

DEFENSE

**United Nations/African Union
Mission in Darfur**

**Agreement Between the
UNITED STATES OF AMERICA
and the UNITED NATIONS**

Signed at New York January 5, 2009

with

Attachment



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

UNITED NATIONS

**Defense: United Nations/African Union
Mission in Darfur**

*Agreement signed at New York January 5, 2009;
Entered into force January 5, 2009.
With attachment.*

**AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND
THE UNITED NATIONS ORGANIZATION
CONCERNING
THE PROVISION OF SERVICES AND COMMODITIES ON A REIMBURSABLE
BASIS IN SUPPORT OF THE OPERATIONS OF THE UNITED NATIONS/AFRICAN
UNION MISSION IN DARFUR**

PREAMBLE

The United States of America and the United Nations Organization, hereinafter referred to as the "Parties,"

On the part of the United States of America, as represented by the Department of State of the United States of America (hereinafter "Department of State"), acting under the authority of section 607 of the Foreign Assistance Act of 1961, as amended, and other relevant authority;

On the part of the United Nations Organization, as represented by the Department of Field Support, in accordance with United Nations Financial Regulations and Rules, and other relevant authority;

Noting United Nations Security Council Resolutions 1769 and 1828 and previous relevant resolutions relating to the formation and operations of United Nations –African Union Mission in Darfur (UNAMID); and

Desiring to establish the terms and conditions for the provision of assistance by the United States of America at the request of the United Nations Organization in support of UNAMID, with all the costs for United Nations Organization requested assistance to be reimbursed to the Department of State by the United Nations Organization;

Have agreed as follows:

**ARTICLE I
SCOPE OF PROVISION OF SUPPORT**

1. In order to support the United Nations Organization in the operations of UNAMID and in accordance with the terms of this Agreement, the Department of State, at the written request of the United Nations Organization, may provide to United Nations Organization the following types of assistance, to the extent they are available, relating to or in support of UNAMID on a reimbursable basis:
 - (a) The services and assistance required for the movement of 240 Twenty-foot Equivalent Units (TEU) within Sudan as outlined in the attached Description of Services, consistent with the relevant task order modifications of the September

25, 2008 contract between Department of State and PAE (hereinafter "the Contract") up to \$15 million US dollars.

- (b) Other, similar types of support services as required and agreed upon in writing by the Parties.
- 2. As agreed to by the United States of America, or the Department of State, and the United Nations Organization in writing, other types of assistance to the United Nations Organization in support of UNAMID may be provided by the United States of America on a reimbursable basis in accordance with this Agreement.
- 3. The Services to be provided shall be in accordance with the Contract, unless otherwise agreed in writing. The Department shall enforce the provisions of the Contract at the written request of the United Nations Organization so that the assistance provided pursuant to this Agreement shall be of equal quality and caliber to that which the Department of State is entitled pursuant to the Contract.

ARTICLE II SUPPORT PROCEDURES AND REQUIREMENTS

- 1. Unless the written consent of the United States of America has first been obtained which shall not be unreasonably withheld, the United Nations Organization shall not use or permit the use of any assistance provided pursuant to this Agreement for purposes other than to support UNAMID under applicable United Nations Security Council resolutions or for other purposes as may be agreed between the Parties consistent with this Agreement, or transfer or permit any officer, employee, or agent of the United Nations Organization to transfer any assistance provided pursuant to this Agreement, by gift, sale, or otherwise except as authorized pursuant to this Agreement and by the United Nations Financial Regulations and Rules.
- 2. The Parties agree that the authorized users of any assistance provided pursuant to this Agreement shall include all personnel assigned to UNAMID and authorized UNAMID personnel.
- 3. The United Nations Organization shall maintain the security, to the extent of its capacity, of any assistance provided pursuant to this Agreement, and shall provide it substantially the same degree of security protection afforded by the United States of America.
- 4. The provision of assistance pursuant to this Agreement may be made subject to additional terms and conditions as may be agreed to in individual implementing arrangements executed in writing between the United States of America, or the Department of State, and the United Nations Organization under this Agreement.
- 5. The Department of State and the United Nations Organization each waives all claims it may have (other than claims associated with the reimbursement for assistance provided

hereunder) against the other Party for damage to, or loss or destruction of, its property or injury or death to its personnel arising out of activities of the personnel of the other Party pursuant to this Agreement. Claims of third parties filed against the Department of State or the United Nations Organization for damages or loss caused by their respective personnel, servants, agents or contractors, (including subcontractors) arising from activities under this Agreement shall be resolved by the Party against which such claims are filed in accordance with that Party's applicable laws, rules and regulations.

ARTICLE III IMPLEMENTATION

1. The Department of State shall implement this Agreement for the United States of America. The Department of Field Support shall implement this Agreement for the United Nations Organization.
2. The Department of State and the United Nations Organization shall each designate a representative to coordinate the provision of the services under this Agreement.

ARTICLE IV REIMBURSEMENT PROCEDURES

1. All assistance provided by the United States of America under this Agreement shall be fully reimbursed by the United Nations Organization within the time specified in paragraph 3 of this Article.
2. The cost to be reimbursed by the United Nations Organization shall not exceed the actual cost incurred by the Department of State in providing such assistance. In the event that the Department of State recovers funds from its contractors or any sub-contractor due to overcharging of contracts, or otherwise, the Department of State shall refund to the United Nations Organization any amounts so recoverable are attributable to payments made by the United Nations Organization hereunder.
3. The Department of State shall submit written invoices detailing the costs of assistance provided under this Agreement to the United Nations Organization. A consolidated Department of State invoice with supporting documentation shall be submitted on a monthly basis. The United Nations Organization shall pay submitted invoices in U.S. dollars to the Department of State within 60 days after receipt of the bills submitted pursuant to this Article.

ARTICLE V ORDERING AND RECEIPT OF EQUIPMENT, SUPPLIES, AND SERVICES

1. The provision of assistance under Article I of this Agreement shall be accomplished under a Letter of Assist issued by an authorized United Nations Organization representative in accordance with United Nations procedures and consistent with the terms and conditions of this Agreement.

2. The Letter of Assist shall supply, as necessary, such additional details regarding, e.g., receipts, delivery procedures, and accounting shall be agreed upon by the Parties or their representatives in writing prior to the delivery of any assistance.
3. In the event of any conflict between the terms and conditions of this Agreement and any Letters of Assist or any other request issued by the United Nations, the terms of this Agreement shall be controlling.

**ARTICLE VI
SETTLEMENT OF DISPUTES**

Any dispute arising under this Agreement shall be resolved through consultations between the Parties to this Agreement or their representatives and shall not be referred to any third party.

**ARTICLE VII
ENTRY INTO FORCE, DURATION, AMENDMENT AND TERMINATION**

1. This Agreement shall enter into force upon signature and shall remain in force for a period of five years. This Agreement shall apply to assistance provided by the Department of State in accordance with Article 1 beginning September 25, 2008.
2. This Agreement may be amended by the written agreement of the Parties and may be terminated by either Party upon 30 days written notification to the other Party.
3. Notwithstanding the termination of this Agreement, the obligations of the Parties in accordance with Article II and Article IV of this Agreement shall continue to apply, unless otherwise agreed in writing by the Parties.

DONE at UN - New York, this 5 day of Jan, 2008⁹, in duplicate.

FOR THE UNITED STATES
OF AMERICA:

Rosemary J. DiCarlo

FOR THE UNITED NATIONS
ORGANIZATION:

M. Keating

Attachment 1

Description of services

United States of America assistance for the airlift of un owned (UNOE) and Contingent Owned Equipment (COE) from El Obeid and Nyala to El Geneina, Sudan in support of UNAMID

1. SITUATION

The United Nations has come to an agreement with the Government of the United States for the Government (USG) to provide cargo airlift services to assist with the airlift of UN owned and contingent-owned equipment from El Obeid and Nyala, Sudan to El Geneina, Sudan in support of UNAMID. This airlift assistance will augment the ongoing airlift arranged by the UN using commercially contracted aircraft on both a short term and a long term basis.

The tasking authority for aircraft contracted by the USG for the UN rests with the USG, but will be closely coordinated with the Chief of the Movement Control Section/TMS/LSD/DFS as executed jointly through the Chief of Movement Control and Chief of Air Operations UNAMID.

2. MISSION

To provide in-mission cargo airlift services for the movement of 240 Twenty-foot equivalent Container Units (to include containers, vehicles and/or break bulk cargo ¹), meeting operational requirements in the most economical and cost-effective manner, between El Obeid and Nyala to El Geneina, Sudan. Both sides anticipate that this will be completed in no more than 240 and no less than 210 L-100 flights. The United Nations will reimburse only for actual costs; any cost-savings realized through improved efficiency of delivery or other lower costs will be passed through to the United Nations.

3. EXECUTION

- a. Concept of Operations. DFS' intent is to commence cargo movement flight operations in support of UNAMID on or about 15 Dec 08. The aircraft L-100 will be based Nyala, Sudan (or in any other airfield in Sudan upon agreement between the UN and the US Government) and will be for the exclusive use of the United Nations for the duration of the airlift. Use of this aircraft, for purposes other than those authorized by the UN, is strictly prohibited. The USG will have overall planning and cargo tasking authority for this aircraft and will coordinate movement activity directly with the Movement Control Section UNAMID, keeping the Movement Control Section/TMS/LSD informed on all movement activity.
- b. Groupings & Tasks.

¹ It is estimated that a 60/40 per cent relationship between containers and other cargo (vehicles and break bulk)

i. Movement Control Section.TMS/LSD/DFS

- (1) Grouping. Assign an MCS Desk Officer (Mr. José Solorzano) as overall focal point for all movement activity involving the US airlift.
- (2) Tasks and Responsibilities.
 - (a) The Movement Control Section.TMS/LSD/DFS will be the overall planning and coordinating responsibility for all movements to be conducted by this aircraft.
 - (b) The MCS will be the approving authority for movement of any personnel travel requests as per DPKO/DFS transportation related Manuals and Directives.
 - (c) Provide briefings and SITREPS to UNHQ senior management, and other parties, as and when required.
 - (d) Receive and process invoices within 60 days.

ii. UNAMID.

- (1) Grouping. Assign suitable number of Air Ops and Movcon Specialists to coordinate MCS authorized movement operations for daily flight coordination.
- (2) Tasks.
 - (a) Assist with any over flight and landing clearances that may be required. The US Government/Air Operator will be applying for all over flight and landing permissions through the regular Civil Aviation Authority (CAA) channels, however UNAMID assistance with obtaining diplomatic clearances may be required.
 - (b) Coordinate with the US Government/Air Operator on the flight schedule, cargo numbers and passengers (where applicable). Schedules and cargo will be prepared by the UN with sufficient time for the processing of all flight clearances.
 - (c) Timely positioning and removal of all equipment to/from predetermined airport apron pick-up locations.
 - (d) Knowing the status and whereabouts of the aircraft at all times (in conjunction with the US Government/Air Operator's flight following system).

- (e) Issuing weekly and daily flight schedules in coordination with MCS/TMS/LSD. Issuing Internal Movement Orders and executing internal movement of passengers and cargo to meet the flight schedules.
- (f) Completing passenger and cargo manifests (including all documentation and requirements for the carriage of Dangerous Goods).
- (g) Providing Movcon Specialists for flights as and when required.
- (h) Completing Movement Completion Reports (MCR) and submit them to all concerned parties.
- (i) Issuing Letters of Support to aid the US Government/Air Operator, as and when required.
- (j) Verify invoices stating what services were rendered and submit to the MCS/TMS/LSD.
- (k) Maintain an accurate spreadsheet on all flight activity conducted in support of UNAMID.
- (l) Provide briefings and SITREPs to MCS as required.

iii. US Government

- (1) Grouping. Provision of one (1) L-100 (with a cargo carrying capacity of 135 cubic meters in the cargo hold) and sufficient crew to: conduct up to 240 flights to move UN owned and contingent owned equipment and supplies (including Dangerous Goods) between El Obeid and Nyala to El Geneina, Sudan. Along with the aircraft, the US Government should provide:
 - a. One (1) x K-loader of 15 mtons capacity to be positioned at Nyala,
 - b. A minimum of 20 Milstd L pallets (not flexible).
 - c. A minimum of 40 sets of cargo nets and 60 straps.
- (2) Tasks.
 - (a) Conduct all cargo flights as requested by Movement Control/UNAMID.
 - (b) Provide sufficient licensed crews.
 - (c) Provide an Operations Manager, as required in Darfur, to coordinate flight operations with UNAMID Movement Control.

- (d) Ensure that the aircraft is properly operated and maintained to carry out assigned tasks in accordance with ICAO Standards and Recommended Practices (SARPS) contained in the Annexes of the Chicago Convention
- (e) Plan the final flight routing (including all timings) in accordance with the requirements given by the UNAMID Movement Control.
- (f) Provide operational control facilities as required in Darfur including to act as the central point of contact for UNAMID Movement Control.
- (g) Being aware of the status of the aircraft at all times.
- (h) Acquire all over flight and landing permissions. UN assistance will be provided, where necessary.
- (i) Arrange ground handling to include, but not limited to, terminal support, cargo loading/offloading, personnel embarkation/disembarkation (if and when required) aircraft services (fuel, cleaning, etc) and crew transportation and accommodation.
- (j) Operation of MHE provided in the form of one(1) k-loader.
- (k) Direct liaison with UNAMID Movement Control personnel to coordinate cargo weighing and loading preparation as well as pre-boarding activity prior to aircraft arrival, passenger preparation and manifesting (if and when applicable). (Air Operator is responsible for ensuring that all passengers and cargo are properly prepared for boarding).
- (l) Submit all invoices to the Chief of Movement Control UNAMID for verification and on-forwarding to the USG, which will forward to the Chief MCS/TMS/LSD for final review and payment processing. All invoices should be accompanied with a summarized report. The report should include, but not limited to, dates of flights, flight number, aircraft registration, APOE and APOD, cargo and passengers moved, etc.
- (m) Provide briefings and SITREPs to MCS/TMS/LSD as requested and agreed by the USG.

d. Coordinating Instructions.

i. Timings.

(1) Aircrafts to be positioned in Darfur on or about 9 January 2009.

ii. Commercial Contract Details/Timings. To be provided in due course.

3. SERVICE & SUPPORT

- a. Food & Accommodation. UNAMID will provide all catering for any passengers being moved on the US provided aircraft.
- b. Transportation. The transportation of the aircrafts' crews, are a vendor responsibility.
- c. Invoicing. All invoices related to the use of the US provided aircraft are to be submitted to the Chief Movement Control/UNAMID who will verify that the services were rendered. These invoices will then be on-forwarded the USG for approval and then the Chief of the MCS/TMS/LSD for processing.

4. COMMAND & SIGNALS

a. MCS/TMS/LSD Points of Contact

- i. James Smith, Chief MCS/TMS/LSD
Office: + 1212 963-0232
Fax: + 1 917 367-2423
Email: smith6@un.org
- ii. José Solórzano, MCS Desk Officer for UNAMID
Office: + 1 917 367-3473
Fax: + 1 917 367-2423
Email: solorzano@un.org

b. UNAMID Points of Contact.

- i. Christer Roing, OIC Movcon
Tel.: + 249 922 4102 89
Email: unamid-movcon-chief@un.org
- ii. Rocky Hoare, Movcon Operations
Tel.: + 249 922 343 176
Email: unamid-movcon-operation@un.org

James Smith, Chief
Movement Control Section
TMS/LSD/DFS

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NOTE: The paragraph number "3" appears to be duplicated in this attachment.