MISSION AGREEMENT 28 SEPT - 14 OCT 1994

~~[1 CONFIDENTIAL]~~

EL/WG APR 2009
2 Items Confidential
2 Items Strictly Confidential
M.B. 25 Nov. 2011

RIGHTS AND OBLIGATIONS UNDER UNAMIR STATUS AGREEMENT AND NECESSARY IMPLEMENTING MEASURES

ISSUE/REFERENCE	UNAMIR	GOVERNMENT
1. UNAMIR's status and activities (Art. IV.5 & 6)	• To strictly observe impartial and international nature; • to observe local laws/regs.	• To respect exclusive international nature, and take appropriate steps to ensure security/safety of UNAMIR personnel
2. Military Conventions (Geneva - UNESCO)	• Full respect of general Conventions re:conduct of military personnel (Art. IV.7.a)	• Full respect of general Conventions re:treatment military personnel (Art. IV.7.b)
3. UNAMIR identification/insignia (Art. IV.8 & 9)	• SRSG to decide/display/notify Government regarding	
4. Communications facilities (Art. IV.10 &11)	• Right to install/operate viz Art.10 of 1946 Convention	• To facilitate; allocate frequencies
5. Private (UNAMIR) mail	• Own arrangements; if involving currency, parcels or packages, conditions by arrangement with Government	
6. Freedom of movement (Art. IV.12)	• Entitled to such, throughout territory; • Coordinate with Government re:large movements of personnel, stores, vehicles, thru airports, etc.	• To supply, where necessary, maps and information, including locations of mine fields other dangers/impediments
7. UNAMIR vehicles (Art. IV.13)	• Shall carry 3rd party insurance per relevant legislation	• No registration/licensing requirements
8. Roads, bridges, canals, ports, airfields (Art. IV.14)	• Exemption from dues/tolls/charges, except charges for services rendered	• Not to levy dues/tolls/charges, except for services rendered
9. UNAMIR's status as subsidiary organ of UN; privileges, immunities under 1946 Convention; extend to funds/assets of participating states (Art. IV.15)	• For details, see under Government. • SRSG to ensure that commissaries established are not abused (eg, by sale/resale of goods to persons not entitled)	Recognizes rights of UNAMIR • Duty-free importation • establish/operate commissaries • no customs/excise warehouse restrictions • re-export or otherwise dispose of goods/mat

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10. UNAMIR premises (Art. V.16)	• Such premises, even when provided by Government, shall be <u>inviolable and subject to exclusive control and authority of the UN</u> • <u>Entry</u> to UNAMIR premises: <u>UN alone</u> controls (Art. V.19)	• <u>Shall provide</u>, to extent possible headquarters, camp, and other premis for operational and administrative activities, and for accommodation members of UNAMIR [no mention of charges]
11. Shared premises (Art. V.16)	• Where UN troops are co-located with Rwandese troops, direct/immediate access by UNAMIR shall be guaranteed	• To guarantee such acces
12. Water, electricity and "other necessary facilities" (Art. V.17)	• To maintain any facilities provided by Government; may generate own electricity (Art V.18)	• To assist, as far as possible, in obtaining the same priority as essenti Government services; payment on agreed term
13. Local purchases/services (Art. V.20)	• To ensure, on basis of information from Government, that local purchases do not adversely affect the economy	• To assist in obtaining, a far as possible; no sale taxes
14. Sanitary/health services (Art. V.21)	• Both parties to cooperate fully in accordance with international Conventions	
15. Local personnel (Arts V. 22; VI. 28, 46)	• Recruitment at UNAMIR's discretion • Immunity regarding official activities; exemption from tax and national service obligations	• Government to facilitat upon request
16. Local currency (Art. V.23)	• As needed	• Government to provid most favourable rates
17. Diplomatic privileges of SRSG, FC & PC (Art. VI.24)	• ... and of "such high-ranking members of the SRSG's staff as may be agreed upon" with Government (<u>Agreement needed here</u>)	• Government to recogn observe diplomatic pri under sections 19 & 2 1946 Convention

	ISSUE/REFERENCE	UNAMIR	GOVERNMENT
18.	Other UN officials (Art. VI.25)	• Privileges and immunities under Arts V & VII of 1946 Convention, including: • immunity from legal process • exemption from income tax and other direct taxes/fees/charges except municipal rates • immunity from immigration/alien registration requirements • duty free import of furniture/personal effects. All for official, not personal benefit; avoid abuse of privileges	• Government to recognize and observe Arts V & VII regarding.
19.	MILOBS, Civ-Pol and Civilian personnel other than UN officials (Art. VI.26)	• Privileges/immunities of "Experts on Mission": Art. VI of Convention • UNAMIR to notify names to Government	• To recognize/observe Art. V (Convention)
20.	Military personnel of national contingents (Art. VI. 27, 37, 38, 39, 47)	• Privileges/immunities same as "Members of UNAMIR" (see below) • Shall wear their national uniform with UN insignia (Art VI. 37) • May carry arms on duty (also, civ-pol and security officers (Art. VI. 37) • Under exclusive jurisdiction of their states regarding any criminal acts (Art. VI. 47. b)	• To recognize/observe same • To recognize permits or licenses issued by UN/SRSG to UNAMIR personnel re:firearms (also, drivers' licenses)
21.	Members of UNAMIR (including military; excluding locals) Arts VI: 29, 30-34, 46-48	• Exempt from: income tax; direct taxes (except municipality rates); registration fees/charges; customs duty on personal effects; immigration registration/restriction; • Immune from legal process regarding official activities • Any crimes to be handled by SRSG and Government • Civil claims against: SRSG to be notified for certification before proceeding, but personal liberty not to be restricted regarding.	• To recognize/observe same

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22.	Entry, residence, departure (Art. VI: 32-34)	• SRSG and members of UNAMIR: right to freely enter, reside in, and depart from Rwanda; • To inform Government of entry/departure; • No passport/visa requirements or immigration inspections; etc.	• To facilitate entry/departur • Entry/exit only requires: (a) individual or collective movement order b SRSG or Participating Stat (b) Personal ID [or national, or UN LI
23.	Staff identification (Art VI: 35, 36)	• SRSG to issue numbered ID cards; • Members to present on demand by Government official, but not surrender IDs	• UNAMIR IDs the only documents required
24.	Policing/Powers of Arrest (Art VI: 40-42)	• Personnel designated by SRSG shall police UNAMIR premises and deployment areas with powers of arrest; • Military police have powers of arrest over military personnel.	• Government officials may take into custody any member of UNAMIR: (a) at request of SRSG; or (b) in the commission/atten of a crime [42]
25.	Custody/Investigations/ (Art VI: 41-45; 47)	• Military personnel arrested shall be transferred to their contingent commander [41]; • Arrested on UNAMIR premises: transfer to Government [41]; • Preliminary investigation shall not delay transfer of custody; • UNAMIR and Government to cooperate regarding all necessary investigations [44] • Prosecution of UNAMIR civilians subject to SRSG/Government agreement [47.a]; failing which: see **Settlement of Disputes**	• UNAMIR personnel arrest for crimes: transfer immediately to UNAMIR [42] • Government to promptly inform UNAMIR regardin any UNAMIR member suspected of crime with evidence [47] • Government to prosecute persons accused of acts against UNAMIR or its members [45]
26.	Deceased members (Art. VI. 49)	• SRSG to take charge	

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27.	Settlement of disputes (Art. VII: 50-54)	• Any private-law claims excluded from Rwandese jurisdiction by this Agreement: submit to standing Claims Settlement Commission to be established [50]; • Disputes regarding local staff: submit to SRSG/Admin procedures [51]; • Any other disputes, or appeals from claims settlement commission: submit to tribunal of three arbitrators, unless otherwise agreed [52]; • Disputes regarding 1946 Convention: see Section 30 of Convention [53]	
28.	Liaison/Implementation (Arts. IX; X. 56)	• Appropriate steps by both parties;	• Government has ultimate responsibility for implementation /observance of privileges/immunities of UNAMIR by all Government agencies

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

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

To: MA to FC

Copy to: DCOS (Ops)
CSS

File Reference: 4000.1/Log-3

Date: 12 Oct 94

Subject: **STATUS OF MISSION AGREEMENT** (1)

1. I have reviewed the document circulated as Administrative Circular No 007/94 to determine whether, and to what extent, the agreement is not being implemented. As you have passed a copy to DCOS (Ops), I shall not comment upon aspects within his area of responsibility.

2. **Serial 6.** The barge operation from Gisenyi to Kibuyi is being restricted to an unnecessary respect, contrary to the freedom guaranteed under this Serial.

3. **Serial 20.** Military personnel 'shall wear their national uniform with UN insignia'. This gives rise to a number of questions:

   a. Is the wearing of uniform mandatory at all times? Is it mandatory when on duty? Or does this simply mean that, when uniform is worn, it will be national uniform, suitably embellished.

   b. If the latter, no problem. But if the first, what is the status of a member of UNAMIR off duty and wearing civilian clothes etc etc.

4. **Serial 23.** Members of UNAMIR are required to surrender ID cards to gain access to certain areas of the airport, contrary to this Serial.

Exchage rate !!
Government supposed to
garantee most favourable
rate!

K P O'KELLY
Col
DCOS (Sp)

(2) Minta
your info.
Acs
17/10

002
OSRSG/LA/001

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

UNAMIR - MINUAR

TO: Mr. I. Minta
Legal Adviser

DATE: 13 October 1994

FROM: K. Nilsvang
CCPO

SUBJECT: **STATUS OF MISSION AGREEMENT**

Reference is made to OIC/Adm.'s circular No. 007 of 11 October 1994 on the above subject.

I have reviewed the above Agreement and would like to request clarification on one specific point.

It was brought to my attention by some of our International Staff, that on arrival at Kigali Airport, they were subject to complete inspection of their personal effects inspite of their identification as holders of UN Laissez-Passer. This practice does not seem to be in accordance with the Agreement under Art. VI. 30 and 33 which state :-

" 30. Members of UNAMIR shall have the right to import free of duty their personal effects in connection with their arrival in Rwanda ..... and
" 33. ..... members of UNAMIR shall be exempted from passport and visa regulations and immigration inspection ..... "

My interpretation of the above Art. is that International Staff, holder of valid UNLP, should not be subject to customs inspection of their personal effects on arrival at Kigali Airport. If so, necessary action will have to be taken to request the authorities concerned to give appropriate instructions to their Customs Officers at the Airport.

- vide SRSG's letter of 5 Oct 94
- other follow-up (in process)

cc: OIC/ADM.

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

ADMINISTRATIVE CIRCULAR NO. 007/94

DATE: 11 October 1994

TO: All Military and Civilian Section Chiefs

FROM: Peter J.A. Hornsby,
OIC Administration a.i.

SUBJECT: Status of Mission Agreement

1. The attached check list provides a ready reference for the respective rights and obligations of UNAMIR and the Government of Rwanda. This is provided first in the interests of information and, second, to facilitate follow-up or implementation measures.

2. All addressees are requested to review the attached and to provide comments on areas which fall within their purview. Comments should be provided on points which do not appear to have been implemented, implementation may not be proceeding smoothly or some specific points may require follow-up or clarification.

3. Please provide your comments to Mr. I. Minta, Legal Adviser by not later than 17 October 1994. Your cooperation is appreciated.

cc: **SRSG**
Force Commander
Executive Director
[redacted]

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28.	Liaison/Implementation (Arts. IX; X. 56)	• Appropriate steps by both parties;	• **Government has ultima responsibility for implementation /observance of privileges/immunities o UNAMIR by all Government agencies**

UNITED NATIONS | **NATIONS UNIES**

INTEROFFICE MEMORANDUM | *MEMORANDUM INTERIEUR*

UNAMIR-MINUAR

TO: **Mr. Ally Golo' .**
OIC Administration

DATE: 11 October 1994
REF: OSRSG/LA/001

FROM: **Dr. Abdul Kabia**
Executive Director

SUBJECT: **Incident Involving a Local Staff - Mr. Alfred Rusigariye**

.....

Reference to your memo dated 04 October 1994 on the above-mentioned subject please find attached the self-explanatory letter which is sent to the Foreign Minister.

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

UNAMIR-MINUAR

NATIONS UNIES
MEMORANDUM INTERIEUR

DATE: 11 October 1994
REF: OSRSG/LA/001

Your Excellency,

The Special Representative of the Secretary-General extends his compliments to the Ministry of Foreign Affairs and Cooperation of the Republic of Rwanda and would like to convey the following:

1. **It has been brought to my attention that a local staff member of UNAMIR, Mr. Alfred Rusigariye, was forcibly taken away from the UNAMIR premises in Kigali by RPA soldiers on 22 September 1994.**

2. **As this action involved a violation of UNAMIR premises, I would like to draw the attention of your Government to the privileges and immunities of UNAMIR under the 1946 Convention on the Privileges and Immunities of the United Nations as well as under the Mission Status Agreement between UNAMIR and Rwanda. In this regard, may I respectfully request the observance of these privileges and immunities in any such situation and in all other respects.**

3. **Further, as the staff of UNAMIR, including local staff, are entitled to certain legal protections under the above Convention and Agreement in respect of their official functions, may I respectfully enquire as to the reasons for the arrest of Mr. Rusigariye and as to the progress of any investigations in that regard.**

Please accept, Sir, the assurances of my highest consideration.

Yours sincerely

Shaharyar M. Khan

Shaharyar M. Khan
Special Representative
of the Secretary-General for Rwanda

His Excellency Mr.Jean Marie Vianney NDAGIJIMANA
Minister for Foreign Affairs and Cooperation
Kigali

UNITED NATIONS | **NATIONS UNIES**

INTEROFFICE MEMORANDUM | *MEMORANDUM INTERIEUR*

(UNAMIR)

TO: **Dr. A. Kabia**
Executive Director

DATE: 6 October 1994

FROM: **I. Minta**
Legal Adviser

SUBJECT: **UNAMIR's Status Agreement**

..... **1. I have prepared the attached check-list of the respective rights and obligations of UNAMIR and the Government of Rwanda under the Status Agreement, first, for purposes of information, and second, to facilitate follow-up or implementation measures.**

2. As I do not know what follow-up measures may have been taken already, I would recommend circulating this to all relevant UNAMIR Senior officials for feedback, so that any outstanding follow-up could be expedited.

SRSG
The check-list provides a quick and easy reference to the different issues that may arise in the Status of Mission Agreement.
DPKO
EO 4/10

S Legal Advr
Please circulate and/or discuss as many heads of Sections as possible
DPKO
EO 7/10

(4) Circulated see Admin Circular 007/94 of 11-X-94
Ide

Seen thanks.
S
10.10

EI)

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23. Staff identification (Art VI: 35, 36)	• SRSG to issue numbered ID cards; • Members to present on demand by Government official, but not surrender IDs	• UNAMIR IDs the only documents required
24. Policing/Powers of Arrest (Art VI: 40-42)	• Personnel designated by SRSG shall police UNAMIR premises and deployment areas with powers of arrest; • Military police have powers of arrest over military personnel.	• Government officials may take into custody any member of UNAMIR: (a) at request of SRSG; or (b) in the commission/attempt of a crime [42]
25. Custody/Investigations/ (Art VI: 41-45; 47)	• Military personnel arrested shall be transferred to their contingent commander [41]; • Arrested on UNAMIR premises: transfer to Government [41]; • Preliminary investigation shall not delay transfer of custody; • UNAMIR and Government to cooperate regarding all necessary investigations [44] • Prosecution of UNAMIR civilians subject to SRSG/Government agreement [47.a]; failing which: see **Settlement of Disputes**	• UNAMIR personnel arrested for crimes: transfer immediately to UNAMIR [42] • Government to promptly inform UNAMIR regarding any UNAMIR member suspected of crime with evidence [47] • Government to prosecute persons accused of acts against UNAMIR or its members [45]
26. Deceased members (Art. VI. 49)	• SRSG to take charge	

ISSUE/REFERENCE	UNAMIR	GOVERNMENT
27. Settlement of disputes (Art. VII: 50-54)	• Any private-law claims excluded from Rwandese jurisdiction by this Agreement: submit to standing **Claims Settlement Commission to be established** [50]; • Disputes regarding local staff: submit to SRSG/Admin procedures [51]; • Any other disputes, or appeals from claims settlement commission: submit to **tribunal of three arbitrators**, unless otherwise agreed [52]; • Disputes regarding 1946 Convention: see Section 30 of Convention [53]	
28. Liaison/Implementation (Arts. IX; X. 56)	• Appropriate steps by both parties;	• **Government has ultimate responsibility for implementation /observance of privileges/immunities of UNAMIR by all Government agencies**

ROUTING SLIP **FICHE DE TRANSMISSION**

TO: / A: M: MINTA, L.A. Room #4013

FROM: / DE: DESSANDE, eP

Room No. – No de bureau	Extension – Poste	Date
4060	11069	10/10/94

FOR ACTION		POUR SUITE A DONNER
FOR APPROVAL		POUR APPROBATION
FOR SIGNATURE		POUR SIGNATURE
FOR COMMENTS		POUR OBSERVATIONS
MAY WE DISCUSS?	X	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

Please see the annotation below by the ED.

draft attached

MINTA → Mr DESSANDE:

1. The attached memo I prepared for Dr Kabia is relevant (see item 15 of the checklist)
2. A Note Verbale should be sent to the Min. Foreign Affairs asap (if FC did not do that previously)

COM.6 (2-78)

29 August 1994

RPA Commanders, all
International Ports of Entry

Subject: **TAXATION EXEMPTION - UNAMIR II**

1. Under the Convention on the Privileges and Immunities of the United Nations, and the fact that UNAMIR II is an accredited organization to the RPA, UNAMIR II is exempted all direct and indirect taxation on any goods entering Rwanda for use by UNAMIR II.

2. UNAMIR II convoys carrying UNAMIR goods are to be given unhindered access into Rwanda. This includes the fuel and general goods vehicles operated by various civilian contractors for carriage of material, under the terms of contracts with UNAMIR II.

F. Kamanzi, Major
Liaison Officer
Rwandese Patriotic Army

UNITED NATIONS
INTEROFFICE MEMORANDUM

NATIONS UNIES
MEMORANDUM INTERIEUR

UNAMIR-MINUAR

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**

30/9/94

Mr Mita.

Your copy, as requested.

LML

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

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
- 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: All 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.

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.

The Geneva Conventions

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.

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.

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

UNAMIR-MINUAR

NATIONS UNIES
MEMORANDUM INTERIEUR

DATE: 5 October 1994

Your Excellency,

1. I have the honour to refer to the Agreement concluded on 5 November 1993 between the United Nations and Rwanda on the Status of UNAMIR.

2. In view of the expansion of the mandate of UNAMIR in subsequent Security Council resolutions, the Secretary-General would like to propose an exchange of letters with the Government of Rwanda to facilitate the application of the Agreement to UNAMIR's expanded mandate.

3. Accordingly, a draft exchange of letters is attached for your consideration. I will be very grateful if you could advise me, as soon as possible, as to whether the attached draft meets with your Government's approval, following which the Secretary-General will send the letter formally to effect such exchange.

4. Meanwhile, I would like to bring to your attention that UNAMIR personnel have encountered occasional difficulties at Kigali Airport on the clearance of UNAMIR supplies through customs as well as on the free transit of our staff.

5. In order to avoid such difficulties, may I respectfully request that your Government issue the necessary instructions to all relevant Government agencies on the observance of the privileges and immunities of UNAMIR under the Agreement.

6. Please accept, Sir, the assurances of my highest consideration.

Yours sincerely,

Shaharyar M. Khan
Special Representative
of the Secretary-General for Rwanda

His Excellency Mr.Jean Marie Vianney NDAGIJIMANA
Minister for Foreign Affairs and Cooperation
Kigali

UNITED NATIONS

DEPARTMENT OF PEACE-KEEPING OPERATIONS

55678

FACSIMILE TRANSMISSION

DATE: 5 Nov. 1993

TO : Brig. Gen. Romeo Dallaire
Force Commander
UNAMIR
Kigali

FAX: 250-76263

FROM: Kofi Annan
USG/DPKO
Room S-3727B

FAX (212) 963-4879
TEL (212) 963-8079

TOTAL NUMBER OF PAGES INCLUDING THIS ONE: 16

I am pleased to attach for your information reference copy of the Status of Mission Agreement between the Rwandese Republic and the United Nations (in French) signed today at Headquarters.

A copy of the English version will be pouched to you on Monday.

Best regards.

COPY OF ORIGINAL

ACCORD ENTRE L'ORGANISATION DES NATIONS UNIES ET LE GOUVERNEMENT DE LA REPUBLIQUE RWANDAISE SUR LE STATUT DE LA MISSION DES NATIONS UNIES POUR L'ASSISTANCE AU RWANDA

I. DEFINITIONS

1. Les définitions ci-après s'appliquent aux fins du présent Accord :

a) Le sigle "MINUAR" désigne la Mission des Nations Unies pour l'assistance au Rwanda créée en application de la résolution 872 (1993) du Conseil de sécurité, en date du 5 octobre 1993, et investie du mandat énoncé dans ladite résolution, sur la base des recommandations formulées dans le rapport du Secrétaire général sur le Rwanda en date du 24 septembre 1993 (S/26488). La MINUAR comprendra:

i) Le "Représentant spécial" désigné par le Secrétaire général de l'Organisation des Nations Unies. Si ce n'est au paragraphe 24 ci-après, toute mention du Représentant spécial dans le présent Accord englobera chacun des membres de la MINUAR auxquels le Représentant spécial aura pu déléguer une fonction ou un pouvoir déterminés;

ii) Un "élément civil" constitué de fonctionnaires de l'Organisation des Nations Unies et d'autres personnes chargées par le Secrétaire général d'assister le Représentant spécial ou mises à la disposition de la MINUAR par les Etats participants;

iii) Un "élément militaire" constitué de personnel militaire et de personnel civil mis à la disposition de la MINUAR par les Etats participants;

b) Les mots "membres de la MINUAR" désignent l'un quelconque des membres de l'élément civil ou de l'élément militaire, à l'exclusion, sauf stipulation contraire, du personnel recruté localement;

c) Les mots "Etat participant" désignent l'un quelconque des Etats mettant du personnel à la disposition de tel ou tel des éléments susvisés de la MINUAR;

d) Les mots "le Gouvernement" désignent le Gouvernement de la République Rwandaise;

/...

e) Les mots "le territoire" désigne le territoire de la République Rwandaise;

f) Le mot "Convention" désigne la Convention sur les privilèges et immunités des Nations Unies adoptée par l'Assemblée générale des Nations Unies le 13 février 1946.

II. APPLICATION DU PRESENT ACCORD

2. Sauf stipulation contraire, les dispositions du présent Accord et toute obligation contractée par le Gouvernement ou tous privilèges, immunités, facilités ou concessions accordés à la MINUAR ou à l'un quelconque de ses membres s'étendent sur tout le territoire.

III. APPLICATION DE LA CONVENTION

3. La MINUAR et ses membres, ainsi que ses biens, fonds et avoirs, jouissent des privilèges et immunités énoncés dans le présent Accord ainsi que de ceux prévus dans la Convention, à laquelle le Rwanda est partie.

4. L'article II de la Convention, qui s'applique à la MINUAR, s'applique également aux biens, fonds et avoirs des Etats participants utilisés dans le cadre de la Mission.

IV. STATUT DE LA MINUAR

5. La MINUAR et ses membres sont tenus de s'abstenir de tous actes ou activités incompatibles avec le caractère impartial et international de leurs fonctions ou contraires à l'esprit du présent Accord. Ils observeront intégralement les lois et règlements du pays. Le Représentant spécial prendra toutes les dispositions voulues pour assurer le respect de ces obligations.

6. Le Gouvernement respectera le statut exclusivement international de la MINUAR et veillera à ce que les mesures voulues soient prises pour assurer la sécurité de la Mission et du personnel y participant.

7. Sans préjudice du mandat de la MINUAR et de son statut international :

a) L'Organisation des Nations Unies veillera à ce que la MINUAR mène ses opérations au Rwanda dans le respect le plus strict des principes et de l'esprit présidant aux conventions générales applicables à la conduite du personnel militaire. Les instruments

visés comprennent les quatre Conventions de Genève du 12 août 1949 et les Protocoles additionnels s'y rapportant, en date du 8 juin 1977, ainsi que la Convention de l'UNESCO pour la protection des biens culturels en cas de conflit armé, du 14 mai 1954;

b) Le Gouvernement s'engage à traiter en tous temps le personnel militaire de la MINUAR dans le respect le plus strict des principes et de l'esprit présidant aux conventions générales applicables au traitement du personnel militaire. Les instruments visés comprennent les quatre Conventions de Genève du 12 août 1949 et les Protocoles additionnels s'y rapportant, en date du 8 juin 1977.

La MINUAR et le Gouvernement veilleront en conséquence à ce que les membres de leurs personnels militaires respectifs soient dûment sensibilisés aux principes et à l'esprit des instruments internationaux considérés.

Drapeau des Nations Unies et identification des véhicules

8. Le Gouvernement reconnaît à la MINUAR le droit d'arborer à l'intérieur du Rwanda le drapeau des Nations Unies sur les lieux de son quartier général et de ses camps ou autres installations, ainsi que sur ses véhicules, navires, etc., conformément à la décision du Représentant spécial. Tous autres drapeaux ou fanions ne peuvent être arborés qu'à titre exceptionnel. Dans une telle éventualité, la MINUAR examinera avec bienveillance les observations ou demandes du Gouvernement.

9. Les véhicules, navires et aéronefs de la MINUAR portent une marque d'identification distinctive des Nations Unies, dont il est donné notification au Gouvernement.

Communications

10. En matière de communications, la MINUAR bénéficie des facilités prévues à l'article III de la Convention et, en coordination avec le Gouvernement, en fait usage dans la mesure nécessaire à l'accomplissement de sa tâche. Les questions qui pourraient se poser en matière de communications et qui ne seraient pas expressément prévues dans le présent Accord seront traitées conformément aux dispositions pertinentes de la Convention.

11. Sous réserve des dispositions du paragraphe 10 :

a) La MINUAR est habilitée à installer et exploiter des stations émettrices ou réceptrices de radio et des systèmes de communication par satellites afin de relier les points voulus dans le territoire tant entre eux qu'avec les bureaux des Nations Unies

dans d'autres pays, ainsi que de faire usage du réseau mondial de télécommunications des Nations Unies. Les services de télécommunications sont exploités conformément à la Convention internationale des télécommunications et du Règlement des radiocommunications, et les fréquences utilisées pour l'exploitation des stations doivent être fixées en coopération avec le Gouvernement et portées à la connaissance du Comité international d'enregistrement des fréquences par l'Organisation des Nations Unies;

b) La MINUAR bénéficie, sur le territoire, du droit illimité de communiquer par radio (transmissions par satellites, radiotéléphones mobiles et postes portatifs inclus), téléphone, télégraphe, télécopieur ou tout autre moyen, et d'établir les facilités nécessaires pour assurer les communications considérées à l'intérieur de ses installations et entre elles, y compris la pose de câbles et de lignes terrestres et l'installation d'émetteurs, de récepteurs et de répéteurs du service fixe et du service mobile. Les fréquences radio utilisées doivent être fixées en coopération avec le Gouvernement. Il est entendu que l'interconnexion avec les réseaux locaux de télégraphie, de télex et de téléphone ne peut être établie qu'après consultation avec le Gouvernement et conformément aux arrangements pris avec lui, et que les tarifs d'utilisation desdits réseaux seront les plus favorables possible;

c) La MINUAR peut prendre les dispositions voulues pour faire assurer par ses propres moyens le tri et l'acheminement de la correspondance privée destinée à ses membres ou envoyée par eux. Le Gouvernement, qui doit être informé de la nature de ces dispositions, n'entrave ni ne censure la correspondance de la Mission ou de ses membres. Au cas où les dispositions postales prises pour la correspondance privée des membres de la Mission s'étendraient à des transferts de fonds ou à l'expédition de paquets et colis, les conditions régissant ces opérations seront fixées en accord avec le Gouvernement.

Déplacements et transports

12. La MINUAR et ses membres, ainsi que ses véhicules, navires, aéronefs et matériels, jouissent de la liberté de mouvement sur tout le territoire. En ce qui concerne les mouvements importants de personnel, de matériel ou de véhicules qui transiteraient par les aéroports ou emprunteraient les voies ferrées ou les routes utilisées pour la circulation générale à l'intérieur du Rwanda, cette liberté sera coordonnée avec le Gouvernement. Le Gouvernement s'engage à fournir à la Mission, lorsqu'il y aura lieu, les cartes et autres éléments d'information, concernant

notamment l'emplacement des champs de mines ainsi que les autres dangers et obstacles, qui pourront être utiles pour faciliter ses mouvements.

13. L'immatriculation et les certificats exigés par le Gouvernement ne le sont pas pour les véhicules de la MINUAR, y compris tous ses véhicules militaires, navires et aéronefs, étant entendu que ceux-ci doivent être couverts par l'assurance responsabilité civile requise par la législation applicable.

14. La MINUAR peut utiliser les routes, ponts, canaux et autres voies navigables, installations portuaires et aérodromes sans acquitter de droits, de péages ni de taxes, y compris les droits de quai. Toutefois, elle ne réclamera pas l'exemption des droits qui correspondent en fait à la rémunération de services rendus.

Privilèges et immunités de la MINUAR

15. La MINUAR, en tant qu'organe subsidiaire de l'Organisation des Nations Unies, bénéficie du statut, des privilèges et des immunités des Nations Unies conformément à la Convention. La disposition de l'article II de la Convention qui s'applique à la MINUAR s'applique aussi aux biens, fonds et avoirs des Etats participants utilisés à l'intérieur du Rwanda en ce qui concerne les contingents nationaux affectés à la Mission, comme prévu au paragraphe 4 du présent Accord. Le Gouvernement reconnaît en particulier à la Mission le droit :

a) D'importer, en franchise et sans restriction aucune, le matériel et les approvisionnements, fournitures et autres biens destinés à son usage exclusif et officiel ou à la revente dans les économats prévus ci-après;

b) De créer, entretenir et gérer, à son quartier général, dans ses camps et dans ses postes, des économats destinés à ses membres mais non au personnel recruté localement. Ces économats peuvent offrir des produits de consommation et autres articles précisés d'avance. Le Représentant spécial prend toutes mesures nécessaires pour empêcher l'utilisation abusive de ces économats ainsi que la vente ou la revente des produits et articles en question à des tiers, et examine avec bienveillance les observations ou demandes du Gouvernement relatives au fonctionnement des économats;

c) De dédouaner, en franchise et sans restriction aucune, le matériel et les approvisionnements, fournitures et autres biens destinés à son usage exclusif et officiel ou à la revente dans les économats prévus ci-dessus;

d) De réexporter ou de céder d'une autre manière le matériel, dans la mesure où il est encore utilisable, et les approvisionnements, fournitures et autres biens inutilisés ainsi importés ou dédouanés et non transférés ou cédés d'une autre manière, à des clauses et conditions préalablement convenues, aux autorités locales compétentes du Rwanda ou à une entité désignée par elles.

La MINUAR et le Gouvernement conviendront d'une procédure mutuellement satisfaisante, notamment en matière d'écritures, pour que les opérations d'importation, de dédouanement, de transfert ou d'exportation susvisées s'accomplissent dans les meilleurs délais.

V. FACILITES

Locaux requis pour les activités opérationnelles et administratives de la MINUAR et pour le logement de ses membres

16. Le Gouvernement fournira à la MINUAR, dans la mesure de ses possibilités, les emplacements destinés au quartier général, aux camps et autres locaux nécessaires pour la conduite des activités opérationnelles et administratives de la Mission et pour le logement de ses membres. Sans préjudice du fait qu'ils demeurent territoire rwandais, tous ces locaux seront inviolables et soumis à l'autorité et au contrôle exclusifs de l'Organisation des Nations Unies. Lorsque des troupes des Nations Unies partageront les quartiers du personnel militaire du pays hôte, un accès permanent, direct et immédiat à ces locaux sera garanti à la MINUAR.

17. Le Gouvernement s'engage à aider de son mieux la MINUAR à obtenir l'eau, l'électricité et les autres facilités nécessaires aux tarifs les plus favorables, et, en cas d'interruption ou de menaces d'interruption du service, à faire en sorte, dans toute la mesure du possible, que les besoins de la Mission se voient assigner le même rang de priorité que ceux des services gouvernementaux essentiels. La Mission s'acquittera des montants dûs à ce titre, sur une base à déterminer en accord avec les autorités compétentes. La Mission sera responsable de l'entretien des facilités ainsi fournies.

18. La MINUAR a le droit, le cas échéant, de produire dans ses locaux ainsi que de transporter et de distribuer l'énergie électrique qui lui est nécessaire.

19. L'Organisation des Nations Unies est seule habilitée à autoriser des responsables gouvernementaux ou toute autre personne non membre de la MINUAR à pénétrer dans ces locaux.

Approvisionnements, fournitures et services et arrangements sanitaires

20. Le Gouvernement s'engage à aider de son mieux la MINUAR à se procurer sur place le matériel et les approvisionnements, fournitures et autres biens et services nécessaires pour assurer sa subsistance et conduire ses opérations. Sur la base des observations faites et des informations fournies par le Gouvernement à cet égard, la Mission évitera que les achats effectués sur place aient un effet préjudiciable sur l'économie locale. Le Gouvernement exonérera de taxe à la vente tous les achats effectués sur place, à titre officiel, par la Mission.

21. La MINUAR et le Gouvernement collaboreront au fonctionnement des services sanitaires et se prêteront le concours le plus entier en matière d'hygiène et de santé, en particulier pour ce qui a trait à la lutte contre les maladies transmissibles, conformément aux dispositions des conventions internationales.

Recrutement de personnel local

22. La MINUAR peut recruter le personnel local dont elle a besoin. Si le Représentant spécial en fait la demande, le Gouvernement s'engage à faciliter le recrutement par la Mission d'agents locaux qualifiés et à en accélérer le processus.

Monnaie

23. Le Gouvernement s'engage à mettre à la disposition de la MINUAR, contre remboursement en une devise mutuellement acceptable, les sommes en francs rwandais qui lui seront nécessaires, notamment pour payer la solde de ses membres, le taux de change le plus favorable à la Mission étant retenu à cet effet.

VI. STATUT DES MEMBRES DE LA MINUAR

Privilèges et immunités

24. Le Représentant spécial, le commandant de la Force de l'élément militaire de la MINUAR, le commissaire de police commandant l'unité de police civile des Nations Unies, et ceux des collaborateurs de haut rang du Représentant spécial dont il peut être convenu avec le Gouvernement jouissent du statut spécifié dans les sections 19 et 27 de la Convention, dans la mesure où les privilèges et immunités visés sont ceux que le droit international reconnaît aux envoyés diplomatiques.

25. Les autres membres du personnel de l'Organisation des Nations Unies qui sont affectés à l'élément civil mis au service de la MINUAR demeurent des fonctionnaires des Nations Unies jouissant

des privilèges et immunités énoncés dans les articles V et VII de la Convention.

26. Les observateurs militaires, les membres de la police civile et les agents civils non fonctionnaires des Nations Unies dont les noms sont communiqués à cette fin au Gouvernement par le Représentant spécial sont considérés comme des experts en mission au sens de l'article VI de la Convention.

27. Le personnel militaire des contingents nationaux affecté à l'élément militaire de la MINUAR jouit des privilèges et immunités expressément prévus dans le présent Accord.

28. Sauf disposition contraire du présent Accord, les membres de la MINUAR recrutés localement jouissent des immunités concernant les actes accomplis en leur qualité officielle, de l'exonération d'impôt et de l'exemption de toute obligation relative au service national prévues aux alinéas a), b) et c) de la section 18 de la Convention.

29. Les soldes et émoluments que l'Organisation des Nations Unies ou un Etat participant versent aux membres de la MINUAR et les revenus que ceux-ci reçoivent de sources situées à l'extérieur du Rwanda ne sont pas soumis à l'impôt. Les membres de la Mission sont également exonérés de tout autre impôt direct, à l'exception des taxes municipales qui frappent les services ainsi que de tous droits et frais d'enregistrement.

30. Les membres de la MINUAR ont le droit d'importer en franchise leurs effets personnels lorsqu'ils arrivent au Rwanda. Les lois et règlements du Rwanda relatifs aux douanes et aux changes sont applicables aux biens personnels qui ne sont pas nécessaires à ces personnes du fait de leur présence au Rwanda au service de la Mission. S'il en est averti à l'avance et par écrit, le Gouvernement accorde des facilités spéciales en vue de l'accomplissement rapide des formalités d'entrée et de sortie pour tous les membres de la Mission, y compris l'élément militaire. Nonobstant la réglementation des changes susmentionnée, les membres de la Mission pourront, à leur départ du Rwanda, emporter les sommes dont le Représentant spécial aura certifié qu'elles ont été versées par l'Organisation des Nations Unies ou par un Etat participant à titre de solde et d'émoluments et constituent un reliquat raisonnable de ces fonds. Des arrangements spéciaux seront conclus en vue de mettre en oeuvre les présentes dispositions dans l'intérêt du Gouvernement et des membres de la Mission.

31. Le Représentant spécial coopère avec le Gouvernement et prête toute l'assistance en son pouvoir pour assurer le respect des lois et règlements douaniers et financiers du Rwanda par les membres de la MINUAR, conformément aux dispositions du présent Accord.

Entrée, séjour et départ

32. Le Représentant spécial et les membres de la MINUAR qui reçoivent de lui des instructions à cet effet ont le droit d'entrer au Rwanda, d'y séjourner et d'en repartir.

33. Le Gouvernement s'engage à faciliter l'entrée au Rwanda du Représentant spécial et des membres de la MINUAR, ainsi que leur sortie, et est tenu au courant de ces mouvements. A cette fin, le Représentant spécial et les membres de la Mission sont dispensés des formalités de passeport et de visa, ainsi que de l'inspection et des restrictions prévues par les services d'immigration à l'entrée au Rwanda ou à la sortie. Ils ne sont pas davantage assujettis aux dispositions régissant le séjour des étrangers au Rwanda, y compris en particulier les dispositions relatives à l'enregistrement, mais n'acquièrent pour autant aucun droit d'y résider ou d'y être domiciliés en permanence.

34. A l'entrée au Rwanda ou à la sortie, seuls les titres ci-après sont exigés des membres de la MINUAR : a) ordre de mission individuel ou collectif délivré par le Représentant spécial ou par les autorités compétentes de tel ou tel Etat participant, ou sous l'autorité de l'un ou des autres; b) carte d'identité personnelle délivrée conformément au paragraphe 35 du présent Accord, si ce n'est à la première entrée, pour laquelle la carte d'identité personnelle délivrée par les autorités compétentes d'un Etat participant peut tenir lieu de carte d'identité de la Mission.

Identification

35. Le Représentant spécial délivre à chacun des membres de la MINUAR, avant ou dès que possible après sa première entrée au Rwanda, de même qu'à chacun des membres du personnel recruté localement, une carte d'identité numérotée indiquant ses nom et prénom, sa date de naissance, son titre ou son grade et le service auquel il appartient (le cas échéant), et comportant une photographie de l'intéressé. Sous réserve des dispositions du paragraphe 34 du présent Accord, ladite carte d'identité est le seul document qu'un membre de la Mission peut être tenu de produire.

36. Les membres de la MINUAR, de même que ceux du personnel recruté localement, sont tenus de présenter, mais non de remettre, leur carte d'identité de la Mission à tout agent habilité du Gouvernement qui en fait la demande.

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Uniformes et armes

37. Dans l'exercice de leurs fonctions officielles, les membres militaires et les éléments de la police civile de la MINUAR portent l'uniforme militaire ou de police de leur pays d'origine, assorti de l'équipement réglementaire de l'ONU. Les agents du Service de sécurité de l'ONU et les fonctionnaires du Service mobile peuvent porter l'uniforme des Nations Unies. En d'autres circonstances, le Représentant spécial peut les autoriser à porter des tenues civiles. Les membres militaires de la Mission et les membres de son élément de police civile, de même que les agents du Service de sécurité de l'ONU désignés par le Représentant spécial peuvent détenir et porter des armes dans l'exercice de leurs fonctions, conformément au règlement qui leur est applicable.

Permis et autorisation

38. Le Gouvernement convient de reconnaître, sans qu'il doive être acquitté de taxe ou de redevance à ce titre, la validité d'un permis ou d'une autorisation délivrés par le Représentant spécial à l'un quelconque des membres de la MINUAR (membres du personnel recruté localement compris), et habilitant l'intéressé à utiliser du matériel de transport ou de communication de la Mission ou à exercer une profession ou un métier quels qu'ils soient dans le cadre du fonctionnement de la Mission, étant entendu qu'aucun permis de conduire un véhicule ou de piloter un aéronef ne sera délivré à quiconque n'est pas déjà en possession du permis voulu, en cours de validité.

39. Sans préjudice des dispositions du paragraphe 37, le Gouvernement convient en outre de reconnaître, sans qu'il doive être acquitté de taxe ou de redevance à ce titre, la validité d'un permis ou d'une autorisation délivrés par le Représentant spécial à l'un quelconque des membres de la MINUAR, et habilitant l'intéressé à porter ou à utiliser des armes à feu ou des munitions dans le cadre du fonctionnement de la Mission.

Police militaire, arrestation et remise des personnes arrêtées et assistance mutuelle

40. Le Représentant spécial prend toutes les mesures utiles pour assurer le maintien de l'ordre et de la discipline parmi les membres de la MINUAR ainsi que parmi le personnel recruté localement. A cette fin, des effectifs désignés par lui assurent la police dans les locaux de la Mission et dans les zones où ses membres sont déployés. De tels effectifs ne peuvent être mis en place ailleurs qu'en vertu d'arrangements conclus avec le Gouvernement et en liaison avec lui dans la mesure où le Représentant spécial le juge nécessaire pour maintenir l'ordre et la discipline parmi les membres de la Mission.

41. La police militaire de la MINUAR a le droit de mettre en état d'arrestation les membres militaires de la Mission. Les militaires arrêtés en dehors de la zone où est déployé leur contingent sont conduits auprès du commandant de celui-ci afin qu'il prenne les mesures disciplinaires qui s'imposent. Le personnel visé au paragraphe 40 ci-dessus peut également mettre en état d'arrestation toute autre personne qui commet une infraction dans les locaux de la Mission. Il la remet sans retard à l'autorité compétente du Gouvernement la plus proche, pour que les mesures voulues soient prises en ce qui concerne l'infraction commise ou les troubles causés dans lesdits locaux.

42. Sous réserve des dispositions des paragraphes 24 et 26, les autorités du Gouvernement peuvent mettre en état d'arrestation tout membre de la MINUAR :

a) A la demande du Représentant spécial; ou

b) Lorsque l'intéressé est appréhendé au moment où il commet ou tente de commettre une infraction. L'intéressé est remis sans retard, en même temps que toutes armes ou tous autres objets saisis, au représentant compétent de la Mission le plus proche, après quoi les dispositions du paragraphe 47 sont applicables mutatis mutandis.

43. Lorsqu'une personne est mise en état d'arrestation en vertu du paragraphe 41 ou de l'alinéa b) du paragraphe 42, la MINUAR ou le Gouvernement, selon le cas, peuvent procéder à un interrogatoire préliminaire mais ne doivent pas retarder la remise de l'intéressé. Après celle-ci, l'intéressé peut, sur demande, être mis à la disposition de l'autorité qui a procédé à l'arrestation, pour subir de nouveaux interrogatoires.

44. La MINUAR et le Gouvernement se prêtent mutuellement assistance pour la conduite de toutes enquêtes nécessaires concernant les infractions contre les intérêts de l'un ou de l'autre, ou des deux, pour la production des témoins et pour la recherche et la production de preuves, y compris la saisie, et, s'il y a lieu, la remise de pièces et objets se rapportant à l'infraction. La remise des pièces et objets saisis peut toutefois être subordonnée à leur restitution dans un délai déterminé par l'autorité qui procède à cette remise. Chacune des deux autorités notifie à l'autre la décision intervenue dans toute affaire dont l'issue peut intéresser cette autre autorité, ou qui a donné lieu à la remise de personnes arrêtées, conformément aux dispositions des paragraphes 41 à 43.

45. Le Gouvernement se charge des poursuites contre les personnes relevant de sa juridiction pénale et accusées d'avoir commis, à l'égard de la MINUAR ou de ses membres, des actes qui les auraient

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exposés à des poursuites s'ils avaient été commis à l'égard des forces du Gouvernement.

Juridiction

46. Tous les membres de la MINUAR, y compris le personnel recruté localement, jouissent de l'immunité de juridiction pour tous les actes accomplis dans l'exercice de leurs fonctions officielles (y compris leurs paroles et écrits). Cette immunité continuera d'avoir effet même lorsqu'ils ne seront plus membres de la Mission ou employés par elle et après que les autres dispositions du présent Accord auront expiré.

47. S'il estime qu'un membre de la MINUAR a commis une infraction pénale, le Gouvernement en informe le Représentant spécial dans les meilleurs délais et lui présente tout élément de preuve en sa possession. Sous réserve des dispositions du paragraphe 24 :

a) Si l'accusé est membre de l'élément civil ou membre civil de l'élément militaire, le Représentant spécial procède à tout complément d'enquête nécessaire et le Gouvernement et lui-même décident d'un commun accord si des poursuites pénales doivent être intentées contre l'intéressé. Faute d'un tel accord, la question sera réglée comme prévu au paragraphe 52 du présent Accord;

b) Les membres militaires de l'élément militaire de la MINUAR sont soumis à la juridiction exclusive de l'Etat participant dont ils sont ressortissants pour toute infraction pénale qu'ils pourraient commettre au Rwanda.

48. Si une action civile est intentée contre un membre de la MINUAR devant un tribunal rwandais, notification en est faite immédiatement au Représentant spécial, qui fait savoir au tribunal si l'affaire a trait ou non aux fonctions officielles de l'intéressé :

a) Si le Représentant spécial certifie que l'affaire a trait aux fonctions officielles de l'intéressé, il est mis fin à l'instance et les dispositions du paragraphe 50 du présent Accord sont applicables;

b) Si le Représentant spécial certifie que l'affaire n'a pas trait aux fonctions officielles de l'intéressé, l'instance suit son cours. Si le Représentant spécial certifie qu'un membre de la Mission n'est pas en mesure, par suite soit de ses fonctions officielles, soit d'une absence régulière, de défendre ses intérêts, le tribunal, sur la demande de l'intéressé, suspend la procédure jusqu'à la fin de l'indisponibilité, mais pour une

période n'excédant pas 90 jours. Les biens d'un membre de la Mission ne peuvent être saisis en exécution d'une décision de justice si le Représentant spécial certifie qu'ils sont nécessaires à l'intéressé pour l'exercice de ses fonctions officielles. La liberté individuelle d'un membre de la Mission ne peut faire l'objet d'aucune restriction à l'occasion d'une affaire civile, que ce soit pour exécuter une décision de justice, pour obliger à faire une révélation sous la foi du serment ou pour toute autre raison.

Décès de membres de la MINUAR

49. Le Représentant spécial a le droit de prendre les dispositions voulues en ce qui concerne la dépouille d'un membre de la MINUAR décédé au Rwanda ainsi qu'en ce qui concerne les effets de l'intéressé s'y trouvant, conformément aux pratiques de l'Organisation des Nations Unies en la matière.

VII. REGLEMENT DES DIFFERENDS

50. Sauf disposition contraire du paragraphe 52, une commission permanente des réclamations créée à cet effet statue sur tout différend ou toute réclamation relevant du droit privé auquel la MINUAR ou l'un de ses membres est partie et à l'égard duquel les tribunaux du Rwanda n'ont pas compétence en raison d'une disposition du présent Accord. Le Secrétaire général de l'Organisation des Nations Unies et le Gouvernement nomment chacun un des membres de la commission; le président est désigné d'un commun accord par le Secrétaire général et le Gouvernement. Si ces derniers ne se sont pas entendus sur la nomination du président dans un délai de 30 jours à compter de la nomination du premier membre de la commission, le Président de la Cour internationale de Justice peut, à la demande du Secrétaire général de l'Organisation des Nations Unies ou du Gouvernement, nommer le président. Toute vacance à la commission est pourvue selon la méthode prévue pour la nomination initiale, le délai de 30 jours prescrit ci-dessus commençant à courir à la date de vacance de la présidence. La commission définit ses propres procédures, étant entendu que deux membres, quels qu'ils soient, constituent le quorum dans tous les cas (sauf pendant les 30 jours qui suivent la survenance d'une vacance) et que toutes les décisions nécessitent l'approbation de deux membres. Les sentences de la commission ne sont pas susceptibles d'appel et ont force obligatoire, à moins que le Secrétaire général de l'Organisation des Nations Unies et le Gouvernement n'autorisent à en faire appel devant un tribunal constitué conformément au paragraphe 52. Les sentences de la commission sont notifiées aux parties et, si elles sont rendues contre un membre de la MINUAR, le Représentant spécial ou le Secrétaire général de l'Organisation des Nations Unies n'épargne aucun effort pour en assurer l'exécution.

51. Tout différend relatif aux conditions d'emploi et de travail du personnel recruté localement sera réglé suivant les procédures administratives que fixera le Représentant spécial.

52. Tout autre différend entre la MINUAR et le Gouvernement, et tout appel de la sentence rendue par la commission des réclamations créée conformément au paragraphe 50 qu'ils décident l'un et l'autre d'autoriser, sont soumis à un tribunal composé de trois arbitres, à moins que les parties n'en décident autrement. Les dispositions relatives à la constitution de la commission des réclamations ains qu'à ses procédures s'appliquent, mutatis mutandis, à la constitution et aux procédures du tribunal. Les décisions du tribunal ne sont pas susceptibles d'appel et ont force obligatoire pour les deux parties.

53. Toute contestation entre l'Organisation des Nations Unies et le Gouvernement portant sur l'interprétation ou l'application des présentes dispositions et soulevant une question de principe concernant la Convention sera soumise à la procédure prévue à la section 30 de la Convention.

VIII. AVENANTS

54. Le Représentant spécial et le Gouvernement peuvent conclure des avenants au présent Accord.

IX. LIAISON

55. Le Représentant spécial et le Gouvernement prennent des mesures propres à assurer entre eux une liaison étroite à tous les niveaux voulus.

X. DISPOSITIONS DIVERSES

56. Le Gouvernement sera responsable en dernier ressort de l'octroi et de la mise en oeuvre par les autorités rwandaises compétentes des privilèges, immunités et droits conférés par le présent Accord à la MINUAR, ainsi que des facilités qui doivent lu être fournies à ce titre.

57. Le présent Accord restera en vigueur jusqu'au départ du Rwanda de l'élément final de la MINUAR, à l'exception :

a) Des dispositions des paragraphes 46, 52 et 53, qui resteront en vigueur;

b) Des dispositions du paragraphe 50, qui resteront en vigueur jusqu'à ce qu'il ait été statué sur toutes les réclamations dont l'objet est antérieur à l'expiration du présent Accord et qui auront été soumises avant ladite expiration ou dans les trois mois suivant celle-ci.

Fait à New York le 5 novembre 1993, en double exemplaire établi en langue française.

Pour l'Organisation des Nations Unies:

S. Iqbal Riza
Sous-Secrétaire général aux opérations de maintien de la paix

Pour le Gouvernement de la République Rwandaise:

M. Jean Damascène Bizimana
Ambassadeur Extraordinaire et Plénipotentiaire
Représentant permanent auprès de l'Organisation des Nations Unies

Agreement between the United Nations and the Government of the Republic of Rwanda on the status of the United Nations Assistance Mission for Rwanda

I. DEFINITIONS

1. For the purpose of the present Agreement the following definitions shall apply:

(a) "UNAMIR" means the United Nations Assistance Mission for Rwanda established pursuant to Security Council resolution 872 (1993) of 5 October 1993 with the mandate described in the above-mentioned resolution based on the recommendations contained in the Secretary-General's report on Rwanda dated 24 September 1993 (S/26488). For the purposes of this Agreement UNAMIR shall consist of:

(i) the "Special Representative" appointed by the Secretary-General of the United Nations. Any reference to the Special Representative in this Agreement shall, except in paragraph 24, include any member of UNAMIR to whom he delegates a specific function or authority;

(ii) a "civilian component" consisting of United Nations officials and of other persons assigned by the Secretary-General to assist the Special Representative or made available by participating States to serve as part of UNAMIR;

(iii) a "military component" consisting of military and civilian personnel made available by participating States to serve as part of UNAMIR.

(b) a "member of UNAMIR" means any member of the civilian or military component but unless specifically stated otherwise does not include locally recruited personnel;

(c) "participating State" means a state contributing personnel to any of the above-mentioned component of UNAMIR;

(d) "The Government" means the Government of the Republic of Rwanda;

(e) "The territory" means the territory of the Republic of Rwanda;

(f) "The Convention" means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946

II. APPLICATION OF THE PRESENT AGREEMENT

2. Unless specifically provided otherwise, the provisions of the present Agreement and any obligation undertaken by the Government or any privilege, immunity, facility or concession granted to UNAMIR or any member thereof apply throughout the territory.

III. APPLICATION OF THE CONVENTION

3. UNAMIR, its members, property, funds and assets, shall enjoy the privileges and immunities specified in the present Agreement as well as those provided for in the Convention, to which Rwanda is a Party.

4. Article II of the Convention, which applies to UNAMIR, shall also apply to the property, funds and assets of participating States used in connection with UNAMIR.

IV. STATUS OF UNAMIR

5. UNAMIR and its members shall refrain from any action or activity incompatible with the impartial and international nature of their duties or inconsistent with the spirit of the present arrangements. UNAMIR and its members shall respect all local laws and regulations. The Special Representative shall take all appropriate measures to ensure the observance of those obligations.

6. The Government shall respect the exclusively international nature of UNAMIR and ensure that appropriate steps are taken to ensure the security and safety of UNAMIR and personnel engaged in the Mission.

7. Without prejudice to the mandate of UNAMIR and its international status:

(a) The United Nations shall ensure that UNAMIR shall conduct its operations in Rwanda with full respect for the principles and spirit of the general conventions applicable to the conduct of military personnel. These international conventions include the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977 and the UNESCO Convention of 14 May 1954 on the Protection of Cultural Property in the event of armed conflict;

(b) The Government undertakes to treat at all times the military personnel of UNAMIR with full respect for the principles and spirit of the general international conventions applicable to the treatment of military personnel. These international conventions include the Four Geneva Conventions of 12 April 1949 and their Additional Protocols of 8 June 1977.

UNAMIR and the Government shall therefore ensure that members of their respective military personnel are fully acquainted with the principles and spirit of the above-mentioned international instruments.

United Nations flag and vehicle markings

8. The Government recognizes the right of UNAMIR to display within Rwanda the United Nations flag on its headquarters, camps or other premises, vehicles, vessels and otherwise as decided by the Special Representative. Other flags or pennants may be displayed only in exceptional cases. In these cases, UNAMIR shall give sympathetic consideration to observations or requests of the Government.

9. Vehicles, vessels and aircraft of UNAMIR shall carry a distinctive United Nations identification, which shall be notified to the Government.

Communications

10. UNAMIR shall enjoy the facilities in respect to communications provided in article III of the Convention and shall, in co-ordination with the Government, use such facilities as may be required for the performance of its task. Issues with respect to communications which may arise and which are not specifically provided for in the present Agreement shall be dealt with pursuant to the relevant provisions of the Convention.

11. Subject to the provisions of paragraph 10:

(a) UNAMIR shall have 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 United Nations offices in other countries, and to exchange traffic with the United Nations global telecommunications network. The telecommunication services shall be operated in accordance with the International Telecommunication Convention and Regulations and the frequencies on which any such station may be operated shall be decided upon in co-operation with the Government and shall be communicated by the United Nations to the International Frequency Registration Board;

(b) 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 communications within and between premises of UNAMIR, including the laying of cables and land lines and the establishment of fixed and mobile radio sending, receiving and repeater stations. The frequencies on which the radio will operate shall be decided upon in co-operation with the

Government. It is understood that connections with the local system of telegraphs, telex and telephones may be made only after consultation and in accordance with arrangements with the Government, it being further understood that the use of the local system of telegraphs, telex and telephones will be charged at the most favourable rate;

(c) UNAMIR may make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of UNAMIR. The Government shall be informed of the nature of such arrangements and shall not interfere with or apply censorship to the mail of UNAMIR or its members. In the event that postal arrangements applying to private mail of members of UNAMIR are extended to transfer of currency or the transport of packages and parcels, the conditions under which such operations are conducted shall be agreed with the Government.

Travel and transport

12. UNAMIR and its members shall enjoy, together with its vehicles, vessels, aircraft and equipment, freedom of movement throughout the territory. That freedom shall, with respect to large movements of personnel, stores or vehicles through airports or on railways or roads used for general traffic within Rwanda, be co-ordinated with the Government. The Government undertakes to supply UNAMIR, where necessary, with maps and other information, including locations of mine fields and other dangers and impediments, which may be useful in facilitating its movements.

13. Vehicles, including all military vehicles, vessels and aircraft of UNAMIR shall not be subject to registration or licensing by the Government provided that all such vehicles shall carry the third party insurance required by relevant legislation.

14. UNAMIR may use roads, bridges, canals and other waters, port facilities and airfields without the payment of dues, tolls or charges, including wharfage charges. However, UNAMIR will not claim exemption from charges which are in fact charges for services rendered.

Privileges and immunities of UNAMIR

15. UNAMIR, as a subsidiary organ of the United Nations, enjoys the status, privileges and immunities of the United Nations in accordance with the Convention. The provision of article II of the Convention which applies to UNAMIR shall also apply to the property, funds and assets of participating States used in Rwanda in connection with the national contingents serving in UNAMIR, as provided for in paragraph 4 of the present Agreement. The Government recognizes the right of UNAMIR in particular:

(a) To import, free of duty or other restrictions, equipment, provisions, supplies and other goods which are for the exclusive and official use of UNAMIR or for resale in the commissaries provided for hereinafter;

(b) To establish, maintain and operate commissaries at its headquarters, camps and posts for the benefit of the members of UNAMIR, but not of locally recruited personnel. Such commissaries may provide goods of a consumable nature and other articles to be specified in advance. The Special Representative shall take all necessary measures to prevent abuse of such commissaries and the sale or resale of such goods to persons other than members of UNAMIR, and he shall give sympathetic consideration to observations or requests of the Government concerning the operation of the commissaries;

(c) To clear ex customs and excise warehouse, free of duty or other restrictions, equipment, provisions, supplies and other goods which are for the exclusive and official use of UNAMIR or for resale in the commissaries provided for above;

(d) To re-export or otherwise dispose of such equipment, as far as it is still usable, all unconsumed provisions, supplies and other goods so imported or cleared ex customs and excise warehouse which are not transferred, or otherwise disposed of, on terms and conditions to be agreed upon, to the competent local authorities of Rwanda or to an entity nominated by them.

To the end that such importation, clearances, transfer or exportation may be effected with the least possible delay, a mutually satisfactory procedure, including documentation, shall be agreed between UNAMIR and the Government at the earliest possible date.

V. FACILITIES FOR UNAMIR

Premises required for conducting the operational and administrative activities of UNAMIR and for accommodating members of UNAMIR

16. The Government of Rwanda shall, to the extent possible, provide UNAMIR such areas for headquarters, camps or other premises as may be necessary for the conduct of the operational and administrative activities of UNAMIR and for the accommodation of the members of UNAMIR. Without prejudice to the fact that all such premises remain Rwandese territory, they shall be inviolable and subject to the exclusive control and authority of the United Nations. Where United Nations troops are co-located with military personnel of the host country, a permanent, direct and immediate access by UNAMIR to those premises shall be guaranteed

17. The Government undertakes to assist UNAMIR as far as possible in obtaining water, electricity and other necessary facilities, and, in the case of interruption or threatened interruption of service, to give as far as is within its powers the same priority to the needs of UNAMIR as to essential government services. Payment shall be made by UNAMIR on terms to be agreed with the competent authority. UNAMIR shall be responsible for the maintenance and upkeep of facilities so provided.

18. UNAMIR shall have the right, where necessary, to generate, within its premises, electricity for its use and to transmit and distribute such electricity.

19. The United Nations alone may consent to the entry of any government officials or of any other person not member of UNAMIR to such premises.

Provisions, supplies and services, and sanitary arrangements

20. The Government undertakes to assist UNAMIR as far as possible in obtaining equipment, provisions, supplies and other goods and services from local sources required for its subsistence and operations. In making purchases on the local market, UNAMIR shall, on the basis of observations made and information provided by the Government in that respect, avoid any adverse effect on the local economy. The Government shall exempt UNAMIR from general sales taxes in respect of all official local purchases.

21. UNAMIR and the Government shall co-operate with respect to sanitary services and shall extend to each other the fullest co-operation in matters concerning health, particularly with respect to the control of communicable diseases, in accordance with international conventions.

Recruitment of local personnel

22. UNAMIR may recruit locally such personnel as it requires. Upon the request of the Special Representative, the Government undertakes to facilitate the recruitment of qualified local staff by UNAMIR and to accelerate the process of such recruitment.

Currency

23. The Government undertakes to make available to UNAMIR, against reimbursement in mutually acceptable currency, Rwandese franc currency required for the use of UNAMIR, including the pay of its members, at the rate of exchange most favourable to UNAMIR.

VI. STATUS OF THE MEMBERS OF UNAMIR

Privileges and immunities

24. The Special Representative, the Force Commander of the military component of UNAMIR, the Police Commissioner of the United Nations civilian police, and such high-ranking members of the Special Representative's staff as may be agreed upon with the Government shall have the status specified in sections 19 and 27 of the Convention, provided that the privileges and immunities therein referred to shall be those accorded to diplomatic envoys by international law.

25. Other United Nations officials assigned to the civilian component to serve with UNAMIR remain officials of the United Nations entitled to the privileges and immunities of articles V and VII of the Convention.

26. Military observers, civilian police personnel and civilian personnel other than United Nations officials whose names are for the purpose notified to the Government by the Special Representative shall be considered as experts on mission within the meaning of article VI of the Convention.

27. Military personnel of national contingents assigned to the military component of UNAMIR shall have the privileges and immunities specifically provided for in the present Agreement.

28. Unless otherwise specified in the present Agreement, locally recruited members of UNAMIR shall enjoy the immunities concerning official acts and exemption from taxation and national service obligations provided for in sections 18 (a), (b) and (c) of the Convention.

29. Members of UNAMIR shall be exempt from taxation on the pay and emoluments received from the United Nations or from a participating State and any income received from outside Rwanda. They shall also be exempt from all other direct taxes, except municipal rates for services enjoyed, and from all registration fees and charges.

30. Members of UNAMIR shall have the right to import free of duty their personal effects in connection with their arrival in Rwanda. They shall be subject to the laws and regulations of Rwanda governing customs and foreign exchange with respect to personal property not required by them by reason of their presence in Rwanda with UNAMIR. Special facilities will be granted by the Government for the speedy processing of entry and exit formalities for all members of UNAMIR, including the military component, upon prior written notification. On departure from Rwanda, members of UNAMIR may, notwithstanding the above-mentioned exchange regulations, take with them such funds

as the Special Representative certifies were received in pay and emoluments from the United Nations or from a participating State and are a reasonable residue thereof. Special arrangements shall be made for the implementation of the present provisions in the interests of the Government and the members of UNAMIR.

31. The Special Representative shall co-operate with the Government and shall render all assistance within his power in ensuring the observance of the customs and fiscal laws and regulations of Rwanda by the members of UNAMIR, in accordance with the present Agreement.

Entry, residence and departure

32. The Special Representative and members of UNAMIR shall, whenever so required by the Special Representative, have the right to enter into, reside in and depart from Rwanda.

33. The Government undertakes to facilitate the entry into and departure from Rwanda of the Special Representative and members of UNAMIR and shall be kept informed of such movement. For that purpose, the Special Representative and members of UNAMIR shall be exempt from passport and visa regulations and immigration inspection and restrictions on entering into or departing from Rwanda. They shall also be exempt from any regulations governing the residence of aliens in Rwanda, including registration, but shall not be considered as acquiring any right to permanent residence or domicile in Rwanda.

34. For the purpose of such entry or departure, members of UNAMIR shall only be required to have: (a) an individual or collective movement order issued by or under the authority of the Special Representative or any appropriate authority of a participating State; and (b) a personal identity card issued in accordance with paragraph 35 of the present Agreement, except in the case of first entry, when the personal identity card issued by the appropriate authorities of a participating State shall be accepted in lieu of the said identity card.

Identification

35. The Special Representative shall issue to each member of UNAMIR before or as soon as possible after such member's first entry into Rwanda, as well as to all locally recruited personnel, a numbered identity card, which shall show full name, date of birth, title or rank, service (if appropriate) and photograph. Except as provided for in paragraph 34 of the present Agreement, such identity card shall be the only document required of a member of UNAMIR.

36. Members of UNAMIR as well as locally recruited personnel shall be required to present, but not to surrender, their UNAMIR

identity cards upon demand of an appropriate official of the Government.

Uniform and arms

37. Military members and the United Nations civilian police of UNAMIR shall wear, while performing official duties, the national military or police uniform of their respective States with standard United Nations accoutrements. United Nations Security Officers and Field Service Officers may wear the United Nations uniform. The wearing of civilian dress by the above-mentioned members of UNAMIR may be authorized by the Special Representative at other times. Military members and civilian police of UNAMIR and United Nations Security Officers designated by the Special Representative may possess and carry arms while on duty in accordance with their orders.

Permits and licences

38. The Government agrees to accept as valid, without tax or fee, a permit or licence issued by the Special Representative for the operation by any member of UNAMIR, including locally recruited personnel, of any UNAMIR transport or communication equipment and for the practice of any profession or occupation in connection with the functioning of UNAMIR, provided that no licence to drive a vehicle or pilot an aircraft shall be issued to any person who is not already in possession of an appropriate and valid licence.

39. Without prejudice to the provisions of paragraph 37, the Government further agrees to accept as valid, without tax or fee, a permit or licence issued by the Special Representative to a member of UNAMIR for the carrying or use of firearms or ammunition in connection with the functioning of UNAMIR.

Military police, arrest and transfer of custody, and mutual assistance

40. The Special Representative shall take all appropriate measures to ensure the maintenance of discipline and good order among members of UNAMIR, as well as locally recruited personnel. To this end personnel designated by the Special Representative shall police the premises of UNAMIR and such areas where its members are deployed. Elsewhere such personnel shall be employed only subject to arrangements with the Government and in liaison with it in so far as such employment is necessary to maintain discipline and order among members of UNAMIR.

41. The military police of UNAMIR shall have the power of arresting over the military members of UNAMIR. Military personnel placed under arrest outside their own contingent areas shall be transferred to their contingent Commander [illegible] appropriate

disciplinary action. The personnel mentioned in paragraph 40 above may take into custody any other person on the premises of UNAMIR. Such other 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.

42. Subject to the provisions of paragraphs 24 and 26, officials of the Government may take into custody any member of UNAMIR:

(a) When so requested by the Special Representative; or

(b) When such a member of UNAMIR is apprehended in the commission or attempted commission of a criminal offence. Such person shall be delivered immediately, together with any weapons or other item seized, to the nearest appropriate representative of UNAMIR, whereafter the provisions of paragraph 47 shall apply mutatis mutandis.

43. When a person is taken into custody under paragraph 41 or paragraph 42 (b), UNAMIR or the Government, as the case may be, may make a preliminary interrogation but may not delay the transfer of custody. Following such transfer, the person concerned shall be made available upon request to the arresting authority for further interrogation.

44. UNAMIR and the Government shall assist each other in carrying out all necessary investigations into offenses in respect of which either or both have an interest, in the production of witnesses and in the collection and production of evidence, including the seizure of and, if appropriate, the handing over of items connected with an offence. The handing over of any such items may be made subject to their return within the terms specified by the authority delivering them. Each shall notify the other of the disposition of any case in the outcome of which the other may have an interest or in which there has been a transfer of custody under the provisions of paragraphs 41-43.

45. The Government shall ensure the prosecution of persons subject to its criminal jurisdiction who are accused of acts in relation to UNAMIR or its members which, if committed in relation to the forces of the Government, would have rendered such acts liable to prosecution.

Jurisdiction

46. All members of UNAMIR including locally recruited personnel shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue even after they cease to be members of or employed by UNAMIR and after the expiration of the other provisions of the present Agreement

47. Should the Government consider that any member of UNAMIR has committed a criminal offence, it shall promptly inform the Special Representative and present to him any evidence available to it. Subject to the provisions of paragraph 24:

(a) If the accused person is a member of the civilian component or a civilian member of the military component, the Special Representative shall conduct any necessary supplementary inquiry and then agree with the Government whether or not criminal proceedings should be instituted. Failing such agreement, the question shall be resolved as provided in paragraph 52 of the present Agreement.

(b) 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 offenses which may be committed by them in Rwanda.

48. If any civil proceeding is instituted against a member of UNAMIR before any court of Rwanda, the Special Representative shall be notified immediately, and he shall certify to the court whether or not the proceeding is related to the official duties of such member:

(a) If the Special Representative certifies that the proceeding is related to official duties, such proceeding shall be discontinued and the provisions of paragraph 50 of the present Agreement shall apply.

(b) If the Special Representative certifies that the proceeding is not related to official duties, the proceeding may continue. If the Special Representative certifies that a member of UNAMIR is unable because of official duties or authorized absence to protect his interests in the proceeding, the court shall at the defendant's request suspend the proceeding until the elimination of the disability, but for not more than ninety days. Property of a member of UNAMIR that is certified by the Special Representative to be needed by the defendant for the fulfilment of his official duties shall be free from seizure for the satisfaction of a judgement, decision or order. The personal liberty of a member of UNAMIR shall not be restricted in a civil proceeding, whether to enforce a judgement, decision or order, to compel an oath or for any other reason.

Deceased members

49. The Special Representative shall have the right to take charge of and dispose of the body of a member of UNAMIR who died in Rwanda, as well as that member's personal property located within Rwanda, in accordance with United Nations procedures

VII. SETTLEMENT OF DISPUTES

50. Except as provided in paragraph 52, any dispute or claim of a private law character to which UNAMIR or any member thereof is a party and over which the courts of Rwanda do not have jurisdiction because of any provision of the present Agreement, shall be settled by a standing claims commission to be established for that purpose. One member of the commission shall be appointed by the Secretary-General of the United Nations, one member by the Government and a chairman jointly by the Secretary-General and the Government. If no agreement as to the chairman is reached within thirty days of the appointment of the first member of the commission, the President of the International Court of Justice may, at the request of either the Secretary-General of the United Nations or the Government, appoint the chairman. Any vacancy on the commission shall be filled by the same method prescribed for the original appointment, provided that the thirty-day period there prescribed shall start as soon as there is a vacancy in the chairmanship. The commission shall determine its own procedures, provided that any two members shall constitute a quorum for all purposes (except for a period of thirty days after the creation of a vacancy) and all decisions shall require the approval of any two members. The awards of the commission shall be final and binding, unless the Secretary-General of the United Nations and the Government permit an appeal to a tribunal established in accordance with paragraph 52. The awards of the commission shall be notified to the parties and, if against a member of UNAMIR, the Special Representative or the Secretary-General of the United Nations shall use his best endeavours to ensure compliance.

51. Disputes concerning the terms of employment and conditions of service of locally recruited personnel shall be settled by the administrative procedures to be established by the Special Representative.

52. Any other dispute between UNAMIR and the Government, and any appeal that both of them agree to allow from the award of the claims commission established pursuant to paragraph 50 shall, unless otherwise agreed by the parties, be submitted to a tribunal of three arbitrators. The provisions relating to the establishment and procedures of the claims commission shall apply, mutatis mutandis, to the establishment and procedures of the tribunal. The decisions of the tribunal shall be final and binding on both parties.

53. All differences between the United Nations and the Government arising out of the interpretation or application of the present arrangements which involve a question of principle concerning the Convention shall be dealt with in accordance with the procedure of section 30 of the Convention

VIII. SUPPLEMENTAL ARRANGEMENTS

54. The Special Representative and the Government may conclude supplemental arrangements to the present Agreement.

IX. LIAISON

55. The Special Representative and the Government shall take appropriate measures to ensure close and reciprocal liaison at every appropriate level.

X. MISCELLANEOUS PROVISIONS

56. Wherever the present Agreement refers to the privileges, immunities and rights of UNAMIR and to the facilities provided to UNAMIR, the Government shall have the ultimate responsibility for the implementation and fulfilment of such privileges, immunities, rights and facilities by the appropriate local Rwandese authorities.

57. The present Agreement shall remain in force until the departure of the final element of UNAMIR from Rwanda except that:

(a) The provisions of paragraphs 46, 52 and 53 shall remain in force.

(b) The provisions of paragraph 50 shall remain in force until all claims have been settled that arose prior to the termination of the present Agreement and were submitted prior to or within three months of such termination.

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TOTAL NUMBER OF PAGES (INCLUDING COVER PAGE): _____

SUBJECT: English Copy of the Convention on P + I of the UN.

Message: As requested -

LEGAL. E/DIR

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

Adopted by the General Assembly of the United Nations on 13 February 1946

CONVENTION SUR LES PRIVILÈGES ET IMMUNITÉS DES NATIONS UNIES

Approuvée par l'Assemblée générale des Nations Unies le 13 février 1946

联合国特权和豁免公约

联合国大会于一九四六年二月十三日通过

КОНВЕНЦИЯ О ПРИВИЛЕГИЯХ И ИММУНИТЕТАХ ОБЪЕДИНЕННЫХ НАЦИЙ

Принята Генеральной Ассамблеей Организации Объединенных Наций 13 февраля 1946 года

CONVENCIÓN SOBRE LOS PRIVILEGIOS E INMUNIDADES DE LAS NACIONES UNIDAS

Aprobada por la Asamblea General de las Naciones Unidas el 13 de febrero de 1946

UNITED NATIONS
New York, 1974

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

Adopted by the General Assembly of the United Nations on 13 February 1946

Whereas Article 104 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes and

Whereas Article 105 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization;

Consequently the General Assembly by a Resolution adopted on the 13 February 1946, approved the following Convention and proposed it for accession by each Member of the United Nations.

Article I

JURIDICAL PERSONALITY

Section 1. The United Nations shall possess juridical personality. It shall have the capacity:

(*a*) to contract;

(*b*) to acquire and dispose of immovable and movable property;

(*c*) to institute legal proceedings.

Article II

PROPERTY, FUNDS AND ASSETS

Section 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Section 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 4. The archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

Section 5. Without being restricted by financial controls, regulations or moratoria of any kind,

(*a*) the United Nations may hold funds, gold or currency of any kind and operate accounts in any currency;

(*b*) the United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

Section 6. In exercising its rights under section 5 above, the United Nations shall pay due regard to any representations made by the Government of any Member insofar as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

Section 7. The United Nations, its assets, income and other property shall be:

(*a*) exempt from all direct taxes; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(*b*) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country;

(*c*) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

Section 8. While the United Nations will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article III

Facilities in respect of communications

Section 9. The United Nations shall enjoy in the territory of each Member for its official communications treatment not less favourable than that accorded by the Government of that Member to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

Section 10. The United Nations shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Article IV

The representatives of Members

Section 11. Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(*a*) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;

(*b*) inviolability for all papers and documents;

(*c*) the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(*d*) exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations in the state they are visiting or through which they are passing in the exercise of their functions;

(*e*) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(*f*) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys, and also

(*g*) such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

Section 12. In order to secure, for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members.

Section 13. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in a state for the discharge of their duties shall not be considered as periods of residence.

Section 14. Privileges and immunities are accorded to the representatives of Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of the Member the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

Section 15. The provisions of sections 11, 12 and 13 are not applicable as between a representative and the authorities of the State of which he is a national or of which he is or has been the representative.

Section 16. In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

Article V

Officials

Section 17. The Secretary-General will specify the categories of officials to which the provisions of this article and article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members.

Section 18. Officials of the United Nations shall:

(*a*) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(*b*) be exempt from taxation on the salaries and emoluments paid to them by the United Nations;

(*c*) be immune from national service obligations;

(*d*) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(*e*) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;

(*f*) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;

(*g*) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

Section 19. In addition to the immunities and privileges specified in section 18, the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

Section 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

Section 21. The United Nations shall cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this article.

Article VI

Experts on missions for the United Nations

Section 22. Experts (other than officials coming within the scope of article V) performing missions for the United Nations shall

be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

(*a*) immunity from personal arrest or detention and from seizure of their personal baggage;

(*b*) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations;

(*c*) inviolability for all papers and documents;

(*d*) for the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(*e*) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(*f*) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

Section 23. Privileges and immunities are granted to experts in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations.

Article VII

UNITED NATIONS LAISSEZ-PASSER

Section 24. The United Nations may issue United Nations laissez-passer to its officials. These laissez-passer shall be recognized and accepted as valid travel documents by the authorities of Members, taking into account the provisions of section 25.

Section 25. Applications for visas (where required) from the holders of United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

Section 26. Similar facilities to those specified in section 25 shall be accorded to experts and other persons who, though not the holders of United Nations laissez-passer, have a certificate that they are travelling on the business of the United Nations.

Section 27. The Secretary-General, Assistant Secretaries-General and Directors travelling on United Nations laissez-passer on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

Section 28. The provisions of this article may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.

Article VIII

SETTLEMENT OF DISPUTES

Section 29. The United Nations shall make provisions for appropriate modes of settlement of:

(*a*) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party;

(*b*) disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

Section 30. All differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between the United Nations on the one hand and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court. The opinion given by the Court shall be accepted as decisive by the parties.

Final article

Section 31. This convention is submitted to every Member of the United Nations for accession.

Section 32. Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations and the Convention shall come into force as regards each Member on the date of deposit of each instrument of accession.

Section 33. The Secretary-General shall inform all Members of the United Nations of the deposit of each accession.

Section 34. It is understood that, when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this Convention.

Section 35. This Convention shall continue in force as between the United Nations and every Member which has deposited an instrument of accession for so long as that Member remains a Member of the United Nations, or until a revised general convention has been approved by the General Assembly and that Member has become a party to this revised convention.

Section 36. The Secretary-General may conclude with any Member or Members supplementary agreements adjusting the provisions of this Convention so far as that Member or those Members are concerned. These supplementary agreements shall in each case be subject to the approval of the General Assembly.