

Memorandum of Agreement
between the United Nations Office for Project Services
and the Government of New Zealand

Preamble

WHEREAS, the United Nations General Assembly, in its resolution A/RES/53/26 adopted on 17 November 1998, expressed in its operative paragraph 2, the resolution welcomes “the efforts made by the United Nations to foster the establishment of mine-clearance capacities in countries where mines constitute a serious threat to the safety, health and lives of the local population.” The resolution also emphasizes, in its operative paragraph 7 “the important role of the United Nations in the effective coordination of mine-action activities, including those by regional organizations.”

WHEREAS, the United Nations involvement in mine action in Kosovo is more specifically mandated by Resolution 1244 adopted by the Security Council on 10 June 1999. The resolution supports the deployment of an international civil presence, the responsibilities of which include “supporting, in coordination with international humanitarian organizations, humanitarian and disaster relief aid” (OP 11(h)), and “assuring the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo” (OP 11(k)).

WHEREAS, the international civil presence in Kosovo will take more time to deploy and become operational than the international security presence, Security Council Resolution 1244 provides for temporary assistance in mine action by the international security presence. Thus, the responsibilities of the international security presence include “supervising demining until the international civil presence can, as appropriate, take over responsibility for this task” (OP 9(e)).

WHEREAS, in this connection, the Government of New Zealand (hereinafter referred to as the “Donor”) agreed to make available to the United Nations the services of certain personnel for assignments of limited duration to assist in carrying out the objectives of the United Nations in emergency humanitarian coordination activities.

WHEREAS, the United Nations Mine Action Service (hereinafter referred to as “UNMAS”) has established a project, “Mine Action Programme – Kosovo” (hereinafter referred to as the “Project”) financed through the United Nations Voluntary Trust Fund and executed by the United Nations Office for Project Services (hereinafter referred to as “UNOPS”) for establishing a Mine Action Coordination Centre in Kosovo.

WHEREAS, in support of this project, the Donor has expressed interest to make available to the Project the services of a technical advisor as the Chief of the Mine Action Coordination Centre (hereinafter referred to as the “Chief of the MACC”) to support the mine action activities in Kosovo and to assist in carrying out the objectives of the Project;

WHEREAS, the Donor and UNOPS (hereinafter referred to as the "Parties") wish to ensure the terms and conditions under which the technical advisor shall be deployed;

The Parties agree as follows:

Article I
Purpose of the Agreement

The purpose of this Agreement is to set forth the terms and conditions under which the Chief of the MACC may be made available by the Donor to the Project to assist in the mine action activities in the region in and around Kosovo and to assist in carrying out the objectives of the Project. Unless specifically provided otherwise, the terms and conditions of the Agreement shall apply only in the region in and around Kosovo.

Article II
Duration, Amendment and Termination

1. This Agreement shall enter into force upon signature, and shall apply from 18 June 1999. Unless otherwise determined by the parties, the Chief of the MACC shall be withdrawn from the assignment on 17 December 1999. The Agreement shall expire on the withdrawal of the Chief of the MACC.
2. No modification of or change in this Agreement, waiver of any of its provisions or additional contractual provisions shall be valid or enforceable unless previously approved in writing by the parties to this Agreement or their duly authorized representatives in the form of an amendment to this Agreement duly signed by the parties hereto.
3. This Agreement may be terminated by either party before completion of the Agreement by giving thirty (30) days written notice to the other party, and the Donor shall be responsible for all costs associated with repatriating the Chief of the MACC.

Article III
Obligations of the Donor

1. The Donor agrees to provide a technical advisor selected in consultation with UNOPS to perform the services of the Chief of the MACC as described in the attached Terms of Reference (Annex A) which forms an integral part of this Agreement. The Chief of the MACC will work under the overall supervision of the UNOPS Mine Action Unit and in consultation with UNMAS.
2. The Donor shall be responsible for all of the costs associated with providing the services of the Chief of the MACC, including but not limited to, salary and national allowances, except for a

roundtrip airline ticket from New York to Skopje, FRYM and mission subsistence allowance as described in Article VI(8) below.

3. The Donor shall ensure that, during the entire period of service under this Agreement, the Chief of the MACC is a participant in a national health-care scheme and/ or is covered by adequate medical and life insurance, and is covered by appropriate arrangements assuring compensation in the case of illness, disability or death. Notwithstanding, Article VI(6)&(7) below, the Donor shall ensure that the Chief of the MACC is covered by adequate medical and security evacuation insurance. The Donor shall be responsible for any costs related to the provision of the above requirements.

4. The Donor agrees that the Chief of the MACC shall remain for six months in country inclusive of any accumulated leave to perform the services set forth in Annex A. Where necessary, the Donor, in consultation with UNOPS, may withdraw the Chief of the MACC for disciplinary, medical, compassionate, administrative or security reasons.

Article IV **Obligations of the Chief of the MACC**

1. The Donor agrees to the terms and obligations specified below, and shall accordingly ensure that the Chief of the MACC performing services under this Agreement is instructed to comply with these obligations:

- (a) During the period of his assignment to UNOPS, the Chief of the MACC will be subject to the managerial authority of UNOPS, vested in the Executive Director of UNOPS and responsible to UNOPS in the exercise of his functions. Accordingly, the Executive Director or his designated representative shall have managerial authority over the deployment, organization, conduct, and direction of the Chief of the MACC made available under this Agreement. During the period of this Agreement, such authority shall be exercised on behalf of the Executive Director by the Division Chief, UNOPS Mine Action Unit. The Division Chief, UNOPS Mine Action Unit shall have general responsibility for coordination of all implementation activities under the project.
- (b) The Chief of the MACC shall report to the Division Chief, UNOPS Mine Action Unit on all technical and administrative matters concerning implementation of the Project. Any policy or priority setting decision taken by UNMAS that has an affect on the implementation of the project will be communicated first to UNOPS and then to the Chief of the MACC so that UNOPS has the opportunity to amend implementation modalities.
- (c) During his assignment with UNOPS, the Chief of the MACC shall regulate his conduct with the interests of UNOPS only in view. The Chief of the MACC shall not seek or accept instructions in respect of the performance of his duties from any

authority external to UNOPS, except for decisions taken by UNMAS as described in paragraph (b) above, nor shall the Donor give such instructions to him, except on matters pertaining to his personal status as Chief of the MACC.

- (d) During his assignment with UNOPS, the Chief of the MACC will not engage in any activity that is not compatible with the discharge of his duties with UNOPS. The Chief of the MACC will exercise the utmost discretion in all matters of official business for UNOPS, the Chief of the MACC will not communicate at any time to any other person, Government or authority external to UNOPS any information known to him by reason of his association with UNOPS which has not been made public, except in the course of his duties or by authorization of the UNOPS Executive Director or the Division Chief, UNOPS Mine Action Unit, nor shall he ever use such information for private gain. These obligations do not lapse upon cessation of service with UNOPS.
- (e) The Donor shall ensure that the Chief of the MACC meets the standards established by UNOPS for service with UNOPS as set forth in Annex A, and shall comply with policies and procedures laid down by UNOPS regarding medical or other clearances, vaccinations, travel, shipping, leave or other entitlements. The standards of conduct expected of international civil servants shall be applicable to the Chief of the MACC.
- (f) The Chief of the MACC shall be responsible to the Division Chief, UNOPS Mine Action Unit performing the tasks indicated in the Terms of Reference attached in Annex A.
- (g) The Chief of the MACC shall not engage in actual mine clearance activities other than in a supervisory or emergency assistance capacity. In addition, he is permitted to carry-out mine clearance activities to secure safe operation for himself. UNOPS must authorize such activities in advance.
- (h) The Chief of the MACC will submit at the end of the assignment to the Division Chief, UNOPS Mine Action Unit a final report on the activities performed during the entire duration of the assignment.

Article V

Status of the Chief of the MACC

1. The Chief of the MACC shall not be considered in any respect as being officials or staff members of UNOPS or the United Nations. He shall have the status of an expert on mission in accordance with Article VI, Section 22 of the 1946 Convention on the Privileges and Immunities of the United Nations.
2. UNOPS shall take necessary steps to ensure the appropriate governments are aware of and respect the status accorded Chief of the MACC under the Convention and shall issue the Chief of

the MACC an identity certificate as provided for in Article VII, Section 26 thereof.

3. The Chief of the MACC shall benefit from all privileges and immunities of being an expert on mission for the United Nations, including immunity from personal arrest, subject to the right and duty of the United Nations Secretary-General to waive immunity where such immunity otherwise would impede the course of justice and can be waived without prejudice to the successful completion of the Project or to the interests of the UNOPS or the United Nations.

Article VI. **Obligations of UNOPS**

1. UNOPS shall provide the Chief of the MACC sufficient office space, access to telephone and facsimile, radios to maintain contact with deployed personnel and sets of maps pertaining to areas of operations.

2. UNOPS shall provide sufficient specialized or support equipment required by the Chief of the MACC for the performance of his functions.

3. UNOPS shall provide the Chief of the MACC with transport within the region reasonably necessary for the performance of his operational functions and shall be responsible for provision of the necessary funds for the maintenance of all project vehicles.

4. The Chief of the MACC shall be entitled to the same security while on official duty, including while traveling in the course of his duties, as other UN personnel. UNOPS shall advise the Special Representative of the Secretary General or his designated representative of the name of the Chief of the MACC that may be assigned pursuant to the Agreement for this purpose.

5. UNOPS shall keep the Donor informed of the activities and proposed activities involving the Chief of the MACC and, in particular, of any circumstance which may lead to a requirement for medical or security evacuation of the Chief of the MACC.

6. UNOPS shall be responsible for providing casualty evacuation in-country to the Chief of the MACC in case of injury during the course of performing his duties and medical evacuation to a proper medical facility in the region in case of injury or illness. Any medical evacuations from a third country will be borne by the Donor.

7. UNOPS undertakes no responsibilities in respect of life, health, accident, travel or any other insurance coverage for any person which may be necessary or desirable for the purpose of this Agreement or for any personnel performing services under this Agreement. Such responsibilities shall be borne by the Donor.

8. UNOPS shall pay daily subsistence allowance in New York and mission subsistence allowance established at the UN rate on a monthly basis in Kosovo to the Chief of the MACC. In the event that the Project provides accommodation to the Chief of the MACC, the mission subsistence allowance shall be adjusted in accordance with UN rules and regulations. In addition, UNOPS shall provide a roundtrip airline ticket from New York to Skopje, FRYM.

Article VII.
Consultation

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

Article VIII.
Administrative Matters

1. Correspondence with the Chief of the MACC on all administrative arrangements connected with assignment and travel, both prior to departure for the mission area and after completion of assignment with UNOPS, will be conducted by UNOPS Headquarters in New York. During assignment in the mission area, the Chief of the MACC shall deal through the Division Chief, UNOPS Mine Action Unit on all administrative matters resulting from his assignment.

Article IX.
Duty Schedule and Leave

1. Hours of Duty

Hours of duty are determined by the tasks to be performed and the situation in the area. Working hours may be irregular and longer than standard under normal conditions, especially during the formative stages of the mission or during periods of peak activity.

2. Leave

Leave credits are accrued at the rate of 2.5 days per month of completed service. UNOPS is not responsible for other travel costs in association with leave. The following general conditions apply to the granting of leave:

- (a) Leave may not be taken before it is earned.
- (b) All arrangements for leave are subject to the exigencies of services, and must be approved in advance by UNOPS.
- (c) Unauthorized absence, except for reasons beyond the individual's control, will be charged to accrued leave.

(d) During the final month of service, no more than 12 days of leave may be approved.

3. Sick leave

All absence from duty for medical reasons shall be immediately reported to the supervising UNOPS officer.

Article X.
Notification of Withdrawal

1. The Donor shall not withdraw its Chief of the MACC from UNOPS without giving reasonable prior notification to the UNOPS Executive Director.
2. Should the UNOPS Executive Director decide to reduce the numbers of personnel required for UNOPS field activities, he shall give reasonable prior written notification to the Donor.
3. Should the Donor or UNOPS wish to terminate the assignment of the Chief of the MACC during the course of the assignment, repatriation will be promptly effected and the costs borne by the Donor.

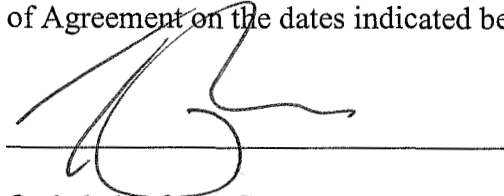
Article XI.
General Provisions

1. This Agreement and the Annexes attached hereto shall form the entire Agreement between the Donor and UNOPS, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Agreement.
2. The rights and obligations of the Donor and the Chief of the MACC are limited to the terms and conditions of this Agreement. Accordingly, the Donor and the Chief of the MACC performing services on its behalf shall not be entitled to any benefit, payment, compensation or entitlement except as expressly provided in this Agreement.
3. The Parties agree to waive any claims against each other as related to injury of personnel or damage to goods and equipment, unless such injury or damage is a result of gross negligence or wilful misconduct. UNOPS shall further hold harmless the Donor for any third party claims that may arise in the course of the performance of the Chief of the MACC's official duties under this Agreement, including words spoken or written and acts done by them, however, the Donor shall accept responsibility for any third party claims arising from gross negligence or willful conduct of the Chief of the MACC outside his official duties.
4. Any controversy or claim arising out of, or in accordance with this Agreement or any breach thereof, shall unless it is settled by direct negotiation, be settled in accordance with the UNCITRAL Arbitration Rules as at present in force. Where, in the course of such direct negotiation referred to above, the parties wish to seek an amicable settlement of such dispute,

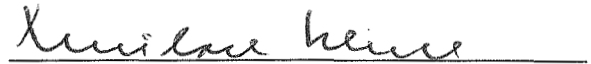
controversy or claim by conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules as at present in force. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy or claim.

5. Nothing in or relating to this Agreement shall be deemed a waiver of any privileges and immunities of the United Nations or UNOPS.

IN WITNESS WHEREOF, the undersigned, duly appointed representatives of UNOPS and of the Donor, respectively, have on behalf of UNOPS and the donor signed the present Memorandum of Agreement on the dates indicated below their respective signatures.



On behalf of the Government of New Zealand
Mr. Trevor Hughes
Acting Permanent Representative of New Zealand
to the United Nations
New York



UNOPS, as represented by Reinhart Helmke
Executive Director

Date: 4/7/99

ANNEX A

TERMS OF REFERENCE FOR CHIEF OF THE MINE ACTION COORDINATION CENTRE IN KOSOVO

The Chief of Mine Action Coordination Centre (CMACC) will be responsible for all personnel, equipment and operations of the Mine Action Coordination Centre (MACC). He will direct and supervise the work of all MACC staff at headquarters and in the regional offices. The CMACC will work under the overall supervision of the UNOPS Mine Action Unit, who will consult regularly with the United Nations Mine Action Service (UNMAS) for policy and operational guidance, and shall consult closely with the staff of the appropriate authorities (whether governmental or international), as appropriate.

While the technical supervision and administration of the Consultant will be a UNOPS responsibility, UNMAS retains overall ownership for the project and will be responsible for:

- a. Policy formulation and programme guidance;
- b. Priority setting vis a vis programme objective

This responsibility will be carried out in a coordinated fashion. The Consultant will provide monthly reports simultaneously to both agencies and will receive direction that has been coordinated by and agreed to by both agencies. Any policy or priority setting decision taken by UNMAS that has an affect on the implementation of the project will be communicated first to UNOPS and then to the Consultant so that UNOPS has the opportunity to amend implementation modalities.

He will also report on a regular basis on the progress of the project to the Special Representative of the Secretary-General (SRSG) or to the Deputy SRSG for Humanitarian Affairs.

More specifically, he will be responsible for the following:

1. The CMACC will develop Humanitarian Emergency mine/UXO clearance plan in cooperation with UNHCR, UN, UN agencies and will advise on all aspects of a comprehensive emergency mine/UXO action programme, including coordination, mine/UXO clearance, mine/UXO survey, mine/UXO-field marking and mine/UXO awareness training. In the future he will advise and assist the Government in the establishment of a national entity responsible for mine/UXO clearing activities in country (Province).
2. The CMACC will establish coordination mechanism and maintain relationship with NATO and all organizations charged with mine/UXO related issues in his mission area and will provide advice on all demining matters to those organizations.

3. With the assistance of Mine Information Officer, two IMSMA Assistants (Data Entry Clerks) and the staff of two regional offices, he will establish a database and master mine/UXO map of Kosovo Province, and will actively seek the information necessary for this database. He will act as the point of contact for United Nations agencies and non-governmental organizations seeking information on the mine/UXO situation in any location of the province.
4. The CMACC will in the future assist the Government in raising funds for mine/UXO-related activities.
5. He will be assisted in his duties by a Liaison Officer to NATO, a Chief Operations Officer, a Chief Mine Information Officer, a Quality Assurance Officer, a Mine Awareness Officer, a Chief Admin Officer, an Administrative Assistant, an Office Manager, a Finance Assistant, a Logistics Assistant, two IMSMA Assistants (Data Entry Clerks), a QA Assistant, a Mine Awareness Assistant, an OPS Assistant, and two Driver/Interpreters at the headquarter MACC, and by a Regional Mine Officer (RMO) (Regional Cell Manager (RCM)), a Deputy RMO, a Regional IMSMA Assistant, a Regional QA Assistant, a Regional Admin Assistant, and a Driver/Interpreter in each of the two regional offices. He will ensure that United Nations policy and procedures are adhered to by himself and all staff members.
6. The CMACC will be responsible for maintaining the operations of the Mine Action Coordination Centre within manpower and budgetary limits. He will provide such budgetary estimates as are required and operate within any financial restraints.
7. The CMACC will carryout other tasks as directed by the UNOPS Mine Action Unit.

Qualifications:

- Proven experience in the management of a major demining battle area clearance project
- Practical hands-on experience in demining and explosive ordnance disposal in post-conflict situations
- Thorough knowledge of demining and explosive ordnance equipment
- Fluency in English, sound working knowledge of Serb/Albanian (desirable)
- Computer literacy
- Experience in mixed-nationality work forces
- Sound technical and mechanical background
- Military experience preferred. If not, candidate should be self-reliant and able to work

independently

- Good health

Duration of tenure: Six months