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(UNAMIR - MINUAR)

UNAMIR

1996 FEB -2 P 7 24
OUTGOING CODE CABLE

CRJ-038 R1/6

TO: KITTANI/GOULDING/CORELL, UNATIONS, NEW YORK

INFO: GHAREKHAN, UNATIONS, NEW YORK

FROM: For SHAHARYAR M. KHAN, UNAMIR, KIGALI

DATE: 2 FEBRUARY 1996

NO.: MIR - 311

NO. OF PAGES: SIX

SUBJECT: PAYMENT OF COPORATE AND OTHER TAXES BY UN CONTRACTORS

THIS IS TO REPORT THAT THE UNITED NATIONS DELEGATION SENT TO KIGALI TO ASSIST WITH THE ISSUE OF CORPORATE AND OTHER TAXES DEMANDED BY THE GOVERNMENT OF RWANDA FROM UN CONTRACTORS HAD ITS LAST FORMAL MEETING ON 31 JANUARY, 1996. IT WAS HOPED THAT A FURTHER MEETING WOULD BE HELD TO-DAY 2 FEBRUARY, 1996 TO REPORT ON THE RESULTS OF CONSULTATIONS WITH UN HEADQUARTERS ON THE QUESTION OF EQUIPMENT. THIS MEETING HAS NOT OCCURRED BECAUSE WE HAVE NOT BEEN ABLE TO OBTAIN A DEFINITIVE FEEDBACK ON THE RECOMMENDATIONS MADE IN MY CABLE OF 31 JANUARY 1996 A COPY OF WHICH IS ATTACHED.

THE MEETING ON 31 JANUARY 1996 WAS HELD AFTER BOTH DELEGATIONS HAD REACHED A DEADLOCK IN THE LAST MEETING HELD ON 24 JANUARY. IT WAS A GREAT RELIEF FOR THE UN SIDE TO FIND THAT THE GOVERNMENT DELEGATION WAS WILLING TO LISTEN FURTHER TO SUPPORTING ARGUMENTS, FOR THE GOVERNMENT TO DEMONSTRATE FLEXIBILITY IN THE APPLICATION OF ITS TAXATION LEGISLATION IN THE CASE OF UNITED NATIONS CONTRACTORS SUPPORTING UNAMIR ACTIVITIES.

CLW-030 2/6

IN SUMMARY, THE LEADER OF THE GOVERNMENT DELEGATION SUMMED UP THE DISCUSSION BY STATING THAT THE POSITIONS OF BOTH SIDES HAVE NOW BEEN STATED AND WHAT WAS REQUIRED IS A PRAGMATIC SOLUTION. HE STATED THAT THE GOVERNMENT IS PREPARED TO TAKE A DECISION NOT TO ENFORCE ITS TAXATION LAW WITH RESPECT TO THE UNITED NATIONS CONTRACTORS, IN LIGHT OF THE ARGUMENTS ADVANCED BY THE UNITED NATIONS DELEGATION, THAT THEIR WORK IN RWANDA IS EXCLUSIVELY FOR THE SUPPORT OF UNAMIR ACTIVITIES. HE ADDED, HOWEVER, THAT THE UNITED NATIONS SHOULD IN TURN SHOW FLEXIBILITY IN RESPECT OF OTHER PENDING MATTERS, IN PARTICULAR, WITH REGARD TO THE EQUIPMENT REQUESTED BY THE GOVERNMENT. HE ADDED THAT FOR AN OVERALL RESOLUTION OF ALL PENDING ISSUES TO BE ACHIEVED, HE WANTED TO BE GIVEN A DEFINITIVE TIME TABLE WHEN AN ANSWER ON THE GOVERNMENT'S REQUEST CAN BE OBTAINED. HE SAID HE WOULD WAIT TO RECEIVE SUCH AN ANSWER. IT IS FOR THIS REASON THAT WE SUBMITTED PROPOSALS FOR CONSIDERATION BY HEADQUARTERS TO ADVANCE THE PROCESS.

THE UNITED NATIONS DELEGATION WILL LEAVE KIGALI TO-MORROW 3 FEBRUARY 1996 ON THE UNDERSTANDING THAT THE DISCUSSIONS ARE TEMPORARILY ADJOURNED TO ALLOW CONSULTATIONS WITH A VIEW TO RESUMING IN A WEEK'S TIME, AT WHICH TIME MR. KHAN WILL HAVE RETURNED, HOPEFULLY, WITH A SOLUTION ON THE EQUIPMENT ISSUE.

SUMMARY MINUTES OF THE MEETING HELD ON 31 JANUARY ARE ATTACHED.

SUMMARY OF MINUTES ON TALKS AND DISCUSSIONS
WITH THE RWANDA GOVERNMENT DELEGATION

del-028 3/6

SUBJECT: TAXATION OF FOREIGN CONTRACTORS AND OTHER PENDING
ISSUES BETWEEN THE GOVERNMENT AND UNAMIR

TALKS BETWEEN THE TWO DELEGATIONS CONTINUED ON 31
JANUARY FOLLOWED BY INFORMAL DISCUSSIONS ON 1 AND 2 FEBRUARY 1996.

AT A PLENARY MEETING BETWEEN THE TWO SIDES HELD ON 31
JANUARY, THE GOVERNMENT DELEGATION EXPRESSED READINESS TO FIND A
PRAGMATIC RESOLUTION ON THE ISSUE OF THE TAXATION OF FOREIGN FIRMS
PROVIDING SUPPORT TO UNAMIR BY NOT INSISTING TO APPLY THEIR LAW
WHICH REQUIRES PAYMENT OF TAXES IRRESPECTIVE OF REGISTRATION AND
ESTABLISHMENT OF FOREIGN FIRMS IN RWANDA AND PROVIDES FOR
ENFORCEMENT MEASURES TO ENSURE PAYMENT OF SUCH TAXES.

AT THE SAME TIME, THE GOVERNMENT SIDE STRESSED THAT IT
EXPECTED THE SAME FLEXIBILITY ON THE PART OF THE UNITED NATIONS IN
OTHER AREAS, IN PARTICULAR, THE ACTION TO BE TAKEN ON THEIR REQUEST
TO THE SECRETARY-GENERAL AND SECURITY COUNCIL RESOLUTION 1029 OF 18
DECEMBER 1995 ON MAKING UNAMIR EQUIPMENT AVAILABLE TO THEM.

THE GOVERNMENT SIDE INSISTED ON A CONCRETE TIME-FRAME FOR
OBTAINING A DECISION ON THAT ISSUE. THE RWANDA SIDE MADE IT CLEAR
THAT SUCH A DECISION WOULD MAKE IT EASIER TO EXPLAIN TO THEIR
GOVERNMENT THE SUSPENSION OF THE APPLICATION OF THEIR LAW ON THE
TAXATION ISSUE.

INFORMAL CONSULTATIONS BETWEEN THE TWO SIDES ON 1 AND 2
FEBRUARY INDICATE THAT THE GOVERNMENT MAY RAISE AGAIN THE QUESTION
ON INCOME TAX OF THE EXPATRIATE PERSONNEL OF THE UNAMIR
CONTRACTORS, IF A DECISION ON THE EQUIPMENT WAS NOT FORTHCOMING.

DISCUSSIONS WITH THE RWANDA DELEGATION WILL CONTINUE
LATER TODAY.



UNAMIR - MINUAR

UNAMIR

CLN-038 4/6

OUTGOING FAX NO. 544 1996 JAN 31 PAGE 1 OF 3

MIR NO. _____

MISC NO. _____

[Signature]

TO: Ambassador Shaharyar M. Khan SRSG for Rwanda at United Nations Headquarters	FROM: Wilfrid de Souza Executive Director and Acting Chief of Mission UNAMIR, KIGALI
ATTN:	DATE: 31 January 1996
FAX NO: 963.64.60	FAX NO: 963.30.90
AUTHORIZED BY:	
SUBJECT: Disposal of UNAMIR assets	

Please find attached a proposal regarding the disposal of UNAMIR equipment which has been prepared in consultation with the delegation from New York. You may wish to use its contents in your consultations on this issue at Headquarters.

Best regards.

UNAMIR
1996 JAN 31 P 7:33

Proposal on the disposal of UNAMIR's equipment
in compliance with S/RES/1029

P2/3

CLW-238 S/6

1. The Government of Rwanda has requested on numerous occasions the Special Representative of the Secretary-General that telecommunication and broadcast equipment, vehicles, generators, office equipment and other special equipment of the United Nations Assistance Mission in Rwanda (UNAMIR) be given to the Government on UNAMIR's departure from the country. More recently, the Security Council has referred to this issue in its resolution S/RES/1029 of 12 December 1995 in the following terms: "Requests the Secretary-General to examine, in the context of existing United Nations regulations, the feasibility of transferring UNAMIR non-lethal equipment, as elements of UNAMIR withdraw, for use in Rwanda".

2. The regulations which are applicable regarding disposal of UN property are the financial regulations of the United Nations adopted by the General Assembly and the financial rules promulgated by the Secretary-General. In addition to these financial regulations and rules, the General Assembly, following recommendations by the Secretary-General and the ACABQ, adopted in its resolution A/49/233 of 1 March 1995 certain guidelines for the disposal of assets following liquidation of peace-keeping operations.

3. The strict application in the case of Rwanda of the guidelines approved by the General Assembly would result in only a marginal amount of the equipment being used by UNAMIR to remain for use in the country. In carrying out the mandate given to the Secretary-General by the Security Council in its resolution S/RES/1029, and in order to satisfy the requirements made by the Government of Rwanda, a different approach is therefore requested from the Secretariat in this case, which may on occasions depart from the above-mentioned guidelines.

4. High value items which are considered to be essential for future peace-keeping operations should be set aside and prepared for transportation out of Rwanda subject, of course, to any request that may be made by the Government in this regard and the decision required as indicated in paragraph 6 below. A great majority of items could thus be left for use in Rwanda, as requested by the Security Council, on the basis of an agreement to be concluded by the United Nations or any United Nations office established in Rwanda, as the

CRW-038 6/6 P 3/3

(2)

Secretary-General may decide, and the Government . The United Nations would therefore retain the ownership of the equipment while that equipment may be used in reconstruction and rehabilitation projects to be executed by the Government. The final disposal of the equipment would thus be deferred to such time as the Government and the United Nations would agree.

5. In the case the Secretariat determines that certain items are redundant or too expensive to transport out of Rwanda, these should be written-off in accordance with the relevant financial regulations and rules and may be made available to the Government of Rwanda.

6. Should the Secretariat receive any requests from the Government of Rwanda for outright donations of certain items, the Secretary-General would then, after examining the merits of the demands put by the Government of Rwanda, seek the authorization from the General Assembly for carrying out these donations.

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA



NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

UNAMIR

1996 JAN 30 P 4: 59

1996 JAN 30 P 5: 01

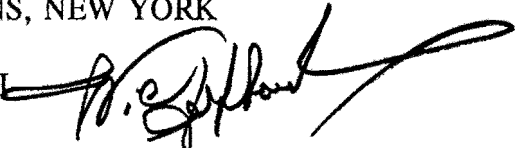
OUTGOING CODE CABLE

CHN-032

P/1

TO: KITTANI/GOULDING/CORELL, UNATIONS, NEW YORK

INFO: GHAREKHAN, UNATIONS, NEW YORK

FROM: For KHAN, UNAMIR, KIGALI 

DATE: 30 JANUARY 1996

NO.: MIR -252

NO. OF PAGES: 1

SUBJECT: UN Delegation in Rwanda

1. This is further to our previous reports on discussions with the Government on outstanding issues affecting UNAMIR and your request of 26 January 1996 that the UN Delegation remain a few more days to reactivate discussions with the Government. Monday, 29 January 1996, the UN Delegation met with the Minister of Foreign Affairs to report on progress and express its readiness to continue the discussions and find a solution to the question of corporate taxes.

2. The meeting with the Government has now been postponed at the request of the Government for tomorrow, Wednesday 31 January. In these circumstances, the UN Delegation may have to remain until the end of the week to give all parties time to fully consult. Please advise.

3. We would like to again emphasize that, based on discussions with the Minister, the question of equipment may hold the key to overall solution. Your urgent attention on this matter is needed. It is suggested that FALD suspend requests for moving equipment out of Rwanda until final decision on this matter.

4. Best regards.

*Chlorob P2/4*

BUREAU DU COORDONNATEUR RESIDENT POUR LES ACTIVITES
OPERATIONNELLES DU SYSTEME DES NATIONS UNIES AU RWANDA

B.P 448, Kigali Rwanda.
Tel: (250) 75381, 76908
Fax: (250) 75263

18 January 1986

The Office of the United Nations Resident Coordinator has the honour to present its compliments to the Ministry of Foreign Affairs and to respond to the Ministry of Transport and Communications Administrative Circular dated 15 December 1995 (Ref:16.05.00/1443).

The Office of the UN Resident Coordinator has consulted with the UN agencies present in Rwanda and the Office of the Legal Counsel at UN Headquarters in New York. The Office of the UN Resident Coordinator wishes to inform the Ministry of Foreign Affairs that the UN agencies adhere to the basic principles governing their relations with the host country as stipulated in the basic agreements the respective agencies have signed with the Government. Based on these basic agreements and on the 1946 Convention on Privileges and Immunities, the Office of the UN Resident Coordinator maintains that:

(a) the charges requested for frequency management, may be interpreted as no more than charges for a public utility service, and as such the UN will not claim exemption; but,

(b) the payments requested for the use of any communications equipment cannot be viewed as charges for public utility services as provided in Section 7(a) of the Convention. The United Nations Office of the Legal Counsel has advised that Section 7(a) has consistently been applied only in cases where charges relate to concrete services that can be specifically identified, described, itemized and calculated according to some predetermined unit.

Regarding the specific provisions of Administrative Instruction dated 15 December 1995 (Ref:16.05.00/1443), the response of the Office of the UN Resident Coordinator is as follows:

- (a) Rural Telephone links: This only applies to UNAMIR and not to other UN agencies. Under the relevant provisions of the UNAMIR Status of Mission Agreement with the Government of Rwanda: *ch-028 P2/4*
"UNAMIR shall have the authority to install and operate radio sending and receiving stations as well as satellite systems to connect appropriate points within the territory with each other and with UN offices in other countries and to exchange traffic with the UN Global Communications Network..." (para. 10.a).
"UNAMIR shall enjoy within the territory the right to unrestricted communication by radio (including satellite, mobile and hand held radio), telephone, telegraph, facsimile or any other means and of establishing the necessary facilities for maintaining such communication within and between premises of UNAMIR including the laying of cables and landlines and the establishment of fixed and mobile radio sending, receiving and repeater stations. ..." (para. 10.b)

- (b) Very High Frequency/VHF: Payment in full of 100,000 FRW will be made per frequency per year, as a charge for a public utility service.

Ultra High Frequency/VHF: Payment in full of 100,000 FRW will be made per frequency per year, as a charge for a public utility service.

No payment, however, shall be rendered for the use of communication equipment, including repeaters, mobile or portable walkie talkies as this is regarded as a direct tax on UN property and assets.

- (c) High Frequency (HF): Payment in full of 100,000 FRW will be made per frequency per year, as a charge for a public utility service. However, no payment shall be rendered for the use of any communication equipment as this is regarded as a direct tax on UN property.
- (d) Broadcast radio (AM/FM): Payment in full of 800,000 FRW will be made per frequency per year, as it is regarded as a charge for a public utility service.

The UN agencies will inform the Government of any frequency sharing, with the understanding that the fee for management and coordination for shared frequencies shall be charged to and paid for only once by the party officially designated by the GOR to use the frequency.

For the use of portable satellite telephones (STD-M, D and IMMARSAT) and Very Small Aperture Terminals (VSATs), the UN agencies find the rates of calculation to be more of a revenue collection than a charge for public utility services. The UN is prepared to consider any charges which may reasonably be assessed in line with the ~~costs~~ *costs* of the services.

CEN-020

P4/4

In addition, the UN agencies are agreeable to pay for frequency charges effective 15 December 1995, the date when Administrative Circular (Ref:16.05.00/1443) was issued.

On behalf of UN agencies engaged in operational activities in Rwanda, the Office of the UN Resident Coordinator should like to request that the enforcement measures set out in the Administrative Circular should be in full respect of the particular status of the United Nations. In this respect, the Office of the UN Coordinator urges the Government not to carry out some of the enforcement measures detailed in Administrative Circular which would be in direct violation of the 1946 Convention on the Privileges and Immunities of the United Nations.

A list of equipment will be submitted to the Government by the respective UN agencies, if they have not already done so. Frequency charges, as detailed above, will be paid as soon as possible and no later than 31 January 1996.

In summary, UN agencies have every intention to cooperate closely with the Government in the proper management of communication facilities and to contribute its fair share to management and coordination systems. The Office of the UN Resident Coordinator wishes to express its hope that collaboration between the Government and the UN agencies in Rwanda will continue in this manner.

The Office of the UN Resident Coordinator takes this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

The Ministry of Foreign Affairs
Kigali





UNAMIR

UNAMIR

1996 JAN 24 P 7 29

1996 JAN 24 P 7 22 OUTGOING CODE CABLE

chw-026

1/4

TO: KITTANI/GOULDING/CORELL, UNATIONS, NEW YORK

INFO: GHAREKHAN, UNATIONS, NEW YORK

FROM: For SHAHARYAR M. KHAN, UNAMIR, KIGALI

DATE: 24 JANUARY 1996

NO.: MIR-202

NO. OF PAGES: 4

SUBJECT: Discussions with the Rwandese Government on Taxation
Of UN Contractors in UNAMIR and Other Outstanding Matters

1. Substantive discussions between the UN team (consisting of a delegation of senior officials from New York and the most senior UNAMIR officials: Acting Head of UNAMIR, Acting FC, CAO and the Legal Officer) and a delegation of the Rwandese Government led by Mr. Dusaidi and comprising members from the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of Finance, Customs and Tax Collector's Office were held at the UNAMIR Headquarters in Kigali on the 23 and 24 January 1996.

2. During the first day the Rwanda delegation stated that three matters were of paramount importance to maintain good relations with the mission. These are as follows:

(a) The question of equipment to be left by the United Nations for use in Rwanda. On this issue, the Rwanda delegation stated that as far as Rwanda was concerned, the matter was raised by them with the United Nations and a Security Council resolution has pronounced on it. Hence, they did not find it necessary to further discuss the matter with the UN delegation;

(b) The necessity to urgently negotiate and conclude a new Status of Mission Agreement. This issue is considered so important by the Rwanda team that they maintained that without movement on it there was no need to discuss any other matter. Upon consultations with Headquarters, New York, the UN team advised the Rwanda delegation of the readiness in New York to receive a delegation from Rwanda to address the matter;

(c) Taxation of foreign firms providing goods and services to UNAMIR. This matter was discussed during the two meetings between the UN and the Rwanda teams. The UN position was explained to the Rwanda team, in particular, that:

(i) The UN foreign firms do not have established presence or business in Rwanda and have only been engaged to provide goods and services in support of UNAMIR activities. Hence, the question of levying corporate taxes had to take account of the nature of the contracts entered into by the United Nations with such firms. Any levy which is based on the volume or value of the goods and services imported in Rwanda by the said firms on account of and for the exclusive use of UNAMIR would inevitably be viewed as a tax on UN goods and services from which the United Nations is exempt. However, the issue of tax in respect of the personnel provided by such firms could be considered and resolved, where appropriate;

(ii) The UN was, for example, undertaking the necessary steps to ensure payment of social security taxes due for local employees.

3. The position outlined in (c) above was rejected by the Rwanda delegation which insisted that it had the competence to tax the foreign firms under Rwanda law. The Rwanda delegation has demanded that the UN provide the Government with pertinent information for calculating such taxes and warned that if the United Nations did not cooperate in providing such information, it would use its own basis to calculate the tax and, where necessary, resort to other measures under the law, including confiscation of the equipment of these companies to satisfy the tax liability. The Rwanda delegation was informed by the UN side that the UN did not have the information demanded as it is not part of the contractual arrangements made by UN with such firms.

4. A more detailed account on the progress of the discussions and the UN position is contained in the attached letter to the leader of the Rwanda delegation, which is copied to the Ministries of Foreign Affairs and Finance.

5. It is our opinion that, for practical purposes, the discussions on the taxation issue are deadlocked and with no prospects for further progress on the basis of the positions maintained by the two sides. We are open to any suggestion you may have on how to proceed.

DATE: 24 January 1996

Dear Claude,

It was indeed a great pleasure to meet you again, and would like to take this opportunity to express my appreciation, and that of the UN delegation, for having agreed to meet us at such short notice, to discuss the various outstanding legal issues, including the important question of corporate taxes and other taxes for personnel obtained from contractors to assist UNAMIR in carrying out its activities in implementation of its mandate. My colleagues and myself enjoyed the frank and open discussions we have had in the last two days, and hope that the dialogue we have established can be continued.

I would like here to recall the discussions which have taken place in those two meetings. As I explained to you in the meeting today, the UN is anxious to reach an amicable resolution, in the most practical way possible, of the outstanding tax and other legal issues. In this connection, I mentioned that the UN is prepared, within its existing contracts with the firms providing personnel to UNAMIR, to assist in resolving the tax questions concerning such personnel. Furthermore, the question of communication charges, which do not constitute taxes as indicated in the Note Verbale sent to the Government by the UN Resident Coordinator, can be resolved along the lines provided in that Note Verbale. It is thus hoped that no measures will be taken in that regard, as previously contemplated, which would be inconsistent with the Agreements concluded by the Government with the UN and the various UN Agencies established in Rwanda.

On the other issues which you raised, I reported this morning that UN Headquarters is prepared to receive a delegation of the Government of Rwanda to discuss and resolve any pending questions on the SOMA. In addition, we are in the process of examining the other matters relating to third-party debts which you raised, and will be prepared to provide you with a status report tomorrow at the latest. With regard to the question of the airport facilities provided to UNAMIR, we believe that this will soon be resolved in accordance with the lease negotiated with the Airport Authorities of Rwanda.

Mr. Claude Dusaidi
Political Advisor to
the Vice President
Ministry of Defence
Kigali, Rwanda

On the contractors issue, I explained in our meetings the process by which the UN has engaged these contractors and the manner in which they provide goods and services to UNAMIR. The actual activities in which they are involved are activities of UNAMIR, and involve the provision of logistics support to the various components of the Mission, the Government, and other Organizations providing assistance to Rwanda. These activities also include the importation of goods, equipment and services which are used in the implementation of the UNAMIR mandate. The role of the contractors in Rwanda has been, essentially, to make available to UNAMIR both locally and internationally recruited personnel in Rwanda to support UNAMIR in the conduct of its activities. Traditionally, peacekeeping missions relied on the civil and military components of the Mission, as defined in the SOMA to provide such services. However, with the expansion of the UN peace keeping role to include components of a humanitarian nature, the UN has increasingly had to rely on personnel provided by private contracting firms. As you can appreciate such personnel, while not expressly provided for in the SOMA, play a very significant supporting role in implementing the activities of the mission, in this case UNAMIR. Nevertheless, as I indicated to-day, the UN is willing in a the spirit of seeking to find an amicable resolution of the tax issue, to assist in working out arrangements with the contracting firms so that the taxes for their personnel can be resolved, having regard to the need to avoid double taxation.

As I also indicated, however, the question of the legal status of the contracts negotiated and signed by UN Headquarters in New York, and that of the firms without any business activities in Rwanda, with the exception of providing personnel to the UN to assist with UNAMIR activities, raises different legal and financial questions which cannot be so easily resolved. In any event, the UN position as explained, is that any attempts to tax such foreign firms based entirely on the value of the goods they provide to the UN abroad, and the services provided by personnel of such firms to support activities of UNAMIR, could be viewed as a tax on UN goods and services to which the UN is exempt.

We also discussed, briefly, the outstanding question concerning ECONOMAT which provided rations to UNAMIR, through a letter of assist issued by the UN to the Government of France. As we understand it the equipment of ECONOMAT still remains impounded for failure to pay tax. This matter and the other pending tax issues need to be resolved amicably and we hope that further discussions can be held to resolve them or, otherwise a procedure for their resolution could be worked out.

Yours Sincerely,

Francis

Francis M. Ssekandi
Head of UN Delegation

cc: Mr. Bagambiki Felix
Mr. Murangira Apollinaire

UNAMIR
UNNATIONS
ASSISTANCE MISSION FOR RWANDA



UNAMIR
NATIONS
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

1996 JAN 18 P 8:00

OUTGOING CODE CABLE

CPD-022 1/1

TO: CORELL, UNATIONS, NEW YORK

INFO: ANNABI/MEDILI, UNATIONS, NEW YORK

FROM: FRANCIS M. SSEKANDI, UNAMIR, KIGALI (In sen A.)

DATE: 18 January 1996

NO.: MIR - 152

NO. OF PAGES: 1

SUBJECT: Mission to UNAMIR: Progress Report

Further to my cable of yesterday, I would like to inform you that we have just been advised that the Minister of Foreign Affairs will receive us on Monday the 22nd at 11h45. In light of the complexities associated with the tax issue here, the Acting SRSG has requested that we consider extending our stay in Kigali until the end of next week. We have tentatively requested a booking with Sabena on Saturday the 27th of January to return to New York. This is the next direct flight which is available out of Kigali, and which would allow us ample time to complete the necessary contacts with all parties concerned. We would appreciate receiving your approval of this arrangement.

Best regards.



CAN 019

OUTGOING CODE CABLE

TO: KITTANI/GOULDING/HANSEN, UNATIONS, NEW YORK

FROM: For KHAN, UNAMIR, KIGALI

DATE: 18 JANUARY 1996

NO.: MIR 143

NO. OF PAGES: 4

SUBJECT: UNAMIR's occupation of the "Belgian Village"

1. By a letter dated 10 January 1996, copy of which is attached, the Director of Cabinet of the Ministry of Defense has given notice that UNAMIR should vacate the "Belgian Village" within a month.

2. The Belgian village was made available to UNAMIR by the Ambassador of Belgium in July 1994 to provide accommodation for the SRSG, the Force Commander, the Executive Director, the Deputy Force Commander and other high ranking military personnel. The 1994 understanding was formalized through an agreement signed by the Ambassador of Belgium and the Force Commander on 29 April 1995 (copy attached).

3. At no time was the Government involved in the deal until 10 January 1996 when, at our weekly meeting with the Rwandan team on UNAMIR, Mr. Dusaidi raised the question of UNAMIR's occupation of the "Belgian village". Our reply and Mr. Dusaidi's comments as reported in the minutes of that meeting were as follows:

"In response to a query raised by Mr. Dusaidi at a previous meeting regarding the Belgian Village contract, SRSG informed that the Force Commander Gen. Dallaire and the Belgian Military had concluded an agreement to enable UNAMIR to repair and use the facilities. It was expected that following UNAMIR's withdrawal, other United Nations programmes such as Human Rights and the International Tribunal would wish to take-on the accommodations.

/...

UNAMIR
1996 JAN 18 P 12: 32

CAN 019
P-2/4

Mr. Dusaidi explained that a previous agreement had been concluded between the Rwandese Ministry of Defence and the Government of Belgium. Unfortunately, the Belgian Government had not consulted the Government of Rwanda and any future use of the Belgian Village would have to receive the Rwandan Government's approval."

4. The letter of the Director of the Cabinet of the Ministry of Defence referred to above was received two days after that meeting. That letter was immediately brought to the attention of the Ambassador of Belgium who failed to agree with the Rwandan Government's interpretation of the agreement signed between the Belgian Government and the former Rwandan Government.

5. The Ambassador advised that we should wait until he receives a reply from his Government before we answer the Rwandan Government's letter. He expected the reply of his Government by the end of this week. We will keep you informed.

6. Best regards.

REPUBLIQUE RWANDAISE
REPUBLIC OF RWANDA



VICE-PRESIDENCE DE LA REPUBLIQUE ET
MINISTRE DE LA DEFENSE NATIONALE
CABINET DU VICE-PRESIDENT

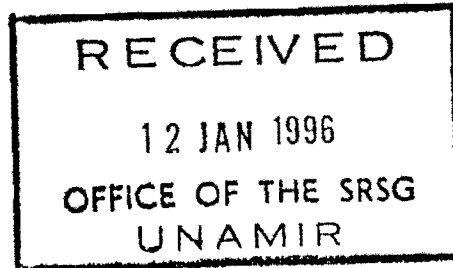
OFFICE OF THE VICE-PRESIDENT
AND MINISTER OF DEFENCE
B.P 23 KIGALI

CPN 019 P3/4

10th January, 1996

REF: 687/DEF/408/L/002.

AFC
ED
CAO
12.1.96



THE SPECIAL REPRESENTATIVE
TO THE SECRETARY GENERAL
OF UNITED NATIONS TO
RWANDA

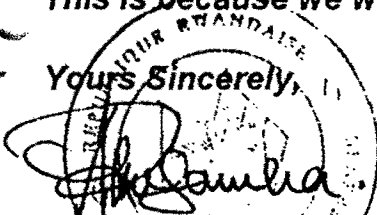
RE: THE BELGIAN VILLAGE AT NYARUTARAMA

Under the Agreement between the Kingdom of Belgium and the Government of Rwanda, the houses at Nyarutarama village are managed by the Ministry of Defence of Rwanda everytime they are not occupied by the Belgian Military personnel. The houses are supposed to be occupied by the Belgian personnel under the Rwanda- Belgian Military Cooperation.

We are under pressure to regain the houses and to request UNAMIR to vacate, within one month from now.

This is because we would like to house a team coming to train our Army.

Yours Sincerely,


ANDREW RWIGAMBA
LT. COL.
DIRECTOR OF CABINET
MINISTRY OF DEFENCE

This is rather abrupt. we may talk up with Belgian people.

Reçu le 12 JAN. 1996

discussed with
Ambassador. Status quo
many on line.

CRN019 P4/4

28/9/95



ENTRE Le Ministre de la Défense nationale du Royaume de Belgique, représenté par L'Ambassadeur de Belgique à KIGALI, République rwandaise, désigné ci-dessous comme "le MDN",
d'une part

ET Le Commandant de la MINUAR à KIGALI, désigné ci-dessous comme "La MINUAR",
d'autre part,

SOUHAITANT, A LA DEMANDE DE LA MINUAR, OFFICIALISER L'ENGAGEMENT PRIS EN
JUILLET 94, IL EST CONVENU CE QUI SUIV

ARTICLE PREMIER:

Le MDN, agissant en qualité de propriétaire des bâtiments et de superficière des terrains met à la disposition de la MINUAR jusqu'à la fin de sa mission l'ensemble des bâtiments, installations et terrains constituant le complexe connu sous le nom "village belge de NYARUTARAMA" à KIGALI.

ARTICLE II:

Le MINUAR s'engage:

1° à restituer les biens décrits à l'article premier à la première demande de MDN prenant effet trois mois après sa notification. Les biens seront remis, libres d'occupation, dans l'état où ils se trouvaient lors de l'entrée en jouissance ;

2° à n'accorder aucun droit d'aucune sorte sur tout ou partie des biens mis à sa disposition à des personnes, physiques ou morales, ne relevant pas de son organisation ;

3° à entretenir les lieux en bon père de famille, assurer toute espèce de réparation et supporter les charges inhérentes à l'occupation.

ARTICLE III:

La mise à disposition qui fait l'objet du présent contrat est consentie à titre gratuit et sans garantie d'aucune sorte de la part de MDN.

ARTICLE IV:

Toute contestation relative au présent accord sera réglée à l'amiable entre parties.

Faite en double exemplaire à KIGALI, le 29 avril 1995

Reçu le 29 SEP. 1995

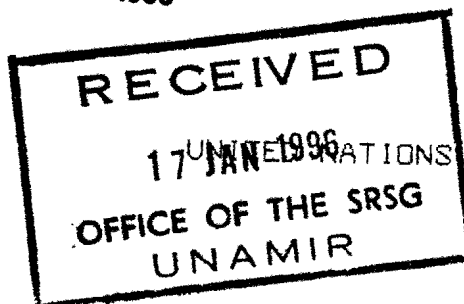
L'Ambassadeur de Belgique

Le Commandant de la MINUAR

Reçu le 17 JAN. 1996

1996-01-17 09:07

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UNAMIR HQS NEW YORK

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CNR-015 P1/1

OUTGOING CODE CABLE

IMMEDIATE

AFC
CAO

17-1-96

TO: KHAN/DE SOUZA, UNAMIR, KIGALI
FROM: KITTANI, UNATIONS, NEW YORK
DATE: 16 January 1996
NUMBER: 156

SUBJECT: Mission to Kigali

1. Further to our 131 of 12 January, I wish to advise you that the mission of senior officials described in para 3 of our cable is scheduled to arrive in Nairobi on 17 January. ETA has already been communicated to your CAO.

2. The mission is composed of Mr. Ssekandi, Deputy Director of the General Legal Division in the Office of Legal Affairs (who is heading the mission), and Mr. Kulov, Senior Operations Officer, FALD/DPKO. The mission is expected to stay in Kigali for a period of approximately one week.

3. The purpose of the mission will be:

- a) to discuss with UNAMIR the various taxation issues raised recently by the Rwandese authorities;
- b) to clarify with Rwandan Government officials the position of the United Nations regarding these issues.
- c) to ascertain, where applicable, services for which the United Nations will not claim exemption from taxes under the relevant provisions of the Convention on Privileges and Immunities and the SOMA.

4. It would be helpful if the mission could be received by Vice-President Kagame or any other Rwandese official of Cabinet rank, so as to reflect the importance this Headquarters attaches to the taxation problems that have developed between UNAMIR and the Government of Rwanda. Regards.