UNAMIR DIRECTIVES OF THE FORCE COMMANDER 28 SEPT 1994 – 28 FEB 1996

[I STRICTLY CONFIDENTIAL]
[I CONFIDENTIAL]
RH/WG MAR 2009

PLEASE RETAIN ORIGINAL ORDER

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BOX 3
FILE 2
ACC. 1998/027B

MP coy

UNITED NATIONS NATIONS UNIES

ASSISTANCE MISSION FOR RWANDA MISSION POUR L'ASSISTANCE AU RWANDA

To: List A, B, D and E

File Reference: 4000.1/LOG-41

Date: 20 Sep 95

OPERATION SANITY

Reference: UNAMIR Vehicle Safety Awareness Program

1. Vehicle safety and awareness have been the subject of a number of memos and briefings as part of the UNAMIR Vehicle Safety Program. Notwithstanding, the incidents of speeding and accidents resulting in vehicle damage and personal injury continue to rise. Apart from the cost to the UN resulting from vehicle accidents, the personnel cost is more critical. People are not an expendable resource neither are individuals replaceable in real terms.

2. As part of the continuing education of UNAMIR drivers, the UNAMIR MP COY will commence OPERATION SANITY effective 22 Sep 95. OPERATION SANITY will consist of a program of road side spot checks of UNAMIR vehicles. MP personnel will concentrate on the following points at random:

a. ensure drivers are in possession of a valid UN ID and drivers' permit and that all passengers are in possession of a valid UN ID or suitable authorization;

b. check the operation of vehicle lights, horn, windscreen wipers and turn indicators;

c. verify that all personnel are using the vehicle equipped passenger restraint systems (seat belts);

d. ensure personnel are operating their vehicle in accordance within the recommended speed limit; and

d. verify that drivers are not impaired by alcohol or other drugs.

3. Traffic violation reports will be issued to offenders found not in possession of a valid drivers permit, speeding or failing to use the passenger restraint system. Drivers whose ability to operate a motor vehicle is impaired will have their licence suspended and vehicle impounded for a period of 12 hours in addition to the issuance of a traffic violation report. Should an occupant of the vehicle, other than the driver, be judged capable of operating the vehicle, the MP on scene may allow the vehicle to proceed, but will suspend the driving privilege of the offender as indicated above.

4. The conduct of all UNAMIR personnel reflects on the Mission as a whole and on the personal integrity of every member. It is in our best interests as guests in Rwanda to conduct ourselves with the utmost propriety. One senseless mistake can undo all the good accomplished by the remainder. We all have an obligation to drive safely and with due regard to the welfare of our hosts and fellow beings. Life is too short to jeopardize through a thoughtless deed. It is incumbent on all personnel to drive defensively and reduce the number of traffic statistics attributable to UNAMIR.

5. The cooperation of all UNAMIR personnel is essential to the effectiveness of this program.

W.J. Fletcher
Colonel
DCOS SP

W. Clive
OIC Administration

UNITED NATIONS
INTEROFFICE MEMORANDUM

UNAMIR-MINUAR

NATIONS UNIES
MEMORANDUM INTERIEUR

TO: **Mr. Isaac Minta**
Legal Adviser

DATE: 28 September 1994

FROM: **Ladan M. Rafii**
Political/Legal Officer

SUBJECT: **Meeting in Force Commander's Office on 28 September 1994**

1. A meeting was held at the Force Commander's Office at UNAMIR Headquarters today to discuss the procedures for the proper handover of individuals from UNAMIR forces to the Government of Rwanda.

2. This meeting was attended by Major General Tousignant, Colonel O'Kelley, Colonel Yaache, Lieutenant Colonel Yella, Ms. Lise Boudreault of the International Commission for the Red Cross (ICRC) and myself.

3. At the meting, the Force Commander expressed his misgivings on the current ad hoc approach adopted by UNAMIR with regard to the procedures for the handover of individuals wanted by the Rwandan Government from UNAMIR installations. He proposed that we institute a policy whereby such handovers are conducted with dignity and in accordance with international legal instruments, as well as any bilateral agreements between the Government of Rwanda and UNAMIR. He instructed me to prepare a draft report on the matter on an expedited basis.

cc: **Dr. Kabia**

UNITED NATIONS **NATIONS UNIES**
ASSISTANCE MISSION FOR RWANDA MISSION POUR L'ASSISTANCE AU RWANDA

From: **Col K P O'Kelly**
DCOS (Sp)
HQ UNAMIR **Extn: 11109**

To: Force Commander ①

Date: 29 Oct 94

Subject: TREATMENT OF SUSPECTS

1. This is a very interesting document. Miss Lafin has done a good job – and quickly.

2. I've made a few very minor comments. Do you wish to make any more or shall I now return the document?

② Zaclan M. Kafiii

a. Excellent work and I thank you very much for your cooperation

b. You certainly should provide a copy of this draft to the legal advisor in the SRSG's office

c. We should go final with the document.

d. Regards.

1
20 Sep 94
G.C. Tousignant
Major - General
Commandant

ROUTING SLIP **FICHE DE TRANSMISSION**

TO: A:	Maj Gen. Tousignant
FROM: DE:	Ladan M. Rafi

Room No. – No de bureau	Extension – Poste	Date
		29/9/94

FOR ACTION		POUR SUITE A DONNER
FOR APPROVAL		POUR APPROBATION
FOR SIGNATURE		POUR SIGNATURE
FOR COMMENTS		POUR OBSERVATIONS
MAY WE DISCUSS?		POURRIONS-NOUS EN PARLER ?
YOUR ATTENTION		VOTRE ATTENTION
AS DISCUSSED		COMME CONVENU
AS REQUESTED		SUITE A VOTRE DEMANDE
NOTE AND RETURN		NOTER ET RETOURNER
FOR INFORMATION		POUR INFORMATION

Your comments on this draft version would be appreciated.

LMR

COM.6 (2-78)

DRAFT

I N T E R - O F F I C E M E M O R A N D U M

TO: Major General Guy Tousignant
Force Commander

FROM: Ladan M. Rafii
Political/Legal Officer LMR

RE: Procedures for the Proper Handover of Individuals from UNAMIR Forces to the Government of Rwanda

DATE: 28 September 1994

- -

1. Following your request made during our meeting held at UNAMIR Headquarters today which was also attended by Col. O'Kelley, Col. Yaache, Lt. Col. Yella, and Ms. Lise Boudreault of ICRC, I am writing to inform you of my findings regarding the adoption of certain uniform procedures for the handover of individuals wanted by the Rwandan Government from UNAMIR installations. You expressed your misgivings on the current ad hoc approach adopted by UNAMIR, and proposed that we institute a policy whereby such handovers are conducted in a dignified manner in accordance with international legal instruments and any bilateral agreements between the Government of Rwanda and UNAMIR.

2. As discussed among us, the guidelines should cover the following groups of people:

a) Members of UNAMIR (and perhaps other UN agencies, but NOT NGOs?)
   - civilians
   - military personnel

b) Locally-recruited civilian staff

c) Rwandan citizens seeking our protection, but not affiliated with UNAMIR

d) Persons detained by UNAMIR personnel in the execution of their mandate (this would include criminal elements)

3. According to the Executive Director of UNAMIR, the current Government in Rwanda has verbally reaffirmed the "Agreement between the United Nations and the Government of the Republic of Rwanda on the Status of the United Nations Assistance Mission for Rwanda" (hereinafter referred to as the "Agreement"). As such, there is a presumption in favour of the validity of this Agreement despite the change of regime in Rwanda. This Agreement, as well as the Convention on the Privileges and Immunities of the United Nations adopted by the UN General Assembly on 13 February 1946 (hereinafter referred to as the "UN Convention"); the Geneva Conventions of 12 August 1949 and their additional Protocols, as well as other international humanitarian law; and the national legislation of Rwanda, are the legal texts governing our actions with respect to handovers of individuals to the Rwandan Government forces from UNAMIR.

4. First and foremost, your attention should be directed to paragraph 19 of the Agreement regarding the right of access to UNAMIR facilities:

> The United Nations alone (emphasis added) may consent to the entry of government officials or of any other person not (a) member of UNAMIR to such premises.

Members of UNAMIR

5. UNAMIR personnel are entitled to varying degrees of immunity based upon their rank and status.

a) Under Article VI of the Agreement referring to the "Status of the Members of UNAMIR," the SRSG, the Force Commander, the Police Commissioner of CIVPOL, and other such high-ranking members of the SRSG's staff as may be agreed upon with the Government, are entitled to diplomatic immunity in accordance with international law.

b) Other UN civilian officials are entitled to certain privileges and immunities under the UN Convention, but not full diplomatic immunity. These include:

- exemption from taxation
- immunity from national service obligations, immigration restrictions and alien registration
- access to the same repatriation facilities as diplomatic envoys in times of international crisis
- right to duty-free importation of personal effects upon arrival in the host country
- recognition of the UN laissez-passer as a valid travel document entitling the bearer to speedy processing of visa applications, if required

c) MILOBS and CIVPOL personnel are considered experts on mission under Article VI of the UN Convention. They are accorded privileges and immunities necessary for the independent exercise of their functions during the period of their missions, such as:

- immunity from personal arrest or detention and from seizure of personal baggage
- inviolability of all papers and documents
- for the purpose of their communications with the UN, the right to use codes and to receive papers or correspondence by courier or in sealed bags
- the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys

d) Military personnel of national contingents comprising UNAMIR are entitled to similar benefits as stated in 5(b) above:

- exemption from taxation, immigration restrictions and alien registration
- duty-free importation of personal effects upon arrival
- speedy processing of entry and exit formalities

e) Locally-recruited members of UNAMIR are entitled to tax exemption and immunity from national service registration.

Note: **<u>All</u> members of UNAMIR, including locally-recruited personnel, are immune from legal process with respect to words spoken or written and all acts performed in their official capacity. This immunity does not cease upon termination of employment, and continues beyond the expiration of other provisions of the Agreement. However, the Secretary General has the right and duty to waive immunity where, in his opinion, the immunity would impede the course of justice.**

ie locally recruited personnel must be sub-divided for our purposes, depending upon the circumstances of the case.

6. Rwandan citizens seeking our protection, but not affiliated with UNAMIR are not entitled to any privileges and immunities under the UN Convention. However, they may be entitled to certain rights under the Rwandan Constitution (if still valid), as well as under the Geneva Conventions and other international instruments, such as the Universal Declaration of Human Rights. Although the scope of international humanitarian law is quite broad, there are certain minimum standards of conduct which must be followed in order to ensure respect for fundamental human rights.

<u>The Geneva Conventions</u>

7. Specifically, the Geneva Convention Relating to the Protection of Civilian Persons in Time of War (Convention IV of 12 August 1949) pertains to the general protection and administration of civilians. Its Protocol enumerates certain fundamental

guarantees to "all persons affected by an armed conflict." In particular, the following acts are prohibited under any pretext, whether committed by civil or military agents:

a) violence to the life, health and physical or mental well-being of persons, particularly:

- murder
- torture of all kinds, whether physical or mental
- corporal punishment
- mutilation

b) outrages upon personal dignity, in particular humiliating and degrading treatment

c) the taking of hostages

d) collective punishments

e) threats to commit any of the foregoing acts

Judicial Procedure

8. Also included among the fundamental guarantees accorded to all persons affected by an armed conflict are the guarantees of judicial procedure. The following are held to be minimum requirements:

- notification to the accused without delay of the particulars of the offence s/he is alleged to have committed
- presumption of innocence
- no forced confession
- judgment to be pronounced in the presence of the accused and, in principle, publicly
- no double jeopardy (that is, an accused can only be punished once for the same act or on the same charge, if it is based upon the same procedural and substantive law)

9. Persons detained by UNAMIR personnel in the execution of their mandate, including those suspected of criminal activity, are accorded the same rights as mentioned in paragraphs (7) and (8) above.

Military Police, Arrest and Transfer of Custody

10. In order to ensure the maintenance of discipline and good order among UNAMIR members, as well as locally-recruited personnel, under paragraph 40 of the Agreement, the SRSG may designate personnel to police UNAMIR premises and areas where its members are deployed. Such personnel can be employed elsewhere only subject to arrangements with the Government and in liaison with it, if necessary to maintain discipline and order among members of UNAMIR.

11. The Agreement also specifies that the military police of UNAMIR have the power of arrest over UNAMIR military personnel. If such persons are arrested outside their own contingent areas they are to be transferred to their contingent Commander for appropriate disciplinary action.

12. The personnel designated by the SRSG under paragraph 40 may take into custody any other person on the premises of UNAMIR. Such person shall be delivered immediately to the nearest appropriate official of the Government for the purpose of dealing with any offence or disturbance on such premises.

13. Paragraph 42 of the Agreement states that officials of the Government may take into custody any member of UNAMIR (excluding those listed in paragraphs (5) (a) and (c) above):

a) when so requested by the SRSG

b) when a member of UNAMIR is apprehended in the commission or attempted commission of a criminal offence. Such a person (excluding locally-recruited staff) is to be delivered immediately, together with any weapons or other item seized, to the nearest appropriate UNAMIR representative.

14. Whether a person is taken into custody by UNAMIR or the Government, a preliminary interrogation may be made, but this should not delay the transfer of custody. The arresting authority is allowed access to the transferee for further interrogation even after such transfer has taken place.

15. UNAMIR and the Government are required to provide mutual assistance in conducting investigations which may affect their interests (e.g., the production of witnesses, the collection of evidence, the seizure and conditional handover of certain items connected with the offense). Furthermore, each must notify the other of the disposition of any case in which the other may have a vested interest or in which there has been a transfer of custody.

16. Finally, the Government must ensure the prosecution of persons subject to its criminal jurisdiction who are accused of acts in relation to UNAMIR or its members which, had such acts been committed against the Government, would have rendered such persons liable to criminal prosecution.

This implies judicial process has taken place. If the Govt has evidence which leads them to suspect "

Criminal and Civil Proceedings

17. If the Government determines that a member of UNAMIR (excluding locally-recruited staff) has committed a criminal offense, it must promptly inform the SRSG and present any available evidence against the accused.

a) Civilians - the SRSG shall conduct any supplementary inquiry necessary before concurring with the Government on the need

for the institution of criminal proceedings. In the absence of such agreement, the matter will be decided in accordance with the provisions of paragraph (20) below.

b) Military personnel - such members of UNAMIR are subject to the exclusive jurisdiction of their respective participating States with respect to any criminal offenses which may have been committed by them in Rwanda.

18. The SRSG must be notified immediately of any civil proceeding instituted against a member of UNAMIR (excluding locally-recruited staff) before any court in Rwanda. Moreover, he will certify to the court whether the proceeding is related to the official duties of such a member.

a) If the SRSG certifies that the proceeding is related to a UNAMIR member's official duties, such a proceeding will be discontinued and the provisions of paragraph (19) below will apply.

b) The proceedings may continue if the SRSG certifies that they are not related to official duties. However, the personal liberty of a member of UNAMIR shall not be restricted in a civil proceeding, whether to enforce a judgment, decision or order, to compel an oath or for any other reason.

Settlement of Disputes

19. The Agreement specifies that any dispute or claim of a private law character to which UNAMIR or any member thereof (excluding locally-recruited staff) is a party, and over which the courts of Rwanda do not have jurisdiction due to the provisions of this Agreement will be settled by a standing claims commission. The awards of the commission shall be final and binding unless the UN Secretary General and the Government permit an appeal to a special tribunal.

20. Any other dispute between UNAMIR and the Government, and any appeal allowed by both parties from the award of the claims commission shall, unless otherwise agreed by the parties, be submitted to a tribunal of arbitrators whose decision will be final and binding on both parties.

21. All differences arising out of the interpretation or application of the UN Convention shall be referred to the International Court of Justice, unless the parties agree to have recourse to another mode of settlement. An advisory opinion given by the Court on any legal question shall be accepted as decisive by the parties.

UNAMIR
OUTGOING FACSIMILE

OUTGOING FAX NO._____ PAGE 1 OF 1

MIR NO. _____

MISC NO. _____

DATE: 11 OCTOBER 1995

TO: MAJ GEN VAN KAPPEN FOR ANNAN UNITED NATIONS NEW YORK	FROM: MAJ GEN TOUSIGNANT FORCE COMMANDER UNAMIR HQ KIGALI,RWANDA
FAX: 212-963-4879	FAX: 212-963-3090
	ORIGINATOR: COL W FLETCHER DCOS SP
	DRAFTED BY: LT COL I ABUBAKAR CMPO
INTERNAL DISTR: FC,COS	
SUBJECT: COMPLAINT BY UN STAFF MEMBER AGAINST UNAMIR MILITARY POLICE	

REFERENCE:

A. YOUR FAX NO. F/IN 2510 OF 09 OCTOBER 1995.

1. A COPY OF THE INQUIRY REPORT NO. HQ 0033 DATED 07 JULY 95 WAS SENT TO MR HOCINE MEDILI - DIRECTOR, FIELD ADMINISTRATION AND LOGISTICS DIVISION. YOU COULD GET A COPY FROM MR. H MEDILI.

2. IT SHOULD BE NOTED THAT THE MILITARY POLICE PERSONNEL HAVE BEEN OFFICIALLY CAUTIONED,LECTURED ON HANDLING OF CIVILIAN STAFF OF UNAMIR. ALSO THE PERSONNEL INVOLVED HAVE SINCE BEEN REPATRIATED.

12/10/95

Response brought to

ED's attention

United Nations Nations Unies

F/IN-2510

CMPO

OUTGOING FACSIMILE

09 OCTOBER 1995

TO: TOUSIGNANT UNAMIR, KIGALI	**FROM:** VAN KAPPEN FOR ANNAN UNATIONS, NEW YORK
Fax No:	**Fax. No:** 212-963-4879
SUBJECT: COMPLAINT BY UN STAFF MEMBER AGAINST UNAMIR MILITARY POLICE.	
ATTN: CMPO	**DRAFTED BY:** LT COL YOUSSIF **ROOM NO:** 3650 **EXT:** 3721
TOTAL NUMBER OF PAGES TRANSMITTED INCLUDING THIS ONE: 2	

1. PLEASE FIND ATTACHED A SELF EXPLANATORY LETTER FROM THE PRESIDENT OF THE UN FIELD SERVICE STAFF UNION TO THE SECRETARY-GENERAL, REGARDING TREATMENT RECEIVED BY ONE OF THE MEMBERS FROM UNAMIR MILITARY POLICE.

2. IN THE LETTER, IT IS STATED THAT A BOARD OF INQUIRY INTO THE ALLEGATIONS WAS INSTITUTED. PLEASE SEND TO US A COPY OF THE INQUIRY REPORT, PLUS ANY OTHER INFORMATION RELATED TO THE CASE.

BEST REGARD.

Fc cmpo

UNAMIR → clear

Field Service Staff Union

DPKO

003045

1995 OCT -4 P 12:07

Action: FYI

Copies 1 ME
2 HA
3 KA | ST | Comm

September 20, 1995

H.E. Mr Boutros Boutros Ghali
Secretary-General
Room S-3800
United Nations Headquarters
New York, N.Y. 10017

Sir,

On the 17th February 1995, I received a complaint from a UNAMIR staff member, Mr Patsey Mullings, in which he stated that he had been physically assaulted, handcuffed and placed in detention by UNAMIR Military Police for alleged driving while intoxicated.

The incident was investigated by the UNAMIR administration who have concluded in their Board of Enquiry Report No.HQ0033 that the UNAMIR Military Police used unnecessary and excessive force against FSO Mullings, and that allegations of driving while intoxicated were not substantiated.

I share your expressed concerns for the safety and security of UN staff and find it distressing that the United Nations cannot ensure the safety and security of it's staff from it's own personnel. Therefore, I wish to officially protest in the strongest terms the action of the Military Police in UNAMIR which resulted in actual bodily harm being caused against Mr Mullings.

I would like to see standardized regulations drawn up governing the treatment of civilian staff serving in peace-keeping missions who may fall under Military Police jurisdiction , in particular the right to arrest and detain. Providing such missions with a set of clear and unambiguous instructions would be of great assistance in preventing a recurrence of such a serious incident.

Accept, Sir, the assurances of my highest consideration,

Richard A. Dellar
President ESSU

cc: Mr Kofi Annan
USG DPKO

Mr Shaharyar M.Khan
Special Representative of S-G
UNAMIR Rwanda

FSO Patsey Mullings
UNAMIR Rwanda

DPKO-OUSG
INCOMING MAIL

* Action by: _____

Info copy to: _____

* Please return originals to Central/other: _____

P.O.B. 490, Government House • Jerusalem, 91004 ISRAEL • +972-2-734223 ext. 353 • Fax: +972-2-735282

FIELD SERVICE STAFF UNION

Font 702

Jerusalem

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Jerusalem, 91004 ISRAEL
+972-2-734223 ext. 353
Fax: +972-2-735282

RECEIVED
20 SEP 1995
OFFICE OF THE SRSG
UNAMIR

FAX TRANSMISSION COVER SHEET

Date. September 20, 1995

To: H.E. Mr Boutros Boutros Ghali, United Nations Secretary-General 212-963-4879 ✓ HEN
info Mr Kofi Annan, USG/DPKO 212-963-9222
info Mr Shaharyar M.Khan, Special Representative of S-G
UNAMIR Rwanda 212-963-3090
Chairman UNAMIR Unit FSSU for FSO Patsey Mullings

Fax:

Subject: Letter of Protest

Sender: Richard A. Dellar, President FSSU UNMO 791

YOU SHOULD RECEIVE 2 PAGE(S), INCLUDING THIS COVER SHEET IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL +972-2-734223 ext. 353.

Sir,

Attached please find an official letter of protest in respect of injury caused to an international staff member by United Nations Military Police in UNAMIR Rwanda.

Ms Rafei
Phone discuss
21.9.95
U.S

use tool action pl. remedial action taken
ED 20/9

SG Chairman FSSU. Patsey Mullings.

Field Service Staff Union

September 20, 1995

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Secretary-General
Room S-3800
United Nations Headquarters
New York, N.Y. 10017

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Mr Shaharyar M.Khan
Special Representative of S-G
UNAMIR Rwanda

FSO Patsey Mullings
UNAMIR Rwanda

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UNITED NATIONS NATIONS UNIES

ASSISTANCE MISSION IN RWANDA MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

7 July 95

To: Mr. Hocine Medili
Director, Field Administration and
Logistics Division

From: Mr. Shaharyar M. Khan
Special Representative of the Secretary-General
UNAMIR

Subject: **UNAMIR Headquarters Board of Inquiry Report No.HQ0033 concerning assault against an UNAMIR staff member, Mr. Patsey Mullings, by a team of Military Police on 17 February 1995 resulting in a minor injury to Mr. Mullings (UNID # 088)**
(17 February 1995)

Pursuant to the provisions of Administrative Instruction 05/94/REV.1 of 15 March, attached herewith please find one copy of the Headquarters Board of Inquiry Report No.HQ0034 submitted by the Headquarters Board of Inquiry of the same number in respect of the matter referred to above.

Having reviewed the foregoing Headquarters Board of Inquiry Report, I am of the opinion that the report is sufficient, in terms of both scope and quality, to satisfy the intent and purpose of a Headquarters Board of Inquiry. The recommendations made by the Board are accepted.

In presenting the case to the Board, the Legal Officer's briefing to the Board indicated that any act directed at a particular person which puts that person in reasonable fear or apprehension of immediate violence against himself/herself constitutes an assault, whether or not the threat is actually carried out. It is sufficient that the person is in reasonable fear that the threat may be carried out, and is capable of being carried out.

The case concerns an incident on 17 February 1995 of alleged assault on Mr. Patsey Mullings, a UNAMIR staff member with the Building Management Services, after being stopped by a group of UNAMIR Military Police on duty at a road intersection leading to the UNAMIR Headquarters. He was stopped in a routine check and not on account of unsafe driving or suspected drunken driving. Upon coming close to Mr. Mullings, one of the Military Policemen thought he smelt alcohol on Mr. Mullings' breath. They therefore ordered him to identify himself and deliver his vehicle key to the Police.

(f) "It appears that it was in the best interest of the Military Police to perform those tests as the MP's raised allegation of drunkenness against Mr. P. Mullings. In the Board's opinion, the Military Police in allowing the evidence to be destroyed demonstrated either its incompetence or the apprehension that the test results might undermine the allegations that Mr. P. Mullings was drunk. Whichever reason was true, the Board found that such an attitude of the Military Police was highly incompetent and irresponsible."

(g) "...[T]he assault against Mr. P. Mullings indeed took place. In the Board's view, Mr. P. Mullings not only felt threatened with physical harm, but experienced one when the threat was carried out and physical force was applied against him."

(h) "[T]he attending physician, Dr. R. Yeo expressed the opinion that the emotional factors related to the incident increased preexisting hypertension..." However, the staff member was said not to have any secondary health problems resulting from the hypertension.

The Board's report is being referred to the Chief Administrative Officer, Chief Civilian Personnel Officer and the Chief Military Personnel Officer for appropriate action. A copy of the report will be shown to the Force Commander, the Force Provost Marshall, and the President of the Field Service Union for information.

Submitted for information and reference.

cc: Mr. Kofi Annan, USG, DPKO
cc: Mr. Richard A. Dellar, President, Field Service Staff Union

United Nations Nations Unies

F/IN-2510

CMPO

OUTGOING FACSIMILE

09 OCTOBER 1995

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UNAMIR → clear

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OFFICE OF SRSG

[redacted]

Ms. Rafii

UNITED NATIONS NATIONS UNIES

ASSISTANCE MISSION FOR RWANDA MISSION POUR L'ASSISTANCE AU RWANDA

From: Col W J Fletcher
DCOS (Sp) Extn 11109

To: LIST A, B, D AND E

Info: LIST F

RECEIVED
04 SEP 1995
OFFICE OF THE SRSG
UNAMIR

File Reference: 4000.1/LOG-2

Date: 2 Sep 95

Subject: SECURITY AWARENESS

References: A. FORCE COMMANDERS DIRECTIVE 1/94 dated 7 Nov 94
B. 3000.12 (Ops) dated 25 Mar 95
C. UNAMIR Administrative Instruction 011/95 dated 27 March 1995
D. Status of Mission Agreement

1. The report of a vehicle hijacking during the early morning hours of 2 Sep 95 and an increase in the number of robberies and attempted robberies highlight the need to reinforce the procedures and restrictions contained in refs A through D inclusive. The security situation in Rwanda has been relatively calm since early Jun and has resulted in a certain complacency within the Mission. In addition the changes to the Force manning over the summer and the arrival of new personnel has resulted in a general lack of awareness and adherence to refs.

2. All personnel are advised of the recent increase in RPA security measures during the hours of darkness and should take appropriate measures for their own security as outlined in the refs. The major points enunciated in refs A, B and C are repeated for the edification of all UNAMIR personnel.

3. **Conduct**. All UNAMIR personnel in Rwanda represent their country, unit or agency and the UN. Considerable effort must be extended to project the best possible image to the local population. Many hours of patient work can be eroded by one thoughtless act which can impact on the reputation of UNAMIR. It is human nature to key on the failings of others and forget all the good that has been accomplished.

4. **Personal Security**. Personal security can be enhanced by adherence to the following guidelines:

a. get to know your nearest UN and where the nearest UN vehicle is parked at night;

b. know the phone number and radio call signs as included in Annex A to ref B (revised copy enclosed);

c. inform you superior of all travel plans in and out of the country;

d. eat and drink in secure locations. There is safety in numbers. Out of Bounds locations include all night clubs;

e. avoid travel at night outside your duty station. If travel is necessary avoid travelling alone and avoid driving in remote and isolated areas in the city. Stay on safe streets and secure routes;

f. avoid using local taxis and privately owned cars except if you personally know the car owner;

g. stop only at established road blocks and avoid giving lifts to non-UNAMIR personnel;

h. avoid setting a routine;

j. always have your UN ID card in your possession; and

k. use COMMON SENSE. Your life comes first, and thereafter, all items of material value.

5. **Vehicle Security**. Owing to the prevailing security situation and the UNAMIR curfew of 2300 hrs, all vehicle except those required in the performance of UNAMIR duty are to be parked and secured by 2300 hrs. UNAMIR vehicles should not be parked unattended during the hours of darkness or for prolonged periods during daytime unless under guard. Under no circumstances are vehicles to be parked overnight at the airport. In accordance with ref A, the tenets of the alcohol policy include no drinking and driving and no driving for eight hours after consuming alcohol.

6. **Out of Bounds**. The **Kigali Night** establishment continues to be out of bounds to UNAMIR personnel as per ref A. As the local economy continues to rejuvenate, new night clubs appear in the local area. **Until further notice, all night clubs are out of bounds to UNAMIR personnel.**

7. The foregoing points are intended to reinforce the contents of refs A, B, and C. This does not obviate the need for all personnel to be thoroughly familiar with the contents to those directives. Personal safety and security are paramount to the wellbeing of our people. It is not a time to become complacent and throw caution to the wind. Every member of UNAMIR is responsible to ensure adherence to regulations and directives.

ANNEX A TO
SECURITY AWARENESS
DATED 25 MAR 95
(revised 2 Sep 95)

EMERGENCY CONTACT NUMBERS/CHANNELS

1. For incidents occurring after 1800 or on the weekend: switch your radio to channel 8 or channel 4 and call callsign "Zero". Callsign Zero is the Military Duty Officer in the UNAMIR HQ Ops Room. You may also call for help on the following Callsigns and channels.

a. **Channel 9 - "Sierra Oscar 9" HQ Civilian Security Officer** - between 0830 and 1800 hrs Monday -Saturday or telephone #84268 Extn. 11073/11135.

b. **Channel 4 - Callsign "Zero" - Military Duty Officer** - 24 hrs or telephone #84268 Extn 11150 or #84265

c. **Channel 7 - Callsign "Escort Zero"** - MP Duty NCO - 24 hrs or telephone #84268 Extn 11249 or #86855.

2. Standard procedures and discipline must be observed if radio communications is to be used successfully for security purposes. Messages should be planned in advance. Long difficult messages should be avoided as they can be misunderstood. In case of a shooting, do not panic, use your radio to call for assistance. Speak in a calm even voice and give the following information:

a. Clearly state your callsign.

b. Give your location and describe the incident that has taken place. This is the most important piece of information and could save vital minutes in time it takes for assistance to reach you.

(1) All personnel should know the grid reference of their place of residence as well as that of homes or other places that are frequently visited.

(2) You should also know their location in relation to prominent reference points (Meridian Hotel, Chez Lando, Trafipro, Mille Collines Hotel, The Parliament Buildings are examples of such locations).

(3) Which direction is North, South, East and West.

c. If the situation permits, go to an easily identifiable rendez-vous point to meet the person(s) responding to your call.

d. End the message with **"I need emergency assistance right away"**.

UNITED NATIONS NATIONS-UNIES

DCOS ops

DEPARTMENT OF PEACE-KEEPING OPERATIONS
MISSION PLANNING SERVICE

OUTGOING FAX

TO: MGEN GC TOUSIGNANT FORCE COMMANDER UNAMIR, KIGALI	**FROM**: MGEN VAN KAPPEN for UNITED NATIONS NEW-YORK
FAX NO: 1 212 963 3090	**FAX NO**:(212) 963-1356 **TEL. NO**:(212) 963-0851
ATTN: CAO, DCOS OPS & G3 PLANS	
DATE: 23 AUGUST 1995	No 225/DPKO/MPS/AD
SUBJECT: UNAMIR-RULES OF ENGAGEMENT	
TOTAL NUMBER OF PAGES, INCLUDING THIS PAGE: 3	

1. REFERENCE YOUR OUTGOING FAX 4991 OF 25 JULY 1995 REGARDING THE RULES OF ENGAGEMENT WHICH HAVE BEEN REVISED AS A RESULT OF THE REDRAFTED OF UNAMIR MANDATE, PLEASE, FIND ENCLOSED THE COMMENTS MADE BY THE LEGAL AFFAIRS OFFICE.

2. YOUR COMMENTS ON THIS MATTER WILL BE HIGHLY APPRECIATED.

BEST REGARDS.

United Nations Nations Unies

INTEROFFICE MEMORANDUM MEMORANDUM INTERIEUR

TO: Major General Van Kappen
A Military Adviser

DATE: 18 August 1995

REFERENCE

THROUGH:
S/C DE:

FROM Hans Corell
DE: Under-Secretary-General
for Legal Affairs
The Legal Counsel

SUBJECT:
OBJET: UNAMIR: Rules of Engagement

1. This is with reference to your facsimile of 8 August 1995 forwarding for legal review a revised version of the Rules of Engagement of UNAMIR.

2. We concur with your position on the changes to paragraph 2 but wish to point out that the word "communes" in sub-paragraph (b) should read, "communities." We also note with appreciation that all references to "cross-border fire" have been deleted.

3. With respect to the changes to paragraphs 3, 5(c), 5(i) and 12 of the Rules of Engagement, on which you specifically sought our views, our comments are as follows:

4. With respect to the changes to paragraph 3, it is not clear why the sentence concerning the impartiality of UNAMIR's actions was deleted. In our view, the sentence reflects a fundamental principle of United Nations activities and must therefore be retained.

5. Paragraph 5(c) should explicitly cover the personnel of United Nations agencies, the International Tribunal for Rwanda, including the Prosecutor's Office, human rights officers and humanitarian agencies as specified in paragraph 3(e) of Security Council resolution 997 (1995) of 9 June 1995.

6. The proposed inclusion of "civilians who require immediate assistance in order to prevent them suffering, death or serious bodily injury..." in the definition of "self-defense" contained in paragraph 5(c)(4) is not in accordance with UNAMIR's new mandate. This mandate as adjusted by Security Council resolution 997 (1995) no longer includes the "security and protection of civilians at risk in Rwanda" which was provided for under Security Council resolution 965 (1994) of 30 November 1994. We are, however, of the

view that UNAMIR should be authorized to use force, as appropriate, to protect persons from suffering, death, or serious bodily injury when there are no Rwandan authorities available to render immediate assistance. Accordingly, we would have no objection if such a provision were to be included in paragraph 10 entitled "Authority to Use Force."

7. The proposed definition of "serious criminal offense" contained in paragraph 5(i) is acceptable.

8. The mandate of UNAMIR, pursuant to Security Council resolution 997 (1995), does not include police functions. As such, the authority to detain individuals who commit a serious criminal offense pursuant to the revised paragraph 12 is legally questionable. It goes without saying, however, that UNAMIR personnel should intervene if they observe a serious criminal offense and there are no Rwandan authorities available to act in time. In such instances, the individual responsible for the offense should then be handed over to the custody of the competent Rwandan authorities. Accordingly, we would have no objection to the addition of a separate paragraph on UNAMIR's authority to stop, search and/or detain individuals who commit a serious criminal offense. Such a paragraph would read as follows, "UNAMIR personnel may stop, search and, if necessary detain, individuals who commit a serious criminal offense when there are no Rwandan authorities available to act in time. If detained, such individuals shall immediately be handed over to the custody of the competent Rwandan authorities."

UNITED NATIONS NATIONS UNIES

ASSISTANCE MISSION IN RWANDA MISSION POUR L'ASSISTANCE AU RWANDA

OUTGOING FAX NO.

PAGE 1 OF 1

DATE: 25 JULY 1995

File No. 5000.8 (PLANS)

TO: MGEN VAN KAPPEN UNATIONS NEW YORK FAX # (212) 963-1356 PHONE # (212) 963-2402	FROM: MGEN GC TOUSIGNANT FORCE COMMANDER UNAMIR, KIGALI
ATTN: LT CDR SEYDOU KEBE, UNNY FAX# (212) 963-1356	PHONE: 1 212 963 0851
INFO:	FAX NO: 1 212 963 1356
INTERNAL DISTR. COS, DCOS OPS, & G3 PLANS	DRAFTED BY: G3 PLANS
SUBJECT: UNAMIR - RULES OF ENGAGEMENT (ROE)	
REFERENCE:	

1. ENCLOSED IS THE RULES OF ENGAGEMENT WHICH HAVE BEEN REVISED AS A RESULT OF THE REDRAFTED UNAMIR MANDATE APPROVED BY THE SECURITY COUNCIL ON 9 JUL 95.

2. OVERVIEW OF THE PROPOSED CHANGES. THE UNAMIR TASKS PROPOSED IN THE MANDATE (PARA 2) HAVE BEEN ADJUSTED TO REFLECT THE REDRAFTED MANDATE. IN PARA 3 THE SENTENCE ON IMPARTIALITY HAS BEEN DELETED. IN THE DEFINITIONS SECTION ON SELF-DEFENCE (PARA 5.c.(4)) ALL REFERENCE TO DISPLACED PERSONS, REFUGEES AND CIVILIANS IN SITES OR AMONG POPULATIONS UNDER THE PROTECTION OF UNAMIR FORCES HAS BEEN REMOVED. A DEFINITION OF SERIOUS CRIMINAL OFFENCE (PARA 5.i.) HAS BEEN INTRODUCED. ALL REFERENCE TO CROSS-BORDER FIRE IN THE SECTION ON THE USE OF FORCE AND ENGAGEMENT PRINCIPLES (PARA 9.k.) HAS BEEN DELETED. THE SUB SECTION ON AUTHORITY TO DETAIN (PARA 12) HAS BEEN REWRITTEN TO INCLUDE SERIOUS CRIMINAL OFFENCE.

3. IT IS REQUESTED THAT YOU ACCEPT THE REVISED ROE AND PROVIDE YOUR APPROVAL BY 8 AUG 95.

UNITED NATIONS
ASSISTANCE MISSION IN RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR-MINUAR

File: 5000.8 (Plans)

To: FC — Approved/~~Not approved~~

From: G3 PLANS

Through: DCOS OPS — Recomended/~~Not recommended~~

COS — ~~Re~~commended/No~~t recommended~~

DFC — Recommended/Not ~~recommended~~

Date: 24 Jul 95

Subject: **REWRITE OF UNAMIR STANDING OPERATING PROCEDURES (SOPs) SECTION 17 - RULES OF ENGAGEMENT (ROE)**

1. The ROE have been revised as a result of the redrafted UNAMIR mandate approved by the Security Council on 9 Jul 95.

2. Overview of the Proposed Changes. The UNAMIR tasks proposed in the mandate (para 2) have been adjusted to reflect the redrafted mandate. In para 3 the sentence on impartiality has been deleted. In the Definitions section on Self-Defence (para 5.c.(4)) all reference to displaced persons, refugees and civilians in sites or among populations under the protection of UNAMIR forces has been removed. A definition of Serious Criminal Offence (para 5.i.) has been introduced. All reference to Cross-Border Fire in the section on the Use of Force and Engagement Principles (para 9.k.) has been deleted. The sub section on Authority to Detain (para 12) has been rewritten to include serious criminal offence.

3. It is requested that you accept the revised ROE and provide your approval.

24 July 1995

UNAMIR STANDING OPERATING PROCEDURES

SECTION 17: RULES OF ENGAGEMENT

PART I

INTRODUCTION

1 The conduct of military operations is controlled and regulated by the provision of international and national law, conventions and precedence. Actions of individuals is also governed by applicable national laws. In the case of a United Nations (UN) conducted operation, it is the responsibility of the UN to set the parameters within which UN Forces will operate Rules of Engagement (ROE) are the means by which the UN can provide to commanders at all levels the political and legal direction and guidance on the use of Force by UN personnel. ROE are drafted by the Force Commander, but are approved by the UN and may only be changed with UN authority

2. These UNAMIR ROE are provided for UN Forces operating under the auspices of UN Security Council Resolution 997 (1995) of 9 June 1995. That Resolution states that UNAMIR will.

" (a) Exercise its good offices to help achieve national reconciliation within the frame of reference of the Arusha Peace Agreement;

(b) Assist the Government of Rwanda in facilitating the voluntary and safe return of refugees and their reintegration in their home communes, and, to that end, to support the Government of Rwanda in its ongoing efforts to promote a climate of confidence and trust through the performance of monitoring tasks throughout the country with military and police observers;

(c) Support the provision of humanitarian aid, and of assistance and expertise in engineering, logistics, medical care and demining;

(d) Assist in the training of a national police force;

(e) Contribute to the security in Rwanda of personnel and premises of United Nations agencies, of the International Tribunal for Rwanda, including full - time protection for the Prosecutor's Office, as well as those of human rights officers, and to contribute also to the security of humanitarian agencies in case of need;"

3 Under the terms of the Arusha Peace Agreement and the UN Security Council Resolution mandates, UNAMIR has a commitment to all parties to assist them to achieve national reconciliation However, circumstances could arise where the use of force by UNAMIR personnel would be necessary and justified.

PART II

AIM

4. The aim of this directive is to provide guidance to commanders and soldiers at all levels in the use of force. However, no definitive directive can be created that can detail every possible course of action for every possible situation. It is critical and mandatory that all members of UNAMIR understand these ROE and apply them to any and all situations that develop requiring the use of force.

PART III

DEFINITIONS

5 The following key definitions must be clearly understood by all personnel in UNAMIR.

a. Force. The use of, or the threat to use, physical means to impose one's will. Military force is the use of the physical means provided by formed, armed and disciplined bodies of troops under unified command to achieve the same end and generally implies the potential to use significant levels of violence.

b. Minimum Force. The minimum degree of authorised force which is necessary, reasonable and lawful in the circumstances.

c. Self-Defence. The use of force in Rwanda to protect:

(1) oneself and the personnel in one's unit,

(2) other UNAMIR military or civilian personnel,

(3) non-UNAMIR humanitarian aid personnel,

(4) civilians who require immediate assistance in order to prevent them suffering death or serious bodily injury, and there are no Rwandan authorities who are able to render such assistance in time , or

(5) other UN-authorized military or civilian personnel, against a hostile act or hostile intent, where there is no other choice or time for deliberation

NOTE: The right to self-defence is related to, but separate from, ROE and applies no matter what other factors are present. Therefore, notwithstanding any ROE that may be

authorised, when an attack occurs, or is anticipated, the right exists to use proportionate force in self-defence to deter, neutralise or destroy the threat

d. Hostile Act. A hostile act is an attack or other use of force against those entities listed in paragraph 5.c. above.

e. Hostile Intent. Hostile intent is the threat of the imminent use of force against those entities listed in paragraph 5.c. above.

f Collateral Damage. Damage to persons or property adjacent to, but not part of an authorised target.

g. Non-deadly force. Any physical means of forcing compliance that does not pose a risk of death or serious bodily harm to the individual against whom the force is directed. This is usually through the use of physical force short of the use of firearms or other deadly weapons. Examples include: pushing and lesser forms of striking or hitting, and physically or mechanically restraining persons. Warning shots are non-deadly force, even though they involve the use of firearms.

h. Deadly Force. This is the ultimate degree of force. Deadly force is that level of force which is intended or is likely to cause death or serious bodily harm regardless of whether death or serious bodily harm actually results.

i. Serious Criminal Offence. Any offence which may result in death or serious bodily injury or significant damage to property. Such offences include, but are not limited to: murder, rape, robbery and burglary.

PART IV

INSTRUCTIONS ON THE USE OF FORCE

APPLICABILITY

6. All information contained in this part shall be construed as orders. These orders do not restrict a soldier's inherent right to self-defence.

COMMANDERS' RESPONSIBILITY

7 UNAMIR Commanders at all levels are required.

a. to have this directive translated and disseminated to every subordinate under their command; and

b. to ensure that every subordinate under their command.

(1) is briefed and refreshed on the meaning and application of these ROE as they relate to assigned missions;

(2) understands and complies with the contents of this document, and

(3) has the opportunity to seek additional clarification, guidance or direction if these ROE are considered insufficient.

8 The UNAMIR Force Commander shall issue orders on the readiness of personal weapons to be maintained appropriate to the situation.

USE OF FORCE AND ENGAGEMENT PRINCIPLES

9. When an incident occurs that requires the use of force, the following principles will be adhered to:

a. Reasonable Belief. Mere speculation does not constitute reasonable belief The use of force must be predicated upon a tangible threat;

b Minimum Force. UNAMIR personnel will never use more force that the minimum necessary to enable them to carry out their duties and accomplish assigned objectives or the mission;

c. Proportionality. Only a response proportionate to the perception of the level of threat is justified. Any force used must be limited to the degree, intensity, and duration necessary to achieve the objective for which the force is used, and no more;

d. Duration of Force and Disengagement. The application of force, at whatever level, is to cease when the hostile act stops, or whenever the commander considers there is no imminent threat or attack.

e. Negotiation and Warnings. If possible, negotiation and warnings must be exhausted before any use of force is initiated;

f. Deadly Force. Deadly force is justified only under conditions of extreme necessity and as a last resort when all lesser means have failed or cannot reasonably be employed;

g. Escalation. Escalation of the level of violence is to be minimised;

h. Collateral Damage. Collateral damage is to be minimised;

i. Retaliation and Reprisal. The use of force in retaliation and reprisal is prohibited; and

j. Application of Force. The use of force shall be controlled, where possible, by the on-scene commander and is to cease once the aim has been achieved

AUTHORITY TO USE FORCE

10. Force may be used as follows:

a. Non-Deadly Force. UNAMIR personnel are authorised to use non-deadly force in the following circumstances:

(1) in self-defence;

(2) against attempts at infiltration or envelopment of UNAMIR units, compounds or locales;

(3) when UNAMIR premises are violated in attempts to steal UNAMIR property or property under the protection of the UN;

(4) when attempts are made to abduct or detain UNAMIR civilian or military personnel; and

(5) when attempts are made to prevent UNAMIR personnel from carrying out their responsibilities as ordered by their commanders.

b Deadly Force. UNAMIR personnel are authorised to use deadly force in the following circumstances:

(1) in self-defence (as defined in paragraph 5.c.) against persons committing a hostile act or exhibiting hostile intent;

(2) to protect from damage or destruction, property or installations belonging to or under the protection of UNAMIR, including protected sites and the means for the distribution and delivery of humanitarian relief:

(a) which have been designated by the unit Commanding Officer, in consultation with the Force Commander, as essential to the success of the UNAMIR mission,

(b) which justify protection through the use of deadly force, and

(c) where there is no way to prevent the damage or destruction;

(3) to overcome armed attempts to prevent UNAMIR Force from discharging its duties, when authorised by the Force Commander;

(4) to resist armed attempts to disarm, abduct or detain UNAMIR military or civilian personnel;

(5) to resist armed attempts to compel UNAMIR personnel to withdraw from protection areas they were ordered to occupy by the Force Commander or his delegate; and

(6) to resist armed attempts to cut off a UNAMIR force

AUTHORITY TO SEARCH AND DETAIN

11 Authority to Stop and Search. UNAMIR personnel are authorised to stop all individuals attempting to enter or who are discovered inside any facilities under UNAMIR protection and to request that the individual submit to a consensual search of himself/herself and his/her vehicle where applicable. Any individual not willing to be searched shall be denied access, escorted from the premises or detained as appropriate. Searches of persons and their property are also authorised for the purpose of security. Such searches must be conducted with the minimal use of force necessary.

12. Authority to Detain. Individuals shall only be detained if they commit a hostile act or display hostile intent, or commit a serious criminal offence or carry out any activity which would require that force be used against them in accordance with the ROE, International Humanitarian Law or Rwandan law.

13 Once detained, only minimal non-deadly force is authorised to prevent the escape of a detainee, unless there is a necessity to act in self-defence, in which case minimum force, up to and including deadly force, is authorised. However, if the individuals flee and the threat of their use of force has thus been removed, further force of any kind shall not be employed to apprehend them.

14. Any individual detained shall be turned over as soon as possible to appropriate authorities as designated by the Force Commander. Any weapons or items seized from detainees shall be confiscated and handed over to the appropriate authorities or, if required, rendered militarily ineffective.

15 Treatment of Detainees. Detainees shall not be subject to intimidation, deprivation or humiliation. Medical care and the attention of medical personnel will be provided when required. Detainees will be given rations and shelter equivalent to that of UNAMIR personnel.

CHALLENGE AND ESCALATION PROCEDURES

16. Except where a response is required to open fire without warning, the following procedures are to be adhered to:

a. Verbal or Visual Warning. Warn the aggressor to stop the activity, which in normal circumstances, should follow the sequence below:

(1) depending on the circumstances, a warning may be given orally, by a sign or by illumination (ie, hand-held red flares, search-lights, etc.) The issuance of a warning should also be passed up the chain of command with continuous Situation Reports;

(2) repeat the verbal or visual warning as many times as is necessary to ensure understanding or compliance.

b Charge Weapons. Make use of the visual effect of such action to convince the aggressor that failure to stop the aggressive activity may result in the use of deadly force.

c Non-Deadly Force. If warnings are ignored, where possible, employ minimal non-deadly force;

d. Warning Shots. If the threat continues, employ aimed warning shots in a safe direction so that there is no danger of personal injury or collateral damage; and

e. Deadly Force. If minimal non-deadly force is either not feasible or fails, on order and under the control of a superior, minimal deadly force, such as single aimed shots, may be used until the threat is removed. If a soldier is acting in self-defence he does not have to wait for a superior to order or control his fire.

PROCEDURES DURING FIRING

17 Any use of firearms as a means of applying deadly force shall be aimed fire. Fire must be controlled and will not be indiscriminate. Automatic fire will only be used as a last resort and fire for effect will only continue as long as it is necessary to achieve the immediate aim of self-defence (or the defence of others).

PROCEDURE AFTER FIRING

18 After firing, commanders should ensure the following actions are taken

a. Medical. Any wounded, including those fired upon by UNAMIR personnel will be given first aid, if such an action can be done without further endangering the lives of UNAMIR personnel.

b Recording. Details of the incident will be recorded, including:

(1) date, time and place of firing;

(2) unit and personnel involved;

(3) the events leading up to the firing;

(4) why UNAMIR personnel opened fire;

(5) who or what was fired on;

(6) the weapons fired; and

(7) the apparent results of the firing.

c. Reporting. The above information and the current situation will be reported through the chain of command to UNAMIR Force HQ Attn Force Commander and Deputy Chief of Staff Operations.

PART V

RULES OF ENGAGEMENT

19 The ROE stated in this directive apply to all military personnel provided by troop contributing States and operating in accordance with the United Nations Security Council Resolution 997 (1995) of 9 June 1995. These ROE are written in the form of either prohibitions or permissions. Issued as prohibitions, they are orders not to take specific actions. Issued as permissions they are guidance to commanders that certain specific actions may be taken if they are judged necessary to achieve the aim of the mission. The use of force by UNAMIR personnel is prohibited unless specifically authorised by the ROE.

20 Rule No. One. Authority to Carry Arms

a. State A. No authority

b State B. Authority granted to carry weapons

21 Rule No. Two: Status of Weapons:

a. State A. Weapons will be carried with loaded magazines

b. State B. Weapons will be carried, charged and made safe

22. Rule No. Three: Response to Hostile Intent or Hostile Act without the Use of Fire:

a. State A. Observe and report but will withdraw in order to preserve own force.

b. State B: Stay in place. Make contact and establish liaison with opposing force(s) and/or local authorities concerned.

c. State C: Observe and Report. Stay in place. Warn aggressor of intent to use force and demonstrate resolve by appropriate means without opening fire.

d. State D: Observe and Report. Stay in place. Warn aggressor of intent to use force and demonstrate resolve by appropriate means. Demonstrative use of fire is authorised.

23 Rule No. Four: Disarmament of Paramilitary Personnel or Civilians:

a. State A: No authorisation granted.

b. State B: Authorisation is granted. In doing so, use minimum force and escalate to include use of deadly force if hostile intent is exhibited or a hostile act is committed. Hand over to appropriate authority at the earliest opportunity

24. Rule No. Five: Intervention and Warning Shots:

a. State A: Intervention between warring factions is prohibited

b. State B: Intervention with deadly force against positively identified and designated targets only after warning shots have been fired as part of the warning process.

25 Rule No Six: Control of Weapons Systems:

a. State A. Manning, preparation, movement and firing of weapons in the presence of the forces in conflict is prohibited.

b State B: Designated activity in the presence of the forces in conflict is permitted but will be specified by the following notes:

(1) Man (type of system);

(2) Prepare (type of system);

(3) Move (type of system); and

(4) Fire (type of system).

26. There are three ROE states that may apply in any given sector in Rwanda. These states are GREEN, YELLOW and RED and are described on UNAMIR Levels of Readiness/Alert pages in Annex A. In normal circumstances, the ROE status shall be GREEN

27 Changes in ~~the normal status of the ROE for~~ UNAMIR Forces as a whole will be ordered by the Force Commander or his delegate. Sector Commanders may order changes in normal status of the ROE for their sectors, if authorised by the Force Commander or his delegate. Contingent Commanders will inform or, if necessary, seek approval from national authority for the change in status.

PART VI

CONCLUSION

28. Amendments to this Directive will be issued as required and as approved by the UN

29. This Directive will be classified UN RESTRICTED.

Annexes:

Annex A Instructions for all Members of the UNAMIR Military Component Regarding Opening Fire in Rwanda.

Annex B UNAMIR Levels of Readiness/Alert

ANNEX A TO
RULES OF ENGAGEMENT
DATED 24 JULY 1995

INSTRUCTIONS FOR ALL MEMBERS OF THE UNAMIR MILITARY COMPONENT REGARDING OPENING FIRE IN RWANDA

1 You are to avoid the use of force, if it is possible to do so, and your conduct must cause the least possible concern, fear or danger to the local population.

2. Your immediate commander will order any change in the states of weapon readiness While your commander will normally issue the order to open fire, you have the right to use appropriate force in self-defence to protect yourself and those it is your duty to protect. Whenever possible a warning should be given before opening fire.

3. If you have to use force, you must only use the **MINIMUM FORCE** necessary **MINIMUM FORCE** normally involves the following sequential actions:

a. open display of weapons,

b. verbal warning,

c. barring access to the point being protected,

d. physical restraint,

e. warning shots,

f. pointing weapons, and

g. firing weapons at a person.

WARNINGS

4. **WARNING BEFORE FIRING**. Whenever possible a warning should be given before firing. The warning should be given in a loud clear voice in ENGLISH/FRENCH or KINYARWANDA.

STOP-HANDS UP/ ARRETEZ LEVEZ LES MAINS/ AGARARA. AMABOKO HEJURU

(PAUSE)

STOP OR I WILL SHOOT/ ARRETEZ OU JE TIRE/ HAGARARA, CYANGWA BAKURASE

5 **FIRE AFTER WARNING** After warning you may fire on a person in order to avoid death or grievous bodily harm only if:

a. the person is carrying a dangerous weapon (e.g. firearm, improvised firing device or machete); AND

b you believe the person is about to attack you, your unit, or any person it is your duty to protect, AND

c. the person refuses to stop when called upon to do so; AND

d. you believe there is no other way of stopping the person.

6 **FIRE WITHOUT WARNING** You may fire without warning on a person in order to avoid death or grievous bodily harm only if that person:

a. has used or is using a fire arm or other dangerous weapon against you, your unit or persons it is your duty to protect; OR

b. is carrying what you believe to be a dangerous weapon, AND is clearly about to use it, AND you believe that there is no other way to protect yourself, your unit, or the persons it is your duty to protect.

7. If you have to fire, you must account for all rounds expended in an after action report submitted in writing to your immediate commander

ANNEX B TO
RULES OF ENGAGEMENT
DATED 24 JULY 1995

UNAMIR LEVELS OF READINESS/ALERT

SERIAL	STATUS	UNITS/HQ	ACTION
1	GREEN	ALL	1 Normal activities 2. **ROE: Rule 1-Status B, Rule 2- Status A, Rule 3-Status B, Rule 4-Status A, Rule 5-Status A, Rule 6-Status A.**
2	YELLOW	HQ	1 Planning for next higher status commences 2. Liaison increased 3 VIP visits postponed. 4 No leave granted except on compassionate grounds
		UNITS	1 Precautionary stage 2 Double sentries 3 Night movement restricted 4 Test shelters 5 Stand To/Local alarm practice 6 No leave granted except on compassionate grounds 7. Backup comms/units/wpns 8 Reserves put on 3 hrs notice to move
		ALL	**ROE: Rule 1-Status B, Rule 2-Status B, Rule 3-Status C, Rule 4-Status A, Rule 5-Status A, Rule 6-Status A.**
3	RED	HQ	1. General Alert. 2 VIP visits cancelled. 3 No leave granted. 4 Emergency movement only 5 Special SITREPS to UNHQ. 6 Civilian evacuation if the situation warrants
		UNITS	1 Troops in defensive positions 2. Troops in Stand To positions 3 Reserves put on one hour notice to move 4. No leave granted 5 Troops on duty outside to wear flak jackets
		ALL	**ROE: Rule 1-Status B, Rule 2-Status B, Rule 3-Status D, Rule 4-Status B, Rule 5-Status B, Rule 6-Status B.**

APPENDIX ONE TO
ANNEX B TO
RULES OF ENGAGEMENT
DATED 24 JULY 1995

AIDE MEMOIRE - RULES OF ENGAGEMENT

NOTE. GREEN status indicated in boxes

RULE ONE: AUTHORITY TO CARRY ARMS

STATE A. No authority granted

STATE B	Authority granted to carry weapons.

RULE TWO: STATUS OF WEAPONS

STATE A.	Weapons will be carried with loaded magazines.

STATE B Weapons will be carried, charged and made safe

RULE THREE: RESPONSE TO HOSTILE INTENT OR HOSTILE ACT WITHOUT THE USE OF FIRE

STATE A. Observe and report but will withdraw in order to preserve own forces.

STATE B:	Stay in place. Make contact and establish liaison with opposing force(s) and/or local authorities concerned.

STATE C: Observe and report. Stay in place. Warn aggressor of intent to use force and demonstrate resolve by appropriate means without opening fire

STATE D: Observe and report. Stay in place. Warn aggressor of intent to use force and demonstrate resolve by appropriate means. Demonstrative use of fire is authorized.

RULE FOUR: DISARMAMENT OF PARAMILITARY PERSONNEL OR CIVILIANS

STATE A.	No authorization granted.

STATE B: Authorization is granted. In doing so, use minimum force and escalate to include use of deadly force if hostile intent is exhibited or a hostile act is committed. Hand over to appropriate authority at earliest opportunity

RULE FIVE: INTERVENTION AND WARNING SHOTS

STATE A.	Intervention between warring factions is prohibited

STATE B: **Intervention with deadly force against positively identified and designated targets only after warning shots have been fired as part of the warning process.**

RULE SIX: **CONTROL OF WEAPON SYSTEMS**

STATE A	Manning, preparation, movement firing of weapons in the presence of forces in conflict is prohibited.

STATE B Designated activity in the presence of the forces in conflict permitted but will be specified by the following notes.

(1) Man (type of system).

(2) Prepare (type of system).

(3) Move (type of system), and

(4) Fire (type of system)

UNITED NATIONS NATIONS UNIES
ASSISTANCE MISSION FOR RWANDA MISSION POUR L'ASSISTANCE AU RWANDA
UNAMIR - MINUAR

INTEROFFICE MEMORANDUM

TO: Ms. Isel Rivero
Special Assistant to the SRSG

FROM: Ladan M. Rafii
Political/Legal Officer

DATE: 26 August 1995

SUBJECT: Force Commander's Directive on the Legal Jurisdiction Applicable to UNAMIR and Rwandan Authorities

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The attached directive received from the military was revised following my discussions with our contract mananagement cell, the Executive Director and our military component. The purpose of these consultations was to provide some measure of protection to the international staff of UNAMIR contractors (a category which had formerly been omitted from the prior version of the directive issued by the Force Commander on handover procedures).

As a result, this updated document includes a reference to the international personnel of UNAMIR contractors (see page 5), and it also modifies the extent of protection offered to personnel of NGOS (e.g., that such protection should be restricted to their international staff only). Otherwise, the information remains the same as that provided in the directive dated 24 July 1995 which was previously circulated.

cc: ED
CMC

OFFICE OF SRSG

UNITED NATIONS
ASSISTANCE MISSION IN RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

Ladan Rafii
could you look
this over please.
Highlight or
comment as
appropriate.
24/8/95

FROM : **G 3 PLANS** for **5000.45 (Plans)**

TO : **DISTRIBUTION LIST**

DATE : **24 Aug 95**

SUBJECT : **DIRECTIVE ON THE LEGAL JURISDICTION APPLICABLE TO UNAMIR AND RWANDAN AUTHORITIES**

1. The updated directive on the legal jurisdiction applicable to UNAMIR and Rwandan authorties, is forwarded herwith. It will be effective from the date of receipt It superseeds the version issued on 25 July 95.

2. Acknowledge.

RECEIVED
25 AUG 1995
OFFICE OF THE SRSG
UNAMIR

Distribution :

Action :

LIST B, C AND D (less spares)
UNHFOR (UN Human Rights Field Operations in Rwanda)
CISS
CCPO
STO
CSO
MCC
CITMM
BMES
CCO

Information :

LIST A AND E (less spares)

UNITED NATIONS NATIONS UNIES
ASSISTANCE MISSION IN RWANDA MISSION POUR L'ASSISTANCE AU RWANDA
UNAMIR - MINUAR

File No 2000-1 (FC)

14 August 1995

Distribution List

FORCE COMMANDER'S DIRECTIVE ON THE LEGAL JURISDICTION APPLICABLE TO UNAMIR AND RWANDAN AUTHORITIES

References: A. UNAMIR SOPs, Part 3, Section 17, Rules of Engagement dated 24 July 1995.
B. FC Directive on Conduct, Dress and Weapon Carriage Policy dated 26 April 1995.

INTRODUCTION

1. This updated Directive is effective on receipt and cancels the earlier version which was issued on 25 July 1995. It has the support of the SRSG's office, ICRC and UNHRFOR.

GENERAL

2. In the conduct of their duties, UNAMIR personnel may be required to hand over individuals to the Government of Rwanda. This hand over may occur as a result of Rwandan authorities seeking legal jurisdiction over foreign or Rwandan nationals.

DEFINITIONS

3. The following definitions shall apply to this Directive:

a. "Appropriate authority" at this stage, refers only to the Prosecutor's Office. Further changes to this definition will be notified in writing by the FC.

b. "Civilian component" consists of UN officials and of other persons assigned by the Secretary-General to assist the SRSG or made available by participating States to serve as part of UNAMIR.

c. "Detainee" is any person who is held for committing a hostile act or hostile intent against any of the categories of people referred to in paragraphs 7d and 7e below.

d. "Legal Jurisdiction" includes but is not limited to those situations where Rwandan authorities seek to take a foreign or Rwandan national into custody.

e. "Military personnel of national contingents" includes military staff at UNAMIR HQ.

f. "Official capacity" for UNAMIR troops is any time soldiers are in uniform or in civilian clothes for official functions (see Reference B).

g. "UNHRFOR" is the United Nations Human Rights Field Operations in Rwanda.

h. "Visitors" includes, but is not limited to, journalists, tourists, dignitaries representing national governments and non-UNAMIR personnel permitted to enter UNAMIR premises.

AIM

4. The aim of this Directive is to outline the procedures for handing over individuals or groups of people to the Rwandan authorities.

FOREIGN NATIONALS AND RWANDAN JURISDICTION

5. Rwandan authorities may seek jurisdiction over the following categories of foreign nationals:

a. SRSG, Force Commander and the Police Commissioner of CIVPOL;

b. UN civilian officials assigned to the civilian component to serve with UNAMIR;

c. United Nations Military Observers (UNMOs), Civilian Police (CIVPOL) and civilian personnel from overseas who are employed by the UN specifically for this mission but who are not UNAMIR staff (eg consultants) (hereinafter referred to as "experts on mission");

d. military personnel of national contingents who are part of UNAMIR;

e. personnel of UN specialised agencies;

f. personnel of NGOs; and

g. visitors.

6. The legal status of these categories of personnel and the hand over procedures for them are detailed at Annexes A and C respectively.

RWANDAN NATIONALS AND RWANDAN JURISDICTION

7. Rwandan authorities may seek jurisdiction over the following categories of Rwandan nationals:

a. Locally recruited personnel who are working for the UN.

b. Rwandans who seek UNAMIR protection.

c. Rwandans who are detained by UNAMIR personnel for committing or who are suspected of committing a hostile act or display hostile intent (as defined in Reference A) or a serious criminal offence against Rwandan or International Humanitarian law.

d. Rwandans who are detained for stealing and/or damaging property, or are suspected of stealing and/or damaging property belonging to, or in the care of, UNAMIR, UN humanitarian organisations or UN protected sites (see Reference A).

8. The legal status and hand over for Rwandan nationals is at Annexes A and D respectively.

9. Witnesses. Rwandan nationals who request the protection of UNAMIR because they have witnessed and/or have been the subject of serious physical abuse may be provided with such protection if their circumstances fall within the mandate and/or it is considered that a moral obligation exists for the provision of such assistance. The decision to offer such assistance will only be provided by the express authorization of UNAMIR HQ. A request for such assistance should be made as soon as possible after the initial request is made.

10. Any person in the care of UNAMIR troops are to be treated humanely, ensuring that they are provided with food, drinking water and that they are afforded safeguards in terms of health, hygiene and protection against the rigours of climate and the dangers of armed conflict.

MEMBERS OF THE RWANDAN PATRIOTIC ARMY (RPA)

11. It is not within the mandate of UNAMIR to provide protection to members of the RPA. Should a member of the RPA seek protection the member is to be advised that protection will not be given.

12. Should the person seeking protection request the assistance of UNAMIR to liaise with the appropriate RPA authority for his handover, he should be informed that UNAMIR is unable to provide protection and HQ UNAMIR is to be informed in order to coordinate all actions. HQ UNAMIR will ensure that the appropriate local and UNAMIR RPA Liaison officer are informed.

13. The person seeking protection is not to be treated as a detainee and as such may have leave UNAMIR property at any time.

G.C. Rousignant
Major-General
Force Commander

Annexes:

Annex A - Foreign Nationals and Rwandan Jurisdiction
Annex B - Rwandan Nationals and Rwandan Jurisdiction
Annex C - Procedures for Handing Over Foreign Nationals
Annex D - Procedures for Handing Over Rwandan Nationals
Annex E - Prosecutors Offices in Rwanda
Annex F - ICRC Representatives In Rwanda
Annex G - Hand Over Proforma

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BMES

CCO

Information:

Lists A and E (less spares)

ANNEX A TO
2000-1 (FC)
DATED 14 AUG 95

FOREIGN NATIONALS AND THEIR LEGAL STATUS IN RWANDA

SER	CATEGORY	LEGAL IMMUNITY	AUTHORITY FOR HAND OVER
1.	SRSG, FC, Police Comm of CIVPOL	. Accorded Diplomatic immunity and privilege under International Law.	. Not to be handed over to Rwandan authorities under any circumstance.
2.	UN Civilian officials assigned to the Civilian Component to serve with UNAMIR	. Immune from legal process for all acts performed by them in their official capacity.	. Only to be handed over with the concurrence of the SRSG.
3.	UNMO, CIVPOL and Consultants	. Immune from legal process for all acts performed by them in their official capacity. . Immune from personal arrest or detention and seizure of their personal baggage	. Only to be handed over with the concurrence of the FC and/or the SRSG.
4.	Military Pers of National Contingents who are a part of UNAMIR	. Immunity from legal process in respect of acts performed by them in their official capacity.	. Only to be handed over with the concurrence of the FC and the Contingent Commander.
5.	Personnel of UN Specialist Agencies	. Immunity from legal process in respect of acts performed by them in their official capacity.	. Only to be handed over with the concurrence of the head of the Agency.
6.	International Personnel of NGOs	. No immunity unless they have entered in to a bilateral arrangement with the Rwandan Government.	. To be handed over on demand of proper legal authority with the concurrence of the head of the NGO.

7.	International Personnel of UNAMIR Contractors	. No immunity unless they have entered in to a bilateral arrangement with the Rwandan Government.	. To be handed over on demand of proper legal authority.
8.	Visitors	. No immunity from legal process in respect of acts performed by them in their official capacity.	. To be handled over on demand of proper legal authority.

ANNEX B TO
2000-1 (FC)
DATED 14 AUG 95

RWANDAN NATIONAL AND THEIR LEGAL STATUS IN RWANDA

SER	CATEGORY	LEGAL IMMUNITY	AUTHORITY FOR HAND OVER
1.	Locally recruited personnel	. Immune from legal process in respect of all acts performed by them in their official capacity. Note: This protection does not extend to acts committed before their employment with the UN.	. Only to be handed over with the concurrence of the SRSG.
2.	Rwandan National detained by UNAMIR authorities	. Treat humanely.	. Only to be handed over at an office of the prosecutor.

ANNEX C TO
2000-1 (FC)
DATED 14 AUG 95

PROCEDURES FOR HANDING OVER FOREIGN NATIONALS

UN CIVILIAN ASSIGNED TO THE CIVILIAN COMPONENT TO SERVE WITH UNAMIR

1. As soon as a Rwandan authority seeks legal jurisdiction over a UN civilian assigned to the civilian component to serve with UNAMIR, the SRSG, or his representative, HQ UNAMIR, and the International Committee of the Red Cross (ICRC) and UNHRFOR must be notified. HQ UNAMIR is to dispatch Military Police (MP).

. UNAMIR soldiers are not to allow the Rwandan authority(s) to take custody of the UN civilian unless the SRSG has given permission for this to occur. UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

3. If the Rwandan authority(s) uses force to attempt to take custody of the UN civilian, UNAMIR troops are authorised to use force in accordance with Reference A.

4. If authority is given for the hand over, the UN civilian must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

5. A report detailing the following is to submitted to UNAMIR HQ, ttention G1 Pers, G2, G3 Ops and the Force Provost Marshall:

a. name of person handed over,

b. location where the Rwandan Government sought jurisdiction,

c. crime person was accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the handover and if not, why not.

UNMOs, CIVPOL AND EXPERTS ON MISSION

6. As soon as Rwandan authority seeks legal jurisdiction over an UNMO, CIVPOL or an Expert on Mission, the FC or his representative, the SRSG or his representative and the ICRC and UNHRFOR must be notified. HQ UNAMIR is to dispatch MP or CIVPOL to the site. The Rwandan authority is to be reminded that these members are, under Rwandan and international law, immune from arrest, detention or the seizure of their baggage.

7. UNAMIR soldiers are not to allow the Rwandan authority(s) to take custody of an UNMO, CIVPOL or an Expert on Mission unless the FC and/or the SRSG has given permission for this to occur. UNAMIR troops are to allow MP or CIVPOL to liaise with the Rwandan authority(s).

8. If the Rwandan authority(s) uses force to attempt to take custody of the UNMO, CIVPOL or Expert on Mission, UNAMIR troops are authorised to use force in accordance with Reference A.

9. If authority is given for the hand over, the UNMO, CIVPOL or Expert on Mission must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the handover. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

10. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall:

a. name of person handed over,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

MILITARY PERSONNEL OF NATIONAL CONTINGENTS WHO ARE A PART OF UNAMIR

11. A soon as a Rwandan authority seeks legal jurisdiction over military personnel of national contingents who are part of UNAMIR, the FC or his representative, the appropriate contingent commander and the ICRC must be notified. HQ UNAMIR is to dispatch MP to the site. The Rwandan authority should be reminded that military members of the military component of UNAMIR shall be subject to the exclusive

jurisdiction of their respective participating states in respect of any criminal offences which may have been committed by them in Rwanda.

12. UNAMIR soldiers are not to allow the Rwandan authority(s) to take custody of another UNAMIR soldier unless the FC and the appropriate contingent commander have given permission for this to occur. UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

13. If the Rwandan authority(s) uses force to attempt to take custody of the UNAMIR soldier, UNAMIR troops are authorised to use force in accordance with Reference A.

14. If authority is given for the hand over, the UNAMIR soldier must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

15. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall:

a. name of person handed over,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

PERSONNEL OF UN SPECIALISED AGENCIES

16. As soon as a Rwandan authority seeks legal jurisdiction over a member of a UN specialised agency, the SRSG or his representative, the appropriate head of agency and the ICRC and UNHRFOR must be notified. HQ UNAMIR is to dispatch MP to the site.

17. UNAMIR soldiers are not to allow the Rwandan authority(s) to take custody of a member of a UN specialised agency unless the SRSG and the appropriate head of the agency have given permission for this to occur. UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

18. If the Rwandan authority(s) uses force to attempt to take custody of a member of a UN specialised agency, UNAMIR troops are authorised to use force in accordance with Reference A.

19. If authority is given for the handover, the person must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

20. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall and the UN agency concerned:

a. name of person handed over and the agency they work for,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

INTERNATIONAL PERSONNEL OF NGOs

21. As soon as a Rwandan authority seeks legal jurisdiction over an international member of an NGO, HQ UNAMIR, the appropriate head of the NGO agency and the ICRC and UNHRFOR must be notified. HQ UNAMIR is to dispatch MP to the site.

22. UNAMIR soldiers are to allow the Rwandan authority(s) to take custody of a international member of an NGO if that person(s) is identified as having legal authority (ie., (ie Gendarme, Prosecutors). UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

23. Should handover take place, the person must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

24. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall:

a. name of person handed over and the NGO they work for,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

INTERNATIONAL PERSONNEL OF UNAMIR CONTRACTORS

25. As soon as a Rwandan authority seeks legal jurisdiction over an international member of a UNAMIR contractor, HQ UNAMIR, the appropriate ·ad of the UNAMIR contractor and the ICRC and UNHRFOR must be notified. HQ UNAMIR is to dispatch MP to the site.

26. UNAMIR soldiers are to allow the Rwandan authority(s) to take custody of a international member of an UNAMIR contractor if that person(s) is identified as having legal authority (ie., Gendarme, Prosecutors). UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

27. Should handover take place, the person must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

28. A report detailing the following is to be submitted to UNAMIR HQ, tention G1 Pers, G3 Ops, and the Force Provost Marshall:

a. name of person handed over and the UNAMIR contractor they work for,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

VISITORS

29. As soon as a Rwandan authority seeks legal jurisdiction over a visitor, HQ UNAMIR, UNHRFOR and the ICRC should be notified. HQ UNAMIR is to dispatch MP to the site.

30. UNAMIR soldiers are to allow the Rwandan authority(s) to take custody of a visitor if that person(s) is identified as having legal authority (ie Gendarme, Prosecutors). UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

31. If possible the person should be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

32. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall:

a. name of person handed over and their affiliation or nationality,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

ANNEX D TO
2000-1 (FC)
DATED 14 AUG 95

PROCEDURES FOR HANDING OVER RWANDAN NATIONALS

LOCALLY RECRUITED PERSONNEL

1. As soon as a Rwandan authority seeks legal jurisdiction over any locally recruited personnel, the SRSG or his representative and the ICRC must be notified. HQ UNAMIR is to dispatch MP to the site. UNHRFOR is to be notified immediately.

2. UNAMIR soldiers are not to allow any Rwandan authority(s) to take custody of locally recruited personnel unless the SRSG has given permission for this to occur. UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

3. If the Rwandan authority(s) uses force to attempt to take custody of locally recruited personnel, UNAMIR troops are authorised to use force in accordance with Reference A.

4. UNHRFOR is to be permitted to speak to the locally recruited person.

5. If authority is given for the hand over, the person must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC are to be notified as far as possible in advance and, if possible are to be present during the hand over. UNHRFOR is to be present during the hand over. (Note: No hand over is to be delayed more than 24 hours with out UNAMIR HQ permission on the sole basis that the ICRC and/or UNHRFO are not present.) The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

6. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G2, G3 Ops, and the Force Provost Marshall:

a. name of person handed over,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and/or UNHRFOR representative was present during the hand over and if not, why not.

RWANDANS SEEKING PROTECTION OF UNAMIR

7. It is not within the UNAMIR mandate to give Rwandan nationals protection. Circumstances may arise where protection to an individual or a group of individuals will be given under International Humanitarian Law because they are about to suffer death or serious bodily injury and there are no appropriate Rwandan authorities available to offer timely assistance. Such circumstances will be rare and in such cases UNAMIR HQ is to be notified immediately.

PERSONS DETAINED BY UNAMIR TROOPS

8. They are to be searched, disarmed and segregated. At all times they are to be treated in accordance with the principals of minimum force as detailed at Reference A. UNAMIR HQ is to be notified immediately of the circumstances surrounding the detention. HQ UNAMIR is to dispatch MP to the site. UNAMIR troops are to allow the MP to liaise with the Rwandan authority(s).

9. The detainee(s) is to be told the reason for his detention.

10. They are to be identified and their personal details recorded. The reason for the detention is also to be recorded.

11. A safe and secure place is to be arranged as a temporary place of custody. Detainees are to be kept in custody by UNAMIR troops for the minimum time necessary. A detainee is to be kept in custody for no more than 24 hours unless they have the permission of UNAMIR HQ. Detainees are to be provided with food, water, shelter and medical attention as required. ICRC is to be informed immediately and is to be allowed to have access to these detainees.

12. Detainees and the property found in their possession are to be handed to the appropriate Prosecutor's Office (details of these offices are at Annex E). The detainee is to be allowed to keep all property essential for his/her comfort and survival (eg food and water).

13. The ICRC (if possible) and the UNHRFOR are to be notified and present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

14. Detainees are not to be handed to any other RPA authorities. A Prosecutor's Office is the only authorised office for the processing and handing over of detainees in Rwanda.

15. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G2, G3 Ops and the Force Provost Marshall:

a. name of the detainee,

b. location where the person was detained,

c. crime person accused of,

d. name of the UNAMIR person who detained the detainee,

e. date, time and place the detainee was handed to the Office of the Prosecutor, and

f. whether an ICRC and/or UNHRFOR representative was present during the hand over and if not, why not.

ANNEX E TO
2000-1 (FC)
DATED 14 AUG 95

PROSECUTOR OFFICES IN RWANDA

TOWN	PROSECUTOR'S NAME	ADDRESS
KIBUNGO	MUSHUMBA, Jean Baptiste	
KIGALI	NSANZUWERA, Sylere	
RWANAGANA	GATAMBIYE, Cyprien	
KIBUYE	TUYISENGE, Celestin	
GITARAMA	KAYIBANDA, Simon	
NYANZA	HARELIMANA, Callixte	
BUTARE	HAVUGIYAREMYE, Aloys	
GIKONGORO	NYANDWI, Viateur	
CYANGUGU	HARERIMANA, Charles	
GISENYI	UWIYINGOMA, David	
RUHENGERI	MUSUHUKE, Francois	
BYUMBA		

NOTE: It is the duty of all Sector Commanders to know exactly where the above offices are located.

ANNEX F TO
2000-1 (FC)
DATED 14 AUG 95

ICRC REPRESENTATIVES IN RWANDA

TOWN	ICRC REPRESENTATIVE	ADDRESS
KIBUNGO	Francois SENECHAUB	
KIGALI	Laurent FELLAY	
RWANAGANA	Francois SENECHAUB	
KIBUYE	Cristophe LOSEY	
GITARAMA	Laurent FELLAY	
NYANZA	Fereydoun AALAU	
BUTARE	Aalame FEREYDOUN	
GIKONGORO	Franz RUSCHENSTEIN	
CYANGUGU	Iris WITTNER	
GISENYI	Johanna GROBASH	
RUHENGERI	Johanna GROBASH	
BYUMBA	Hugo GISLER	

NOTE: It is the duty of all Sector Commanders to know exactly where the above offices are located.

ANNEX G TO
2000-1 (FC)
DATED 14 AUG 95

HAND OVER PROFORMA

I, _____(1), A MILITARY MEMBER OF

UNAMIR/MINUAR HAVE HANDED OVER_____(2)

TO THE OFFICE OF THE PROSECUTOR OF _____(3)

AT _____(4)

SIGNED THIS DAY _____ OF _____ 199__

_____ _____

UNAMIR **OFFICE OF THE PROSECUTOR**

(1) Insert here the name of the UNAMIR person conducting the hand over.

(2) Insert here the name of the person being handed over.

(3) Insert here the name of the Prosecutor's Office.

(4) Insert here the time of hand over.

UNITED NATIONS NATIONS UNIES
ASSISTANCE MISSION FOR RWANDA MISSION POUR L'ASSISTANCE AU RWANDA
UNAMIR - MINUAR

INTEROFFICE MEMORANDUM

TO: Ms. Isel Rivero
Special Assistant to the SRSG

FROM: Ladan M. Rafii
Political/Legal Officer

DATE: 26 August 1995

SUBJECT: Force Commander's Directive on the Legal Jurisdiction Applicable to UNAMIR and Rwandan Authorities

---

The attached directive received from the military was revised following my discussions with our contract mananagement cell, the Executive Director and our military component. The purpose of these consultations was to provide some measure of protection to the international staff of UNAMIR contractors (a category which had formerly been omitted from the prior version of the directive issued by the Force Commander on handover procedures).

As a result, this updated document includes a reference to the international personnel of UNAMIR contractors (see page 5), and it also modifies the extent of protection offered to personnel of NGOS (e.g., that such protection should be restricted to their international staff only). Otherwise, the information remains the same as that provided in the directive dated 24 July 1995 which was previously circulated.

cc: ED
CMC

OFFICE OF SRSG

UNITED NATIONS
ASSISTANCE MISSION IN RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

Ladan Rafii
could you look
this over please.
Highlight or
comment as
appropriate.
24/8/95

FROM : **G 3 PLANS** for **5000.45 (Plans)**

TO : **DISTRIBUTION LIST**

DATE : **24 Aug 95**

SUBJECT : **DIRECTIVE ON THE LEGAL JURISDICTION APPLICABLE TO UNAMIR AND RWANDAN AUTHORITIES**

1. The updated directive on the legal jurisdiction applicable to UNAMIR and Rwandan authorties, is forwarded herwith. It will be effective from the date of receipt It superseeds the version issued on 25 July 95.

2. Acknowledge.

RECEIVED
25 AUG 1995
OFFICE OF THE SRSG
UNAMIR

Distribution :

Action :

LIST B, C AND D (less spares)
UNHFOR (UN Human Rights Field Operations in Rwanda)
CISS
CCPO
STO
CSO
MCC
CITMM
BMES
CCO

Information :

LIST A AND E (less spares)

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

INTERNATIONAL PERSONNEL OF UNAMIR CONTRACTORS

25. As soon as a Rwandan authority seeks legal jurisdiction over an international member of a UNAMIR contractor, HQ UNAMIR, the appropriate head of the UNAMIR contractor and the ICRC and UNHRFOR must be notified. HQ UNAMIR is to dispatch MP to the site.

26. UNAMIR soldiers are to allow the Rwandan authority(s) to take custody of a international member of an UNAMIR contractor if that person(s) is identified as having legal authority (ie., Gendarme, Prosecutors). UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

27. Should handover take place, the person must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

28. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall:

a. name of person handed over and the UNAMIR contractor they work for,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

UNITED NATIONS NATIONS UNIES
ASSISTANCE MISSION FOR RWANDA MISSION POUR L'ASSISTANCE AU RWANDA
UNAMIR - MINUAR

INTER-OFFICE MEMORANDUM

TO: Colonel Jan Arp
DCOS - OPS

FROM: Wilfrid de Souza DATE: 10 August 1995
Executive Director

SUBJECT: FC's Directive on the Legal Jurisdiction Applicable to UNAMIR and Rwandan Authorities

---

1. It has come to my attention that the Force Commander's directive on the above-mentioned subject dated 24 July 1995 omits any reference to procedures governing the handover of UNAMIR contractor personnel to the Rwandan authorities. Despite UNAMIR's revised mandate, and in light of the various difficulties we are encountering with the Rwandan Government regarding the status of such personnel, I would like to propose that some measure of protection be afforded by UNAMIR's military component to the international (not local) staff members of UNAMIR contractors.

2. I understand that this matter has already been brought to your attention by our Political/Legal Officer who has also raised the issue with the Military Legal Officer, Major Craig McConaghy. Our proposal is to include such personnel under category 5 (f) of the directive pertaining to personnel of non-governmental organizations so that they may be accorded the same degree of protection as NGO personnel working in Rwanda.

3. Thank you for your attention to this matter.

cc: SRSG
FC
P/LO

UNITED NATIONS NATIONS UNIES
ASSISTANCE MISSION FOR RWANDA MISSION POUR L'ASSISTANCE AU RWANDA
UNAMIR - MINUAR

INTER-OFFICE MEMORANDUM

TO: Major General Guy Tousignant
Force Commander & Acting Head of Mission

FROM: Wilfrid de Souza DATE: 8 August 1995
Executive Director

SUBJECT: Military Legal Officer for UNAMIR

It has recently come to my attention that Major Craig McConaghy, who has been serving as UNAMIR's military legal officer, will be leaving Rwanda with the rest of the Australian contingent on 23 August 1995. I understand that, while serving in this capacity, Major McConaghy was actively involved in providing legal advice to UNAMIR's military component, as well as in assisting in the resolution of various matters of a military and legal nature with the Rwandese authorities, particularly the RPA. Based upon this information, I propose that a replacement for Major McConaghy be found as soon as possible, so that UNAMIR's military component will continue to receive expert legal advice on military matters, especially in those incidents which risk developing into a conflict situation vis à vis the local and national authorities.

cc: SRSG

② Executive Director

1. I agree with the excellent work performed by the military legal officer. Nevertheless, we were never established for one. It was a bonus provided by Australia.
2. We would have to establish to need for a legal officer (MIL) Through New York. I don't know who could provide and if we could justify the need. It should be noted that our Chief of Police is also a lawyer (Nigeria)

UNITED NATIONS NATIONS UNIES
ASSISTANCE MISSION FOR RWANDA MISSION POUR L'ASSISTANCE AU RWANDA
UNAMIR - MINUAR

INTER-OFFICE MEMORANDUM

TO: Major General Guy Tousignant
Force Commander & Acting Head of Mission

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Executive Director

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cc: SRSG

ED

UNITED NATIONS **NATIONS UNIES**
ASSISTANCE MISSION IN RWANDA MISSION POUR L'ASSISTANCE AU RWANDA
UNAMIR - MINUAR

File No 5000.45 (PLANS)

To: Distribution List

From: DCOS OPS

Date: 25 May 95

Ms Rafii
Please study and let me know if we can ... 96-3 ... WS

Subject: FC's DIRECTIVE ON THE LEGAL JURISDICTION APPLICABLE TO UNAMIR AND RWANDAN AUTHORITIES

Reference: A. 2000-1 (FC) dated 16 May 95
B. 2000-1 (FC) dated 24 July 95 (enclosed)

---

1. The Force Commander's directive on the legal jurisdiction applicable to UNAMIR and Rwandan authorities, Reference A, has been revised in order to conform to UNAMIR's new mandate.

Verified 26/7/95 MM

2. Overview of changes. All references to protection of displaced persons, refugees and civilians have been deleted. In Annex D the section on the procedure of handing over of Rwandan nationals has been deleted for displaced persons, refugees and civilians. The assistance rendered to Rwandans seeking the protection of UNAMIR has been narrowed to situations covered by International Humanitarian Law in cases where they are about to suffer death or serious bodily injury and there are no appropriate Rwandan authorities available.

3. You are requested to disseminate this document to all personnel.

Enclosures: (1)

NGO aspect discussed with ED 27/7/93 (ie. political, not legal, decision taken).

MM

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File No 2000-1 (FC)

24 July 1995

Distribution List

FORCE COMMANDER'S DIRECTIVE ON THE LEGAL JURISDICTION APPLICABLE TO UNAMIR AND RWANDAN AUTHORITIES

References: A. UNAMIR SOPs, Part 3, Section 17, Rules of Engagement dated 24 July 1995.
B. FC Directive on Conduct, Dress and Weapon Carriage Policy dated 26 April 1995.

INTRODUCTION

1. This updated Directive is effective on receipt and cancels the earlier version which was issued on 16 May 1995. It has the support of the SRSG's office, ICRC and UNHRFOR.

GENERAL

2. In the conduct of their duties, UNAMIR personnel may be required to hand over individuals to the Government of Rwanda. This hand over may occur as a result of Rwandan authorities seeking legal jurisdiction over foreign or Rwandan nationals.

DEFINITIONS

3. The following definitions shall apply to this Directive:

a. "Appropriate authority" at this stage, refers only to the Prosecutor's Office. Further changes to this definition will be notified in writing by the FC.

b. "Civilian component" consists of UN officials and of other persons assigned by the Secretary-General to assist the SRSG or made available by participating States to serve as part of UNAMIR.

c. "Detainee" is any person who is held for committing a hostile act or hostile intent against any of the categories of people referred to in paragraphs 7d and 7e below.

d. "Legal Jurisdiction" includes but is not limited to those situations where Rwandan authorities seek to take a foreign or Rwandan national into custody.

e. "Military personnel of national contingents" includes military staff at UNAMIR HQ.

f. "Official capacity" for UNAMIR troops is any time soldiers are in uniform or in civilian clothes for official functions (see Reference B).

g. "UNHRFOR" is the United Nations Human Rights Field Operations in Rwanda.

h. "Visitors" includes, but is not limited to, journalists, tourists, dignitaries representing national governments and non-UNAMIR personnel permitted to enter UNAMIR premises.

AIM

4. The aim of this Directive is to outline the procedures for handing over individuals or groups of people to the Rwandan authorities.

FOREIGN NATIONALS AND RWANDAN JURISDICTION

5. Rwandan authorities may seek jurisdiction over the following categories of foreign nationals:

a. SRSG, Force Commander and the Police Commissioner of CIVPOL;

b. UN civilian officials assigned to the civilian component to serve with UNAMIR;

c. United Nations Military Observers (UNMOs), Civilian Police (CIVPOL) and civilian personnel from overseas who are employed by the UN specifically for this mission but who are not UNAMIR staff (eg consultants) (hereinafter referred to as "experts on mission");

d. military personnel of national contingents who are part of UNAMIR;

e. personnel of UN specialised agencies;

f. personnel of NGOs; and

g. visitors.

6. The legal status of these categories of personnel and the hand over procedures for them are detailed at Annexes A and C respectively.

RWANDAN NATIONALS AND RWANDAN JURISDICTION

7. Rwandan authorities may seek jurisdiction over the following categories of Rwandan nationals:

a. Locally recruited personnel who are working for the UN.

b. Rwandans who seek UNAMIR protection.

c. Rwandans who are detained by UNAMIR personnel for committing or who are suspected of committing a hostile act or display hostile intent (as defined in Reference A) or a serious criminal offence against Rwandan or International Humanitarian law.

d. Rwandans who are detained for stealing and/or damaging property, or are suspected of stealing and/or damaging property belonging to, or in the care of, UNAMIR, UN humanitarian organisations or UN protected sites (see Reference A).

8. The legal status and hand over for Rwandan nationals is at Annexes A and D respectively.

9. Witnesses. Rwandan nationals who request the protection of UNAMIR because they have witnessed and/or have been the subject of serious physical abuse may be provided with such protection if their circumstances fall within the mandate and/or it is considered that a moral obligation exists for the provision of such assistance. The decision to offer such assistance will only be provided by the express authorization of UNAMIR HQ. A request for such assistance should be made as soon as possible after the initial request is made.

10. Any person in the care of UNAMIR troops are to be treated humanely, ensuring that they are provided with food, drinking water and that they are afforded safeguards in terms of health, hygiene and protection against the rigours of climate and the dangers of armed conflict.

MEMBERS OF THE RWANDAN PATRIOTIC ARMY (RPA)

11. It is not within the mandate of UNAMIR to provide protection to members of the RPA. Should a member of the RPA seek protection the member is to be advised that protection will not be given.

12. Should the person seeking protection request the assistance of UNAMIR to liaise with the appropriate RPA authority for his handover, he should be informed that UNAMIR is unable to provide protection and HQ UNAMIR is to be informed in order to coordinate all actions. HQ UNAMIR will ensure that the appropriate local and UNAMIR RPA Liaison officer are informed.

13. The person seeking protection is not to be treated as a detainee and as such may have leave UNAMIR property at any time.

G.C. Tousignant
Major-General
Force Commander

Annexes:

Annex A - Foreign Nationals and Rwandan Jurisdiction
Annex B - Rwandan Nationals and Rwandan Jurisdiction
Annex C - Procedures for Handing Over Foreign Nationals
Annex D - Procedures for Handing Over Rwandan Nationals
Annex E - Prosecutors Offices in Rwanda
Annex F - ICRC Representatives In Rwanda
Annex G - Hand Over Proforma

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CCO

Information:

Lists A and E (less spares)

ANNEX A TO
2000-1 (FC)
DATED 14 JUL 95

FOREIGN NATIONALS AND THEIR LEGAL STATUS IN RWANDA

SER	CATEGORY	LEGAL IMMUNITY	AUTHORITY FOR HAND OVER
1.	SRSG, FC, Police Comm of CIVPOL	. Accorded Diplomatic immunity and privilege under International Law.	. Not to be handed over to Rwandan authorities under any circumstance.
2.	UN Civilian officials assigned to the Civilian Component to serve with UNAMIR	. Immune from legal process for all acts performed by them in their official capacity.	. Only to be handed over with the concurrence of the SRSG.
3.	UNMO, CIVPOL and Consultants	. Immune from legal process for all acts performed by them in their official capacity. . Immune from personal arrest or detention and seizure of their personal baggage	. Only to be handed over with the concurrence of the FC and/or the SRSG.
4.	Military Pers of National Contingents who are a part of UNAMIR	. Immunity from legal process in respect of acts performed by them in their official capacity.	. Only to be handed over with the concurrence of the FC and the Contingent Commander.
5.	Personnel of UN Specialist Agencies	. Immunity from legal process in respect of acts performed by them in their official capacity.	. Only to be handed over with the concurrence of the head of the Agency.
6.	Personnel of NGOs	. No immunity unless they have entered in to a bilateral arrangement with the Rwandan Government.	. To be handed over on demand of proper legal authority with the concurrence of the head of the NGO.
7.	Visitors	. No immunity from legal process in respect of acts performed by them in their official capacity.	. To be handled over on demand of proper legal authority.

ANNEX B TO
2000-1 (FC)
DATED 24 JUL 95

RWANDAN NATIONAL AND THEIR LEGAL STATUS IN RWANDA

SER	CATEGORY	LEGAL IMMUNITY	AUTHORITY FOR HAND OVER
1.	Locally recruited personnel	. Immune from legal process in respect of all acts performed by them in their official capacity. Note: This protection does not extend to acts committed before their employment with the UN.	. Only to be handed over with the concurrence of the SRSG.
2.	Rwandan National detained by UNAMIR authorities	. Treat humanely.	. Only to be handed over at an office of the prosecutor.

ANNEX C TO
2000-1 (FC)
DATED 24 JUL 95

PROCEDURES FOR HANDING OVER FOREIGN NATIONALS

UN CIVILIAN ASSIGNED TO THE CIVILIAN COMPONENT TO SERVE WITH UNAMIR

1. As soon as a Rwandan authority seeks legal jurisdiction over a UN civilian assigned to the civilian component to serve with UNAMIR, the SRSG, or his representative, HQ UNAMIR, and the International Committee of the Red Cross (ICRC) and UNHRFOR must be notified. HQ UNAMIR is to dispatch Military Police (MP).

2. UNAMIR soldiers are not to allow the Rwandan authority(s) to take custody of the UN civilian unless the SRSG has given permission for this to occur. UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

3. If the Rwandan authority(s) uses force to attempt to take custody of the UN civilian, UNAMIR troops are authorised to use force in accordance with Reference A.

4. If authority is given for the hand over, the UN civilian must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

5. A report detailing the following is to submitted to UNAMIR HQ, attention G1 Pers, G2, G3 Ops and the Force Provost Marshall:

a. name of person handed over,

b. location where the Rwandan Government sought jurisdiction,

c. crime person was accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the handover and if not, why not.

UNMOs, CIVPOL AND EXPERTS ON MISSION

6. As soon as Rwandan authority seeks legal jurisdiction over an UNMO, CIVPOL or an Expert on Mission, the FC or his representative, the SRSG or his representative and the ICRC and UNHRFOR must be notified. HQ UNAMIR is to dispatch MP or CIVPOL to the site. The Rwandan authority is to be reminded that these members are, under Rwandan and international law, immune from arrest, detention or the seizure of their baggage.

7. UNAMIR soldiers are not to allow the Rwandan authority(s) to take custody of an UNMO, CIVPOL or an Expert on Mission unless the FC and/or the SRSG has given permission for this to occur. UNAMIR troops are to allow MP or CIVPOL to liaise with the Rwandan authority(s).

8. If the Rwandan authority(s) uses force to attempt to take custody of the UNMO, CIVPOL or Expert on Mission, UNAMIR troops are authorised to use force in accordance with Reference A.

9. If authority is given for the hand over, the UNMO, CIVPOL or Expert on Mission must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the handover. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

10. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall:

a. name of person handed over,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

MILITARY PERSONNEL OF NATIONAL CONTINGENTS WHO ARE A PART OF UNAMIR

11. A soon as a Rwandan authority seeks legal jurisdiction over military personnel of national contingents who are part of UNAMIR, the FC or his representative, the appropriate contingent commander and the ICRC must be notified. HQ UNAMIR is to dispatch MP to the site. The Rwandan authority should be reminded that military members of the military component of UNAMIR shall be subject to the exclusive jurisdiction of their respective participating states in respect of any criminal offences which may have been committed by them in Rwanda.

12. UNAMIR soldiers are not to allow the Rwandan authority(s) to take custody of another UNAMIR soldier unless the FC and the appropriate contingent commander have given permission for this to occur. UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

13. If the Rwandan authority(s) uses force to attempt to take custody of the UNAMIR soldier, UNAMIR troops are authorised to use force in accordance with Reference A.

14. If authority is given for the hand over, the UNAMIR soldier must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

15. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall:

a. name of person handed over,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

PERSONNEL OF UN SPECIALISED AGENCIES

16. As soon as a Rwandan authority seeks legal jurisdiction over a member of a UN specialised agency, the SRSG or his representative, the appropriate head of agency and the ICRC and UNHRFOR must be notified. HQ UNAMIR is to dispatch MP to the site.

17. UNAMIR soldiers are not to allow the Rwandan authority(s) to take custody of a member of a UN specialised agency unless the SRSG and the appropriate head of the agency have given permission for this to occur. UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

18. If the Rwandan authority(s) uses force to attempt to take custody of a member of a UN specialised agency, UNAMIR troops are authorised to use force in accordance with Reference A.

19. If authority is given for the handover, the person must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

20. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall and the UN agency concerned:

a. name of person handed over and the agency they work for,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

PERSONNEL OF NGOs

21. As soon as a Rwandan authority seeks legal jurisdiction over a member of an NGO, HQ UNAMIR, the appropriate head of the NGO agency and the ICRC and UNHRFOR must be notified. HQ UNAMIR is to dispatch MP to the site.

22. UNAMIR soldiers are not to allow the Rwandan authority(s) to take custody of a member of an NGO unless the appropriate head of the NGO has given permission for this to occur. UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

23. If authority is given for the handover, the person must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

24. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall:

a. name of person handed over and the NGO they work for,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

VISITORS

25. As soon as a Rwandan authority seeks legal jurisdiction over a visitor, HQ UNAMIR, UNHRFOR and the ICRC should be notified. HQ UNAMIR is to dispatch MP to the site.

26. UNAMIR soldiers are to allow the Rwandan authority(s) to take custody of a visitor providing the proper legal authority is identified as having legal authority (ie Gendarme, Prosecutors). UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

27. If possible the person should be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC and UNHRFOR are to be notified as far as possible in advance and, if possible, are to be present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

28. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G3 Ops, and the Force Provost Marshall:

a. name of person handed over and their affiliation or nationality,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and UNHRFOR representative was present during the hand over and if not, why not.

ANNEX D TO
2000-1 (FC)
DATED 24 JUL 95

PROCEDURES FOR HANDING OVER RWANDAN NATIONALS

LOCALLY RECRUITED PERSONNEL

1. As soon as a Rwandan authority seeks legal jurisdiction over any locally recruited personnel, the SRSG or his representative and the ICRC must be notified. HQ UNAMIR is to dispatch MP to the site. UNHRFOR is to be notified immediately.

2. UNAMIR soldiers are not to allow any Rwandan authority(s) to take custody of locally recruited personnel unless the SRSG has given permission for this to occur. UNAMIR troops are to allow MP to liaise with the Rwandan authority(s).

3. If the Rwandan authority(s) uses force to attempt to take custody of locally recruited personnel, UNAMIR troops are authorised to use force in accordance with Reference A.

4. UNHRFOR is to be permitted to speak to the locally recruited person.

5. If authority is given for the hand over, the person must be taken to the appropriate Prosecutor's Office (details of these offices are at Annex E). The ICRC are to be notified as far as possible in advance and, if possible are to be present during the hand over. UNHRFOR is to be present during the hand over. (Note: No hand over is to be delayed more than 24 hours with out UNAMIR HQ permission on the sole basis that the ICRC and/or UNHRFO are not present.) The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

6. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G2, G3 Ops, and the Force Provost Marshall:

a. name of person handed over,

b. location where the Rwandan Government sought jurisdiction,

c. crime person accused of,

d. name of the UNAMIR person(s) who was present when the Rwandan Government sought jurisdiction,

e. date, time and place the person was handed to the Prosecutor's Office, and

f. whether an ICRC and/or UNHRFOR representative was present during the hand over and if not, why not.

RWANDANS SEEKING PROTECTION OF UNAMIR

7. It is not within the UNAMIR mandate to give Rwandan nationals protection. Circumstances may arise where protection to an individual or a group of individuals will be given under International Humanitarian Law because they are about to suffer death or serious bodily injury and there are no appropriate Rwandan authorities available to offer timely assistance. Such circumstances will be rare and in such cases UNAMIR HQ is to be notified immediately.

PERSONS DETAINED BY UNAMIR TROOPS

8. They are to be searched, disarmed and segregated. At all times they are to be treated in accordance with the principals of minimum force as detailed at Reference A. UNAMIR HQ is to be notified immediately of the circumstances surrounding the detention. HQ UNAMIR is to dispatch MP to the site. UNAMIR troops are to allow the MP to liaise with the Rwandan authority(s).

9. The detainee(s) is to be told the reason for his detention.

10. They are to be identified and their personal details recorded. The reason for the detention is also to be recorded.

11. A safe and secure place is to be arranged as a temporary place of custody. Detainees are to be kept in custody by UNAMIR troops for the minimum time necessary. A detainee is to be kept in custody for no more than 24 hours unless they have the permission of UNAMIR HQ. Detainees are to be provided with food, water, shelter and medical attention as required. ICRC is to be informed immediately and is to be allowed to have access to these detainees.

12. Detainees and the property found in their possession are to be handed to the appropriate Prosecutor's Office (details of these offices are at Annex E). The detainee is to be allowed to keep all property essential for his/her comfort and survival (eg food and water).

13. The ICRC (if possible) and the UNHRFOR are to be notified and present during the hand over. The proforma at Annex G is to be completed and signed by the UNAMIR person conducting the hand over and the person in the Prosecutor's Office to whom the hand over is made.

14. Detainees are not to be handed to any other RPA authorities. A Prosecutor's Office is the only authorised office for the processing and handing over of detainees in Rwanda.

15. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G2, G3 Ops and the Force Provost Marshall:

a. name of the detainee,

b. location where the person was detained,

c. crime person accused of,

d. name of the UNAMIR person who detained the detainee,

e. date, time and place the detainee was handed to the Office of the Prosecutor, and

f. whether an ICRC and/or UNHRFOR representative was present during the hand over and if not, why not.

ANNEX E TO
2000-1 (FC)
DATED 24 JUL 95

PROSECUTOR OFFICES IN RWANDA

TOWN	PROSECUTOR'S NAME	ADDRESS
KIBUNGO	MUSHUMBA, Jean Baptiste	
KIGALI	NSANZUWERA, Sylere	
RWANAGANA	GATAMBIYE, Cyprien	
KIBUYE	TUYISENGE, Celestin	
GITARAMA	KAYIBANDA, Simon	
NYANZA	HARELIMANA, Callixte	
BUTARE	HAVUGIYAREMYE, Aloys	
GIKONGORO	NYANDWI, Viateur	
CYANGUGU	HARERIMANA, Charles	
GISENYI	UWIYINGOMA, David	
RUHENGERI	MUSUHUKE, Francois	
BYUMBA		

NOTE: It is the duty of all Sector Commanders to know exactly where the above offices are located.

ANNEX F TO
2000-1 (FC)
DATED 24 JUL 95

ICRC REPRESENTATIVES IN RWANDA

TOWN	ICRC REPRESENTATIVE	ADDRESS
KIBUNGO	Francois SENECHAUB	
KIGALI	Laurent FELLAY	
RWANAGANA	Francois SENECHAUB	
KIBUYE	Cristophe LOSEY	
GITARAMA	Laurent FELLAY	
NYANZA	Fereydoun AALAU	
BUTARE	Aalame FEREYDOUN	
GIKONGORO	Franz RUSCHENSTEIN	
CYANGUGU	Iris WITTNER	
GISENYI	Johanna GROBASH	
RUHENGERI	Johanna GROBASH	
BYUMBA	Hugo GISLER	

NOTE: It is the duty of all Sector Commanders to know exactly where the above offices are located.

ANNEX G TO
2000-1 (FC)
DATED 14 JUL 95

HAND OVER PROFORMA

I, _____(1), A MILITARY MEMBER OF
UNAMIR/MINUAR HAVE HANDED OVER_____(2)
TO THE OFFICE OF THE PROSECUTOR OF _____(3)
AT _____(4)

SIGNED THIS DAY _____ OF _____ 199___

_____ _____

UNAMIR **OFFICE OF THE PROSECUTOR**

(1) Insert here the name of the UNAMIR person conducting the hand over.

(2) Insert here the name of the person being handed over.

(3) Insert here the name of the Prosecutor's Office.

(4) Insert here the time of hand over.

31 May 1995
OSRSG/LA/011/95

NOTE TO MAJ. CRAIG McCONAGHY - AUSMED/LEGAL

Re: Fax from MGen Baril on ROE

If the point is still open to debate, the following are my views.

The issue turns on the geographical scope of UNAMIR's mandate and actions in implementation of the mandate. True, the relevant phrase is to protect persons at risk in Rwanda (protection includes actions of self-defence). But it is conceivable that a threat or action that puts persons at risk in Rwanda may emanate from outside Rwanda, i.e, across a national frontier. If UNAMIR is unable to defend against such threat or action by reason of its cross-border origin, its ability to protect persons at risk in Rwanda is thereby impaired.

Secondly, a threat or action that puts persons at risk in Rwanda may emanate from a source within Rwanda but close to a national frontier. If defending against such threat involves the possibility or risk of fire crossing the border, the rule will prevent UNAMIR from acting - despite the fact that the threat is within the border.

In these two respects, UNAMIR may be unable to fulfil its mandate in respect of persons at risk in Rwanda. Casualties, including UNAMIR casualties, could result from this inability.

The rule may thus have to be reviewed - although there is probably a policy justification behind it, namely, to avoid possible international incidents.

I. Minta
Legal Adviser/OSRSG

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DEPARTMENT OF PEACE-KEEPING OPERATIONS
MISSION PLANNING SERVICE

OUTGOING FAX

TO: MGEN GC TOUSIGNANT FORCE COMMANDER UNAMIR, KIGALI	FROM: MGEN M. BARIL for UNITED NATIONS NEW-YORK
FAX NO: 1 212 963 3092	FAX NO:(212) 963-9070 TEL. NO:(212) 963-2400
ATTN: COL STEPHEN DUNN G3 PLANS	
DATE: 25 MAY 1995	No 190/DPKO/MPS/AD
SUBJECT: RULES OF ENGAGEMENT	
TOTAL NUMBER OF PAGES, INCLUDING THIS PAGE: 02	

1 THIS IS REFERENCE TO YOUR OUTGOING FAX NO. 0009 DATED 1 APRIL 1995, FORWARDING FOR THE APPROVAL OF THE REVISED RULES OF ENGAGEMENT OF UNAMIR.

2. AS YOU ARE AWARE THE MANDATE OF UNAMIR AS EXPANDED BY THE SECURITY COUNCIL PURSUANT TO RESOLUTION 965 DATED 30 NOVEMBER 1994, INCLUDES, INTER ALIA, TO " CONTRIBUTE TO THE SECURITY AND PROTECTION OF DISPLACED PERSONS, REFUGEES AND CIVILIANS AT RISK **IN RWANDA** INCLUDING TROUGH THE ESTABLISHMENT AND MAINTENANCE, WHERE FEASIBLE OF SECURE HUMANITARIAN AREAS "

3. UNDER THESE PROVISIONS, IT IS CLEAR THAT THE GEOGRAPHICAL SCOPE OF

Mfm092/www.fax

cdcos(ops)/G3 plans - Sherri

FC G3 plans E/DIR

CONTRIBUTION BY UNAMIR TO THE ABOVE- MENTIONED TASK IS LIMITED TO THE TERRITORY OF RWANDA, AND THEREFORE, THE PROVISIONS OF CROSS BORDER FIRE WHICH WOULD EXTEND THE USE OF FORCE IN SELF DEFENSE BEYOND THE GEOGRAPHICAL SCOPE DEFINED IN THE RESOLUTION, SHOULD BE DELETED FROM THE ROE.

4. IN ORDER TO ENSURE A CLEAR UNDERSTANDING OF THE GEOGRAPHICAL SCOPE OF USE OF FORCE IN SELF DEFENSE BY THE MILITARY PERSONNEL OF UNAMIR, I RECOMMEND THAT:

A. THE TERM " RWANDA" BE ADDED IN PARA 5 c AS FOLLOWS:

- "SELF DEFENSE. THE USE OF FORCE IN RWANDA TO PROTECT:"

- (4) CONCERNS DISPLACED PERSONS, REFUGEES AND CIVILIANS PERSONNEL UNDER THE PROTECTION OF UNAMIR.

B. THE BEGINNING OF PARA 19 BE REVISED TO READ: " THE ROE STATED IN THIS DIRECTIVE APPLY TO ALL MILITARY PERSONNEL PROVIDED BY TROOP CONTRIBUTING STATES AND OPERATING IN ACCORDANCE WITH THE UNITED NATIONS SECURITY COUNCIL RESOLUTION 965 (1994) OF NOVEMBER 1994."

5. IT WOULD BE APPRECIATED IF THESE CORRECTIONS COULD BE MADE AND THE NEW DRAFT AVAILABLE BY 26 MAY 1995.

6. REGARDS.

DRAFTED BY: LT CDR SEYDOU KEBE FAX#(212) 963-1356; TEL#(212)963-0851	

UNITED NATIONS
INTEROFFICE MEMORANDUM

UNAMIR-MINUAR

NATIONS UNIES
MEMORANDUM INTERIEUR

TO: **Mr. A.H. Golo**
OIC/Administration

DATE: 22 May 1995
REF: OSRSG/LA/011

FROM: **I. Minta**
Legal Adviser, OSRSG

SUBJECT: **FC's Directive on the Legal Jurisdiction Applicable to UNAMIR and Rwanda Authorities**

.....

The attached, Annex A and B, are copies of my comments on an earlier draft of the above document, which you routed to Mr. Ncube and myself for comments.

Annex A is a copy of the original draft with my comments scribbled in. I had discussed these with Maj. Oswald (the author) at that time, and had also passed them on to you for your response. The draft and the new document are substantially the same, except for para. 9 (witnesses), and paras 11-13 (on the RPA).

As regards para 9, I see no problem. But a conflict can arise in connection with paras 11-13, if an RPA member seeks protection as a witness on a matter that falls within the mandate. In such case, there may be valid reasons for treating the person as a witness under para 9; but paras. 11-13 may dictate otherwise. Any such conflict may have to be evaluated on a case-by-case basis.

Annex B are my comments on certain additions that had been proposed by Human Rights. Those additions have been modified appropriately.

cc: **SRSG**
FC
Chief, Board of Inquiry Unit &
Administrative/Legal Officer

UNITED NATIONS NATIONS UNIES
ASSISTANCE MISSION IN RWANDA MISSION POUR L'ASSISTANCE AU RWANDA
UNAMIR - MINUAR

Ladan : for your copy for info. Thanks for the advice
Mal

To: FC through DCOS Sp

Info: DFC
COS
CAO through Mr Joe Lombardo
CO UNAMIR MP Coy

From: Force PM/SO2 G1 Discipline

Date: 9 Mar 95

Subject: MILITARY POLICE DUTIES AND RESPONSIBILITIES TOWARDS THE CIVILIAN COMPONENTS OF THE UN IN RWANDA

1. I understand that you have asked for a resume of the duties and responsibilities of MPs towards civilian members of the UN.

2. Although, for the most part, UNAMIR is exempted from Rwandan jurisdiction, the Status of Mission Agreement (SOMA) requires members of UNAMIR to "respect all local laws and regulations". Additionally, it imposes on SRSG the duty to "take all appropriate measures to...

...ensure the observance of those regulations".

and

...ensure the maintenance of discipline and good order among members of UNAMIR".

3. The agencies with potential to meet these duties are:

a. CIVPOL. CIVPOL has some capacity for the role of general police duties but:

(1) Lacking junior and enlisted ranks, it is top-heavy for the task and would not be cost-efficient.

(2) With its current numbers, it could not maintain its monitoring and training of the Gendarmerie (its intended purpose) at its current level.

b. The CSO's Organization. The CSO's organization is not scaled for 24-hour patrolling and would need significant reinforcement and training to become responsible for general police duties.

c. The UNAMIR MP Coy. The MP Coy was specifically created to maintain discipline amongst UNAMIR elements. It is the only UN unit in Rwanda directed and resourced to perform general police duties of patrolling, investigating and reporting.

Any of these organizations may be "directed [by SRSG] to police the premises of UNAMIR and such areas where its members are deployed" under paragraph 40 of the SOMA.

4. Although I am not aware of specific complaints from the Rwandan authorities directed towards the civilian component of the Mission, it is clear that the UN image depends, inter alia, on the maintenance of good order and discipline amongst the whole of the organization and, to some extent, on the behaviour of the wider UN/international community. It would be wasteful and divisive if MPs were to direct their efforts at the military component alone and were to ignore infractions by others - especially when:

a. It is evident from roadside checks that no single element has a monopoly on traffic accidents and speeding offences.

b. MPs have the capacity to raise the standard of driving by all UN elements in Rwanda.

RECOMMENDATIONS

5. Recent events have shown that some international civilian staff consider themselves beyond the jurisdiction of MPs. It is recommended, therefore, that in order to improve the standing of the UN with the civil authority and to reduce the risk of traffic accidents:

a. SRSG be invited to confirm that MPs are required to direct and control non-military UN traffic and to report offences committed by non-military drivers.

b. SRSG be invited to issue a reminder that, although international staff are not normally subject to arrest, they are expected to obey and cooperate with MPs on duty.

c. Clarification is sought in respect to the powers and responsibilities of MPs towards other UN agencies operating in Rwanda.

6. It might be noted that MPs have been instructed that whenever they find it necessary to detain any person, they are under a duty to inform the UNAMIR duty officer and that he, in turn, must identify an appropriate senior civilian or military member of staff to attend the scene.

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63 Plans - NS 3e
2 Med 2
3
4 TD 3d

2000-1 (G1)

Distribution List

FC DIRECTIVE FOR THE HANDLING OF DETAINEES

References:
A. Op Directive No 2 Rules of Engagement dated 22 Jul 94.
B. Amendment 1 to Op Dir No. 2 ROE dated 10 Sep 94
C. FC Directive for the Disposal of Criminals dated 8 Sep 94.

1. General. In the conduct of their duties, UNAMIR personnel may be required to apprehend people who have committed or are suspected of committing a hostile act or have a hostile intent against:

a. oneself and the personnel in one's unit,

b. other UNAMIR military or civilian personnel,

c. non-UNAMIR humanitarian aid personnel,

d. displaced persons, refugees and civilians in sites or among populations under the protection of UNAMIR forces, or

e. other UN-authorized military or civilian personnel.

There may also be occasions where UNAMIR may be required to detain individuals who have stolen or are suspected of stealing items from: UNAMIR, UN, humanitarian organisations or UN protected sites (see Reference A paragraphs 4.b and 9).

2. Aim. The aim of this Directive is to outline the procedure for handling detainees.

3. Definition. For the purpose of this Directive, a detainee is any person who is held for commiting the type of activities described in paragraph 1 above.

4. Handling Procedures. All detainees are to be handled as follows:

a. They are to be searched, disarmed and segregated. At all times they are to be treated in accordance with the principles of minimum force as detailed at Reference A.

b. They are to be identified and their personal details recorded.

c. A safe and secure place is to be arranged as a temporary place of custody. Detainees are to be kept in custody by UNAMIR troops for the minimum time necessary.

d. Detainees and the property found in their possession are to be handed to the OFFICE OF THE PROSECUTOR OF KIGALI. The detainee is to be allowed to keep all property essential for his/her comfort and survival (eg food and water).

e. During the handing over procedures from UNAMIR to the Office of the Prosecutor of Kigali the ICRC should be present so that the personal details of the detainee may be recorded.

f. Detainees are not to be handed to any other RPA authorities. The Office of the Prosecutor in Kigali is the only authorised Office in Kigali for the processing and handing over of detainees in Rwanda.

g. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G2 and G3 Ops:

(1) Name of the detainee,

(2) Location where person was detained,

(3) Crime person accused of,

(4) Name of the UNAMIR person who detained the person, and

(5) Date and time the detainee was handed to the Office of the Prosecutor of Kigali.

5. Note. Reference C is now cancelled.

GC TOUSIGNANT
Major-General
Force Commander

Annex:

A. An Agreement Concerning the Transfer of Detainees.

Distribution:

External:

List D

Internal:

Lists A,B

ANNEX A TO
2000-1 (G1)
DATED 28 SEP 94

AN AGREEMENT
CONCERNING THE TRANSFER
OF DETAINEES
FROM UNAMIR TO THE BBGNU

1. Through this correspondence it is agreed that the Broad Based Government of National Unity (BBGNU) will take possession from the United Nations Assistance Mission in Rwanda (UNAMIR) those individuals detained by UNAMIR troops.

2. Specifically UNAMIR and the BBGNU agree to the following:

   a. The BBGNU will accept responsibility for the detainees at the Office of the Prosecutor of Kigali.

   b. UNAMIR will hand over detainees only to the Office of the Prosecutor of Kigali.

   c. The International Committee of the Red Cross (ICRC) will be permitted to be present during the transfer of detainees from UNAMIR to the BBGNU. The ICRC will also be allowed to record the personal data of detainees.

   d. The ICRC will be permitted to monitor the condition of the detainees in accordance with its mandate.

UNITED NATIONS NATIONS UNIES
ASSISTANCE MISSION FOR RWANDA MISSION POUR L'ASSISTANCE AU RWANDA
UNAMIR - MINUAR

2000-1

Distribution List

FC DIRECTIVE FOR THE DISPOSAL OF CRIMINALS

1. General. In the conduct of their duties, UNAMIR personnel may be required to apprehend suspected criminals, prior to their being returned to Civil authorities.

2. Aim. The aim of this Directive is to outline the procedure for disposal of suspected criminals within UNAMIR AOR.

3. Definition. For the purpose of this Directive a suspected criminal will be defined as a person who is suspected of an act of sabotage, subversive activity, assassination or banditry. The Directive also applies to infiltrators who try to jeopardize the peace keeping mission.

4. Disposal Procedure. All suspected criminals will be disposed of as follows:

a. They are to be searched, disarmed and segregated. They are then to be identified and their personal details noted under the supervision of UNMO and ICRC or UNHCR.

b. A safe and secure place is to be arranged as a temporary place of custody.

c. A preliminary investigation is to be made. This is to include details of alleged perpetrators, with a full incident report.

d. Transport is to be arranged in order to evacuate suspects to the appropriate regional authority or to Kigali, whichever is appropriate.

e. Suspects are to be escorted by military police and MILOB.

f. A clearance certificate is to be carried to allow access through RPA checkpoints.

g. All personal belongings of the suspects, and their weapons, must be recorded on an inventory, a copy of which is to be handed with the goods to the appropriate authority in Kigali, the other copy is to be included in the incident report.

h. A detailed report is to be submitted to UNAMIR HQ, attention G1 Pers,G2 and G3 Ops.

G.C. Tousignant
Major General

Force Commander

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