGAMBA announce to Paul KAGAME *"the aircraft has been shot down"*;

The broadcast of the radio message announcing success of the operation was attested to by Innocent MARARA and the testimony of several witnesses, including that of French Lieutenant-Colonel Grégoire de SAINT-QUENTIN who stated that he saw the handwritten message coming from the F.P.R. command announcing the success of the "reinforced squadron". Richard MUGENZI, F.A.R. operator assigned to the listening station of GISENYI related that he had retranscribed several messages of the F.P.R., particularly one in the Swahili language which reported the success of the mission of the "reinforced squadron";

Evariste MUSONI also reported that, after the war, one of his army comrades confided to him that three soldiers of the High command had participated in the attack and had obtained promotions, citing the names of Franck NZIZA, Bosco NDAYISABA and a certain Didier;

Other F.P.R. officers who left the organisation due to their disagreement with the strategy constructed by Paul KAGAME or due to threats made against them, broadly corroborated these assertions during their testimony during the course of this proceeding;

Jean-Pierre MUGABE, former member of the "Directorate of Military Intelligence" (D.M.I.) military intelligence wing of the A.P.R. and former director of the pro-F.P.R. Rwandan journal *"Le Tribun du Peuple"* created in the United States, published a document in May 2000 accusing General Paul KAGAME and Colonels James KABAREBE and Charles KAYONGA of having created and planned the attack perpetrated on 6 April 1994;

In France, on 13 March 2001, he certified the document which he drafted titled "Statements concerning the attack on the aircraft causing the deaths of Presidents HABYARIMANA of Rwanda and NTARYAMIRA of Burundi on 6 April 1994";

Questioned as to the reasons which led him to draft such a document, he explained that after having sought refuge in the United States following threats of death against him, he learned that the F.P.R. had sent two of its agents on to American territory to eliminate him after the

publication of certain articles which he had drafted accusing Paul KAGAME and that he had then taken the decision to make public all information in his possession;

At the time of his statement, he recounted how in 1994 he joined the Rwandan military intelligence services and thereafter issued opinions which criticized the government, particularly in connection with corruption problems. He was summoned on several occasions in 1999 by D.M.I. officers, including Lieutenant-Colonel Jack NZIZA, and being familiar with the methods of this department, he preferred to flee Rwanda;

He believed that the pressures exerted upon him during early 1999 were not political but resulted from the fact that he had confided in an old friend, Jean-Bosco KARANGWA, F.P.R. deputy since 1994 and former member of the D.M.I., disclosing intelligence which he had gathered on the involvement of Paul KAGAME, Colonel James KABAREBE and Lieutenant-Colonel Charles KAYONGA in the attacks of 6 April 1994;

In this regard, he recounted how he obtained this information in Mulindi from A.P.R. officers who had reported to him that Lieutenant-Colonel Charles KAYONGA – who at that time was one of his friends – had received instructions in February 1994 from James KABAREBE to transfer four A.P.R. soldiers to the C.N.D. in KIGALI who had received special training in Uganda in the handling of surface-to-air missiles;

He added that in August 1994 as he wished to cross-check what he had learned since February 1994 concerning preparations for the attack, Colonel Théoneste LIZINDE confirmed to him that certain A.P.R. soldiers had been assigned to report to Major Rose KABUYE at the C.N.D., and that missiles were brought there under the authority of James KABAREBE who gave instructions concerning the carrying out of the attacks and the resumption of hostilities after execution;

Christophe HAKIZABERA, another F.P.R. dissident, confirmed this post-mortem testimony of Théoneste LIZINDE, who was murdered on 6 October 1996 in Nairobi where he had sought refuge;

On 6 September 2000 in Milan, during proceedings of an international rogatory commission, HAKIZABERA testified that he joined the F.P.R. in 1990 after having resigned in 1995 and subsequently left Rwanda to seek asylum in Europe;

He confirmed that he had forwarded to the U.N. commission responsible for determining responsibility in the organisation of the Rwandan genocide a letter bearing the entry "*Cotonou* 10 August 1999" which implicates the F.P.R. and more particularly Paul KAGAME;

Concerning the 6 April 1994 attack, Christophe HAKIZABERA recounted that he was informed by Colonel Théoneste LIZINDE in 1995 that Colonel Charles KAYONGA, Commander of the A.P.R. battalion quartered in C.N.D. buildings in KIGALI, supervised execution of the attack with the assistance of Rose KABUYE and that six missiles had been transported there from A.P.R. headquarters in MULINDI;

This information was confirmed to him subsequently by Colonel César KAYIZARI, another A.P.R. soldier, who accused Charles KAYONGA as being directly involved in the assassination of President HABYARIMANA;

Questioned on his 10 August 1999 letter sent to the United Nations which accused Paul KAGAME of planning to assassinate President HABYARIMANA, on several occasions, and particularly during the March 1994 meeting, Christophe HAKIZABERA confirmed the terms thereof, specifying that he obtained this information from Léonard MUREFU, the father-in-law of Paul KAGAME;

He also confirmed that the term "reinforced squadron", which appeared in the message intercepted by the F.A.R. on 7 April 1994, referred to a specialised "commando type" group placed under the direction and control of Paul KAGAME;

Jean-Baptiste MBERABAHIZI also witnessed the involvement of Paul KAGAME in the attacks of 6 April 1994 which were carried out within an overall strategy of seizing power by force;

On 10 November 2001 in Brussels, during proceedings of an international rogatory commission, he testified that as an opponent of the government of President HABYARIMANA, he founded the "*Parti Socialiste Rwandais*" in August 1991 prior to joining the F.P.R. who designated him as a deputy of the organisation at the time of creation of the institutions in January 1994 and that in this capacity he was in regular contact with F.P.R. senior figures and officers;

On the issue of the 6 April 1994 attack and its preparations, he stated that on 2 April 1994 while in MULINDI headquarters, he heard Paul KAGAME respond to one of his interlocutors that he was preparing to relaunch military operations;

He furthermore stated that on 6 April 1994, while in the MULINDI headquarters in a television room where Paul KAGAME was present he saw Captain Tom BYABAGAMBA inform Paul KAGAME of the "crash" of the aircraft and observed that all A.P.R. units were immediately activated following the attack;

Jean-Baptiste MBERABAHIZI also confirmed that resupply convoys between the MULINDI headquarters and the C.N.D. were transporting arms and that he learned that the headquarters were protected by surface-to-air missiles;

Sixbert MUSANGAMFURA, Director of the *Service Central des Renseignements* (S.C.R.) [Central Intelligence Service] from August 1994 to August 1995 also testified concerning the involvement of the F.P.R. in this attack;

On 12 April 2002 in FINLAND, further to execution of an international rogatory commission, and in France on 14 June 2002, Sixbert MUSANGAMFURA confirmed that he had received information on the attacks;

In January 1995, when he was summoned for reasons of service to the offices of Paul KAGAME, KAGAME reacted violently to the proposal of preparing for a response concerning the attacks in the event of interrogation by a foreign government and that subsequently Colonel Karake KARENZI at that time Head of the D.M.I., who was in attendance at the meeting, ordered him to no longer deal with this matter;

Subsequently, he learned from D.M.I. officers Captains Jimmy MWESIGUYE and Kapaye RUTAGWERA that surface-to-air missiles had been transferred to the C.N.D., that A.P.R.



soldiers had been trained in the handling of these missiles in Uganda and that among them members of a commando had been selected;

Thus, on the basis of intelligence gathered he was able to cite the following persons as being involved in the preparation of the attacks: General Paul KAGAME, Colonels James KABAREBE, Faustin KAYUMBA NWYAMWAZA, Lieutenant-Colonels Charles KAYONGA, Karenzi KARABE, Jackson RWAHAMA, Major Rose KABUYE and Captains Charles KARAMBA, Wyclif KWIKRIZA and HABATI;

He furthermore mentioned that he had forwarded this information to Faustin TWAGIRAMUNGU, the Prime Minister, by two hand-delivered memoranda;

The latter was heard in Belgium on 10 July 2002 where he lives in exile. He confirmed that he was informed on two occasions by Sixbert MUSANGAMFURA of the involvement of the F.P.R. in the attacks and asked him to no longer pay any attention to this attack as he feared for his life and specified that he delivered the initial memorandum to the Belgian parliamentary commission of inquiry;

The Belgian Senate, although served with a request for judicial cooperation refused to disclose this memorandum;

Other testimonial evidence implicating the F.P.R. in these attacks was provided in Switzerland by former A.P.R. Colonel Balthazar NDENGEYINKA;

The latter, a former officer of the F.A.R., was heard in France on 18 December 2003. He is currently a refugee in Switzerland as is the former Rwandan Defence Minister Emmanuel HABYARIMANA. He testified that he joined the ranks of the A.P.R. in December 1994 with the rank of Colonel and that he was appointed Député in November 1999, a position which allowed him to receive confidential intelligence from A.P.R. members on the attacks of 6 April 1994;

Thus, during the course of his duties, Colonel Charles MUHIRE, at that time the Head of the bureau of A.P.R. operations confided to him in a private conversation that "they" had shot down the presidential plane;

He also learned from other soldiers that missiles had been transferred to the C.N.D. for carrying out the attack;

Emmanuel HABYARIMANA., who testified in France on 18 December 2003, confirmed the statements of Balthazar NDENGEYINKA. He also heard confidential information from A.P.R. officers on the involvement of the F.P.R. in the attack;

As a former officer of the F.A.R., he co-signed a communiqué on 6 July 1994 with other F.A.R. officers, denouncing the massacres of the civilian population and calling upon the A.P.R. to stop the armed aggression and to resume the implementation of the transitional institutions. He was removed and only survived due to the intervention of French soldiers who were deployed within the framework of operation "Turquoise";

He stated that following the end of hostilities in July 1994, he rejoined the ranks of the A.P.R. and held various positions within the Defence Ministry alongside Paul KAGAME who subsequently named him Minister of Defence;

He described how, on 28 July 1994, he received the confirmation of the involvement of the F.P.R. in the attack of 6 April 1994 from two senior officers of the D.M.I., Colonel Faustin NYAMWASA KAYUMBA and Lieutenant-Colonel Jackson RWAHAMA, as well as from Captain Charles KARAMBA. His interlocutors also expressed their pride at "having shot down the presidential plane";

All of this consistent testimony has also been corroborated by investigations carried out on the missiles used on 6 April 1994 to shoot down the presidential Falcon 50;

During the days which followed the attack, Rwandan peasants discovered two missile-launching tubes which had been abandoned in the bush at the location referred to as "the farm", located in Masaka sector. They delivered them up to F.A.R. soldiers who were travelling between a water point (point 19) in MASAKA and KANOMBE camp;

On 24 or 25 April, further to instructions given by the deputy Commander of KANOMBE camp, Lieutenant-Colonel NZABANITA, Lieutenant engineer Augustin MUNYANEZA who carried out a portion of his studies in the Soviet Union, examined the two tubes and noted their references:

- "04-87 (for April 1987, date of manufacture of the launchers),

"04835 and 04814 (for the numbers of the two launchers).

Subsequently, a report was drafted and forwarded to High command;

On page 256 of the documents collected in "tome II – schedules" of the report of the French parliamentary mission, a photocopy appears of a handwritten report dated 25 April 1994 and titled "identification of the Russian-type missile launching weapon used in the assassination of the head of State on 6/4/94" and signed "Lt In MUNYANEZA";

Augustin MUNYANEZA, residing in Belgium, testified in Paris on 20 March 2000;

He confirmed that, further to instructions of Lieutenant Colonel NZABANITA, he carried out an identification of these missile-launching tubes which he was examining for the first time as the F.A.R. didn't have any supplies of them. He also confirmed that he drafted a handwritten report which he delivered to Rwandan army headquarters through Captain SEBAGANWA;

He described the two missile-launchers as being "two tubes resembling rocket-launchers, approximately 120mm in diameter, green khaki colour and greater in length than anti-tank rocket-launchers (...) "The two tubes were empty upon examination, indicating the loaded weapon had been fired...";

Furthermore, he certified the document which appeared in the parliamentary enquiry report, recognising his writing and signature;

Concerning the destination of these two tubes, he stated that he learned from the head of Rwandan military intelligence services, Colonel NTIWIRAGBO that they had been delivered "to the services" of President MOBUTU;

The presence of these two tubes on the property of the Headquarters of F.A.R. was confirmed by other testimony;

Faustin NTILIKANA, an F.A.R. officer heard on May 26 2000, stated that he saw the tubes on the premises of the Headquarters;

This was also true of Joseph MURASOMPOGO, Colonel of the F.A.R., assigned to Headquarters, heard on 20 November 2001 in Brussels, former General of the F.A.R., Gratien KABILIGI, who was heard on 6 June 2001 in ARUSHA and Colette NYIRARWIMO, former Captain of the F.A.R. assigned to KIGALI at the relevant time of events and whose testimony was heard in Paris on 21 March 2000;

The latter also authenticated a copy of the report of Augustin MUNYANEZA which was filed with the proceeding and furthermore stated that the tubes had been photographed;

The French parliamentary Commission published five photographs representing a launcher which according to their caption was one of those examined by Lieutenant Augustin MUNYANEZA;

These photographs were delivered in May 1994 to General HUCHON in Paris, who at that time was assigned to the Ministry of Cooperation, by Lieutenant-Colonel Ephrem RWABALINDA, who was accompanied for the event by Colonel Sébastien NTAHOBARI, Defence Attaché at the Rwandan Embassy in Paris;

These photographs were subsequently passed on by the Ministry of Cooperation to the *Direction du Renseignement Militaire* (D.R.M.);

The existence of these two tubes has also been confirmed by former F.A.R. Colonel Théoneste BAGOSORA and by ex-major Aloys NTABAKUZE, incarcerated in Tanzania by the I.C.T.R.;

In ARUSHA, on 16 and 18 May 2000, these former officers confirmed that they saw the two missile-launching tubes in F.A.R. Headquarters and through their legal counsel delivered up copy of an identification report prepared by Lieutenant Augustin MUNYANEZA which was identical to that obtained by the French parliamentary Commission;

The enquiry determined that these two missile-launching tubes were subsequently transferred to Zaire;

Former Colonel Joseph MURASOMPONGO, testified in Belgium on 20 November 2001, that these two tubes, which he saw in F.A.R. Headquarters on 25 April 1994, were transferred to GOMA where they were delivered to the Zairois General TEMBELE;

Their presence in GOMA was also confirmed by former F.A.R. Colonel Laurent SERUBUGA who testified that they were delivered by convoy to Zaire by Colonel

NTIWIRAGABO, Head of Rwandan intelligence services. This was also certified by former F.A.R. General Gratien KABILIGI;

Aloys NTIWIRAGABO, who testified in KINSHASA on 9 July 2001, stated that he sent one of the two tubes to GISENYI, into the hands of General TEMBELE. He added that the second tube was subsequently delivered to the same General TEMBELE upon instructions of the Defence Minister, Colonel Athanese GASAKE, which was confirmed by the latter during his hearing in Brussels on 11 July 2002;

General Yangandawele TEMBELE, former commander-in-chief of the GOMA region, who was heard in KINSHASA (D.R.C.) on 11 July 2001, confirmed that he received the two missile-launchers destined for General MOBUTU in two deliveries;

However, it was not possible to locate these two missile-launchers, although one of them was in the custody of former Zaire general Kata KRAMA BARAMOTO, who has not been heard to this day, up until the fall of the government of Maréchal MOBUTU;

Investigations in relation to the missiles themselves have permitted identification of their origin, their technical characteristics and the circumstances further to which they were exported to East Africa and subsequently used by the F.P.R.;

These two missile-launchers come from two SAM 16 type Soviet-manufactured surface-to-air missiles;

This type of anti-aircraft missile equipped with infra-red homing device has a maximum range of 6,000 metres;

Under the circumstances of the present matter, it would have been easy to shoot down a Falcon 50 which is a civilian aircraft that approaches a runway at relatively slow speed and whose two reactors would emit sufficient amounts of heat to effectively activate the missile's homing system even at such a slow speed;

Investigations carried out with the Russian Federation further to an international rogatory commission on 19 June 2000 led to a finding that the two missiles used on 6 April 1994 came from the Ugandan military arsenal;

It appears in fact from information disclosed by the Military Prosecutor's Office of Moscow further to a request for judicial cooperation that the two missiles bearing reference 04-87 – 04814 and 04-87 – 04835 were manufactured in the U.S.S.R. and form part of an order for 40 SA 16 IGLA missiles delivered to Uganda within the framework of an inter-state transaction;

It has been established that F.P.R. weaponry, including anti-aircraft artillery, came from the military arsenal of Uganda;

Professor Filip REYNTJENS testified during the course of this enquiry that members of the Ugandan intelligence services had confirmed to him that the surface-to-air missiles used for the attack were delivered by Uganda to the F.P.R.;

The links between Uganda and the F.P.R. have been clearly proven;

Paul KAGAME, after having fled Rwanda in 1960, fought alongside Yoweri MUSEVENI against Presidents Idi AMIN DAMA, Milton OBOTTE and Tito OKELLI and was promoted to the rank of Major of the "National Resistance Army" (N.R.A.) prior to being appointed deputy head of Ugandan military intelligence services in 1990;

In 1989, with other Ugandan officers, he followed a training course at the military academy of FORT LEAVENWORTH in Kansas (United States). In October 1990, he returned suddenly to Uganda from the United States to take the command of the A.P.R. and conduct the F.P.R. military offensive against Rwanda;

Numerous witnesses have attested to the close links existing at this time between the F.P.R. and Uganda, and more particularly between Paul KAGAME and President MUSEVENI, which had a direct impact in the military domain by the supply of weaponry, particularly anti-aircraft missiles;

Honoré NGBANDA, special advisor on security matters to Maréchal MOBUTU reported that President MUSEVENI confided in him that the war being led by the F.P.R. against Rwanda was "his war" and as a result he was providing the F.P.R. with complete logistics support from a military standpoint;

American Major Tom MARLEY, supervisor of the "International Military Education Training" (I.M.E.T.) programme which had benefited Uganda allegedly stated to Remigius KINTU, director of the "Uganda Democratic Coalition" (U.D.C.) that Uganda had misled US. personnel by proposing candidates for training who were not in fact Ugandan but Rwandan Tutsis and members of the F.P.R.;

Mr Hermann COHEN, former deputy US Secretary of State for African affairs stated during his 7 July 1998 testimony before the French Parliamentary Commission that *"the United States gave no assistance to the F.P.R. Approximately one dozen officers who were members of the F.P.R. followed training in the United States but it was within the framework of military cooperation between the United States and Uganda"*;

The reality of this Ugandan logistical support for the F.P.R. was also pointed out by Denis KAGIRANEZA, former F.P.R. Deputy, who testified in Brussels on 20 November 2001. He reported that supplies in arms and munitions was the responsibility of Paul KAGAME, with the assistance of Ugandan or Rwandan soldiers who still belonged to the "National Resistance Army";

Joseph BUKEYE, former advisor to Rwanda in Uganda and intelligence officer, stated during his testimony heard on 22 November 2002 in Brussels that the F.P.R. did not have the "end user certificate" necessary for official purchase transactions of weaponry and therefore used Uganda to obtain such weaponry. They relied particularly on supplies from the stocks from the 2nd Division of the Ugandan army;

The possession by the F.P.R. of SA 14 and SA 16 "IGLA" type Soviet-manufactured surface-to-air missiles was confirmed both by the testimony of several former members of the F.P.R. or A.P.R. soldiers such as Christophe HAKIZABERA, Jean-Pierre MUGABE, Sixbert MUSANGAMFURA, Denis KAGIRANEZA and Abdul RUZIBIZA who stated that soldiers of the "missile section" had been trained in Uganda by Evariste MUSONI. This was

supported by evidence adduced during the inquiry concerning the Ugandan military arsenal;

During hearings of the French Parliamentary Commission, the *Direction Générale Sécurité Extérieure* (D.G.S.E.) produced a list of anti-aircraft missiles of Soviet manufacture possessed by the Ugandan army with their references;

The serial numbers noted from the two missile-launching tubes discovered on 25 April 1994 in Masaka are 04814 and 04835, which closely match numbers 04815, 014816 and 04838 entered on the missile list in the possession of the Ugandan army;

A similar comparison was made with serial number 04924 engraved on the missile-launching tube discovered on 18 May 1991 in Akagera Park, with reference 04947 appearing on the list;

More specifically, as mentioned earlier, the Russian judicial authorities confirmed that the three missiles came from a lot of 40 IGLA missiles sold in 1987 to Uganda, as proved by the entry "04-87" marked on the three tubes;

The use by the A.P.R. of anti-aircraft missiles of Soviet manufacture against F.A.R. aircraft during the war of October 1990 was reported by various witnesses who testified during the course of the enquiry;

Colonel Sébastien NTAHOBARI of the F.A.R. recounted in a letter certified by his wife sent on 12 October 1998 to Mr Paul QUILES, President of the Parliamentary Commission, that the F.P.R. had shot down a surveillance aircraft with SA 7 and SA14 missiles on 7 October 1990 in MATIMBA near KAGITUMBA and on 23 October of the same year in NYAKAYAGA, near CABIRO, shot down a "Gazelle" helicopter;

These facts were confirmed by a former Captain of the French Air Force, Bruno DECOIN, posted at the military cooperation mission in KIGALI from July 1990 to July 1993. During his testimony of 9 June 2000, he confirmed that a "Gazelle" helicopter and a Britten Islander BN2 had been shot down;

Furthermore, in another letter drafted by Jean-Pierre MINABERRY, pilot of the Falcon 50, he expressed his concern to Bruno DUCOIN that the F.P.R. possessed surface-to-air missiles and sought technical advice as to how best avoid the launching of any such missiles;

This missive was followed by a second for the same purpose sent on 27 February 1994 to Madame Monique EPIN, employee with the company "*Services et Assurances aux Techniques Industrielles Françaises*" (SATIF). Madame EPIN person confirmed this during her testimony on 17 February 2001;

Bruno DUCOIN, who was military technical assistant to the military cooperation mission, stated during his 9 June 2000 testimony that he had received Jean-Pierre MINABERRY's letter, and that he subsequently recommended "technical measures" in order to evade the firing of any missiles;

Furthermore, the pilot of the "Gazelle" helicopter referred to by Colonel Sébastien NTAHOBARI was identified as being F.A.R. air force commander Jacques KANYAMIBWA, a refugee in France;

During his 13 April 2000 testimony, he confirmed that his helicopter had been shot down by a surface-to-air missile on 23 October 1990 during a combat mission against armed elements of the F.P.R. during its October 1990 offensive;

In addition to this testimonial evidence, other material evidence gathered during the investigation demonstrated the possession of surface-to-air missiles by the A.P.R. and their use in Rwanda;

A telegram from the Belgian Embassy in KIGALI addressed on 7 July 1992 to the Ministry of Foreign Affairs in Brussels stated that: "*in view of the support provided by the N.R.A. to the F.P.R., it is acknowledged that anti-aircraft weaponry possessed by the F.P.R. comes from the N.R.A.*" and part of these military resources cited included the two types of surface-to-air missiles manufactured by the Soviets;

*" c) SA 16 low altitude surface to air missile system : max effective range : 6000 m,*

*d) SA 7 low altitude surface to air missile : maximum effective range : 4000 m"*;

The presence of surface-to-air missiles (SAM7 + Eagle) in the F.P.R arsenal was also raised in a 21 September 1992 report prepared by the head of Rwandan military intelligence services (G2);

During an encounter with the A.P.R. unit, on 18 May 1991, F.A.R. soldiers recovered a missile launcher tube in AKAGERA Park which was subsequently delivered to the Gendarmerie Colonel, René GALINIE who at that time was a French Defence Attaché and Head of the military cooperation mission in Rwanda. He then transferred the references of the missile to the *Centre d'Etudes et de Renseignement Militaire à Paris (C.E.R.M.)*:

- 9 K 322-1-01: for the launcher model,
- 04-87: for the month and year of manufacture,
- 04924: for the serial number of the launcher,
- 9 M 313-1: for the model of the missile;

Colonel René GALINI subsequently drafted a report, copy of which was forwarded to the French Parliamentary Commission and which appears as a schedule to the Commission report;

French Captain Bruno DUCOIN reported during his 9 June 2000 testimony that he had placed a neutralised SA 14 type surface-to-air missile in a French military aircraft during a stop-off in KIGALI which had come from the F.P.R. and had also seen debris from a surface-to-air missile whose launcher re-cooling system belonged to the A.P.R. in F.A.R. army barracks;

He added that on 10 September 1991 he intercepted and relayed a radio message from a commercial flight of the Zaire company "Scibe" carrying out the KIGALI-BENI (Zaire) connection where the pilot signalled that he had been hit by a shot fired. Given the altitude at which the pilot was flying the aircraft, the plane could only have been hit by a missile;

This theory was subsequently validated by Colonel Bernard CUSSAC, Defence Attaché at the French Embassy in Rwanda and by his American counterpart posted in KINSHASA;

The fact that the F.P.R. possessed surface-to-air missiles was testified to by numerous witnesses and consistent with findings based on the material evidence. At the same time, the investigation turned up no evidence that the F.A.R. possessed any such anti-aircraft resources;

General Emmanuel HABYARIMANA., Defence Minister from 28 March 2000 to 15 November 2002, served as an officer in the *Forces Armées Rwandaises* (F.A.R.) prior to joining the F.P.R. on 28 July 1994. He stated that the F.A.R. had never been equipped with surface-to-air missiles and that none of its personnel had been trained to use them, contrary to the A.P.R. who possessed them and had used them in October 1990;

His testimony was corroborated by the 18 December 2003 testimony of Balthazar NDENGEYINKA, a former officer of the F.A.R. who also joined the ranks of the F.P.R. in December 1994. It was also confirmed by Colonel

Aloys NTIWIRAGABO, former head of Rwanda military intelligence services (G2), during his 9 July 2001 deposition heard in KINSHASA (D.R.C.);

Furthermore, Lieutenant-Colonel Grégoire of Saint Quentin testified during the course of the enquiry on 8 June 2000. He was posted to the French cooperation mission in Rwanda from 11 August 1992 to 12 April 1994. He testified that, to the best of his knowledge, no soldier of the "*Forces Armées Rwandaises*" (F.A.R.) had ever been trained in the handling of surface-to-air missiles and that they were not equipped with them contrary to the A.P.R. who possessed them;

It appears from the evidence that the F.A.R. did not possess any surface-to-air missiles in their arsenal, but were solely equipped with classical anti-aircraft arms (machine guns and anti-aircraft canons). This is consistent with the inventory of heavy or collective weaponry delivered over for safekeeping to the UNAMIR and which lists no surface-to-air missile;

Within the context of the F.P.R. plan to assassinate President HABYARIMANA, several events towards the end of 1993 were preliminary to the preparation and execution of the 6 April 1994 attack;

Allegedly to guarantee the safety of its official representatives appointed to participate in the creation of the institutions provided for under the Arusha Accords, on 28 December 1993 the F.P.R. succeeded in obtaining approval for quartering of a battalion of six hundred men in buildings of the "*Conseil National pour le Développement*" (C.N.D.) in KIGALI. This eventually became its logistics base for perpetrating the attack and its advance bridgehead for launching the military offensive;

The choice of the C.N.D. followed upon bitter discussions, due to its strategic location in the heart of KIGALI;

During his 25 February 1999 testimony before the International Criminal Court for Rwanda (I.C.T.R.), General Romeo DALLAIRE stated that the UNAMIR was opposed to the selection of this site in the centre of KIGALI as it was "*a position which permitted considerable control over communication arteries between the city and the airport and also the resupply communication access onto another principal road*";



Dismas NSENGIYARMEME, Prime Minister from 16 April 1992 to 16 July 1993 for the multi-party government, testified on 26 February 2002 that it was due to pressure exerted by the F.P.R. that the government of Madame Agathe UWILINGIYIMANA finally accepted the quartering of the A.P.R. battalion on C.N.D. premises, also stating that the F.P.R. took advantage of the concession to bring in arms and additional troops into KIGALI;

These undercover infiltrations and the reinforcement of the F.P.R.'s military capability, particularly by the supply of surface-to-air missiles, was particularly confirmed by the testimony of Gérard NTASHAMAJE, former Major of the A.P.R. who was heard on 4 April 2001;

The UNAMIR was also a witness to this situation;

Belgian Corporal Johnny BOREAUX, who participated in the escort of the F.P.R. battalion during its transfer to the C.N.D. buildings on 28 December 1993, stated during his testimony on 15 December 1996 in Brussels that he had observed that the system being put into place *"allowed soldiers dressed as civilians to infiltrate KIGALI and to commit assassinations"*;

Colonel Luc MARCHAL, testifying before the Belgian Parliamentary Commission, stated that *"he had always been persuaded that when the F.P.R. went looking for firewood in the north it was in order to bring back weapons"*, an assessment which was confirmed by Belgian Lieutenant-Colonel André Lieutenant-Colonel André LEROY and Chief-Sergeant Dimitri PAUWELS both of whom were also members of the UNAMIR;

The presence of surface-to-air missiles at the C.N.D. was observed by several witnesses;

Belgian national Marcel GERIN, operator of a hotel complex in RUSUMO Rwanda, testified that he was informed during March 1994 by Belgian helicopter pilots assigned to the UNAMIR that the F.P.R. had placed boxes containing missiles on the roofs of the C.N.D. This was confirmed by former F.A.R. General Gratien KABILIGI and former Major Aloys NTABAKUZE;

Furthermore, Jean-Marie DESSALES, security advisor, who testified on 30 April 2001, delivered correspondence to investigators from former Rwandan Defence Minister Augustin BIZIMANA where BIZIMANA refers to infiltration of F.P.R. elements into the capital and the delivery to the C.N.D. of surface-to-air missiles;

Colonel Bernard CUSSAC, French military Attaché posted in KIGALI, confirmed the presence of surface-to-air missiles at the C.N.D. during his 14 June 2000 testimony and the potential risk of this weaponry for civilian aircraft;

It is also useful to recall that Abdul RUZIBIZA, former A.P.R. Captain and member of the "Network Commando" stated that the two missiles used for the attack were transported to C.N.D. premises during the month of March 1994;

This anti-aircraft weaponry constituted an ongoing threat since early 1994 against all civil and military aircraft using the airspace around the Rwandan capital;

With the desire to guarantee the security of its advance headquarters in KIGALI, the F.P.R. imposed a prohibition against flying over the C.N.D. and restricted the use of KIGALI airport take-off and landing courses for both military and civilian aircraft;

In addition to security-related considerations, these restrictions against flying over the C.N.D. facilitated the preparation and the execution of the attack, as pointed out by Jean-Pierre MUGABE;

In fact, by prohibiting aircraft departing from or landing in KIGALI from flying over C.N.D. buildings located on the course of runway 10 at Kanombe airport in January 1994, the F.P.R. had restricted all flights taking the opposite course (runway 28) which overlooked the heavily wooded, hilly sector of Masaka;

Colonel Tharcisse RENZAHU, the former Prefect of KIGALI, testified on 11 July 2001 in KINSHASA, that this measure was taken unilaterally by the F.P.R.;

Jean-Michel LACOSTE, pilot and commander of the Noratlas of the Rwandan army, had received verbal instructions concerning the prohibition against flying over the C.N.D. and was advised by a memo from the UNAMIR that during a flight over KIGALI he had narrowly avoided an F.P.R. missile;

Brigitte DEMENIEUX, widow of Jean-Pierre MINABERRY, co-pilot of the Falcon 50 reported that, some time after arrival of the F.P.R. battalion in KIGALI, her husband had voiced his fears to her concerning the possession of missiles by this organisation and had disclosed correspondence he had sent to Bruno DUCOIN and Monique EPIN which addressed this concern;

The fears of the pilots of the presidential aircraft were corroborated by testimony of Herménégilde BIZIGE, translator and interpreter for the Rwandan president, who testified on 20 October 2000. During her testimony she stated that the pilots of the Falcon 50 *"had learned to pilot between mountains and had learned how to protect themselves"*;

It was also with a view to protection against any future firing of missiles that the crew of the presidential Falcon decided to no longer approach Kanombe airport after nightfall;

While preparations for the attack entered into their preparatory stage, a number of political figures were assassinated or targeted by attempted assassinations during the early part of the year. Within this particularly dangerous security context, the summit of DAR-ES-SALAAM (Tanzania) was held on 6 April 1994;

This meeting of heads of State of the Great Lakes region initially scheduled for 5 April 1994 in ARUSHA was postponed for undisclosed reasons to 6 April in DAR-ES-SALEEM;

The summit, organised at the initiative of the Ugandan President Yoweri MUSEVENI, included the following agenda item: *"To find resources to assist Burundi and Rwanda to resolve the political problems and security problems present in these countries"*;

On 4 April 1994, President HABYARIMANA met with Zaire President Sese Seko MOBUTU in GBADOLITE in order to prepare the summit and secure support;

During their private conversation, MOBUTU confided that he had received intelligence that the major powers were conspiring to have him eliminated, and that the F.P.R. was nothing more than their "*armed wing*";

This meeting between two Heads of State was referred to by Enoch RUHIGIRA former Director of cabinet of President HABYARIMANA in his 11 January 2001 testimony. He also stated that the president had met with Mr Roger BOOH-BOOH, special representative of the Secretary General of the United Nations in Rwanda during the Easter weekend in his GISENYI residence;

The Burundi president Cyprien NTARYAMIRA also participated in this Zaire interview according to the evidence given on 12 February 2001 by Déo NGENDAHAYO, former deputy administrator for the Secretary of State of Burundi and officer of the *Bureau Central des Renseignements* (B.C.R.) [Central Intelligence Agency] who had accompanied the president to GBADOLITE;

The holding of this meeting was also confirmed by Honoré NGBANDA, special advisor to President MOBUTU in security matters who testified on 7 September 2000;

In GBADOLITE, following a private conversation with President MOBUTU and the Rwandan president, he observed that the security of President HABYARIMANA was at serious risk, and that the president had spoken of the use by the F.P.R. of surface-to-air missiles which put him in a position where he was "*forced to take off as a thief and return as a thief*";

Honoré NGABANDA testified on 7 September 2000 that following this interview, and at the request of President MOBUTU, he carried out a security assessment. Due to the rumours concerning the existence of a conspiracy targeting President HABYARIMANA, President MOBUTU counselled the latter not to travel to DAR-ES-SALAAM and cancelled his own participation, estimating that he also was at risk;

On the issue of the scheduling of the summit, numerous witnesses testified that the works had commenced late, had no precise agenda and dragged on, forcing delegations particularly that of Rwanda, to leave the Tanzanian capital after nightfall;

The summit, initially scheduled to begin at 10:30am according to the 9 November 2000 testimony of Justin MUNYEMANA, legal Counsel to the Rwandan President, only in fact got underway at 12:30pm and in the absence of the President MOBUTU. Faustin MUNYAZESA, the former Minister of the Interior in Rwanda who was also in attendance at DAR-ES-SALAAM testified on 19 November 2001 in Brussels that the opening of the summit was delayed to 2:00pm due to the late arrival of the Ugandan President Yoweri MUSEVENI;

Furthermore, both Faustin MUNYAZESA and Justin MUNYEMANA testified that President MUSEVENI led the summit in an incoherent and uncontrolled manner;

Justin MUNYEMANA stated on 9 November 2000 that he learned from counsellor Juvenal RENZAHO that the agenda which was to principally deal with Burundi became increasingly focused on Rwanda and that with respect to the conduct of debates by the Ugandan President he had told him: "*I don't know if we're going to get out of here but he (President MUSEVENI)*

*is falling asleep and then when he awakens he is picking up where he left off prior to falling asleep and he is saying just about anything. He's obviously not interested in what is going on";*

Faustin MUNYAZESA also observed that the initial agenda was not respected and that it was in fact a debate on the Arusha Agreements. Each time a discussion appeared to be concluding, President MUSEVENI took the floor to say *"we have not settled the ethnic problems in Rwanda which has led President HABYARIMANA to demand that we act. This is what he declared at the beginning of the session with respect to the will to immediately apply the agreement"* and *"we are here to make Rwandan history"*;

The stalling tactics of President MUSEVENI also drew the attention of foreign observers, particularly American diplomats posted to Tanzania;

The United States Embassy in DAR-ES-SALAAM, in a declassified diplomatic telegram sent on 7 April 1994 to the US State Department in Washington mentioned that *"MUSEVENI appeared to want to engage the group in a hypothetical discussion concerning the roots of the ethnic conflicts"*;

This same diplomatic telegram noted that the summit was *"very tense and emotional"* and in the paragraph related to Rwanda he noted that *"on the issue of Rwanda, the commitment of HABYARIMANA in favour of the Arusha agreements was clearly expressed at the summit"*;

However, this stated intent of the Rwandan President to promptly fulfil his obligations resulting from the agreements does not appear in the final communiqué, which only devotes one paragraph to the situation in Rwanda, a theme which nevertheless had been at the core of concerns expressed by President MUSEVENI;

It is also noteworthy that according to statements of the participants at this summit, proceedings were adjourned more than an hour late and the laborious drafting of the final communiqué did not allow delegations to leave Tanzania prior to night fall;

In this regard, Justin MUNYEMANA testified that the meeting initially scheduled to end at 4:00pm was only adjourned at 5:00pm followed by an improvised dinner. President HABYARIMANA, who had signed the French version of the final communiqué at the airport, was only able to leave with his Burundi counterpart at 6:30pm;

In fact, President NTARYAMIRA, who had no confidence in his army who were for the most part comprised of Tutsi, asked his Rwandan counterpart to bring him back to Bujumbura;

Furthermore, according to Faustin MUNYAZESA, the delays which compromised the drafting of the final communiqué had irritated President HABYARIMANA who was concerned about leaving Tanzania during daylight;

Enoch RUHIGIRA, the former Cabinet Director of President HABYARIMANA, testified on 11 April 2001 that the President was expected in KIGALI towards 5:00pm;

President HABYARIMANA, aware that he had to travel at night due to the late departure of the presidential aircraft, initially planned on spending the night in DAR-ES-SALAAM. This

was refused to him on the grounds that nothing had been prepared for his lodging according to Colonel SAGATAWA whose remarks were reported by Simon INSONERE, Director General of Rwandan Foreign Affairs Ministry during his 8 April 2000 testimony;

The evidence consistently shows that neither President HABYARIMANA nor his front ranking security service, including Elie SAGATAWA, nor the crew of the Falcon 50 agreed to this night flight, due to the risks they would be running in Rwandan air space;

Jean-Michel LACOSTE, Captain of the French Air Force and Commander of the Rwandan Noratlas who transported some of the Rwandan delegation to DAR-ES-SALAAM, reported during his testimony of 11 December 2002 that he had observed the concern of Jean-Pierre MINABERRY and Jacky HERAUD who wanted to take off prior to nightfall;

Jean-Michel LACOSTE specified on the issue of the concerns of the Falcon 50 crew that it was related to discussions he had had with them two months earlier on manoeuvres to avoid any launching of a surface-to-air missiles;

Alain BOITEL, the flight engineer on the "Noratlas" had also been informed of the fears expressed by Jean-Pierre MINABERRY concerning the possession by the A.P.R. of surface-to-air missiles;

In the eyes of several observers, this summit was nothing more than a pretext to facilitate perpetration of the attack;

This was indeed the view of President MOBUTU, who cancelled his participation at the summit and advised President HABYARIMANA to refrain from attending according to testimony of Paul BARRIL given on 29 September 1999 and who had met Maréchal MOBUTU in Gbadolite after the attacks;

This assessment was confirmed by Balthazar NDENGEYINKA, former A.P.R. Colonel, who testified on 18 December 2003. NDENGEYINKA recounted that during private discussions with Colonel Charles MUHIRE, who at that time was the Head of the operations bureau at A.P.R. Headquarters, the latter admitted that "they" had shot down the presidential plane and that the meeting which the President had attended in DAR-ES-SALAAM was in fact nothing more than a pretext to get them out of Rwanda. Furthermore, he stated that the end of day return to KIGALI had been intentionally delayed and that the departure time of the Falcon 50 from DAR-ES-SALAAM airport had been disclosed by telephone to A.P.R. headquarters in Mulindi;

Abdul RUZIBIZA, former A.P.R. Captain, corroborated the testimony of Balthazar NDENGEYINKA concerning the real goal of the summit during his testimony of 3 July 2003, adding that Patrick KAREGEYA, head of the "*Service Extérieur de Sécurité*" (E.S.O.) of the F.P.R. used the cover of the Ugandan delegation to secretly travel to DAR-ES-SALAAM;

Investigations undertaken with respect to magnetic recordings of traffic from the air traffic control tower of KIGALI airport allowed for a reconstitution of the chronology of movements of various aircraft which used this aeronautical platform for the day of 6 April 1994;

Expert analysis and testimony with respect to these magnetic recordings seized for purposes of this proceeding determined that the presidential Falcon 9XR – NN took off from KIGALI airport towards DAR-ES-SALAAM at 6:07 am with 11 persons on board and that at 2:51 pm and 4:02 pm, two telephone calls were recorded in connection with the arrival of the presidential plane "expected at 5:00pm" followed up at 4:34 pm and 4:41 pm by new calls from members of the presidential guard worried about the landing time of the plane. Furthermore, between 5:03 pm and 6:37 pm several persons called the control tower to have information concerning the return schedule of the Falcon 50 and each of those callers received the response that the aircraft had not yet taken off;

It emerged that the flight plan of the Falcon plan was only filed around 7:00 pm and the estimated time of arrival in KIGALI was set at 8:26 pm;

At 7:21 pm, the control tower confirmed to Enoch RUHIGIRA that the presidential aircraft would be landing at 8:30 pm. At 8:08 pm, the crew of the Falcon 50 called the Kigali tower to transmit by radio a KIGALI-BUJUMBURA flight plan for indication of a take-off scheduled for 8:40pm with "VIP no.1 of Burundi on board";

At 8:21 pm, the Falcon 50 9XR-NN announced its approach and the control tower then communicated parameters for the descent to the crew, the Captain having specified that he wanted to make a direct landing on 28 (runway 28) and that he would call back "once fixed on the I.L.S." (instrument landing system);

No other radio message was recorded and at 8:25pm, the aircraft distress signal was triggered;

This technical data corroborates statements of all persons who are familiar with the proceedings of this summit, some of whom witnessed the delays in the proceedings of the summit and the fears expressed both by President HABYARIMANA and the crew of the Falcon 50 concerning night arrivals with an approach on runway 28 flying over the Masaka sector;

With respect to the attack itself, several witnesses testified that the aircraft was hit several times;

Mathieu GERLACHE, Chief Corporal assigned to UNAMIR testified in the Belgian military *Auditorat* on 13 April and 30 May 1994. He testified that he distinctly saw two luminous points leaving the ground towards the aircraft, the second following ten seconds after the first, immediately followed by explosion of the aircraft;

This testimony was corroborated by that of Pascal VOITURON, another Belgian soldier of the UNAMIR and Jean-Luc HABYARIMANA, son of the President who was present at the presidential residence of KANOMBE;

Lieutenant-Colonel Gregoire de SAINT-QUENTIN reported that he heard *"two shots very close in time but not simultaneously on 6 April 1994 at 8:30pm"* while at his domicile located 500 metres from the private residence of President HABYARIMANA;

Several witnesses reported having intercepted or having knowledge of radio messages announcing success of the operation;

Lieutenant-Colonel Gregoire de Saint Quentin stated that, on 7 April in the office of Commander Aloys NTABAKUZE, he noted handwritten re-transcriptions of a message captured by the electronic surveillance systems of the F.A.R. coming from the F.P.R. high command announcing the success of the "reinforced squadron";

In fact, after the October 1990 offensive, the F.A.R. had created two centres for electronic surveillance and interception of wireless communications which allowed them to capture F.P.R. radio-electric communications. The first centre was located at GISENYI and the other at KIGALI;

During his testimony of 22 June 2001, Colonel Jean-Jacques MAURIN, Deputy Defence Attaché with the French Embassy in KIGALI, confirmed the existence of these two centres which he had visited;

Furthermore, the Gendarmerie Colonel, René GALINIE, Lieutenant-Colonel Gregoire de SAINT-QUENTIN and Air Force Captain Bruno DUCOIN who respectively testified on 7, 8 and 9 June 2000, corroborated the testimony of Colonel MAURIN on the existence of these electronic surveillance centres, which were qualified as "high performance" by the former General of the Rwandan Army, Gratién KABILIGI who testified in ARUSHA on 6 June 2002;

At the time the request for judicial cooperation was served on the I.C.T.R., former F.A.R. Chief of Staff General Augustin NDINDILYIMANA, had delivered copy of a message captured on 7 April 1994 at 8:45am by the GISENYI electronic surveillance unit. This message came from the Headquarters of A.P.R. in Mulindi announcing the success of the "reinforced squadron mission";

The existence of this message has already been corroborated by the testimony of Lieutenant-Colonel Gregoire de SAINT-QUENTIN, and was also confirmed by testimony in ARUSHA given by former F.A.R. soldiers Major Aloys NTABAKUZE, Colonel Théoneste BAGOSORA, General Gratién KABILIGI, the former Commander of the GISENYI sector, Colonel Anatole NSENGIYUMVA, the supervisor of the electronic surveillance station for north Rwanda who intercepted the initial A.P.R. message on 6 April in the morning disclosing troop movements during the night of 5 and 6 April and a second on 7 April at 8:45am concerning the attack in addition to Major Epiphane HANUYRWIMANA and Lieutenant-Colonel Lieutenant Alphonse KAYUMBA NZUNGIZE;

Furthermore, Richard MUGENZI, radio operator working for the F.A.R. who was recruited for this mission due to his qualifications in the field of radio broadcasting and his linguistic aptitudes, speaking French and English, as well as dialects and local languages such as Kinyarwanda, Swahili and Igika, confirmed during his testimony of 5 June 2001 that he re-transmitted the message of 7 April, a message in Swahili which according to him was not coded and which he personally intercepted, announcing the success of the "reinforced squadron";

The overall evidence clearly demonstrates that, for the F.P.R.,

the physical elimination of President Juvénal HABYARIMANA was the necessary condition precedent for any seizure of power by force and was part of a far-reaching plan which had been developed for this purpose;

It thus appears from testimony and documentation gathered that the F.P.R. and particularly its leader, General Paul KAGAME, when participating in various peace negotiations with the Rwandan government, sought to gain time in order to prepare resuming their military offensive and to mislead the Rwandan population opinion with respect to its true intentions;

During his testimony given in Belgium, Belgian Colonel Luc MARCHAL, the Deputy Commander of the UNAMIR, summarized this strategy in the following terms:

*"I state this with all the more conviction as I myself was fooled by their persistent propaganda when faced with the ARUSHA negotiations. Once in KIGALI, I realised that there was a gap between words and deeds. A milling machine, that's what this totalitarian movement was";*

The initial moves toward a resumption of hostilities have been described by all witnesses who testified, including former partisans of the presidential camp and members of the F.P.R.;

The preliminary signs that a resumption of hostilities was imminent included the ongoing campaigns to recruit young Tutsis both outside Rwanda and within the country, the stockpiling of weapons caches by the A.P.R. in de-militarised zones under control of the UNAMIR, the infiltration into KIGALI of civilian combatants, the transport to the C.N.D. of arms and munitions, including SAM16 type anti-aircraft missiles, during trips between A.P.R. Headquarters in Mulindi under escort of UNAMIR forces and the supply of weaponry from Uganda;

It was been clearly demonstrated that all A.P.R. units were in a state of alert or pre-alert since 3 April 1994 and that during the days preceding the attack all officers of the F.P.R. barracked at the C.N.D. had rejoined Headquarters in Mulindi;

It is worthwhile in this regard to recall that Abdul RUZIBIZA stated in his 3 July 2003 testimony that the military High command of the A.P.R., which operated under the direct authority of Paul KAGAME and his deputy, Lieutenant-Colonel James KABAREBE, had assigned a triple mission to the "network commando" to which he belonged - to assassinate members of the Tutsi community in order to cast discredit on the Rwandan government by accusing its militia of the crimes, to carry out searches and operational reconnaissance in the governmental zone in preparation for a resumption of the military offensive and to finalize preparation of the plot to kill President HABYARIMANA;

During testimony heard in Belgium on 21 November 2001, Félix LIZINDE, son of Colonel Théoneste LIZINDE, assassinated in KENYA by an F.P.R. commando, stated that during the night from 6 to 7 April 1994 A.P.R. units had left the Mulindi and Byumba zone to reinforce the battalion stationed at C.N.D. and that one of these units which departed unarmed had recovered weapons in one of the F.P.R. caches located en route;

Former deputy Jean-Baptiste MBERABAHIZI, who testified on 20 November 2001, stated that he learned from an A.P.R. soldier that weapons hidden hitherto on Mount Kaniga near Mulindi had been disinterred. This was also confirmed by Abdul RUZIBIZA who stated that he was aware of four of these caches *"the most important of which held up to 120 tonnes of arms and munitions in KARAMA"*, as Jean-Baptiste MBERABAHIZI;



Jean-Pierre MUGABE, former F.P.R. member, stated during his testimony in Paris on 13 March 2001 that, during the evening of 6 April 1994, while in F.P.R. Headquarters in Mulindi, James KABAREBE held a private discussion around 8:30pm with Paul KAGAME in the same room. Several moments later the order was given to all A.P.R. units to be on "stand by category one" for purposes of an imminent resumption of hostilities;

This general alert signal given to A.P.R. units during the moments following the attack was also reported by Sixbert MUSANGAMFURA, former Rwandan Prime Minister after the victory of the F.P.R., during his testimony on 10 July 2002 in Belgium.

Innocent MARARA, a member of the personal guard of Paul KAGAME, who also testified in Paris in September 2001, confirmed that on 6 April 1994 while in Mulindi he heard that all personnel had been placed on "category one" alert after the announcement by radio of the destruction of the presidential Falcon 50. This was also confirmed by Evariste MUSONI;

Paul KAGAME, in his unwavering desire to exclusively run the country and to give no quarter in achieving that aim, sought to physically eliminate anyone and particularly his own partisans who were likely to get in his way;

For this purpose, he created a special unit known as "Network commando" within the "Directorate Military Intelligence" (D.M.I.) responsible for tracking and assassinating within Rwanda and throughout Africa any opponents to the government including those who had participated in clandestine operations or had been witnesses, especially to the attack against the Falcon 50 of President HABYARIMANA;

It is within this framework that Félicien GATABAZI, the Minister of Public Works and Secretary General of the "*Parti Socialiste Démocrate*" (P.S.D.), an ally of the F.P.R., was assassinated in KIGALI on 21 February 1994 for having refused to support a *coup d'état* by the F.P.R.;

On 6 October 1996, Colonel Théoneste LIZINDE, F.P.R. Deputé and former advisor to Paul KAGAME, was kidnapped in Nairobi (Kenya) and assassinated shortly thereafter;

Knowing that he was under threat by "*the strong man of KIGALI and his henchmen*" as he confided in a fax sent from KINSHASA on 10 January 1996, he secretly left Rwanda, seeking refuge first in Zaire and then in Kenya;

Colonel LIZINDE due to his proximity with the directing minds of F.P.R. and Paul KAGAME was a privileged witness to preparations for the attack and its execution by an A.P.R. unit;

While in exile, he confided in Joseph NZIRORERA that "*the F.P.R. was behind the initiative to kill President HABYARIMANA*" and he resolved to write a book after meeting with Seth SENDASHONGA;

Christophe HAKIZABERA also testified that Théoneste LIZINDE had told him on several occasions that the attack of 6 April 1994 was the work of the F.P.R. and was directed by Colonel Charles KAYONGA, assisted by Major Rose KABUYE;

In their testimony of 21 November 2001 in Brussels, the two sons of Colonel Théoneste LIZINDE handed over various documents to investigators, including one which formally accuses the F.P.R. of the attack of 6 April 1994;

They were furthermore of the view that their father was assassinated as a result of the investigation which he led concerning the attack on the presidential plane;

Seth SENDASHONGA, who Théoneste LIZINDE wished to meet prior to publication of his book, was in turn murdered on 16 May 1998 in Nairobi;

As an influential member of the F.P.R., he was appointed to sit as Minister of Youth in the future broad-based transitional government and in this capacity resided at the C.N.D. prior to being appointed Minister of the Interior in July 1994, a portfolio which he resigned from on 28 August 1995 in company of Prime Minister Faustin TWAGIRAMUNGU;

He then left Rwanda and was the target of an assassination attempt on 26 February 1996 in Kenya involving Francis MUGABO, member of the Rwandan Consulate, Officer with the "External Security Office" (E.S.O.). MUGABO was arrested on the premises in possession of a firearm prior to being expelled towards Rwanda due to his diplomatic status;

In this regard it is noteworthy that Francis MUGABO is cited on the list of members of the "Network" appearing in the report of Michael HOURIGAN, the investigator with the I.C.T.R.;

The evidence of the investigation shows beyond a doubt that the assassination of Seth SENDASHONGA is related to the knowledge which he had of the attack of 6 April 1994;

His spouse, Cyrie NEKUZE SENDASHONGA stated to the Kenyan police that her husband "fellow traveller of the F.P.R. was assassinated because he *"knew too much"*. His former friends feared that he would eventually testify before the French Parliamentary Commission;

Jean-Pierre MUGABE confirmed statements made by the widow of Seth SENDASHONGA that he was assassinated *"because he was familiar with the planned attack against the presidential plane and furthermore had become a potential danger for the F.P.R. because he was supported by Hutus and a portion of Tutsis from the interior"*;

This practise of eliminating former members of the organisation who were in a position to *"harm the F.P.R. or who had participated in terrorist actions"* to quote Jean-Pierre MUGABE, was confirmed by Denis KAGIRANEZA, member of the F.P.R. Central Committee who, during his testimony of 20 November 2001 in Belgium, stated that the oath of allegiance to the F.P.R. stipulated that traitors and renegades were subject to the death penalty, adding in the case of Seth SENDASHONGA and Théoneste LIZINDE that neither of them could continue to support *"the political and military management methods of the F.P.R. ... and so became more and more troublesome"*;

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Investigations conducted to date within the framework of this hearing have demonstrated that the attack of 6 April 1994 formed part of a general strategy developed by Paul KAGAME as of 1993 with a view to seizing power by violence and exercising it exclusively;

In 1993, the F.P.R. was no longer in a position to win the elections provided for under the ARUSHA Agreements following the transition period as they no longer enjoyed wide enough popular support to accede to power by democratic means;

The various internal divisions which developed within the political opposition parties which had collaborated with the F.P.R. since 1992 led to their break-up. This situation was aggravated by the hegemonic tendencies of the F.P.R. as revealed by its February 1993 offensive and particularly by the assassination on 21 October 1993 in Burundi by the mono-ethnic Tutsi army of President Hutu Melchior NDADAYE who had been democratically elected several months earlier;

These divisions cast heavy suspicion on the true intentions of the F.P.R. and led to the rallying of their dissidents to the presidential cause;

Thus, the sole solution henceforth open to the F.P.R. and its leader Paul KAGAME was to resort to force;

A number of witnesses who have testified during this enquiry have revealed this strategy;

Déo NGENDAHAYO, officer of the Burundi *Bureau Central du Renseignement* [Central Intelligence Agency] testified on 12 February 2001 that the F.P.R. had chosen this path;

Belgian Colonel Luc MARCHAL, Deputy Commander of the Unamir testified in Belgium, testified on 9 July 2002 that the sole motivation of the F.P.R. was the conquest of power;

In his log-book he noted on 4 April 1994 *"in fact, the theory defended is that the sole motivation of the F.P.R. in taking up arms against the current government is not the victory of democracy but the conquest of power by violence" .. "this theory fits my observations and deductions"*;

This analysis was re-examined by the Belgian Parliamentary Commission who observed that on 9 April 1994, three days after the attack, Paul KAGAME in an official announcement on "Radio Muhabma" declared that the ARUSHA Accords were obsolete and that he had exercised the choice *"which best responded to the objectives of the F.P.R., i.e. seizing power by the force of arms"*;

During his testimony on 21 January 2004, General Roméo DALLAIRE, who at the time of events was the Commander-in-Chief of the Unamir, confirmed the hegemonic strategy of Paul KAGAME and the determination which he had demonstrated in implementing his plan: *"the rebels of that time – he testified – now in power had planned for a country dominated by the Tutsis during the course of their armed struggle against the government controlled by the Hutu ethnic group"*. The F.P.R., he added *"did not necessarily place among its priorities the welfare of the populations of the interior but rather a plan that had been long in the making and which would result in a country dominated by the Tutsis"*;

Despite having supported the F.P.R., the American government, through Mr Hermann COHEN, Adviser for African Affairs with the US Secretary of State warned against the excesses of Paul KAGAME and the serious threat he represented for the Rwandan population;

On 7 July 1998, before the French Parliamentary Commission, Mr Hermann COHEN stated *"the United States has no reason to be satisfied with this invasion. The F.P.R. was not welcomed with open arms by the Rwandan population, which defeats any theory suggesting it was a liberation army. This attack was even criticised by certain Tutsis who said that if the F.P.R. won the war Rwandan Tutsis would pay the price and they would all be killed"*[TRANSLATION];

The statements of this senior officer of the US State Department is consistent with other testimony that Paul KAGAME did not hesitate to provoke and maintain inter-ethnic strife to legitimise the resorting to violence;

Déo NGENDAHAYO said precisely that when he mentioned in his earlier hearing that *"the situation in Rwanda required a pretext to trigger reprisals between Tutsi and Hutu and thus justify the taking of power by force by the F.P.R. and its allies which would confer upon it political legitimacy"*;

Nkiko NSENGIMANBA, officer responsible for Rwandan non-governmental organisations (NGO), testified in Berne on 18 April 2002 that Patrick MAZIMPAKA, Vice-President of the F.P.R. showed the same determination. When challenged that resuming combat by the F.P.R.

When challenged that resuming combat by the F.P.R. would trigger the massacre of *"members of the opposition which included him and the Tutsis"*, he allegedly responded that it *"was up to the government of Rwanda to protect its citizens and after all even in Nazi Germany there were survivors"*;

Dismas NSENGIYARMEME, former Prime Minister of Rwanda also confirmed the determination of the F.P.R. to pursue hostilities with a view to a *"total seizure of power"* at any cost. Seth SENDASHONGA stated to him in this regard *"you can't make an omelette without breaking eggs"*;

Following the attack of 6 April 1994 and the simultaneous triggering of reprisals on the Tutsi population and resumption of hostilities by the F.P.R., it appears that the latter refused any foreign intervention even under the auspices of the U.N. and continued its military actions;

In the opinion of Colonel MARCHAL when he testified in Belgium, the manner in which military operations were undertaken in the north of Rwanda upon 7 April 1994 reflected planning over a long period of time and hostilities which lasted for three months could well have been shorter;

He added that the intent of the F.P.R. to drag out fighting, which triggered the massacre of the Tutsis, led him to believe that they considered the Tutsis from inside Rwanda as collaborators of the HABYARIMANA government and that their deaths were a political calculation;

Abdul RUZIBIZA, former Captain of the A.P.R., corroborated this assessment of Colonel MARCHAL when he stated during his testimony referred to above that *"Paul KAGAME had*

*little consideration for Tutsis from the interior who in his mind were almost the equivalent of Hutus ... Tutsis from the interior were potential enemies who had to be eliminated in the same manner as the Hutus to take power, the essential objective of Paul KAGAME";*

It emerges from all of the investigations conducted to date during the course of this enquiry and in particular the testimony of former A.P.R. soldiers and dissidents of the F.P.R. that the attack perpetrated on 6 April 1994 against the Falcon 50 of President HABYARIMANA falls within a larger scheme orchestrated by the F.P.R. under the leadership of Paul KAGAME which aimed to violently seize power, a goal which they could not hope to achieve legally by compliance with institutional mechanisms implemented further to the ARUSHA Agreements;

The decision to assassinate President HABYARIMANA by a spectacular attack which would necessarily result in provoking reprisals from the most extremist branch of the Hutu ethnic group was taken during at least three meetings held during late 1993 and early 1994 at Headquarters of the Senior Military Command of the *Armée Patriotique Rwandaise* (A.P.R.) in Mulindi in the presence *inter alia* of:

- its commander-in-chief, General Paul KAGAME, born 23 October 1957 in Tambwe, Gitarama Préfecture (RWANDA), current President of the Republic,
- his deputy, Lieutenant-Colonel James KABAREBE, born in 1959 or 1963 in Rutshuru (ex-Zaire), currently Chief of Staff of the *Armée Patriotique Rwandaise* which has since been renamed the "*Force Rwandaise de Défense*",

and the following officers:

- Faustin NYAMWASA KAYUMBA, born 28 March 1958 in Uganda, currently Major General,
- Charles KAYONGA, born in 1959 or 1962 in Murama, Gitarama Préfecture (Rwanda), currently Brigadier General and National Defence advisor to the President;

The final order to shoot down the presidential plane was personally given by Paul KAGAME himself during a meeting held in Mulindi on 31 March 1994. The planning and operational phase was assigned to Colonel James KABAREBE who *inter alia* was responsible for creating a team specialised in the use of surface-to-air missiles provided by Uganda;

The material preparation, organisation and intelligence necessary for the execution of this operation was carried out with the direct cooperation of officer members of the High Command:

- Charles KAYONGA, battalion Commander of the A.P.R. based at the C.N.D. in Paul KAGAME,
- Jackson NKURUNZIA aka Jack NZIZA, Major,
- Colonel Samuel KANYEMERA aka Sam KAKA,
- Rose KABUYE, Major assigned to the A.P.R. battalion who billeted the commando in its C.N.D. quarters prior to the attack,

- Jacob TUMWINE, major, deputy to Lieutenant-Colonel Charles KAYONGA, who had received the missiles to be used in the attack in his quarters of the C.N.D. and was among the officers in the presence of Paul KAGAME during the final meeting when the order to shoot down the aircraft was given;

Sub-Lieutenant Franck NZIZA and Corporal Eric HAKIZAMANA, members of the missile section fired their SAM16 type surface-to-air missile on the presidential plane and destroyed it in mid-flight;

Other relevant evidence that emerged during the enquiry shows that Paul KAGAME deliberately opted for a *modus operandi* which, within the particularly tense context reigning both in Rwanda and Burundi between the Hutu and Tutsi communities, could not fail to trigger bloody reprisals towards the Tutsi community, thus offering him legitimate grounds to resume hostilities and to seize power with the support of international opinion;

Although his army was militarily superior to that of the F.A.R., the refusal of the F.P.R. to accept the cease-fire while massacres were underway and to authorise the presence on Rwandan territory of international forces to participate in the restoration of order and to put an end to the genocide demonstrates that the sole goal pursued by its leaders was to obtain total victory at the price of a massacre of Tutsis "from the interior", considered by Paul KAGAME as "*collaborators with the HABYARIMANA government*";

Although this criminal strategy was observed and denounced by outside observers, particularly political leaders, American military and members of the UNAMIR, the F.P.R. would pursue it to its end;

The aforementioned F.P.R. leaders, having participated in the conception, planning and execution of the attack under the aforementioned conditions are liable to criminal indictment under counts of assassination, conspiracy to commit assassination in connection with a terrorist enterprise and criminal conspiracy for the purpose of preparing acts of terrorism;

Paul KAGAME, President of the Republic of Rwanda, enjoys the immunity granted in France to incumbent Heads of State and therefore cannot be prosecuted within the framework of this proceeding;

On the other hand, he can be subject to prosecution by the International Criminal Court for Rwanda (I.C.T.R.);

It is incumbent upon the Honourable Secretary General of the United Nations who shall be officially informed by a request transmitted by diplomatic courier of the relevant evidence of the enquiry and of the charges made against Paul KAGAME and, if appropriate, to refer to The Honourable Prosecutor for the International Criminal Court of Rwanda for the purposes of commencing action against him for his alleged participation in the attack of 6 April 1994, which are offences falling within the jurisdiction of the court;

Whereas consequently the following persons:

**1 – James KABAREBE or KABARE aka "James" aka "king of the great lakes" aka "the son"**

born on 23 December 1959 in Nyarugenge (Rwanda) or in 1963 in Rutshuru – North Kivu Regions (ex-Zaire and currently Democratic Republic of Congo)  
 father unknown and other unknown  
 of Zaire and Rwandan nationality

currently General Head of State of the "*Forces Rwandaises de Défense*"

**2 – Faustin NYAMWASA KAYUMBA**

probably born on 28 March 1958 in Mbarara or in the District of Rukengiri (Uganda)  
 but in reality a native of North Rwanda (Byumba Préfecture)  
 father unknown mother unknown  
 of Ugandan nationality

currently Rwandan Ambassador to India

**3 – Charles KAYONGA**

born 10 October 1962 in Rukara (Rwanda)  
 the son of Silver KAYONGA and Languid KAYONGA  
 of Rwandan nationality  
 currently Chief of Staff of the Rwandan Army

**4 – Jackson NKURUNZIZA aka Jack NZIZA**

born in 1959 in Bufumbira (Uganda) or 1960 in Gisoro Region  
 (South-West Uganda)

of unknown parents  
 Ugandan nationality

currently holding a position with the Presidential Guard or a position as logistics officer with  
 the "*Forces Rwandaises de Défense*"

**5 – Samuel KANYEMERA aka Sam KAKA**

born in 1960 (without other particulars)  
 of unknown father and unknown mother  
 of unknown nationality

currently F.P.R. Député

**6 – Rose KABUYE née KANYANGE**

born 22 April 1961 in Muvamba (Rwanda)  
 of unknown father and unknown mother  
 Rwandan nationality

currently Director general of State protocol

7 – Jacob TUMWINE

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born 12 October 1966 in Myumba (Rwanda)  
of unknown father and unknown mother  
of Rwandan nationality

currently demobilised Lieutenant-Colonel

8 – Franck NZIZA

born in Uganda (without other particulars)  
of unknown mother and unknown father  
unknown nationality

currently holding a position as Captain of the Presidential Guard or a position as officer of an administrative unit

9 – Eric HAKIZAMANA

born in Rwanda  
of unknown father and unknown mother  
Rwandan nationality

holding a position with Department G2 of the "Directorate of Military Intelligence" (D.M.I.)

all persons of unknown domicile

sought in relation to charges of assassination in relation with a terrorist enterprise (8 and 9),  
conspiracy to commit assassination in relation with a terrorist enterprise (1, 2, 3, 4, 5, 6 and 7)  
and criminal conspiracy to commit acts of terrorism (1, 2, 3, 4, 5, 6, 7, 8 and 9)

crimes defined and punishable by articles 121-6, 121-7, 221-3, 421-1, 421-2-1, 421-3, 421-5  
of the *code pénal* (criminal code), 203 and 706-16 *et seq.* of the *code de procédure pénale*  
(criminal procedure code) of the *Code Pénal*

having disappeared or not residing on the National Territory

Whereas this court deems it necessary in consequence to issue warrants of international arrest  
for such persons

Orders that this proceeding be served on *Monsieur le Procureur de la République*.

Executed in Paris on 17 November 2006

Le Premier Vice-Président  
Jean-Louis BRUGUIÈRE

