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**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

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INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

To: Mr. Constant Hometowu
Coordinator, Trial Chamber III

Date: 8 March 2005
Ref:

From: Stephen Rapp
Senior Trial Attorney
Media/Akazu Team

Subject: **Filing of Amended Indictment in compliance with the Trial Chamber's decision of 2 March 2005 in Prosecutor v. Zigiranyirazo, ICTR-2001-73-I**

2005 MAR - 8 P 3: 51
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DIGITAL RECORDS/ARCCMS

1. Kindly find attached the Amended Indictment for filing in compliance with the Trial Chamber's decision of 2 March 2005.
2. All the deletions and additions required by said Decision have been made in this Amended Indictment. Regarding the direction in Paragraph II(3) on page 8 of the Decision "to insert names of unprotected witnesses in the relevant paragraphs as stated in paragraph 25 [this is believed to be 22] above," the Prosecution notes that the statement of its witness (SGO) does not give any further names of the members of the Sekimonyo family or Bahoma tutsi clan. However, its witness AKK does not provide the names of 11 victims of the killings on Kesho or Gashihe Hill. These have been set forth in revised paragraphs 13 and 30.
3. As the Trial Chamber focused on the allegation that Kesho or Gashihe Hill and Ruruga Hill were in the same secteur (following the receipt of the corrected information that there were not in the same cellule), and for the sake of accuracy, the references to Kabayengo cellule have been omitted from revised paragraphs 12, 14, 29 and 31.
4. Also attached is an annexure showing the deletions and omissions.
5. Also attached is French version of the Indictment. This has been prepared by the Prosecution in the interests of time. Essentially all of the additions to the text involved dates and names. Most of the required changes were deletions. As such it was possible to edit the French translation of the Amended Indictment of

31 August 2004 without the need to send the new Amended indictment of the Language Section.

6. Best regards

(2080 - 2068)

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UNITED NATIONS
INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2001-73-I

THE PROSECUTOR
AGAINST
PROTAIS ZIGIRANYIRAZO

JUDICIAL RECORDS/ARCHIVES
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AMENDED INDICTMENT

- I. The Prosecutor of the United Nations International Criminal Tribunal for Rwanda, pursuant to the authority stipulated in Article 17 of the Statute of the International Criminal Tribunal for Rwanda (the "Statute") charges:

Protais ZIGIRANYIRAZO

With:

- Count 1 - CONSPIRACY TO COMMIT GENOCIDE
 Count 2 - GENOCIDE, or alternatively
 Count 3 - COMPLICITY IN GENOCIDE
 Count 4 - EXTERMINATION as a CRIME AGAINST HUMANITY
 Count 5 - MURDER as a CRIME AGAINST HUMANITY.

II. **THE ACCUSED**

1. **Protais ZIGIRANYIRAZO** (alias Mr. "Z") was born in north-western Rwanda in 1938 in Giciye commune, Gisenyi prefecture. Giciye, together with the adjoining commune of Karago constitutes Bushiro which is also the birthplace of former Rwandan president Juvénal HABYARIMANA and his wife Agathe KANZIGA. **Protais ZIGIRANYIRAZO** is Agathe KANZIGA's brother, hence the brother-in-law of President HABYARIMANA.
2. **Protais ZIGIRANYIRAZO** served the Second Republic MRND government of Juvénal HABYARIMANA as *prefet* of Ruhengeri prefecture from 1974 to 1989. During the events cited in this Amended Indictment he was a businessman in Giciye commune.
3. Under President HABYARIMANA's rule, political and financial power in Rwanda was consolidated within a tight circle consisting of extended family members of the president and members of an elite drawn almost exclusively from Rwanda's northern prefectures of Gisenyi and Ruhengeri. **Protais ZIGIRANYIRAZO** was a prominent member of this group. By virtue of his membership in this group and by virtue of his relationship with President HABYARIMANA and with Agathe KANZIGA, **Protais ZIGIRANYIRAZO** wielded great power and influence. As such, he had *de facto* control and authority, in the sense of having the material ability to prevent or to punish criminal conduct, over the actions of soldiers, gendarmes, the *Interahamwe*, administrative officials, and members of the civilian population in Rwanda.

III. **CHARGES and CONCISE STATEMENT OF FACTS**

4. At all times referred to in this indictment there existed in Rwanda a minority ethnic group known as Tutsis, officially identified as such by the government. The majority of the population was comprised of an ethnic group known as Hutus, also officially identified as such by the government.

Count 1: CONSPIRACY TO COMMIT GENOCIDE

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Protais ZIGIRANYIRAZO** with **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Article 2(3)(b) of the Statute, in that on or between the dates of 1 January 1994 and 31 December 1994, **Protais ZIGIRANYIRAZO** did conspire with others, including but not limited to other influential and powerful persons including Colonel Théoneste BAGOSORA, Colonel NSENGIYUMVA, Colonel Ephrem SETAKO, Agathe KANZIGA, Jean-Bosco BARAYAGWIZA, Raphaël BIKUMBI, Bernard MUNYAGISHARI, Marc MPOZAMBEZI, Arcade SEBATWARE and Wellars BANZI to kill or

cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group, as such; as follows:

Concise Statement of Fact for Count 1:

- 5. **Protais ZIGIRANYIRAZO** agreed with government and military authorities in Kigali-ville prefectures and in Gisenyi, including Colonel Theoneste BAGOSORA, *Chef de Cabinet* at the Ministry of Defence, Colonel Anatole NSENGIYUMVA, Colonel Ephrem SETAKO; political leaders such as Wellars BANZI of the MRND and Jean-Bosco BARAYAGWIZA of the CDR; regional administrative officials such as Gisenyi *sous-prefet* Raphaël BIKUMBI, and *Interahamwe* leaders such as Bernard MUNYAGISHARI, and with members of the elite including his sister Agathe KANZIGA; with the intent to destroy, in whole or in part, the Tutsi ethnic group, to plan, prepare and facilitate attacks on Tutsi during the course of 1994, and in particular between 6 April and 17 July 1994, throughout Rwanda, particularly in Kigali-ville and Gisenyi prefectures, as described in paragraphs 6 through 30 of this Indictment.
- 6. At an unknown date in 1992, Wellars BANZI told President HABYARIMANA and **Protais ZIGIRANYIRAZO** that if there was ever a thought to eliminating the Tutsi, they had formed a specialized militia group to eliminate them as they had done in 1959 in Gisenyi. After this date and continuing through July 1994, **Protais ZIGIRANYIRAZO** agreed with Wellars BANZI and Bernard MUNYAGISHARI to finance and execute the “specialized militia plan,” meaning the creation of the *Interahamwe* in the whole of Rwanda. In furtherance of the plan **Protais ZIGIRANYIRAZO** participated in and facilitated the organising, arming, training and clothing of the *Interahamwe* and the arming of the local population in Gisenyi, including the financing of and purchasing arms for the group, with the purpose of attacking and destroying the Tutsi population.
- 7. Gisenyi. **Protais ZIGIRANYIRAZO** agreed at various meetings with regional and local administrative officials, including with Gisenyi *sous-prefet* Raphaël BIKUMBI, Rubavu *bourgmestre* Marc MPOZAMBEZI, Birembo *conseiller de secteur* Arcade SEBATWARE, and MRND party officials and *Interahamwe* leaders such as Wellars BANZI and Bernard MUNYAGISHARI, to plan, organise and facilitate attacks on the Tutsi in Gisenyi prefecture. In or around September 1993, **Protais ZIGIRANYIRAZO** attended a meeting near his home in Giciye commune in Gisenyi Prefecture with the conseiller of Birembo secteur, Alcade SEBATWE and agreed to take action against local Tutsis. In or around early April 1994, Colonel BAGOSORA sent a message to Gisenyi addressed to Jean-Bosco BARAYAGWIZA and **Protais ZIGIRANYIRAZO** that signalled that the killings of Tutsis begin. Shortly after, Jean Bosco BARAYAGWIZA and **Protais ZIGIRANYIRAZO** called all the *bourgmestres* and *conseiller de secteurs* to a meeting at the Palm Beach hotel in Gisenyi in order to plan and organise the genocide. In or around mid April 1994, **Protais ZIGIRANYIRAZO**, in furtherance of this plan instigated the elimination of all Tutsis at a public meeting held at a football field in Gisenyi, at which he spoke together with other officials, including Colonel Theoneste BAGOSORA and Colonel Ephrem SETAKO.
- 8. On or about the 11th of February 1994, Protais ZIGIRANYIRAZO agreed with his sister, Agathe KANZIGA and a Colonel Anatole NSENGIYUMVA and other persons to kill the enemy and its accomplices. In furtherance of the agreement they established a list of influential members of the Tutsi ethnic group and “moderate” Hutu to be executed.
- 9. In April 1994, **Protais ZIGIRANYIRAZO** met with military leaders in Gisenyi and Ruhengeri, including Colonel NSENGIYUMVA on an almost daily basis in order to plan the organization and execution of the genocide in Gisenyi. In furtherance of this plan, on a date uncertain in April 1994, *Interahamwe* militia mounted a roadblock on the “La Corniche” roadway in Gisenyi town leading toward the main border-crossing into Zaïre. The “La Corniche” roadblock was under the general control of *Interahamwe* leaders, including Omar

SERUSHAGO, reporting to Colonel NSENGIYUMVA and Bernard MUNYAGISHARI. The roadblock was also manned by CDR-affiliated armed civilians, including ABUBA, BAHATI and LIONCEAU, and gendarmes, immigration police and customs officers. The purpose of the roadblock was to prevent Tutsi and “moderate” Hutu from escaping across the border to Zaïre by taking them to be killed in a nearby location. **Protais ZIGIRANYIRAZO** was aware of the closed-border regime and ordered and instigated the *Interahamwe*, CDR-affiliated armed civilians, gendarmes, immigration police and customs officers to operate the roadblock to cause the killing of Tutsi and “moderate” Hutu.

10. On or about 12 or 13 April 1994, **Protais ZIGIRANYIRAZO** agreed with Colonel BAGOSORA, Colonel NSENGIYUMVA, and Colonel SETAKO to instigate and encourage the killings of Tutsis and “moderate” Hutu at a roadblock established by **Protais ZIGIRANYIRAZO** at the road junction in front of his house in Kiyovu. In furtherance of that agreement, **Protais ZIGIRANYIRAZO**, approached the roadblock with the above named persons, whereupon they saw the guards killing passers-by with some 50 corpses on the ground at the roadblock. Colonel BAGOSORA congratulated the guards that they were “now doing their work” and **Protais ZIGIRANYIRAZO** supported the comments saying “now you are working.”

Criminal Responsibility

Protais ZIGIRANYIRAZO is criminally responsible for his own acts alleged in paragraphs 5-10 under the provisions of Article 6(1) of the Statute based upon the following facts:

11. As described in paragraphs 5 through 10, **Protais ZIGIRANYIRAZO** committed the act of agreeing with the named persons and others on a plan to destroy, in whole or in part, the Tutsi ethnic group. As described in paragraphs 6 through 10, in furtherance of this plan he committed the specified preparatory acts that facilitated the killing, and ordered those over whom he had *de facto* control, as described in paragraph 3, and instigated those over whom he did not have *de facto* control, to commit the killings.

Count 2: GENOCIDE

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Protais ZIGIRANYIRAZO** with **GENOCIDE**, *a crime stipulated in Article 2(3)(b) of the Statute*, in that on or between the dates of 1 January 1994 and 14 July 1994 throughout Rwanda, particularly in Kigali-ville and Gisenyi prefectures, **Protais ZIGIRANYIRAZO** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group, as such, including those who sought refuge at various hills in the vicinity of the Rubaya Tea Factory including Gashihe or Kesho and Rurunga hills in Gisenyi prefecture, those at roadblocks in Giciye, “La Corniche” and Kiyovu, the family of Jean-Sapeur SEKIMONYO and members of the Bahoma Tutsi clan, as more specifically described in paragraphs 12 through 27.

Or, alternatively

Count 3: COMPLICITY IN GENOCIDE

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Protais ZIGIRANYIRAZO** with **COMPLICITY IN GENOCIDE**, *a crime stipulated in Article 2(3)(e) of the Statute*, in that on or between the dates of 1 January 1994 and 14 July 1994 throughout Rwanda, particularly in Kigali-ville and Gisenyi prefectures, **Protais ZIGIRANYIRAZO** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group, as such, including those who sought refuge at

various hills in the vicinity of the Rubaya Tea Factory including Gashihe or Kesho and Rurunga hills in Gisenyi prefecture, those at roadblocks in Giciye, "La Corniche" and Kiyovu, the family of Jean-Sapeur SEKIMONYO and members of the Bahoma Tutsi clan, as more specifically described in paragraphs 12 through 27.

Concise Statement of Fact for Counts 2 and 3:

Rubaya Tea Factory Area

- 12. On or about 8 April 1994, the local Tutsi population, numbering approximately 2,000, were in refuge at Gashihe or Kesho Hill in Rwili secteur, Gaseke commune, in Gisenyi prefecture, within the vicinity of the Rubaya Tea Factory. On or about the said date, **Protais ZIGIRANYIRAZO**, with intent that the Tutsi who sought refuge at Gashihe or Kesho Hill be killed, led a convoy of armed Presidential Guard soldiers, gendarmes, and *Interahamwe* militia as part of the attack on Tutsi seeking refuge on the hill.
- 13. **Protais ZIGIRANYIRAZO** ordered and instigated armed Presidential Guard soldiers, gendarmes and *Interahamwe* to attack and kill the said refugees, who did so killing approximately 1,000 of the Tutsi that had sought refuge on Gashihe or Kesho Hill. Among those killed were persons named KAZOZA, a male, age about 70; RWEGO, a male, age about 65; NDEKEZI, a male, age about 35; GATEMERI, a male, age about 18; NYIRABARUTWA, a female, age about 60; SIMPARINKA, a male, age about 35; KAMUZINZI, a male, age about 50; MUGOREWERA, a female, age about 30; KARINDA, a male, age about 35; SETAKO, a male age about 40; and MUKAMUNANA, a female age about 35.
- 14. About the week of 14 to 20 April 1994, at a date uncertain, many of the remaining local Tutsi population were in refuge at Rurunga Hill in Rwili secteur, Gaseke commune, in Gisenyi prefecture, within the vicinity of the Rubaya Tea Factory. On or about the said date, **Protais ZIGIRANYIRAZO**, with intent that the Tutsi who sought refuge at Rurunga Hill be killed, led a convoy of armed Presidential Guard soldiers, gendarmes, and *Interahamwe* militia as part of the attack on Tutsi seeking refuge on the hill.
- 15. **Protais ZIGIRANYIRAZO** ordered and instigated armed Presidential Guard soldiers, gendarmes and *Interahamwe* to attack and kill the said refugees, who did so, killing all of the Tutsi that sought refuge at the said hill.

Criminal Responsibility

Protais ZIGIRANYIRAZO is criminally responsible for his own acts alleged in paragraphs 12-15 under the provisions of Article 6(1) of the Statute based upon the following facts:

- 16. In leading the convoy as described in paragraphs 12 and 14, he was committing an act that facilitated the killing; he was ordering those Presidential Guard soldiers, gendarmes, and *Interahamwe* militia over whom he had *de facto* control by reason of the relationship described in paragraph 3, and was instigating those over whom he did not have *de facto* control, to commit the killing; and he aided and abetted all of the participants in the killing. As described in paragraphs 13 and 15, he was ordering those over whom he had *de facto* control by reason of the relationship described in paragraph 3 above, and instigating those over whom he did not have *de facto* control, to commit the killing. All of his actions were committed in concert with the Presidential Guard soldiers, gendarmes, and *Interahamwe* for the common purpose of killing Tutsis because they were Tutsis, for the period of a criminal enterprise that extended at least from the beginning of the convoy to the killing of the Tutsis on the said hills respectively.

Roadblocks

17. On various dates between April and July 1994, **Protais ZIGIRANYIRAZO** ordered and instigated soldiers, *Interahamwe* and armed civilians to establish roadblocks in direct proximity to each of his three residences—in Gasiza cellule, Giciye commune, Gisenyi prefecture; at the “La Corniche” border, Rubavu commune, Gisenyi prefecture; and in Kiyovu cellule, Kigali-ville prefecture, intending that they would be used in the campaign of killing Tutsi.
18. Giciye Roadblock: On a date uncertain in early May 1994, **Protais ZIGIRANYIRAZO** ordered and instigated soldiers, *Interahamwe*, and armed civilians to establish and command the roadblock next to his residence in Giciye commune, Gisenyi prefecture. Persons operating the roadblock were variously armed with guns, grenades and traditional weapons and controlled the traffic of persons fleeing from Rwanda to Zaïre. This stretch of road from Gitarama through Giciye-Karago-Mukamira was the main route of flight during April to July 1994; the Kigali to Gisenyi tarmac road via Ruhengeri was impassable due to fighting between the FAR and the RPF. Soldiers, *Interahamwe*, and armed civilians subject to **Protais ZIGIRANYIRAZO** ordered and instigated soldiers, *Interahamwe*, and armed civilians to kill numerous Tutsi at the Giciye Roadblock.
19. Between April and July 1994, **Protais ZIGIRANYIRAZO**, visited various roadblocks in Gisenyi on numerous occasions, including the Giciye roadblock, and ordered and instigated soldiers, *Interahamwe*, and armed civilians to “work” and encouraged them by providing them with drinks and money to buy food. The word “work” was, during the events referred to in this indictment, a coded reference for killing Tutsi and “moderate” Hutu.
20. On an unknown date in early April 1994, **Protais ZIGIRANYIRAZO** paid *Interahamwe* to dig a mass grave known as “the Pit.” By so ordering them to act, he was instigating their actions. The Pit was situated behind the compound of **Protais ZIGIRANYIRAZO**’s home in Giciye. The bodies of those killed near **Protais ZIGIRANYIRAZO**’s home were thrown into the Pit in April and early May 1994. Thereafter in early May 1994 the bodies were removed from the Pit and dumped into the Basera river.
21. The “La Corniche” Roadblock: On a date uncertain in April 1994, *Interahamwe* militia mounted a roadblock on the “La Corniche” roadway in Gisenyi town leading toward the main border-crossing into Zaïre. As with the roadblocks mentioned in Kiyovu and Giciye, the “La Corniche” roadblock was situated in close proximity to one of **Protais ZIGIRANYIRAZO**’s residences. The “La Corniche” roadblock was under the general control of *Interahamwe* leaders, including Omar SERUSHAGO, reporting to Colonel NSENGIYUMVA and Bernard MUNYAGISHARI. The roadblock was also manned by CDR-affiliated armed civilians, including ABUBA, BAHATI and LIONCEAU, and gendarmes, immigration police and customs officers. The purpose of the roadblock was to prevent Tutsi and “moderate” Hutu, characterised as accomplices of “the enemy,” being Tutsi, from escaping across the border to Zaïre. The *Interahamwe* routinely checked persons passing through the roadblock on their way to the border crossing. Tutsi and “moderate” Hutu were not allowed to proceed and were removed to a nearby location and killed. **Protais ZIGIRANYIRAZO** was aware of the closed-border regime and ordered and instigated the *Interahamwe*, CDR-affiliated armed civilians, gendarmes, immigration police and customs officers to operate the roadblock to cause the killing of Tutsi and “moderate” Hutu.
22. During June 1994, **Protais ZIGIRANYIRAZO** ordered and instigated the *Interahamwe*, gendarmes and immigration police who were manning the “La Corniche” roadblock at the Gisenyi-Goma border to kill Tutsis by asking them “to work” well.
23. Kiyovu Roadblock: On or about 7 April 1994, soldiers guarding the residence of **Protais ZIGIRANYIRAZO** in Kiyovu cellule, Kigali-ville prefecture, who were under his *de facto*

control, ordered watchmen employed at homes in the neighbourhood to man a roadblock that was set up between **Protais ZIGIRANYIRAZO**'s home and the adjacent Presbyterian church. Soldiers and *Interahamwe*, including Second Lt. Jean-Claude SEYOBOKA BONKE and Jacques KANYAMIGEZI, supervised the roadblock, the largest in the Kiyovu cellule. The civilians manning the roadblock were armed with machetes and clubs. Approximately one week later, in mid-April 1994, **Protais ZIGIRANYIRAZO** ordered and instigated soldiers, *Interahamwe* and armed civilians at the roadblock near his Kiyovu residence to search the homes in the neighbourhood and kill any Tutsi that were found. **Protais ZIGIRANYIRAZO** further ordered and instigated the soldiers and *Interahamwe* at the roadblock, including Sec. Lt. Jean-Claude SEYOBOKA BONKE and Jacques KANYAMIGEZI, who supervised the roadblock, to kill all Tutsi who attempted to pass through. Shortly thereafter, and on a continuing basis, soldiers and *Interahamwe* killed those who were identified as Tutsi, both in the neighbourhood and attempting to pass through the roadblock.

Criminal Responsibility

Protais ZIGIRANYIRAZO is criminally responsible for his own acts alleged in paragraphs 18-23 under the provisions of Article 6(1) of the Statute based upon the following facts:

- 24. His actions in providing drinks and money for food to soldiers, *Interahamwe* and armed civilians as described in paragraph 19 and in paying the *Interahamwe* as described in paragraph 20 constituted the commission of acts that facilitated the killing, the creation of a relationship in the nature of that of an employer and employee giving him power to order, the ordering of persons over whom he had a superior relationship established by this provision of benefits, the instigating by reward, and the aiding and abetting, of the killing and disposal of the bodies. Also as described in paragraphs 18-23, **Protais ZIGIRANYIRAZO** ordered soldiers, gendarmes, immigration police, customs officials, *Interahamwe*, and CDR-affiliated armed civilians over whom he had *de facto* control by reason of the relationship described in Paragraph 3, instigated by reward, and aided and abetted those over whom he did not have *de facto* control, to commit the killings. All of his actions were committed in concert with soldiers, gendarmes, immigration police, customs officials and *Interahamwe* for the common purpose of killing Tutsis because they were Tutsis, for the period of a criminal enterprise that extended at least from the beginning of the establishment of the roadblocks by persons under his *de facto* control up to the killing of the Tutsis and the burial of their bodies as stated in paragraphs 18 through 23.

Tutsi Families/Clans

- 25. On a date uncertain in May 1994, **Protais ZIGIRANYIRAZO** ordered and instigated the *Interahamwe* militia to kill the family of Jean-Sapeur SEKIMONYO whom he characterised as *Inyenzi*. The SEKIMONYO family had sought refuge at the home of President HABYARIMANA in Karago commune. The *Interahamwe* carried out the order, killing the entire family, resulting in the deaths of more than 30 people.
- 26. Towards the end of May 1994, **Protais ZIGIRANYIRAZO** ordered and instigated the *Interahamwe* to kill approximately eighteen members of the Bahoma Tutsi clan, who had sought refuge at his Giciye residence. The victims were related to one of **Protais ZIGIRANYIRAZO**'s wives.

Criminal Responsibility

Protais ZIGIRANYIRAZO is criminally responsible for his own acts alleged in paragraph 25 and 26 under the provisions of Article 6(1) of the Statute based upon the following facts:

27. As described in paragraph 25 and 26, he ordered those over whom he had *de facto* control by reason of the relationship described in Paragraph 3 above, and instigated those over whom he did not have *de facto* control to make the arrests and commit the killing. All his actions were committed in concert with the *Interahamwe* for the common purpose of killing Tutsis because they were Tutsis, for the period of a criminal enterprise that extended at least from time the first acts of ordering or instigation the arrests and killing, and up to the killing of the last victim in the Sekimonyo family or the Bahoma Tutsi clan.

Count 4: EXTERMINATION as a CRIME AGAINST HUMANITY

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Protais ZIGIRANYIRAZO** with **EXTERMINATION as a CRIME AGAINST HUMANITY**, as stipulated in Article 3(a) of the Statute, in that on or between the dates of 7 April 1994 and 14 July 1994, **Protais ZIGIRANYIRAZO** was responsible, individually and through the acts of his subordinates, for the extermination, as part of a widespread or systematic attack against the civilian population, on political, ethnic or racial grounds, of persons who sought refuge at various hills within the vicinity of the Rubaya Tea Factory, including Gashihe or Kesho and Rurunga hills, and persons at roadblocks at Giciye, "La Corniche," and Kiyovu;

Concise Statement of Fact for Count 4:

28. During and in relationship with the events referred to in this indictment, particularly from 6 April 1994 through 17 July 1994, there were throughout Rwanda widespread and/or systematic attacks directed against a civilian population on political, ethnic or racial grounds. Notably, *Interahamwe* militias engaged in a campaign of violence against Rwanda's civilian Tutsi population and against Hutu perceived to be politically opposed to the MRND. Hundreds of thousands of civilian Tutsi men, women and children and "moderate Hutu" were killed. The acts described in paragraphs 29 through 41 were part of these attacks.

Rubaya Tea Factory Area

29. On or about 8 April 1994, the local Tutsi population, numbering approximately 2,000, were in refuge at Gashihe or Kesho Hill in Rwili secteur, Gaseke commune, in Gisenyi prefecture, within the vicinity of the Rubaya Tea Factory. On or about the said date, **Protais ZIGIRANYIRAZO**, with intent that the Tutsi who sought refuge at Gashihe or Kesho Hill be killed, led a convoy of armed Presidential Guard soldiers, gendarmes, and *Interahamwe* militia as part of the attack on Tutsi seeking refuge on the hill.
30. **Protais ZIGIRANYIRAZO** ordered and instigated armed Presidential Guard soldiers, gendarmes and *Interahamwe* to attack and kill the said refugees, who did so killing approximately 1,000 of the Tutsi that had sought refuge on Gashihe or Kesho Hill. Among those killed were persons named KAZOZA, a male, age about 70; RWEGO, a male, age about 65; NDEKEZI, a male, age about 35; GATEMERI, a male, age about 18; NYIRABARUTWA, a female, age about 60; SIMPARINKA, a male, age about 35; KAMUZINZI, a male, age about 50; MUGOREWERA, a female, age about 30; KARINDA, a male, age about 35; SETAKO, a male age about 40; and MUKAMUNANA, a female age about 35.
31. About the week of 14 to 20 April 1994, at a date uncertain, many of the remaining local Tutsi population were in refuge at Rurunga Hill in Rwili secteur, Gaseke commune, in Gisenyi prefecture, within the vicinity of the Rubaya Tea Factory. On or about the said date, **Protais ZIGIRANYIRAZO**, with intent that the Tutsi who sought refuge at Rurunga Hill be killed, led a convoy of armed Presidential Guard soldiers, gendarmes, and *Interahamwe* militia as part of the attack on Tutsi seeking refuge on the hill.

32. **Protais ZIGIRANYIRAZO** ordered and instigated armed Presidential Guard soldiers, gendarmes and *Interahamwe* to attack and kill the said refugees, who did so, killing all of the Tutsi that sought refuge at the said hill.

Criminal Responsibility

Protais ZIGIRANYIRAZO is criminally responsible for his own acts alleged in paragraphs 29-32 under the provisions of Article 6(1) of the Statute based upon the following facts:

33. In leading the convoy as described in paragraph 29 and 31, he was committing an act that facilitated the killing; he was ordering those Presidential Guard soldiers, gendarmes, and *Interahamwe* militia over whom he had *de facto* control by reason of the relationship described in paragraph 3, and was instigating those over whom he did not have *de facto* control, to commit the killing; and was aiding and abetting all of the participants in the killing. As described in paragraphs 30 and 32, he was ordering those over whom he had *de facto* control by reason of the relationship described in paragraph 3 above, and instigating those over whom he did not have *de facto* control, to commit the killing. All of his actions were committed in concert with the Presidential Guard soldiers, gendarmes, and *Interahamwe* for the common purpose of killing Tutsis because they were Tutsis, for the period of a criminal enterprise that extended at least from the beginning of the convoy to the killing of the Tutsis on the said hills respectively.

Roadblocks

34. On various dates between April and July 1994, **Protais ZIGIRANYIRAZO** ordered and instigated soldiers, *Interahamwe* and armed civilians to establish roadblocks in direct proximity to each of his three residences—in Gasiza cellule, Giciye commune, Gisenyi prefecture; at the “La Corniche” border, Rubavu commune, Gisenyi prefecture; and in Kiyovu cellule, Kigali-ville prefecture, intending that they would be used in the campaign of killing Tutsi.
35. Giciye Roadblock: On a date uncertain in early May 1994, **Protais ZIGIRANYIRAZO** ordered and instigated soldiers, *Interahamwe*, and armed civilians to establish and command the roadblock next to his residence in Giciye commune, Gisenyi prefecture. Persons operating the roadblock were variously armed with guns, grenades and traditional weapons and controlled the traffic of persons fleeing from Rwanda to Zaïre. This stretch of road from Gitarama through Giciye-Karago-Mukamira was the main route of flight during April to July 1994; the Kigali to Gisenyi tarmac road via Ruhengeri was impassable due to fighting between the FAR and the RPF. Soldiers, *Interahamwe*, and armed civilians subject to **Protais ZIGIRANYIRAZO** ordered and instigated soldiers, *Interahamwe*, and armed civilians to kill numerous Tutsi at the Giciye Roadblock.
36. Between April and July 1994, **Protais ZIGIRANYIRAZO**, visited various roadblocks in Gisenyi on numerous occasions, including the Giciye roadblock, and ordered and instigated soldiers, *Interahamwe*, and armed civilians to “work” and encouraged them by providing them with drinks and money to buy food. The word “work” was, during the events referred to in this indictment, a coded reference for killing Tutsi and “moderate” Hutu.
37. On an unknown date in early April 1994, **Protais ZIGIRANYIRAZO** paid *Interahamwe* to dig a mass grave known as “the Pit.” By so ordering them to act, he was instigating their actions. The Pit was situated behind the compound of **Protais ZIGIRANYIRAZO**’s home in Giciye. The bodies of those killed near **Protais ZIGIRANYIRAZO**’s home were thrown into the Pit in April and early May 1994. Thereafter in early May 1994 the bodies were removed from the Pit and dumped into the Basera river.

38. The “La Corniche” Roadblock: On a date uncertain in April 1994, *Interahamwe* militia mounted a roadblock on the “La Corniche” roadway in Gisenyi town leading toward the main border-crossing into Zaïre. As with the roadblocks mentioned in Kiyovu and Giciye, the “La Corniche” roadblock was situated in close proximity to one of **Protais ZIGIRANYIRAZO**’s residences. The “La Corniche” roadblock was under the general control of *Interahamwe* leaders, including Omar SERUSHAGO, reporting to Colonel NSENGIYUMVA and Bernard MUNYAGISHARI. The roadblock was also manned by CDR-affiliated armed civilians, including ABUBA, BAHATI and LIONCEAU, and gendarmes, immigration police and customs officers. The purpose of the roadblock was to prevent Tutsi and “moderate” Hutu, characterised as accomplices of “the enemy,” being Tutsi, from escaping across the border to Zaïre. The *Interahamwe* routinely checked persons passing through the roadblock on their way to the border crossing. Tutsi and “moderate” Hutu were not allowed to proceed and were removed to a nearby location and killed. **Protais ZIGIRANYIRAZO** was aware of the closed-border regime and ordered and instigated the *Interahamwe*, CDR-affiliated armed civilians, gendarmes, immigration police and customs officers to operate the roadblock to cause the killing of Tutsi and “moderate” Hutu.
39. During June 1994, **Protais ZIGIRANYIRAZO** ordered and instigated the *Interahamwe*, gendarmes and immigration police who were manning the “La Corniche” roadblock at the Gisenyi-Goma border to kill Tutsis by asking them “to work” well.
40. Kiyovu Roadblock: On or about 7 April 1994, soldiers guarding the residence of **Protais ZIGIRANYIRAZO** in Kiyovu cellule, Kigali-ville prefecture, who were under his *de facto* control, ordered watchmen employed at homes in the neighbourhood to man a roadblock that was set up between **Protais ZIGIRANYIRAZO**’s home and the adjacent Presbyterian church. Soldiers and *Interahamwe*, including Second Lt. Jean-Claude SEYOBOKA BONKE and Jacques KANYAMIGEZI, supervised the roadblock, the largest in the Kiyovu cellule. The civilians manning the roadblock were armed with machetes and clubs. Approximately one week later, in mid-April 1994, **Protais ZIGIRANYIRAZO** ordered and instigated soldiers, *Interahamwe* and armed civilians at the roadblock near his Kiyovu residence to search the homes in the neighbourhood and kill any Tutsi that were found. **Protais ZIGIRANYIRAZO** further ordered and instigated the soldiers and *Interahamwe* at the roadblock, including Second Lt. Jean-Claude SEYOBOKA BONKE and Jacques KANYAMIGEZI, who supervised the roadblock, to kill all Tutsi who attempted to pass through. Shortly thereafter, and on a continuing basis, soldiers and *Interahamwe* killed those who were identified as Tutsi, both in the neighbourhood and attempting to pass through the roadblock.

Criminal Responsibility

Protais ZIGIRANYIRAZO is criminally responsible for his own acts alleged in paragraphs 34-40 under the provisions of Article 6(1) of the Statute based upon the following facts:

41. His actions in providing drinks and money for food to soldiers, *Interahamwe* and armed civilians as described in paragraph 36 and in paying the *Interahamwe* as described in paragraph 37 constituted the commission of acts that facilitated the killing, the creation of a relationship in the nature of that of an employer and employee giving him power to order, the ordering of persons over whom he had a superior relationship established by this provision of benefits, and the instigating by reward, and the aiding and abetting, of the killing and disposal of the bodies. Also as described in paragraphs 34-40, **Protais ZIGIRANYIRAZO** ordered soldiers, gendarmes, immigration police, customs officials, *Interahamwe*, and CDR-affiliated armed civilians over whom he had *de facto* control by reason of the relationship described in Paragraph 3, instigated and aided and abetted those over whom he did not have *de facto* control, to commit the killings. All of his actions were committed in concert with soldiers, gendarmes, immigration police, customs officials and *Interahamwe* for the common purpose of killing Tutsis because they were Tutsis, for the period of a criminal enterprise that extended at least

from the beginning of the establishment of the roadblocks by persons under his *de facto* control up to the killing of the Tutsis and the burial of their bodies as stated in paragraphs 34 through 40.

Count 5: MURDER as a CRIME AGAINST HUMANITY

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Protais ZIGIRANYIRAZO** with **MURDER as a CRIME AGAINST HUMANITY**, as stipulated in Article 3(a) of the Statute, in that on or between the dates of 7 April 1994 and 14 July 1994, **Protais ZIGIRANYIRAZO** was responsible, individually and through the acts of his subordinates, for the murder, as part of a widespread or systematic attack against the civilian population, on political, ethnic or racial grounds, of three gendarmes at the Giciye roadblock, Gisenyi prefecture; of Stanislas SINIBAGIWE, sometimes identified as Stanislas SIMBIZI; of members of the family of Jean-Sapeur SEKIMONYO; and of members of the Bahoma Tutsi clan;

Concise Statement of Fact for Count 5:

42. During the events referred to in this indictment, particularly from 6 April 1994 through 17 July 1994, there were throughout Rwanda widespread and/or systematic attacks directed against a civilian population on political, ethnic or racial grounds. Notably, *Interahamwe* militias engaged in a campaign of violence against Rwanda's civilian Tutsi population and against Hutu perceived to be politically opposed to the MRND. Hundreds of thousands of civilian Tutsi men, women and children and "moderate Hutu" were killed. The acts described in paragraphs 43 through 50 were part of these attacks.
43. Between 1 and 31 May 1994, **Protais ZIGIRANYIRAZO** ordered his son, Jean-Marie Vianney MAKIZA to kill three gendarmes that were detained by the *Interahamwe* at the Giciye roadblock. Following orders from his father, Jean-Marie Vianney MAKIZA, armed with a Kalashnikov gun, used the weapon to shoot and kill the gendarmes at the roadblock in front of the Zigiranyirazo Giciye residence. The gendarmes were traveling toward Gisenyi and were identified as Tutsi or characterized as RPF accomplices or infiltrators.
44. **Protais ZIGIRANYIRAZO** further ordered and instigated several local residents to make false official reports of the killing about the killing of the three gendarmes. The false reports indicated that the gendarmes had been killed as defensive acts at the roadblock: in order to prevent an assault by one of them or to thwart their escape. The reports also characterized the gendarmes as brigands, impostors or deserters from the battlefield. In ordering and instigating local residents to make the false reports, **Protais ZIGIRANYIRAZO** was aiding and abetting the killing of the gendarmes.

Criminal Responsibility

Protais ZIGIRANYIRAZO is criminally responsible for his own acts alleged in paragraphs 43-44 under the provisions of Article 6(1) of the Statute based upon the following facts:

45. **Protais ZIGIRANYIRAZO**, as head of his family, had *de facto* control over his son, whom he ordered to commit the killings described in paragraph 43. He ordered those local residents over whom he had *de facto* control for the reasons set forth in paragraph 3, and instigated those over whom he did not have *de facto* control, to make the false reports. All his actions were committed in concert with his son for the common purpose of killing Tutsis because they were Tutsis or persons who were not willing to kill Tutsis, for the period of a criminal enterprise that extended at least from the time the order was given for the killing, and up to the time of the making of a false report regarding their killing.

Killing of Stanislas Sinibagiwe

46. **Protais ZIGIRANYIRAZO**, on an unknown date during the month of June 1994, aided and abetted in the killing of Stanislas SINIBAGIWE, former director of the *Imprimerie Scolaire*, by identifying him to *Interahamwe* that were controlling the “La Corniche” roadblock. Stanislas SINIBAGIWE, sometimes identified as Stanislas SIMBIZI, had been previously targeted as an accomplice of the enemy in RTLM radio broadcasts. **Protais ZIGIRANYIRAZO** ordered and instigated the *Interahamwe* at the roadblock, to take Stanislas SINIBAGIWE away and kill him. The *Interahamwe* removed Stanislas SINIBAGIWE to the “Commune Rouge” and killed him. They later returned to the roadblock and reported to **Protais ZIGIRANYIRAZO** and to others that Stanislas SINIBAGIWE had been killed.

Criminal Responsibility

Protais ZIGIRANYIRAZO is criminally responsible for his own acts alleged in paragraph 46 under the provisions of Article 6(1) of the Statute based upon the following facts:

47. As described in paragraph 46, **Protais ZIGIRANYIRAZO** ordered those *Interahamwe* over whom he had *de facto* control by reason of the relationship described in paragraph 3, and instigated others over whom he did not have directed control.. All of his actions were committed in concert with the *Interahamwe* for the common purpose of killing Stanislas SINIBAGIWE because he was a moderate Hutu who opposed the killing of Tutsis, for the period of a criminal enterprise that extended at least from the identification of Stanislas SINIBAGIWE up to the time that he was killed.

Tutsi Families/Clans

48. On a date uncertain in May 1994, **Protais ZIGIRANYIRAZO** ordered and instigated the *Interahamwe* militia to kill the family of Jean-Sapeur SEKIMONYO whom he characterised as *Inyenzi*. The SEKIMONYO family had sought refuge at the home of President HABYARIMANA in Karago commune. The *Interahamwe* carried out the order, killing the entire family, resulting in the deaths of more than 30 people.
49. Towards the end of May 1994, **Protais ZIGIRANYIRAZO** ordered and instigated the *Interahamwe* to kill approximately eighteen members of the Bahoma Tutsi clan, who had sought refuge at his Giciye residence. The victims were related to one of **Protais ZIGIRANYIRAZO**'s wives.

Criminal Responsibility

Protais ZIGIRANYIRAZO is criminally responsible for his own acts alleged in paragraph 48 and 49 under the provisions of Article 6(1) of the Statute based upon the following facts:

50. As described in paragraph 48 and 49, he ordered the *Interahamwe* over whom he had *de facto* control by reason of the relationship described in Paragraph 3, and instigated those over whom he did not have *de facto* control to make the arrests and commit the killing. All his actions were committed in concert with the *Interahamwe* for the common purpose of killing Tutsis because they were Tutsis, for the period of a criminal enterprise that extended at least from time the first acts of ordering or instigation the arrests and killing, and up to the killing of the last victim in the Sekimonyo family or the Bahoma Tutsi clan.

The acts and omissions of **Protais ZIGIRANYIRAZO** detailed herein are punishable under Articles 22 and 23 of the Statute.

Signed at ARUSHA, this 7th day of MARCH 2005.



HASSAN BUBACAR JALLOW
PROSECUTOR