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REPUBLICQUE RWANDAISE
MINISTRE DE L'INTERIEUR ET
DU DEVELOPPEMENT COMMUNAL
B.P. 446 KIGALI.

RECEIVED

- 3 OCT 1995

OFFICE OF THE SRS
UNAMIR

Kigali, le 27 SEP. 1995

MP 1675/05 09 01 14

Monsieur le Ministre des Affaires
Etrangères et de la Coopération
KIGALI.

Monsieur le Ministre,

ED/cp
3.10
J'ai le regret de vous faire
parvenir mon indignation au sujet des retards lors des demandes
de visa de séjour gratuits en faveur des membres des organismes
internationaux et spécialement ceux de la Mission des Nations-
Unies pour l'Assistance au RWANDA (MINUAR) dont la liste est en
annexe.

Etant donné qu'ils bénéficient des
visas gratuits, les intéressés devront désormais déposer leurs
demandes au Ministère de l'Intérieur au plus tard une semaine
avant l'expiration du visa sous peine d'amende conformément à la
loi.

Veuillez agréer, Monsieur le
Ministre, l'expression de ma franche collaboration.

Alexis Kanyarengwe
Colonel Alexis KANYARENGWE
Vice-Ministre et Ministre de
l'Intérieur et du Développement
Communal

COPIE POUR INFORMATION à:

✓ Représentant spécial des Nations
Unies au RWANDA.



Mr NCUBE

Ms Rafu

3.10.95

WS

Reçu le - 3 OCT. 1995

Copy to Amb. KHAN

**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 1995 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 purpose 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 237 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 components 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 privilege 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 defined in section fourteen of this Agreement~~
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 ~~provisions and spirit of the present arrangements. UNAMIR and its members shall respect all local laws and regulations as stipulated in article 46 of this Agreement.~~ The special Representative shall take all appropriate measures to ensure the observance of those obligations.
6. The Government ^[com. H.R.] ~~shall 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 military personnel of UNAMIR in accordance with 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 recognises the right of UNAMIR to ^{omission} display within Rwanda the United Nations flag on its headquarters and camps. The vehicles of the Special Representative and Force Commander may carry flags. *
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 the Convention, after Government approval, and ~~in conformity with national law on registration of communication equipment~~
 - (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 conventions and regulations and the frequencies on which any such station may be operated shall be decided upon by the Government in co-operation with UNAMIR 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, telephones and masts will be charged in accordance with existing national rates.

- (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 the 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 ~~in exercise of its mandate. That freedom of movement of personnel, stores, and vehicles through airports or on railways or roads used for general traffic within~~ Rwanda shall be co-ordinated by the Government of Rwanda.

[Omission]

13. ~~All UNAMIR vehicles shall be registered in accordance with national law governing registration of vehicles provided that all such vehicles shall carry Third Party Insurance requested by relevant national legislation.~~

[Omission part 14]

PRIVILEGES AND IMMUNITIES OF UNAMIR

14. 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 provisions of articles II of the convention which apply 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 recognises the right of UNAMIR in particular:

- a) To import, free of duty or other restriction, 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 ~~provided that UNAMIR members shall only enjoy duty free benefits similar to the benefits accorded to members or staff of diplomatic missions accredited to RWANDA of equal rank or status.~~
- 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 of such goods to persons other than members of UNAMIR and shall give consideration to observations or requests of the government concerning the operation of commissaries;

- c) To clear ex customs and excise warehouse, free of duty or other restrictions, equipment, 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, clearance, 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

15. The Government of Rwanda shall, to the extent possible, assist UNAMIR in locating such areas for headquarters, camps or other premises as may be necessary for the conduct of the operational and administrative activities of UNAMIR. Payment shall be made by UNAMIR on terms to be agreed with the competent authority. 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. UNAMIR shall be responsible for the maintenance and upkeep of such areas so provided. [Omission]
16. 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 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 appropriate authority. UNAMIR shall be responsible for the maintenance and upkeep of the facilities so provided.
17. UNAMIR shall have right, where necessary, to generate, within its premises, electricity for its use and to transmit and distribute such electricity.
18. 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

19. UNAMIR may recruit locally such personnel as it requires. ~~20. UNAMIR shall conform to the existing national monetary laws and exchange mechanism and conduct its commercial operations through the banking system.~~
20. UNAMIR shall conform to the existing national monetary laws and exchange mechanism and conduct its commercial operations through the banking system.

VI. STATUS OF THE MEMBERS OF UNAMIR.

PRIVILEGES AND IMMUNITIES.

21. The Special Representative, the Force Commander of the military component of UNAMIR 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.
22. 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.
23. ~~Other~~ 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 articles VI of the convention.
24. 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.
25. 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.
26. Members of UNAMIR shall be exempted 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 however not be exempt from municipal rates for services enjoyed and from all registration fees and charges.~~
27. 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 interest of the Government and the members of UNAMIR.

28. 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

29. ~~Subject to the express consent of the Government,~~ the Special Representative and members of UNAMIR shall have the right to enter into, reside in and depart from Rwanda. *_{omission}
30. 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. *
31. ~~For the purpose of such entry or departure, members of UNAMIR shall be required to have valid passports and individual or collective movement orders issued by or under the authority of a participating state.~~

IDENTIFICATION.

32. 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. [omission]
33. Members of UNAMIR as well as locally recruited personnel may be required to present, but not to surrender, their UNAMIR identity cards upon demand by an appropriate official of the Government.

UNIFORM AND ARMS.

Military members and 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 designated by the Special Representative may possess and carry arms while on duty in accordance with their orders.~~

PERMITS AND LICENCES.

35. 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.

36. Without prejudice to the provisions of paragraph 34, 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 OR CUSTODY AND MUTUAL ASSISTANCE.

37. 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 other areas where its members are deployed. Elsewhere, such personnel shall be employed only subject to arrangements with the Government and liaison with it in so far as such employment is necessary to maintain discipline and order among the members of **UNAMIR**.
38. The Military police of **UNAMIR** shall have the power of arrest over the military members of **UNAMIR**. Military personnel placed under arrest outside their own contingent areas shall be transferred to their contingent command for appropriate disciplinary action. The personnel mentioned in paragraph 37 above may apprehend 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.
39. Subject to the provisions of paragraph 21 and 23, 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 43 shall apply mutatis mutandis.
40. When a person is taken into custody under paragraph 38 or paragraph 39 (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.
41. **UNAMIR** and the Government shall assist each other in carrying out all necessary investigations into offences 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 ~~may be made subject to their return within the terms specified by the authority delivering them.~~ Each party 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 38-40.

42. 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.

43. 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 240.

(a) If the accused person is a member of the civilian 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 48 of this 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 offences which may be committed by them in Rwanda.

(c) In either case, the Government reserves the right to deport any member of UNAMIR, civilian or military, for trial in his home country.

44. (a) Civil proceedings may be instituted against a member of UNAMIR for non-official acts. Whether an act should be considered official or not will be determined by a Rwandan court of competent jurisdiction.

(b) If the Special Representative certifies that a member of UNAMIR is unable because of official duties or authorised absence to protect his interests in the proceedings, the court shall, at the defendant's request, suspend the proceeding until the elimination of the disability, but for not more than ninety days in any event.

Deceased members

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

VIII. SETTLEMENT OF DISPUTES

46. Except as provided in paragraph 48, 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 48. 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.

47. Dispute concerning the terms of employment and conditions of service of locally recruited personnel shall be settled by administrative procedures to be established by the Special Representative.
48. 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 46 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 procedures of the tribunal. The decisions of the tribunal shall be final and binding on both parties.
49. All difference 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

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

IX LIAISON

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

X. MISCELLANEOUS PROVISIONS

52. Wherever the present Agreement refers to the privileges, immunities and rights of UNAMIR and to the facilities provided to UNAMIR, the Government shall ~~whenever possible~~ have the ultimate responsibility for the implementation and fulfilment of such privileges, immunities, rights and facilities by the appropriate local Rwandese authorities.
53. The present Agreement shall remain in force ~~until the current mandate of UNAMIR expires or such other date as the Government and the United Nations may mutually agree.~~
- (a) ~~The provisions of paragraph 48 and 49 shall remain in force.~~
- (b) The provisions of paragraph 46 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.
54. ~~UNAMIR shall give a full list of all its members and their~~ ^{designation} work ~~to the Government.~~



**MODIFICATIONS TO THE STATUS OF MISSION AGREEMENT (SOMA)
PROPOSED BY THE RWANDESE GOVERNMENT**

1. The following is a compilation of the modifications sought by the Rwandese Government to the provisions of 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 (UNAMIR). (References to paragraphs are to the original, not modified, text of the SOMA).

I. DEFINITIONS

2. There are no substantive changes proposed for this section of the Agreement.

II. APPLICATION OF THE PRESENT AGREEMENT

3. No modifications have been sought with regard to this paragraph.

III. APPLICATION OF THE CONVENTION

4. The Government has restricted the scope of UNAMIR's privileges and immunities specified in the Agreement by omitting the provision extending the scope of the Agreement to include the privileges and immunities described in the 1946 Convention on the Privileges and Immunities of the United Nations. It does, however, recognise the application of article II of the Convention to members of UNAMIR, as well as to the property, funds and assets of UNAMIR and its participating States. (paragraphs 3 and 4)

IV. STATUS OF UNAMIR

5. The Government proposes that "UNAMIR and its members shall refrain from any action or activity incompatible...or inconsistent with the provisions and (added) spirit of the present arrangements." (paragraph 5)

6. The Government has omitted its obligation to "respect the exclusively international nature of UNAMIR." (paragraph 6)

7. The Government undertakes "to treat (but not "at all times") military personnel of UNAMIR in accordance with (not "with full respect for") the principles and spirit of the general international conventions applicable to the treatment of military personnel." (paragraph 7 (b))

United Nations flag and vehicle markings

8. The Government only recognises the right of UNAMIR to display within Rwanda the United Nations flag on its headquarters and camps, not on "other premises, vehicles, vessels and otherwise as decided by the Special Representative." It only specifies that "[t]he vehicles of the Special Representative and Force Commander may carry flags" and omits the provision "[o]ther flags or pennants may be displayed only in exceptional cases." (paragraph 8)

Communications

9. Although the Government acknowledges the applicability of article III of the Convention with regard to communications facilities, nevertheless it significantly modifies UNAMIR's communications privileges by inserting the phrase **"after Government approval and [in] conformity with national laws on registration of communications equipment"** before describing the communications facilities UNAMIR may enjoy on Rwandese territory. With regard to telecommunications services, although the Agreement states that the frequencies for such stations "shall be decided upon in co-operation with the Government", the Government's proposed text states that they "shall be decided upon **by the Government in co-operation with UNAMIR**". (paragraph 10 (a))

10. Under the existing Agreement, "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 telegraph, telex and telephones will be charged at the most favourable rate". The Government proposes the following to replace the above: "connections with the local system of telegraphs, telex, telephones **and masts will be charged in accordance with existing national tariffs**." (paragraph 10 (b))

Travel and transport

11. Freedom of movement throughout the territory to UNAMIR and its members is only granted **"in exercise of its mandate"**. Furthermore, the Government states that "freedom of movement of personnel, stores or vehicles through airports or on railways or roads used for general traffic within Rwanda shall be co-ordinated by the Government of Rwanda." Whereas the Agreement specifies "[t]hat freedom shall, **with respect to large movements of personnel, stores or vehicles...be co-ordinated with the Government**." Also, the Government no longer agrees "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." (paragraph 12)

12. The current Agreement specifies that "[v]ehicles, 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." However, the Government now proposes that "[a]ll UNAMIR vehicles shall be registered in accordance with national law governing registration of vehicles provided that all such vehicles shall carry Third Party Insurance requested by relevant national legislation." (paragraph 13)

13. The Government has eliminated the following provision of the Agreement: "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." (paragraph 14)

Privileges and immunities of UNAMIR

14. UNAMIR's right to "import, free of duty or other restriction, equipment, provisions, supplies and other goods which are for the exclusive and official use of UNAMIR or for resale in commissaries provided for hereinafter" is now qualified by the following: **"provided that UNAMIR members shall only enjoy duty free benefits similar to the benefits accorded to members or staff of diplomatic missions accredited to Rwanda of equal rank or status."** (subparagraph 15 (a))

15. In the paragraph requiring the SRSG to "take all necessary measures to prevent abuse of...commissaries and the sale or resale of such goods to persons other than UNAMIR," the Government omits the reference to "or resale". It also deletes "sympathetic" from "and he shall give sympathetic consideration to observations or requests of the Government concerning the operation of the commissaries". (subparagraph 15 (b))

16. The word "provisions" is deleted from subparagraph 15 (c).

V. FACILITIES FOR UNAMIR

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

17. Instead of agreeing to "provide" UNAMIR, to the extent possible, premises necessary for "the operational and administrative activities of UNAMIR and for the accommodation of the members of UNAMIR", the Government now proposes only to "assist" UNAMIR. Additionally, it now requires: **"Payment shall be made by UNAMIR on terms to be agreed with the competent authority."** They also add that **"UNAMIR shall be responsible for the maintenance and upkeep of such areas so provided."** The Government has eliminated the following provision: "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." (paragraph 16)

18. Payment by UNAMIR for water, electricity and other necessary facilities to the "competent" authority has been replaced with "appropriate" authority. (paragraph 17)

19. The Government has omitted the following important paragraph:

The United Nations alone may consent to the entry of any government officials or of any other person not [a] member of UNAMIR to such premises. (paragraph 19)

Provisions, supplies and services, and sanitary arrangements

20. Also omitted is the following provision:

The Government agrees 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. (paragraph 20)

Recruitment of local personnel

21. Although UNAMIR is still allowed to recruit locally such personnel as it requires, the Government has eliminated the following text: "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." (paragraph 22)

Currency

22. The following has been omitted by the Government:

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.

23. Instead, the Government has inserted the following provision: **"UNAMIR shall conform to the existing national monetary laws and exchange mechanism and conduct its commercial operations through the banking system."**

VI. STATUS OF THE MEMBERS OF UNAMIR

Privileges and immunities

24. The Police Commissioner of the United Nations civilian police is not entitled to diplomatic immunity according to the Government's proposed modifications. (paragraph 24)

25. Members of UNAMIR are still entitled to exemption from "taxation on the pay and emoluments received from the United Nations or from a participating State and any income received from outside Rwanda." However, as proposed by the Government, they are no longer "exempt from all other direct taxes, except municipal rates for services enjoyed, and from all registration fees and charges." According to the Government, members of UNAMIR shall **"not be exempt from municipal rates for services enjoyed and from all registration fees and charges."** (paragraph 29)

Entry, residence and departure

26. Under the existing Agreement:

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. (paragraph 32)

However, the Government now proposes:

Subject to the express consent of the Government, the Special Representative and members of UNAMIR shall have the right to enter into, reside in and depart from Rwanda.

27. Although 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", it has eliminated the following:

For that purpose, the Special Representative and members of UNAMIR shall be exempt from passport and visa regulations and immigration inspection and restriction on entering into or departing from Rwanda. They shall also be exempt from any regulations governing the resident of aliens in Rwanda, including registration, but shall not be considered as acquiring any right to permanent residence or domicile in Rwanda. (paragraph 33)

28. The Government has significantly modified the following provision of the Agreement:

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. (paragraph 34)

The following has been substituted for the above: **"For the purpose of such entry and departure, members of UNAMIR shall be required to have valid passports and individual or collective movement orders issued by or under the authority of a participating state."**

Identification

29. With respect to UNAMIR identity cards, the Government has omitted the following:

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.
(paragraph 35)

Also, the word "shall" has been replaced by "may" in "[m]embers 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." (paragraph 36)

Uniform and arms

30. The following provision has been deleted by the Government:

United Nations Security Officers and Field Service Officers may wear the United Nations uniform. The wearing of civilian dress by [members of UNAMIR's military contingent and civilian police component] 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. (paragraph 37)

Instead, the Government only specifies that "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

31. There are no substantive changes under this heading.

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

32. Under the existing Agreement, "personnel [designated by the Special Representative] may take into custody any other person on the premises of UNAMIR." (paragraph 41) However, the Government has modified the text to read "personnel [designated by the Special Representative] may apprehend any other person on the premises of UNAMIR."

33. Under paragraph 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...and, if appropriate, the handing over of items connected with an offence." In the text proposed by the Government, the phrase "connected with an offence" has been omitted.

Jurisdiction

34. One of the most crucial modifications to the Agreement made by the Government is the deletion of the following paragraph regarding immunity from legal process:

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.
(paragraph 46)

35. With regard to the procedures to be followed should a member of UNAMIR commit a criminal offense, under the present Agreement, "a member of the civilian component or a civilian member of the military component" is treated under a separate category. The Government has, however, eliminated the phrase "or a civilian member of the military component". (subparagraph 46 (a))

36. The Government has added the following provision: **"In either case, the Government reserves the right to deport any member of UNAMIR, civilian or military, for trial in his home country."**

37. Applicable sections of the Agreement dealing with the institution of civil proceedings against members of UNAMIR have been considerably modified. The following important addition has been made by the Government: **"Civil proceedings may be instituted against a member of UNAMIR for non-official acts. Whether an act should be considered official or not will be determined by a Rwandan court of competent jurisdiction."**

38. The following sections of the Agreement under paragraph 48 have been deleted:

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...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

39. No changes have been made to this section.

VII. SETTLEMENT OF DISPUTES

40. No modifications made.

VIII. SUPPLEMENTAL ARRANGEMENTS

41. Original text maintained.

IX. LIAISON

42. Paragraph remains unchanged.

X. MISCELLANEOUS PROVISIONS

43. Under paragraph 56, the Government has qualified its responsibilities by adding "whenever possible" to the following text: "the Government shall, **whenever possible**, have the ultimate responsibility for the implementation and fulfilment of such privileges, immunities, rights and facilities by the appropriate local Rwandese authorities."

44. They have also made the following significant change to paragraph 57: under the existing Agreement "[t]he present Agreement shall remain in force until the departure of the final element of UNAMIR from Rwanda except that..." The Government now proposes the following: "The present Agreement shall remain in force until the current mandate of UNAMIR expires or such other date as the Government and the United Nations may mutually agree."

45. As a final addition, the Government seeks the following: "UNAMIR shall give a full list of all its members and their work to the Government."



Ladan M. Rafii
Political/Legal Officer
27 September 1995

cc: SRSG, FC, ED, CAO

INTEROFFICE MEMORANDUM

TO: Mr. Chaim Ouziel
Chief Administrative Officer

FROM: Ladan M. Rafii
Political/Legal Officer

DATE: 29 August 1995

SUBJECT: Payment of Customs Penalty for UNAMIR Containers

1. I am writing in response to your recent inquiry as to whether, under the terms of the Status of Mission Agreement (SOMA), UNAMIR should pay a penalty of 120,000 RWF required by the Rwandese Department of Customs for the wrongly manifested containers imported into Rwanda by UNAMIR's Indian contingent.

2. Firstly, I would like to bring to your attention the fact that under Article II of the Convention on the Privileges and Immunities of the United Nations: "The United Nations...shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity." Under paragraph 4 of the SOMA, this article has been incorporated and made applicable to UNAMIR, and it has also been extended to "also apply to the property, funds and assets of participating States used in connection with UNAMIR."

3. The three "procès-verbaux" issued by the Department of Customs would be considered a form of legal process from which the United Nations, including UNAMIR, is immune and, therefore, the customs penalty would not be applicable. However, even if a decision is made to waive immunity in this case, I would advise that UNAMIR should not be held liable because it does not bear responsibility for the misdeclared goods.

4. Based upon information I have obtained, the party liable for misrepresenting the contents of the containers holding small arms ammunition, vehicle spare parts and military matériel (under subparagraph 2 (a) of S. Smith's memo dated 24 August 1995) is the Indian High Command based in Bombay which received poor advice from an officer in the Port Authority of Bombay.

5. Apparently, the party responsible for misidentifying the other containers (under subparagraphs 2 (b) and (c) of the same memo) is Ocean Consult, the subcontractor hired by Global Containers, Ltd., the shipping company for the Indian contingent.

6. Therefore, I would advise against payment of the amount due by UNAMIR.

7. I hope the above will be of assistance to you.

cc: ED

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA



UNAMIR - MINUAR

*For your review and
advise if this penalty
should be paid by us, in
terms of the SOMA.*

DATE: 24 August 1995 *26/8/95*
REF: FCU/CUS/9

cc: Mr Numbé

TO: Paul Mc Neil
Chief Finance Officer

THROUGH: Kel Gleeson
Chief MOVCON

FROM: Serge P. Smith
Chief FCU
MOVCON

SUBJECT: CUSTOMS PENALTY - INDIAN CONTAINERS

1. Please find enclosed statements received from the Department of Customs in the Ministry of Finance relating to six of the ten containers belonging to the Indian Signal Company.
2. All the six containers were found to hold items which were not reflected in the corresponding "Road Transit Customs Declaration"
 - a. Containers no. TPUH8183325 & 8089670 were manifested to hold Medicines and they were holding small arms ammunitions, vehicle spare parts and military material.
 - b. Containers no. TPUH637615-4 & GCIU2302595 were manifested to hold typewriters and they were holding vehicle spare parts.
 - c. Containers no. GCIU201241-8 & GCIU230078-0 were manifested to hold kitchen utensil and they were holding vehicle spare parts and generators.
3. The Government is therefore charging UNAMIR 20,000 RWF per container to make total of 120,000 RWF (381 US\$) for that wrong declaration which is imputed to the Indian Signal Company.
4. Please authorize the payment to "Direction des Douanes" for the sum of 120,000 RWF to cover this customs penalty and further avoid bad relationship for the future.

CC
CAO
CISS
FSO



Office of the Spokesman

PRESS RELEASE

UNAMIR NR 95-36

8 July 1995

CLARIFICATION ON UNAMIR CONTAINERS FROM BOMBAY

KIGALI, RWANDA - Ten containers of UNAMIR were shipped on 18 April 1995 from Bombay to Dar-es-Salaam enroute to Kigali. These containers contained ammunition, administrative and technical stores for use by the Force Signal Company, the military contingent from India. The stores arrived at Dar-es-Salaam port on 02 May 1995. After due processing at Dar-es-Salaam, the containers were moved by Messrs Global Containers to Kigali by road on 16 May 1995 in five trucks.

One of the ten containers had two boxes of small ammunitions (7.62 mm BDR and 9 mm ball) weighing approximately 2 tons. This ammunition was required by the Signal Company for self-protection purposes during the discharge of their duties in UNAMIR. The ammunition was mentioned by mistake in the manifest at Bombay as Small Arms Accessories and not as ammunition. The Civilian Administrative Officer of UNAMIR has already clarified this matter in a letter to national authorities in Rwanda.

It is stressed that there were no weapons carried by any of the ten containers. The containers have been thoroughly examined by Rwanda authorities and these facts ascertained. Any other information to the contrary pertaining to this matter is ill-founded and not based on facts.

For more information, please contact the Office of the Spokesman in Kigali: phone: 84266 ext.: # 11075 or 11124 or 11066.

L. R. 01/11
05/10/95

**UNAMIR FORCE HQ
OUTGOING FACSIMILE**

ORIGINATING FAX NO: 5624 MR-2834 DATE: 07 AUG 95

TO: ANNAN, UNITED NATIONS, NEW YORK	FROM: SHAHARYAR KHAN SRSG UNAMIR, KIGALI RWANDA
INFO: SITUATION CENTRE, NEW YORK	
FAX: 001-212-963-9060	FAX: 1-121-963-3090
REFERENCE:	
SUBJECT: NOTICAS	
NUMBER OF PAGES INCLUDING THIS ONE: TWO	

1. FURTHER TO OUR SITREP AND INCREP FOLLOWING INFO PROVIDED AS REQUESTED:

- A. M8609, PTE AMONI CHIMALIRO WAS SHOT ON THE RIGHT LEG NO BONE DAMAGE, MINOR FLESH WOUND ONLY.
- B. M8631, PTE CHIDOTHI WAS SHOT IN THE RIGHT ARM, MINOR FLESH WOUND.

2. DETAILS OF NEXT OF KIN.

- A. M8609 PTE AMON CHIMALIRO:

NOK: NGWIRA MODEL (MOTHER)
KACHELENJE LGA SCHOOL
BOX 537
SALIMA
MALAWI

- B. M8631 PTE CHIDOTHI RABSON

NOK: CHRISTOPHER CHIDOTHI
NJESE FP SCHOOL
BOX 1
LILONGWE
MALAWI

3. ABOUT 1330 HRS MALAWI S/SGT WAS DRIVING A UNAMIR LANDROVER (ON AN UNAUTHORIZED TRIP) IN TOWN WITH SOLDIERS IN CIVILIAN ATTIRE AS PASSENGERS WHEN HE VIOLATED ROAD TRAFFIC REGULATIONS. THE GENDAMARIES WERE IN THE VICINITY AND AFTER STOPPING HIM THEY APPROACHED HIM DEMANDING TO TAKE HIM TO THEIR BRIGADE HQ TOGETHER WITH HIS VEHICLE. HE REFUSED TO DO SO. DURING THE COURSE OF DISCUSSIONS A MALAWI OFFICER CAME AT THE SCENE. AS THE OFFICER STARTED NEGOTIATING WITH THE GENDAMARIES THE S/SGT'S VEHICLE FLED THE SCENE WITH ABOUT 8 PERSONS ON BOARD AND WITH THE GENDAMARIES

SRSG

UNAMIR
7 10 53

IN PURSUIT FOLLOWED BY THREE RPA VEHICLES. AFTER ABOUT SIX KILOMETRES FROM KAMEMBE TOWN THE RPA VEHICLE TRIED TO OVERTAKE AND BLOCK THE ROAD WHICH THE S/SGT AVERTED. LATER ON HE STOPPED AFTER BEING PRESSURISED BY PASSENGERS ON BOARD. DURING A BRIEF DISCUSSION AND OR SCUFFLE (UNCONFIRMED, SINCE STATEMENTS VARY) THE RPA OFFICER AND ONE OF HIS SOLDIERS STARTED FIRING INJURING THE TWO MALAWI SOLDIERS. ONE WAS SHOT ON THE LEFT LEG AND THE OTHER ON LEFT ARM. BOTH CASUALTIES WERE REFERRED TO GIHUNDWE HOSPITAL AND ADMITTED. THEY HAVE SINCE BEEN TRANSFERRED TO THE UNAMIR HOSPITAL AT AUSMED FOR OBSERVATION. THE DRIVER FLED THE SCENE WITHOUT INJURIES. OUR TROOPS WERE UNARMED EXCEPT FOR ONE GUARD. WHEN THE MALAWI OFFR ARRIVED AT THE SCENE, HE AND 7 OTHER PASSENGERS INCLUDING THE TWO CASUALTIES, WERE TAKEN TO GENDAMARIE STATION AND WERE KEPT IN CUSTODY. THEY WERE RELEASED AT 1805 HRS.

P2/2
MIR2834



NOTE VERBALE

SRSG/NV/148/95

La Mission des Nations Unies pour l'Assistance au Rwanda (MINUAR) présente ses compliments au Ministère des Affaires Etrangères et de la Coopération Internationale de la République Rwandaise, et a l'honneur de se référer à la lettre ci-jointe reçue de Madame le Préfet de la Préfecture de la ville de Kigali invitant les étrangers résidant dans la Préfecture à venir se faire enregistrer.

A cet egard, la MINUAR, pour ce qui la concerne, prie le Ministère de bien vouloir attirer l'aimable attention des autorités compétentes de la Préfecture sur les dispositions pertinentes de "l'Accord entre l'Organisation des Nations Unies et le Gouvernement de la République Rwandaise sur le Statut de la Mission des Nations Unies pour l'Assistance au Rwanda," notamment son paragraphe 33 lequel stipule entre autres que:

"Le Gouvernement s'engage à faciliter l'entrée au Rwanda du Représentant spécial et des membres de la MINUAR, ainsi que leur sorties, et est tenu au courant de ces mouvements. A cette fin, le Représentant spécial et les membres de la Mission...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."

Il ressort de ce qui précède que la requête de Madame le Préfet de Kigali ne s'applique pas au personnel international, civil et militaire, de la MINUAR.

La Mission des Nations Unies pour l'Assistance au Rwanda remercie le Ministère des Affaires Etrangères et de la Coopération Internationale de la République Rwandaise de son obligeance accoutumée et saisit cette occasion pour lui renouveler les assurances de sa très haute considération.



Kigali, le 4 août 1995

Ministère des Affaires Etrangères
et de la Coopération Internationale
de la République Rwandaise
KIGALI

A Monsieur (Madame) le Coordinateur (trice)
de..MIHUR.....

Monsieur, Madame,

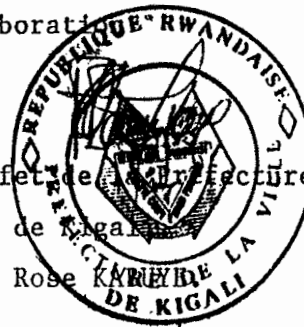
Depuis le début du mois de Mars 1995, il a été lancée plus d'un communiqué appelant tous les étrangers résident dans la Préfecture de Kigali, à venir se faire enregistrer.

Or nous avons constaté que votre Organisme n'as pas réagi à travers ses Agents à cet appel.

Sur ce, nous vous prions de répondre à cet appel dans les délais ne dépassant pas un mois à partir de la date d'émission de la présente.

Franche collaborati

Le Préfet de la Préfecture de la
ville de Kigali
Major Rose KANYE



[REDACTED] / ED

This should be
reviewed in relation
to the SOMA.

On

A Monsieur (Madame) le Coordinateur (trice) 2/2.
de... MINUAR.....

①

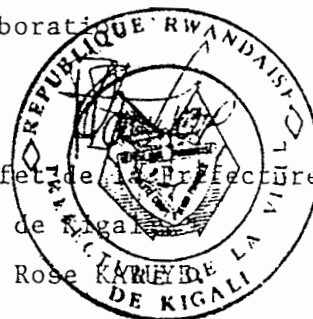
Monsieur, Madame,

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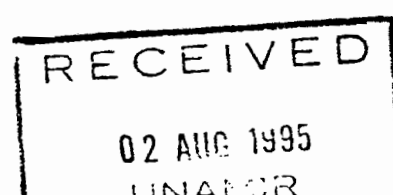
Franche collaborati



Le Préfet de la Préfecture de la
ville de Kigali
Major Rose KAREKE

② LD
Est-ce que nous
avons une action à
prendre ici ?

[Signature]
4 Aug 95



	ISSUE	STATUS OF ISSUE	PROPOSAL/SOLUTION
	ACCOMMODATION/PREMISES		
1	AUSMED and INDBATT presence at the Military Academy	Despite an agreement giving UNAMIR permission to use the facility until the end of August 1995, in exchange for UNAMIR repairing the facilities, the government has asked that INDBATT personnel move therefrom. In addition, on 18 April 1995 the government gave AUSMED 15 days to vacate the premises.	The government makes decisions such as these without consulting UNAMIR. Talks should be undertaken at the highest level to resolve the situation so that the agreement is respected and UNAMIR retains occupancy until the end of August 1995, for AUSMED. UNAMIR administration has negotiated for new premises for INDBATT.
2	URUGWIRO Village	UNAMIR and the ORTPN entered into an agreement for the use of the village. Despite this agreement, we have been denied access to the village and told that the contract is null and void. This is a serious breach of contract.	Parties to the agreement should reinitiate the handover/takeover proceedings; or the government indicate why the agreement has been breached and what it proposes as alternative facilities. Should this be unsuccessful, UNAMIR may wish to simply take note of the issue and look for alternative facilities.
3	Payment of rent to the government for facilities occupied by UNAMIR	The government has demanded payment for all buildings that it says are owned by PNGs.	Should the government produce official documentation (eg. Parliamentary Legislation or Cabinet decision) nationalizing property of PNGs, who should be identified, we could pay the government. Otherwise UNAMIR would pay into an escrow account.
4	UNAMIR Prefabricated Village	3 Sites have been identified: Between HQ and the Stadium; Between Stadium and 500 man camp; Across the street from HQ.	The sites should be presented to the government while explaining that the village will free up facilities for government use and then potentially be left behind for the government when the mission ends.

	ISSUE	STATUS OF ISSUE	PROPOSAL/SOLUTION
	CONTRACTOR/CUSTOMS		
1	Communications facilities at Traffipro	The government is holding comms equipment at the airport resulting in a major impact on the operational capability of UNAMIR and limiting the amount of UNAMIR personnel which should move to Traffipro. In addition we run the risk of a breakdown in communication, which could have an adverse effect on the security of UNAMIR personnel.	CCO has completed all the necessary documents for customs clearance. The Minister of Finance and the Director of Customs should allow clearance without further delay.
	Economat vehicles	2 vehicles belonging to our food/rations supplier have been impounded by the Government. UNAMIR is providing replacements to the contractor. UNAMIR contractors are here solely to provide goods and services to UNAMIR personnel.	High level intervention would be required to explain to the Rwandese authorities that imposing customs duties on vehicles used solely for UNAMIR operations would be unreasonable and in violation of the SOMA, and tantamount to taxing the UN, as the UN has to reimburse these charges to the contractor. Common practice in all missions is to allow entry (temporary import) without taxes on the understanding that the vehicle will be reexported once the contract with the UN is terminated.
3	Custom clearances of Contractor goods	All incoming contractor-supplied goods are being held up by customs, despite the fact that they are consigned to UNAMIR. Containers from MGT CSL, held since March 16 1995 were released only on 20 April 1995.	All goods being brought in by UNAMIR contractors should be considered UNAMIR property and passed through the customs process with the minimum amount of delay as stated in the SOMA, once all necessary documentation is provided to the appropriate authorities.

	ISSUE	STATUS OF ISSUE	PROPOSAL/SOLUTION
	GRANTING OF LICENSE FOR UNAMIR CONTRACTED SATELLITE EQUIPMENT		
1	BRSC Earth Station communications shut down following a letter received from Rwandatel at 15:30 hours on 14 April 95.	<ul style="list-style-type: none"> - Satellite has been put in the <i>park position</i> (inoperative) at 2000 hours on 14 April 95 as requested by the SRSG. - The rental cost of the satellite to UNAMIR is \$338,898/ 3 months or approximately \$4000/day. -Non-communication by BRSC with suppliers worldwide through their homebase affects UNAMIR's operations and increases its costs. 	<ul style="list-style-type: none"> -The installation is paid for by UNAMIR with BRSC being a mere contractor. UNAMIR will obtain the license and the cooperation of Rwandatel would be highly appreciated. -In this case, the proper procedure was not followed. BRSC and its subcontractor IDB sought authorization only after having set up the equipment. -A statement of lack of proper procedure by UNAMIR should be made with the assurance that in the future all regulations will be complied with.
2	Social benefits for all local national employees.	- The Government Officials have asked BRSC to comply with Government law, <i>ie</i> to retain 3% of gross pay of each local national employee and to pay 5% as the employer retroactive to 26 July 94. BRSC has paid so far approximately \$1.2M in local national wages since 26 July 95 which would mean that they would have to pay approximately \$95,000 to comply with this rule. UNAMIR would then have to pay this amount plus the fee of 14.49% under the contract with BRSC.	The government should consider exempting BRSC's local national employees from this requirement, based on the fact that BRSC's employees are hired by BRSC under the provisions of their status as UNAMIR agents such payments would be tantamount to charging all UN member states which finance UNAMIR.
3	Several UNAMIR vehicles have been stolen at gunpoint.	Investigations are underway.	Responsibility for the safety of UN personnel and property is the primary responsibility of the host government.

4	The BRSC administrative office was robbed on 19 April, 1995.	Investigation is underway.	Responsibility for the safety of UN contracted property is also the primary responsibility of the host government.
5	Harassment and searches being performed at checkpoints.	The situation continues.	Searches are prohibited, under SOMA only in cases where there is clear evidence that illegal goods are being transported.



Incidents

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

To: RPA LO to UNAMIR

File Reference: FC/FL/02/OPS

From: G Tousignant
Acting Head of Mission &
Force Commander

Date: 03 Aug 95

Subject: PROTEST AGAINST UNAMIR TROOPS' MISBEHAVIOUR ON THE ROAD

Reference: Your letter dated 01 Aug 95 on above-mentioned subject.

1. With regard to your above-referenced letter concerning the incident of a UNAMIR vehicle running into a Rwandan VIP motorcade, please be assured that those concerned will be reprimanded in order that such an incident does not occur again. It is also unfortunate that the Australian soldiers refused to proceed to the Gendarmerie.

2. The incident is indeed regretted, however, equally regrettable is the behaviour of the RPA soldiers who forcibly removed the UNAMIR troops from their vehicle, assaulted four of them resulting in serious injuries. They also confiscated their personal weapons and radio sets. These acts are a gross violation of the Status of Mission Agreement and this high handed attitude, with scant regard to legal provisions, is unacceptable to UNAMIR.

3. It is requested that the RPA soldiers and the Gendarmerie be instructed accordingly to follow the rules and orders as laid-down, instead of acting arbitrarily. Should there be any further problems or misunderstandings, do not hesitate to approach me in order that these issues can be resolved amicably.

4. Your cooperation in following laid-down procedures when dealing with similar situations in the future would be highly appreciated.

cc: VP/Minister of Defence
RPA COS
N GD COS

FROM: RPA LIAISON OFFICER TO UNAMIR

[Signature]
MAJ. KAMARADE KAYITAR

TO : UNAMIR FORCE COMDR/ Acting Head of Mission

Date: 01 August 1995

Subject: PROTEST AGAINST UNAMIR TROOPS MISBEHAVIOR ON THE ROAD

Sir, I am protesting against what happened today morning at 0920hrs when a UNAMIR Landrover with five Australian soldiers recklessly ran into a Rwandan VIP Motorcade nearly causing a fatal accident. This should not have happened since there was a warning car in front of the Motorcade which the Australians gave way to and immediately drove back into the Motorcade. In addition to this, the Australian soldiers resisted going to the Gendarmerie station for investigation procedures causing unnecessary chaos.

This being neither the first nor the second time UNAMIR has driven into a VIP Motorcade, I advise that these soldiers should be seriously warned against this unacceptable kind of conduct. Your immediate action, Sir, is necessary.

cc.: VP/ Minister for Defence
RPA COS
N GD COS
CO AUSTRALIAN CONTINGENT

Defence
[Signature]
02/08
[Signature]

NOTE TO EXECUTIVE DIRECTOR

I am writing in reference to the Mr. Gilles Brière's memorandum dated 27 July 1995 on the satellite earth station to be used by Brown & Root. I have already mentioned to Mr. Brière that we would prefer to have such matters referred to our in-house legal staff before seeking an input from New York. On this matter, he has informed me that although he has a copy of the contract between UNAMIR and Brown & Root, he is not aware of the contents of the contract with IDB (the subcontractor providing the satellite services).

Based upon my own reading of the Status of Mission Agreement, as well as the Convention on the Privileges and Immunities of the United Nations, I believe that we are not exempt from the payment of licensing fees for satellite equipment. It should be noted that in this case, the satellite will be used exclusively by Brown & Root, even though UNAMIR is paying for its installation and rental cost, and has agreed to obtain a license for its operation in Rwanda.

A handwritten signature in black ink, appearing to read 'Ladan M. Rafii', with a stylized flourish at the end.

Ladan M. Rafii
29 July 1995

NOTE

Subject: Earth Station - License Fee and Segment Costs

1. Please study the attached memorandum from M. Brière and let me know what the problem is.

2. My own impression is that this may become an other case of dispute between UNAMIR and the Government authorities. Those preparing the contracts and those in charge of their management should normally know what the obligations of each partner are and not have to resort to the office of legal affairs for every detail.

WS

Wilfrid de Souza
28 July 1995



As per SRSg,
hfd until
SOMA modifications
received 19/8/95

NOTE TO EXECUTIVE DIRECTOR

SRSg
for return

... recall, I recently discussed with you my legal concerns over a decision taken by our administration division to obtain visas for all international staff members of UNAMIR. Although it is not clear exactly how this decision was made (the new CAO claims the matter had been decided prior to his arrival in Kigali), I would like to reiterate that under paragraph 33 of the Status of Mission Agreement:

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** (emphasis added).

A My concern, as stated to you, is that such action on our part will undermine and dilute the legal significance of this Agreement when, in fact, it needs to be further bolstered. Although you informed me that apparently New York is now obtaining visas for UNAMIR personnel prior to their arrival in Rwanda (which had not been the case before), and that the matter may already be a "fait accompli," I would still advise that an indication be made to the Rwandese Government that we are complying with their visa requirements as a matter of courtesy only, and that we are under no legal obligation to do so under the terms of our Agreement with them.

I agree with 'A'.
SR

Ladan M. Rafii
Political/Legal Officer
26 July 1995

cc: SRSg

NOTE TO MS. L. RAFII

Subject: Airport Fee

1. The attached draft Note Verbale was prepared by Mr. Minta before he left.
2. My opinion is that the new airport fee can be considered as parking charges which you pay in every airport in the world. Therefore, claiming exemption would not improve UNAMIR's image. Instead, I suggest that arrangements be made through the CAO whereby access cards would be delivered to those having to go to the airport frequently.
3. I would suggest that you contact the CAO who is fully aware of the problem.

WS
—

Wilfrid De Souza
18 July 1995



SRSG/NV/121/95

NOTE VERBALE

The United Nations Assistance Mission for Rwanda (UNAMIR) presents its compliments to the Ministry of Foreign Affairs and Cooperation of the Rwandese Republic and has the honour to refer to an Announcement by the Airports Authority in Kigali (copy attached) concerning the charging of fees on all vehicles entering the airport, with effect from 1 July 1995.

In this regard, we would like to draw your Government's attention to the Agreement signed on 5 November 1993 between the United Nations and Rwanda on the Status of UNAMIR, paragraph 14 of which provides as follows:

"14. UNAMIR may use roads, bridges ... port facilities and airports 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."

In view of the fact that the airport fees in question are not "**charges for services rendered**", we would like to claim exemption from those fees in respect of UNAMIR personnel and vehicles, in accordance with the Status of Mission Agreement. May we therefore request that appropriate instructions be issued to the Airport Authority in this regard.

The United Nations Assistance Mission for Rwanda takes this opportunity to renew to the Government of Rwanda the assurances of its highest consideration.

Kigali, 6 July 1995

Dr. Anastase Gasana
Minister of Foreign Affairs & Cooperation
Kigali

cc: Ministry of Transport and Communications
Airport Authority, Kigali

THANER
95 JUL 29 18 05

ANNOUNCEMENT

The Airports Authority would like to inform the public that, with effect from 01.07.1995. All vehicles entering airport premises will be charged a fee as follows:

Heavy weight vehicles
(Lorries/buses) : 200 FR.

Medium weight
(Pickups/Minibuses) : 150 FR.

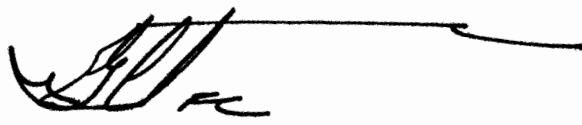
Light weight (Cars): 100 FR.

Payments will be made at the exit point.

For any information or
Explanation please ring Airport
Commercial service Tel: 86328

P.D.

1. I share the concerns expressed by Mr. Mehta.
In my opinion, he should not feel that he has crossed the line of insubordination, but he should be complimented in taking the lead in raising the issue to the attention of his superiors.
2. Para. 7 is a "jaus-pas" by New York and will likely cause more difficulties for UNAMIR. It is important that we come up with a strategy for improved relationship under the new Mandate. His approach has merit and I am prepared to support it.
3. Regards.


11 June 95



ROUTING SLIP

FICHE DE TRANSMISSION

TO:
A:

FC

FROM:
DE:

HCC

Room No. - No de bureau

Extension - Poste

Date

10-6-95

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

The Legal Advisor,
Mr. I. Minto, is preparing
a draft cable for HQ
New York.
Pls see second page. -
Have a nice weekend. -

To: SRSG

Through: ED

From: I Minta

Subject: Legal issues to resolved up with the Government

In view of the numerous difficulties we have had with the Government on the Status of Mission Agreement (SOMA), I would like to recommend the following actions toward achieving an improved relationship under the new Mandate:

1. Specific instructions should be issued by the Government, listing the privileges and immunities of UNAMIR and its personnel to be observed by Government agencies and personnel, including:

- (a) RPA/Security/Gendarmerie;*
- (b) Customs;*
- (c) Immigration;*
- (d) Airport Administration.*

Such instructions may make the much-awaited exchange of letters unnecessary.

2. We should request the Government for discussions to draft such instructions. Since their previous promises to issue such instructions were not fulfilled, I attach a preliminary draft that could be the basis of such instructions (Annex). When finalized, it could be issued with an appropriate cover-letter from the Government, at a sufficiently high level. That letter could list, under each relevant Government agency, the particular items of the list they must observe.

*3. This approach should help meet their claim that they lack the **capacity** or resources to implement the SOMA. For balance, the obligations of UNAMIR and its personnel are included in the draft. This could help minimize unwarranted demands on UNAMIR.*

4. Specific administrative arrangements need to be made - if not made before - with the relevant agencies on such matters as: the clearance of UNAMIR goods through Customs (including those imported by contractors for UNAMIR - which should preferably be documented in the name of UNAMIR to minimize the problems we have been having in that regard); entry and exit formalities for

UNAMIR personnel; and all other formalities **required** by the SOMA (eg, under paras. 12, 15, 30, 33, 34). This will, hopefully, minimize the risk of problems arising ad hoc.

5. Categories of personnel with **diplomatic** or special privileges and immunities - i.e., senior personnel other than the SRSG, FC, CIVPOL Commissioner, and MILOBS, who are already designated in the SOMA - need to be designated and notified to the Government as provided under SOMA paras. 24 and 26.

6. All other required notifications, co-ordination, and consultations with the Government need to be observed before the respective actions are taken (eg, under SOMA paras. 9, 10, 11, 15, 21, 31, 33, 50), to avoid predictable problems with the Government.

7. The legal relationships/obligations between UNAMIR and its contractors, on the one hand, and between the contractors and the Government, on the other, should be made absolutely clear, to minimize problems in that regard.

8. Any policing powers of UNAMIR (whether by the Military Police or other personnel designated by the SRSG) that exceed those specified in the SOMA should be cleared with the Government, as required under para. 40, last sentence.

I would like to initiate the necessary work under these and any additional items that may be required, jointly with the relevant Sections of UNAMIR.

**** Postscript: I am afraid I must take the probably unprecedented step - even at the risk of it being considered an act of insubordination - of expressing the following fears with reference to para. 7 of the new Security Council resolution renewing our mandate (just received):**

(i) It is obviously not correct to state that the SOMA was signed between UNAMIR and Rwanda. In fact, it was negotiated and signed between the United Nations Headquarters and Rwanda. Given the problems we have been having in getting Rwanda to comply with the SOMA, it was actually necessary for the Security Council to put its full weight behind the SOMA by reiterating the need for Rwanda to observe its international obligations in that regard.

(ii) The reference to "any subsequent agreement concluded to replace that Agreement in order to facilitate the implementation of the new mandate"

will, more likely, make things even more difficult for UNAMIR. That phrase gives a boost to the Government's efforts to disregard the SOMA, as they have been doing so far, in the process of re-negotiating it (which could consume the whole duration of the new mandate).

(iii) As a result, the exercise I have recommended above will probably be still-born.

cc:FC

CAO (and to relevant sections)

*THIS IS ONLY A DRAFT. FINAL VERSION AND ANNEX
WILL FOLLOW AFTER APPROVAL BY ED.*



NOTE TO EXECUTIVE DIRECTOR

As you recall, I recently discussed with you my legal concerns over a decision taken by our administration division to obtain visas for all international staff members of UNAMIR. Although it is not clear exactly how this decision was made (the new CAO claims the matter had been decided prior to his arrival in Kigali), I would like to reiterate that under paragraph 33 of the Status of Mission Agreement:

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** (emphasis added).

My concern, as stated to you, is that such action on our part will undermine and dilute the legal significance of this Agreement when, in fact, it needs to be further bolstered. Although you informed me that apparently New York is now obtaining visas for UNAMIR personnel prior to their arrival in Rwanda (which had not been the case before), and that the matter may already be a "fait accompli," I would still advise that an indication be made to the Rwandese Government that we are complying with their visa requirements as a matter of courtesy only, and that we are under no legal obligation to do so under the terms of our Agreement with them.

A handwritten signature in black ink, appearing to read "Ladan M. Rafii".

Ladan M. Rafii
Political/Legal Officer
26 July 1995

cc: SRSG

Ref 7

TO: Mr. Iqbal Riza
AI: Assistant Secretary-General
for Peace-keeping Operations
THROUGH: Hans Corell, Under-Secretary-General
S/C DE: for Legal Affairs
FROM: The Legal Counsel
DE:
SUBJECT: Provision of facilities to contractors supplying goods and services in
OBJET: support of UN peace-keeping operations

DATE: 23 June 1995

REFERENCE:

1. This is with reference to your memorandum dated 14 June 1995 to Mr. F. Sekandi of this Office, referring to certain difficulties recently encountered by contractors supplying goods and services in support of UN peace-keeping operations (the "Contractors").

2. We understand that these difficulties prompted certain Member States to inquire whether Contractors could be considered "experts on mission" pursuant to the Convention on the Privileges and Immunities of the United Nations (the "Convention"). Furthermore, and in order to resolve difficulties encountered by Contractors, you specifically requested our views on whether privileges and immunities provided for under the Convention could be extended to such Contractors in future agreements regulating the status of UN peace-keeping operations ("SOFAs/SOMAs"). Our views on the above are set out below.

A. Privileges and Immunities for Contractors

3. Although the Convention does not define the term "experts on mission", the term is understood to apply to persons who are charged with performing specific and important functions or tasks for the United Nations. As indicated by the International Court of Justice in its Advisory Opinion of 15 December 1989, on the Applicability of Article VI, section 22, of the Convention, experts on mission "... have been entrusted with mediation, with preparing reports, preparing studies, investigations or finding and establishing facts...". The Court's description of the scope of functions of experts on mission conforms in a general sense to the United Nations and State practice.

4. The functions performed by Contractors in the context of UN peace-keeping operations are commercial in nature and range from the procurement of goods and the supply of services to construction and catering services. As such, the functions and tasks performed by Contractors do not fall within the scope of the understanding of the expression "experts on mission" which has evolved within the Organization and among its Member States. Therefore, Contractors do not qualify for the status of "expert on mission".

5. As to privileges and immunities which you propose to be granted to Contractors, it should be pointed out that the categories of persons to whom privileges and immunities are granted under the SOFAs/SOMAs include those specifically provided for in the Convention, i.e., diplomats, officials of the Organization and experts on mission for the United Nations. Additionally and in accordance with customary law applicable to UN peace-keeping operations, SOFAs provide for privileges and immunities to be granted to military personnel contributed by Member States.

6. As Contractors and their employees do not constitute a category of personnel under the Convention, States parties to the Convention are, therefore, under no obligation to grant them any privileges and immunities.

B. Facilities for Contractors

7. As a result of the expansion and growth of peace-keeping operations, the United Nations has had to increasingly rely on commercial firms to provide services and perform tasks which traditionally were performed by military personnel made available to the Organization by Member States. The difficulties recently experienced by Contractors in the context of peace-keeping operations has led this Office to examine whether those difficulties could be resolved by extending to Contractors certain facilities which would enable them to carry out their assigned tasks.

8. Facilities which may be necessary for Contractors in the performance of their functions would include freedom of movement for the proper performance of the services; prompt issuance of necessary visas; exemption from immigration restrictions and alien registration; prompt issuance of licenses or permits, as necessary, for required services, including for imports and for the operation of aircraft and vessels; repatriation in time of international crisis; right to import for the exclusive and official use of the United Nations, without any restriction, and free of tax or duties, supplies, equipment, and other materials.

9. For the purpose of inserting in future SOFAs/SOMAs the above-mentioned facilities, this Office is presently engaged in drafting pertinent clauses, which will be duly forwarded to you for your consideration.

10. We would, however, wish to caution that the willingness of this Office to consider extending such facilities to Contractors would not of itself result in their obtaining them since Governments have in the past expressed reservations on including Contractors in the SOFAs/SOMAs. The consent of the Governments concerned to grant such facilities cannot, therefore, be presumed, but this Office is ready to espouse the need for those facilities despite the anticipated difficult negotiations.


cc: Mr. M. Eisele
Mr. B. Sevan
Mr. H. Medili
Mr. R. Adams



ADMINISTRATIVE INSTRUCTION N° 024/95

DATE: 22 June 1995

TO: All UNAMIR Personnel

FROM: Chaim Ouziel, CAO 

SUBJECT: Visa requirements for UNAMIR personnel

1. Enclosed please find the revised visa requirements for all personnel in support of UNAMIR.
2. As advised at para 2 of the attached, a memorandum will be issued in the near future detailing the procedure for the issue of a visa for Laissez-Passer holders currently stationed in Rwanda.
3. Thank you.

cc. Coordinator, UNVs
CMC (for contractor's personnel)

VISA REQUIREMENTS FOR ENTRY TO RWANDA

1. The Visa requirements for entry to Rwanda for UNAMIR International and Military staff, contracted support staff or United Nations Volunteers are as follows:

Military Members of Troop Contributing Nations:

Military members of Troop contributing Nations are not required to be in possession of a valid Rwandan visa. Movement Control will advise relevant authorities of troop rotations;

Military Observers/Civilian Police:

Military Observers or Civilian Police in support of UNAMIR operations are not required to be in possession of a valid Rwandan visa. Movement Control will advise relevant authorities of Military Observers/Civilian Police rotations;

International Staff Members:

International staff members in possession of a Laissez Passer are advised to obtain a visa before arriving in Rwanda however, should this not be possible an entry visa will be issued on arrival. Arriving personnel are then required to obtain a gratis visa from the Ministry of Internal Affairs as soon as possible after arrival. All other International staff who do not have a Laissez Passer or unless they are citizens of Uganda, Zaire or Tanzania are to be in possession of a valid Rwandan visa prior to entering Rwanda;

United Nation Volunteers:

United Nation Volunteers except residents of Uganda, Zaire or Tanzania are to be in possession of a valid Rwandan visa prior to entering Rwanda; and

Contracted International Staff:

All contract staff, except residents of Uganda, Zaire or Tanzania are to be in possession of a valid Rwandan visa prior to entering Rwanda.

2. Those persons holding a Laissez Passer who are not in possession of Rwandan visas and who have already been granted entry to Rwanda, will be required to obtain visas prior to 31 July 1995. A detailed Administration Instruction on the issue of the visas and the procedures to be followed, will be circulated in the near future. Please note that visa will be valid for the duration of the mission.

Ishami ry'Umuryango w'Abibumbye riharanira Amajyambere

FC
copy: ED
Legal
19-7-95Ref.: ADM/250/26
022/95**NOTE VERBALE**

Le Bureau du Programme des Nations-Unies pour le Développement (PNUD) à Kigali présente ses compliments au Ministère des Affaires Etrangères et de la Coopération de la République Rwandaise, et a l'honneur de l'informer de l'agression dont 2 Volontaires des Nations-Unies ont fait l'objet de la part de la Gendarmerie rwandaise le 9 Juillet près de l'hôtel Isimbi.

Alors qu'ils descendaient de voiture, ils ont été approchés par deux Gendarmes qui leur ont réclamé les clés de contact. Devant leur refus, les Gendarmes les ont sévèrement frappés et les ont fait allonger sous la menace de leurs armes. Des militaires se sont joints aux gendarmes et les ont dépossédé de leurs radios et argent.

Le Bureau du Programme des Nations-Unies pour le Développement remercie par avance le Ministère des Affaires Etrangères et de la Coopération de la République Rwandaise pour toute l'assistance qu'il voudra bien lui apporter dans la récupération des biens volés et saisit cette occasion pour lui renouveler les assurances de sa haute considération.

Fait à Kigali, le 14 Juillet 1995

Ministère des Affaires Etrangères
et de la Coopération
KIGALI

CC : Ambassadeur SHAHARYAR KHAN
SRSG, UNAMIR
RWANDA

Ministère de la Défense Nationale
KIGALI





TO: Mr. Shaharyar M. Khan
SRSg

DATE: 19 June 1995
REF: OSRSG/LA/001/95

THROUGH: Mr. Wilfrid De Souza *WS*
Executive Director

FROM: I. Minta *HC*
Legal Adviser

SUBJECT: Legal Issues to be Resolved with the Government

In view of the numerous difficulties we have had with the Government on the Status of Mission Agreement (SOMA), I would like to recommend the following actions toward achieving an improved relationship under the new Mandate:

1. Specific instructions should be issued by the Government, listing the privileges and immunities of UNAMIR and its personnel to be observed by Government agencies and personnel, including:

- (a) RPA/Security/Gendarmerie;
- (b) Customs;
- (c) Immigration;
- (d) Airport Administration.

Such instructions may make the much-awaited exchange of letters unnecessary.

2. We should request the Government for discussions to draft such instructions. Since their previous promises to issue such instructions were not fulfilled, I attach a preliminary draft that could be the basis of such instructions (Annex). When finalized, it could be issued with an appropriate cover-letter from the Government, at a sufficiently high level. That letter could list, under each relevant Government agency, the particular items of the list they must observe.

3. This approach should help meet their claim that they lack the capacity or resources to implement the SOMA. For balance, the obligations of UNAMIR and its personnel are included in the draft. This could also help minimize unwarranted demands on UNAMIR.

4. Specific administrative arrangements need to be made - if not made before - with the relevant agencies on such matters as: the clearance of UNAMIR goods through Customs (including those imported by contractors for UNAMIR - which should preferably be documented in the name of UNAMIR to minimize the problems we have been having in that regard); entry and exit formalities for UNAMIR personnel; and all other formalities required by the SOMA (eg, under paras. 12, 15, 30, 33, 34). This will, hopefully, minimize the risk of problems arising ad hoc.

5. Categories of personnel with diplomatic or special privileges and immunities - i.e., senior personnel other than the SRSg, FC, CIVPOL Commissioner, and MILOBs, who are already designated in the SOMA - need to be designated and notified to the Government as provided under SOMA paras. 24 and 26.

6. All other required notifications, co-ordination, and consultations with the Government need to be observed before the respective actions are taken (eg, under SOMA paras. 9, 10, 11, 15, 21, 31, 33, 50), to avoid predictable problems with the Government.

7. The legal relationships/obligations between UNAMIR and its contractors, on the one hand, and between the contractors and the Government, on the other, should be made absolutely clear, to minimize problems in that regard.

8. Any policing powers of UNAMIR (whether by the Military Police or other personnel designated by the SRSg) that exceed those specified in the SOMA should be cleared with the Government, as required under para. 40, last sentence.

9. I would like to initiate the necessary work under these and any additional items that may be required, jointly with the relevant Sections of UNAMIR.

**** Postscript: I am afraid I must take the probably unprecedented step of expressing reservations on para.7 of the new Security Council resolution renewing our mandate (just received):**

(i) It is obviously not correct to state that the SOMA was signed between UNAMIR and Rwanda. In fact, it was negotiated and signed between the United Nations Headquarters and Rwanda. Given the problems we have been having in getting Rwanda to comply with the SOMA, it was actually necessary for the Security Council to put the full weight of the United Nations behind the SOMA by reiterating the need for Rwanda to observe its international obligations in that regard.

(ii) The reference to "any subsequent agreement concluded to replace that Agreement in order to facilitate the implementation of the new mandate" will, more likely, make things more difficult for UNAMIR. That phrase may

encourage the Government to continue disregarding the SOMA in the process of re-negotiating it.

- (iii) While not denying the legitimacy of re-negotiations, particularly to close recognized loopholes, inviting re-negotiations to replace current commitments is likely to undercut those commitments - at a time when we badly need to strengthen them.
- (iv) In sum, paragraph 7 of the resolution may be used by the Government to brush aside the exercise recommended above, by requesting re-negotiation of the whole SOMA.

cc: FC
CAO

**MANDATE, OBLIGATIONS, PRIVILEGES AND IMMUNITIES OF THE
UNITED NATIONS ASSISTANCE MISSION FOR RWANDA (UNAMIR)
AND ITS PERSONNEL**

1. Mandate/Obligations of UNAMIR

- * (Reference to Security Council resolution/or summary)
- * UNAMIR and its members shall observe the impartial and international nature of their duties and respect local laws and regulations (SOMA para 5).
- * The Government shall observe the exclusive international nature of UNAMIR, including its privileges and immunities, and ensure the security and safety of UNAMIR and its personnel (SOMA paras.2 & 6).

2. Status of UNAMIR

UNAMIR, as a subsidiary organ of the United Nations, is entitled to the Privileges and Immunities provided under:

- (a) The 1946 Convention on the Privileges and Immunities of the United Nations, to which Rwanda is a party; and
- (b) Status of Mission Agreement (SOMA) signed between the United Nations and Rwanda.

These privileges and immunities, and related obligations of UNAMIR and its personnel, are listed below.

3. UNAMIR premises

- (a) The Government shall, to the extent possible, provide premises to UNAMIR for headquarters, camp, operational and accommodation purposes (SOMA para.16).
- (b) All UNAMIR premises, including those provided by the Government, are under the exclusive control and authority of UNAMIR. (SOMA paras.16 & 19).

4. UNAMIR Identification/Permits/Licenses

- (a) UNAMIR shall have the right to display the United Nations flag/insignia on its premises, vehicles, vessels (SOMA paras.8 & 9).

(b) UNAMIR shall issue an Identity Card to each of its personnel, including locally-recruited personnel. Such Identity Card shall be shown to an appropriate Government official upon demand, but shall not to be surrendered to such official (SOMA paras. 35 & 36).

(c) The Government agrees to recognize and accept, without any tax or fee, permits or licenses issued by UNAMIR to qualified personnel, including locally-recruited personnel for the operation of any transport or communication equipment in connection with the activities of UNAMIR. Similarly, the Government shall recognize permits or licenses issued to members of UNAMIR for the carrying of arms and ammunition in respect of their duties (SOMA paras. 38 & 39).

5. Communications facilities

(a) UNAMIR shall have the right to install and operate communications facilities, including radio (satellite, mobile and hand-held), telephone, telegraph, facsimile or any other means; this includes the laying of cables, land lines and the establishment of fixed and mobile radio sending, receiving and repeater stations (SOMA paras.10 & 11).

(b) Radio frequencies to be used by UNAMIR shall be decided upon in co-operation with the Government and shall be communicated to the International Frequency Registration Board (SOMA para.11(b)).

(c) Connections with the Government's telecommunications system shall be made only by agreement and such usage shall be charged at the most favourable rates (SOMA para.11(d)).

6. UNAMIR mail

UNAMIR may make its own arrangements for the processing and transport of its mail and inform the Government accordingly. The Government shall not interfere in such arrangements or apply censorship to the mail of UNAMIR or its members (SOMA para.11(c)).

7. Freedom of movement

(a) UNAMIR and its members, vehicles, vessels, aircraft and equipment shall enjoy freedom of movement throughout Rwanda (SOMA para.12).

(b) Large movements of personnel, stores or vehicles through airports or roads used for general traffic in Rwanda shall be coordinated with the Government (SOMA para.12).

(c) The Government undertakes to supply UNAMIR with maps and other information, including locations of minefields and other dangers to such movements (SOMA para.12).

(d) UNAMIR may use roads, bridges, canals and other waters, port facilities and airfields without the payment of dues, tolls or charges, including wharfage charges, but excluding charges for services rendered (SOMA para.14).

8. UNAMIR vehicles/properties/funds

(a) UNAMIR vehicles, vessels, and aircraft shall not be subject to registration or licensing by the Government, but shall carry third-party insurance if required by law (SOMA para. 13).

(b) The property and assets of the United Nations shall enjoy immunity from every form of legal process, except where such immunity is waived in any particular case. Such waiver shall not extend to any measure of execution (Convention, section 2).

(c) The property and assets of the United Nations shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action (Convention, section 3). Thus, in case of traffic accidents United Nations vehicles are not to be impounded under any circumstances.

9. UNAMIR archives/documents

The archives of UNAMIR and in general all documents belonging to or held by it shall be inviolable wherever located (Convention, sec. 4).

10. UNAMIR's imports

(a) UNAMIR shall have the right to import, and to clear free of customs and excise duties or other restrictions, equipment, supplies, provisions and other goods for its exclusive and official use or for resale in its commissaries (SOMA paras.15(a) & 15(c); Convention sec. 7(b)).

(b) UNAMIR shall have the right to establish commissaries for the sale of specified duty-free goods to its personnel, except locally-recruited personnel, and to engage a concessionaire to operate such commissary on its behalf (SOMA para. 15(b)).

(c) At the end of the mission, UNAMIR shall have the right to re-export its imports, supplies or equipment, but may dispose of any of them in Rwanda on terms and conditions to be agreed upon (SOMA para.15(d); Convention sec.7(b)).

(d) To facilitate such importation, clearance or exportation, a mutually satisfactory procedure, including documentation, shall be agreed upon with the Government (SOMA para. 15(d)).

11. The SRSg, FC, and other Senior Officials

(a) The Special Representative of the Secretary-General, the Force Commander, the Police Commissioner of CIVPOL, and other senior officials agreed upon with the Government, shall have diplomatic status and the privileges and immunities accorded to diplomatic envoys as provided under sections 19 and 27 of the Convention (SOMA para.24).

(b) These privileges and immunities include (but are not limited to) immunity from arrest, immunity from any searches including baggage searches, exemption from all taxes, and VIP treatment in all matters (Convention sections 19 and 27).

12. Entry, residence, departure

(a) 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 (SOMA para.33).

(b) 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, and also from any regulations on the residence of aliens in Rwanda, including registration. But they shall not acquire any right to permanent residence in Rwanda (SOMA para. 33).

(c) With regard to travel documents, members of UNAMIR, including military personnel, shall only be required to have: (*) an individual or collective movement order; and (***) a personal Identity Card issued by UNAMIR, except in

the case of first entry when the personal identity card issued by the relevant participating state shall be accepted (**SOMA para.34**). A United Nations Laissez-passer or national passports may also be used, although not strictly required.

(d) Special facilities shall be established for the processing of UNAMIR personnel, including the military component through Immigration and Customs (**SOMA paras. 30 & 33**).

13. Tax status of UNAMIR

UNAMIR shall be exempt from all direct taxes, sales taxes, customs and excise duties, warehouse and wharfage charges, and any tolls and charges for the use of ports and similar public facilities, except charges for public or municipal utility services (**Convention sec.7(a); SOMA paras.14 & 15**).

14. MILOBs, CIVPOL, & Experts on Mission

(a) Military observers (MILOBs), civilian police personnel (CIVPOL), and civilians other than United Nations officials whose names are notified to the Government, shall be considered as "Experts on Mission" and enjoy the privileges and immunities specified in Article VI of the Convention

(b) These privileges and immunities include, but are not limited to: immunity from arrest or detention, search or seizure of their personal baggage, legal process related to the performance of their duties (**Convention Art. IV**) and all the immunities listed below in respect of members of UNAMIR and of military personnel [**SOMA para.1(b)**].

15. Members of UNAMIR

(a) Members of UNAMIR shall be entitled to all the rights listed under item 12 above with respect to entry into, residence in, and departure from Rwanda.

(b) Members of UNAMIR shall be exempt from income tax on their pay or emoluments received from outside Rwanda, from customs duties on their personal effects imported into Rwanda, and from all other direct taxes, except municipal rates for services rendered (**Convention sec.18(b)&(g); SOMA paras. 29 & 30**).

(c) Members of UNAMIR 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 (SOMA para.30).

(d) Members of UNAMIR shall be immune from legal process in respect of acts done or words spoken/written by them in the performance of their duties (Convention Sec. 18(a), SOMA para. 46).

(e) Any civil proceedings or private case against a Member of UNAMIR shall not proceed unless the Special Representative certifies that the case is not related to official duties, and shall be discontinued if so certified [SOMA para. 48(a)].

(f) The personal liberty of a member of UNAMIR shall not be restricted in connection with a civil proceeding or private case, whether to enforce a judgement, decision or order, to compel an oath, or for any other reason [SOMA para 48(b)].

16. Military/personnel/uniforms/arms and ammunition

(a) Military personnel shall be entitled to all the privileges and immunities of members of UNAMIR (SOMA paras. 1(b) & 27).

(b) Military personnel and civilian police personnel shall wear their national military and police uniforms while on duty, with United Nations insignia. Such personnel, as well as United Nations Security Officers, may carry arms while on duty, in accordance with their orders (SOMA para. 37).

(c) Military members of UNAMIR shall be under the exclusive jurisdiction of their respective home countries in respect of any criminal offences they may commit in Rwanda [SOMA para. 47(b)].

17. Local Staff

Local staff of UNAMIR shall enjoy the exemptions contained in sections 18(a), (b) and (c) of the Convention, namely: immunity from legal process in respect of their official duties; exemption from income tax on their pay and emoluments from UNAMIR; and exemption from national service obligations (SOMA par. 28).

18. Policing and law enforcement

(a) To ensure the maintenance of discipline and good order among members of UNAMIR, personnel designated by the Special Representative shall police the premises of UNAMIR and areas where its members are deployed. Elsewhere such personnel shall be employed only by arrangement with the Government (SOMA para. 40).

(b) The Military Police of UNAMIR shall have the power of arrest over the military members of UNAMIR (SOMA para. 41).

(c) The personnel designated by the Special Representative may take into custody any other person on the premises of UNAMIR for committing any offence or disturbance on such premises (SOMA para. 41).

(d) The Government's law-enforcement officials may take into custody any member of UNAMIR, except those immune from arrest, if so requested by the Special Representative, or when such person has committed or attempted to commit a criminal offence. In the latter case, such person shall be delivered immediately, together with any weapons or evidence seized, to the nearest appropriate representative of UNAMIR (SOMA para. 42).

(e) Where the Government suspects that a member of UNAMIR has committed a criminal offence, it shall promptly inform the Special Representative and present the available evidence. Unless such member of UNAMIR enjoys diplomatic status, the Special Representative shall conduct any necessary enquiry and agree with the Government as to whether criminal proceedings should be instituted (SOMA para. 47).

(f) UNAMIR and the Government shall assist each other in carrying out investigations into offences in which they have an interest (SOMA para. 44).

(g) The Government shall ensure the prosecution of persons who commit offences against UNAMIR or its personnel (SOMA para. 45).

* General Notes

(1) The privileges and immunities granted to UNAMIR and its personnel are for the purpose of facilitating the work of the United Nations and not for personal benefit. As such, they should not be abused (Convention Section 20).

- (2) This document contains a summary of selected relevant provisions of the 1946 Convention and the SOMA, for purposes of simplicity and ready reference. The full texts of the Convention and the SOMA prevail in all cases and should be consulted whenever necessary.



TO: Col. K.M. Tutt
DCOS (Sp)

DATE: 8 June 1995
REF: OSRSG/LA/001

Through: Mr. Wilfrid De Souza
Executive Director

FROM: I. Minta
Legal Adviser

SUBJECT: Powers and Responsibilities of the UNAMIR Military Police

Reference your memo of 1 June 1995 on the above, please note the following:

1. On the designation of policing powers to the Military Police by the SRSG, paragraph 8 of the SRSG's Bulletin No.1 of 17 March 1995 (which was addressed to all United Nations civilian, civpol and military personnel) stated as follows:

"8. I am asking UNAMIR Military Police to keep a careful watch on all United Nations personnel's conduct regarding local traffic/driving regulations. UNAMIR Military Police has been empowered to take action against those drivers that are patently in breach of the law. With respect to civilian staff, the Military Police have authority to detain only the vehicle of those suspected of driving under the influence of alcohol. In the event a staff member is suspected of drunken driving, the Military Police shall take custody of the vehicle, but drive the suspect to his/her residence before impounding the vehicle."

2. I believe this is in addition to the powers directly conferred on the Military Police by paragraph 41 of the Status of Mission Agreement (SOMA), which states:

41. "The military police of UNAMIR shall have the power of arrest over the military members of UNAMIR"....

It may be noted that this provision, by necessary implication, excludes the arrest of civilian members of UNAMIR (although it does not exclude other law-enforcement actions). Such exclusion is also implicit in para.8 of the Bulletin cited above. However, under para. 40 of the SOMA it is open to the SRSG to confer powers of arrest, including over UNAMIR civilians, on personnel designated by him.

3. Other United Nations agencies, their personnel and vehicles are not covered by the SOMA. Instead, they are covered by the 1946 Convention on the Privileges and Immunities of the United Nations, on which the SOMA is based, and by any agreements they may have entered into with the Government of Rwanda in respect of their own activities. I believe it was in his capacity as the Designated Official for the security of all UN personnel in Rwanda that the SRSG addressed Bulletin No.1 to all UN personnel (including non-UNAMIR personnel). In that respect, the legal basis for the exercise of the policing powers in that Bulletin, in respect of other UN agencies, their personnel and vehicles (and, by extension, their properties), is the 1946 Convention. In respect of UNAMIR personnel, the legal basis is the Convention and the SOMA.

4. To explain these different sources of law, I should point out that the 1946 Convention would normally suffice to protect all UN personnel. But it is, obviously, an old source of law that needs to be updated in certain respects: for example, to cover military personnel, the type of policing powers under discussion here, and the variety of functions and functionaries that were not envisaged in 1946. Such updating happens to be done on an ad hoc basis, through such instruments as the SOMA, in respect of particular UN missions and mandates. The results may not always be satisfactory, with regard to actual conditions in the field.

5. With respect to non-governmental organizations, their personnel, vehicles and properties, they are also not covered by either the SOMA or the Convention. The relationship between UNAMIR and the NGOs rather arises from the Security Council resolution setting out the mandate of UNAMIR; specifically, where UNAMIR is required to **"provide security and support for the distribution of relief supplies and humanitarian relief operations"** [Security Council res. 965 (1994) para. 2(b)]. Thus, there is no legal obligation or authority on the part of UNAMIR to police the NGOs, or to protect them beyond what is implied in connection with their relief and humanitarian operations. The same argument would seem to apply to UNAMIR's contractors - on whom we have a ruling from Headquarters saying they are not covered by the Convention or the SOMA - and also to Rwandese nationals except those employed by UNAMIR.

6. As regards UNAMIR civilians, I am not aware of any other designation of policing/arrest powers over them by the SRSG, besides para.8 of the Bulletin cited above. The most relevant provisions of the SOMA in this respect are as follows:

"41. ...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 [on the immunity from arrest of the SRSG, FC, CIVPOL personnel, MILOBs, and senior personnel designated by the SRSG], officials of the Government may take into custody any member of UNAMIR:

- (a) When so requested by the Special Representative;*
- (b) When such a member of UNAMIR is apprehended in the commission or attempted commission of a criminal offence..."*

Certain precautions apply with regard to the custody of such persons and the carrying out of investigations.

7. Overall, I should emphasize again that the policing powers provided in the SOMA are rather narrow, being intended for **"the maintenance of discipline and good order among UNAMIR personnel"**, and to be carried out on **"the premises of UNAMIR and such areas where its members are deployed."** They are also intended to protect UNAMIR personnel and property against any crimes from any source, both under the self-defence rule and under UNAMIR's exclusive authority over its premises and property.

8. With respect to the broadening of UNAMIR's policing powers, anything beyond what is cited above requires clearance with the Government, as required in the last sentence of para.40 of the SOMA. I do not know whether the former FPM made any approaches to the Government in that regard, but I did point out that need to him in comments which he actually reflected in his letter of 7 February 1995 (reference A of your memo).

9. If there were no such arrangements, we may have to arrange discussions with the relevant Ministries (Foreign Affairs, Interior, Justice, and perhaps Defence) to regularize any exercise of police powers by UNAMIR beyond what is derived from the mandate and the SOMA - that is, if such broadening is considered necessary. But this may also be influenced by the new mandate that is expected in the next few days.

cc: SRSG
MA to FC
CAO
FPM
OC MP Coy
CMPD

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ASSISTANCE MISSION IN RWANDA

MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

10 June 1995

Dear Lt. Ndahiro,

Subject: Your request for vacation by UNAMIR of certain premises by 20 June 1995

We refer to your memorandum dated 5 June 1995 on the above subject. I wish in this letter to refer only to the occupancy of the Military Academy.

Initially, there was a verbal understanding between the Vice President of the Government of Rwanda, Major General Paul Kagame, and the UNAMIR Force Commander, Major General Guy Tousignant, that UNAMIR would use the Military Academy till 31 August 1995. After further discussions between the two sides, and also with the Australian Chief of Defence Forces during his visit, it was agreed to put this verbal understanding into a written Memorandum of Understanding which was to be signed between the Ministry of Defence of the Government of Rwanda and the United Nations Assistance Mission for Rwanda (UNAMIR). On this basis, the Memorandum was prepared and duly signed by Major General Tousignant on 28 January 1995 and forwarded to the Ministry of Defence of the Government of Rwanda for the appropriate counter-signature. A copy of the Memorandum as signed by Major General Tousignant is attached. We never received the copy counter-signed by the Ministry of Defence; however, we did receive repeated verbal affirmations that the understanding was in place.

Consequently all our plans were based on staying in the Academy until end-August. Your request naturally creates enormous difficulties in vacating the Academy on such a short notice and in finding replacement accommodation for such a short period. Indeed, it is simply unrealistic to expect the move by the date requested.

In the circumstances, the Ministry of Defence may wish to reconsider its request for UNAMIR to leave before the expiry of the agreed period. We will welcome any further discussion on this matter at your convenience.

Yours sincerely,

Chaim Ouziel
Chief Administration Officer

Lt. Joseph NDAHIRO
RPA Liaison Officer

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ASSISTANCE MISSION IN RWANDA

MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

UNAMIR/MOU/95/3

MEMORANDUM OF UNDERSTANDING

between

THE MINISTRY OF DEFENCE OF RWANDA

and

THE UNITED NATION ASSISTANCE MISSION IN RWANDA

WHEREAS within the overall UNAMIR Mandate in Rwanda it is envisaged that UNAMIR shall provide humanitarian and other assistance to Rwanda within the confines of its budgetary allocations;

WHEREAS the provision of such assistance requires that UNAMIR have office space, living accommodation, and other infrastructure for its personnel;

WHEREAS under its obligations as a member State of the United Nations, and as a host country under the Status of UNAMIR Agreement, the Government of the Republic of Rwanda has an obligation, to the extent that it can, to provide some office space and accommodation for UNAMIR's operations;

AND WHEREAS UNAMIR requires accommodation for UNAMIR troops;

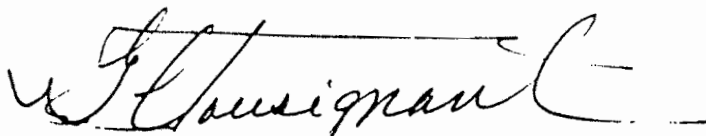
AND WHEREAS the Military Academy, which the Government of the Republic of Rwanda has undertaken to put at the disposal of UNAMIR to be used as accommodation for UNAMIR troops, sustained some damage during the war;

NOW THEREFORE, it is agreed as follows:

1. The Government of the Republic of Rwanda, through the Ministry of Defence, places at the disposal of UNAMIR for the accommodation of UNAMIR troops, the Military Academy in Kigali;
2. The UNAMIR troops shall remain in the Military Academy until the 31 August 1995 when a new arrangement may be negotiated between the two parties;

3. In consideration for the use of the Military Academy, and in order to make it habitable for its personnel, UNAMIR undertakes, within the budgetary limitations, to make necessary repairs to the facility to render them livable and to return these facilities to the Government of the Republic of Rwanda in such condition, normal wear and tear, excepted. To this end, UNAMIR and the Government will conduct a detailed survey of the facilities with a view to determining the repairs to be made, and the agreed list of repairs shall be annexed to this Memorandum of Understanding.
4. In further consideration for the use of the Military Academy, UNAMIR shall continue to provide generator power for the premises throughout the period of occupation.
5. UNAMIR shall return the premises to the Government in a condition suitable for use as a Military Academy.
6. UNAMIR shall enjoy uninterrupted occupancy for the period agreed.

DONE at KIGALI this *28th* day of *January* 1995



Major General Guy Tousignant
UNAMIR Force Commander

The Ministry of Defence
The Government of Rwanda

RPA

(original)
ED copy
CAO "

1-6-95
Itu

TO: The SRSG to Rwanda ✓
FROM: RPA Liaison Officer
DATE: 5 June 1995
SUBJECT: Vacation from some buildings

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Sir,

As per instructions, you are requested to vacate from the following premises not later than 20 June 1995.

The premises to be vacated are as follows:

- a. Military Academy (Residence of Ausmed);
- b. UNICEF Building (NZIRORERA's house opposite chez Lando);
- c. MILOBS HQs Sector 6 (behind Meridien Hotel);
- d. Residence of some indians near Former American Residence (it was the former Kigali, sector HQs MILOBS);
- e. MILOBS HQs Kimihurura;

The above premises mentioned if not vacated by the date mentioned above, Gendarmerie will deploy their to force the vacation.

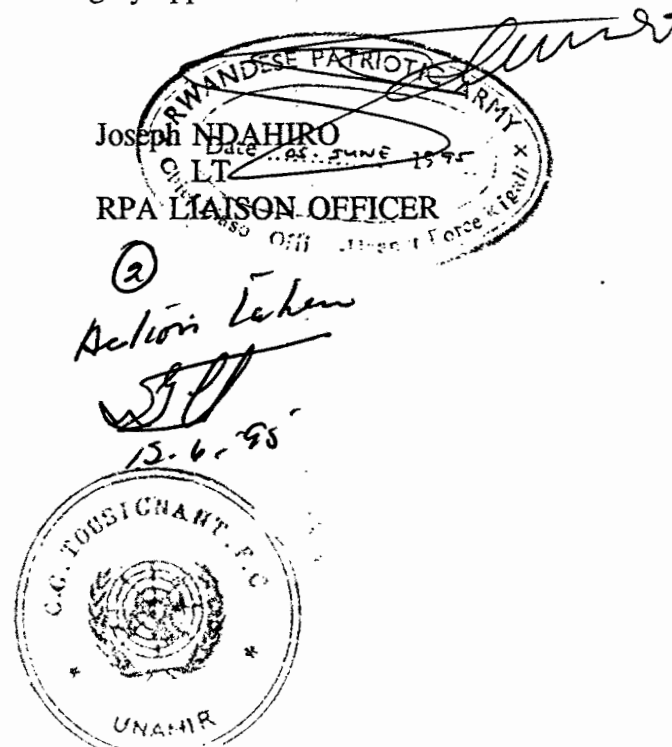
Reference letter dated 6 March 1995 to you regarding the demand of a minibus which was previously rented by UNAMIR and now parked in UNAMIR HQs compound, no reply and its needed as soon as possible.

Your cooperation into the matter will be highly appreciated.

Regards

CC:

- Vice President and Minister for Defence
- UNAMIR Force Commander
- Army Chief of Staff
- Gendarmerie COS
- UNAMIR Chief of Administration (OIC)



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ASSISTANCE MISSION FOR RWANDA

MISSION POUR L'ASSISTANCE AU RWANDA

From: Col K M Tutt
DCOS (Sp)
HQ UNAMIR

Extn 11109

To: Legal Advisor/Office of SRSG

Info: MA to FC, CAO, FPM, OC MP Coy, CMPO

File Reference: 4000.1/LOG-27/1

Date: / June 95

Subject: POWERS AND RESPONSIBILITIES OF THE UNAMIR MILITARY POLICE

Reference:

- A. Provost Marshal letter FPM/2 dated 7 Feb 95 (Copy Attached).
- B. My letter of 24 Feb 95 (Copy Attached).
- C. FCs visit to MP Coy 26 May 95.
- D. Legal Advisors Letter OSRG/LA/001/95 dated 1 Jun 95.

1. In Reference A the "Powers and Responsibilities of the Military Police Company" were discussed and promulgated after wide consultation by the then Force Provost Marshal. Subsequent to this there had been some difficulties between the military police and certain civilian elements of UNAMIR which resulted in a meeting between key elements of both. My record of that meeting is Reference B.

2. Despite Reference A and B and during Reference C the MP Company Commander asked for an awaited directive from the Force Commander on MP powers as it effects the following category of people within the mission:

- a. UN agencies and their vehicles
- b. NGO's - general investigations and traffic accidents
- c. clear policy on UNAMIR civilians.

3. In Reference D you confirmed my understanding that the policing powers of UNAMIR have to be designated by the SRSG. Could those designated policing powers be confirmed. Further, in Reference D you advised on the narrow definition of UNAMIR policing powers, could you confirm how they affect the above categories and how, if necessary in what areas they should and could be broadened by arrangement with the government.



To: CO UNAMIR MP Coy

From: Force PM/SO2 G1 Discipline

Info: CAO - Through Mr Joe Lombardo.
Legal Adviser (Mr Minta) - Thank you for your input.
COS through DCOS Sp
DCOS Ops
MA/FC
MA/DFC
SO2 Legal (Maj Oswald, AUSMED)
CSO
CTO
Brown & Root (Mr Scafide)

Date: 7 Feb 95

File: FPM/2

Subject: THE POWERS AND RESPONSIBILITIES
OF THE UNAMIR MP COMPANY

Reference:

- A. Section 16 of UNAMIR SOPs.
- B. Rules of Engagement, 5000.8 (Plans) dated 6 Oct 94.
- C. FC's Directive on the jurisdiction applicable to UNAMIR and Rwandan Authorities, 2000-1, as amended.

1. You asked for guidance on the policy to be adopted by the UNAMIR MP Coy in respect of arrest, detention and reporting procedures. Whilst I recognize your need, I am reluctant to promulgate widely a detailed policy document beyond that which is in Reference A. The force in law of a more detailed paper would be limited and its attempt to define procedures would inevitably, sooner or later, fall short of your requirements, probably lead to people picking loop holes and prompt emotive and nugatory challenges from contingent legal officers. Notwithstanding these reservations, what follows should provide sufficient guidance for the MP on the street - whose gut feelings about any given situation will require commonsense judgment and a diplomatic approach - and whose response in any operational or disciplinary situation will normally be accepted by commanders at all levels. I have no doubt that whatever fears you might express about my positive assurance, I am convinced that an MP who goes about his duties in a responsible fashion will have the backing of SRSG and the FC - and it is from their positions that UN MPs in Rwanda derive their authority.

POWERS OF ARREST

2. General. The possibility of the need to arrest a member of UNAMIR cannot be ignored but UN MPs would be well advised to avoid the situation if at all possible. There is not to say that they should ignore their responsibilities but that they should do their best to ensure offenders to remain in the scene - or to

company then to a suitable UNAMIR unit. The report is obtained from the soldier's commanding officer or other appropriate senior person. The soldier, however, Reference A, has his own contingent with him. If an arrestable offence is identified or suspected, it will be proper, therefore, for a joint investigation to be conducted although it would be normal for each investigating authority to produce its own report to avoid any subsequent debate about the propriety of disclosing it to persons and authorities outside a national or international jurisdiction. If they are needed, however, the powers of arrest of UN MPs in Rwanda come from several sources, as discussed below.

3. National extra-territorial legislation. National legislation applies only inasmuch as a UN MP in Rwanda attempts to give orders to, or arrest, a member of his own nationality. Where these powers and the situation allow, I suggest that this is the route that you should choose because these powers are well known to those who need them and they are of immediate and of most lasting impact. The normal form in the UK is to use the authority of one's rank before employing any additional power derived from a provost appointment: this principle should hold good here, too.

4. Under UNAMIR Rules of Engagement (ROE). Although the ROE (Reference B) under which UNAMIR is operating are normally construed as applicable to UNAMIR troops in dealing with an external threat, they represent the best available guidance on the application of force in general: they include rules for searching and detention of Rwandans, and others. You need to ensure that a copy is provided in all primary languages represented in the MP Coy and that every MP is fully conversant with them.

5. Under the UNAMIR-Rwanda Status of Mission Agreement (SOMA). As an agreement with the sovereign power in Rwanda, the SOMA (paragraphs 40 to 42) gives:

a. UNAMIR Military Police powers of arrest over military members of the Force; it provides, too, for their transfer to their contingent commanders for any subsequent disciplinary action.

b. UNAMIR the duty to hand to "the nearest appropriate official" (ie., a public prosecutor), any non-UNAMIR personnel taken into custody on UNAMIR premises.

6. Under UNAMIR SOPs. Reference A, Paragraph 16.10 provides the best practical guidance on arrests.

7. Powers of Detention. There are no powers under which a member of your unit can detain another member of UNAMIR for any longer than it takes to obtain a response from their parent contingent. The SOMA (paragraph 41) seems to me to provide the best guidance in this area; any member of the military element of UNAMIR who is arrested or detained should be handed to his own national authorities as soon as possible. In the event that a person needs to be detained for a protracted period and yours is the only site suitable for their detention (as it may become, when it is completed) the task should be assumed by persons of the detainee's own contingent. The nature of UNAMIR as a unified command, however, allows any officer to perform these duties for

as long as it takes for the contingent to make adequate arrangements.

8. Powers over UNAMIR and UNAMIR-contracted civilians. MPs have powers of arrest over UNAMIR civilians (including those employed by contractors such as Brown & Root) only when they are committing an offence on UN premises or, elsewhere, if they are posing an immediate threat to the safety or property of another. In my view, these persons may also be asked to cooperate with enquiries when not on UNAMIR premises and may be reported to the superiors (via HQ UNAMIR) for any offence that MPs perceive them to have committed - provided that no intimation is given that they can be placed in arrest, or that they are not free to depart. Reports may be submitted, too, if one of these persons fails to cooperate with an inquiry; my understanding is that Brown & Root will waste no time in repatriating any of their workers who fail to maintain a high disciplinary standard. Should you experience any difficulty in this respect, you should refer the matter to me or to the CSO.

9. Powers over UNAMIR local employees. MPs have no powers of arrest over local employees unless they are found committing an offence within UNAMIR premises or are posing an immediate threat to the health or property of others, as above - in which case they may be handed to the Public Prosecutor under the procedure described at Reference C. In other enquiries they may be asked to cooperate, and may be reported, in the same way as other UNAMIR civilians.

DRINKING AND DRIVING POLICY

10. The Force Commander's policy on drinking and driving (and on the carriage of arms) is clear; they do not mix. Although sophisticated equipment has not been issued - nor is it likely to be issued in the near future - MPs have the power to report persons suspected of drinking and driving. They should submit statements, preferably with corroboration from another MP and/or independent witnesses on the state of the individual, describing as fully as possible the signs of impairment normally associated with drunkenness - which should be familiar to most MPs. I suggest that you develop a unit SOP for the actions to be taken when a driver is seen to exhibit signs of drunkenness; it might cater for:

- a. A drunken driver being ordered to hand over his/her vehicle keys and its delivery by an MP to a suitable site.
- b. A driver who refuses to cooperate being ordered to remain for an appropriate superior to arrive at the scene - or, alternatively, to accompany MPs to the MP Station, to which the person's superior should be summoned.
- c. The way in which reports are submitted.

This is an area in which MPs almost certainly need some training but you should look at Reference A, paragraph 16.11 - which specifically allows UN MPs to withdraw the driving permit and vehicle keys of a drunken UN driver.

UN-UNAMIR MEMBERS OF THE INTERNATIONAL COMMUNITY

11. Technically, UNAMIR has no power to exercise discipline over members of the international community other than its own members except when they are on UNAMIR property (under paragraph 41 of the SOMA). It is consistent with the UNAMIR mandate (which revolves around the protection of civilians), however, for MPs to report irresponsible behaviour. Non-UN civilians who are members of the international community should be asked to cooperate with inquiries in the same way as civilian members of UNAMIR and they may be reported, through HQ UNAMIR, to the heads of their missions - although there can be no guarantee that any disciplinary or administrative action will follow.

12. Should they request it, there is no reason why MPs should not attend traffic incidents in which members of the international community become involved, giving assistance as necessary. MP commanders and supervisors should, obviously, prioritize their work and unless there are aggravating factors (such as fatalities or serious injuries, allegations of extreme intoxication and/or immediate likelihood of a member of the international community being jailed by Rwandan authorities) it might be reasonable to allocate priority as follows:

- a. 1st Priority. Incidents in which UNAMIR and UN HRFOR are involved.
- b. 2nd Priority. Incidents in which other members of the UN or UNAMIR-contracted (eg., Brown & Root) workers are involved and request assistance.
- c. 3rd Priority. Incidents involving other members of the international community or those involving only Rwandans.

Once again, however, MPs should use this guidance wisely and determine their own priorities based on what they know about any given situation.

13. The UN High Commissioner for Human Rights Operation in Rwanda (UN HRFOR) receives routine administrative and logistic support from UNAMIR - especially with the maintenance and insurance of its vehicle fleet. Traffic accidents involving UN HRFOR vehicles and personnel should, therefore, be covered automatically, taking priority with UNAMIR vehicles.

OTHER INCIDENTS INVOLVING NGOS

14. General assistance. If it is within the capacity of the MP Company at any given time, assistance should be given to an NGO worker requesting it.

15. Burglaries/Breaking and Entering. Authority for investigating burglaries normally rests with the civil authority. The MP reaction should be confined to assistance in the heat of the moment (eg., in the case of a call to deal with a burglar thought still to be in a building), ~~thereafter when it is known that the civil authority cannot respond immediately, and to produce a brief report of what was found.~~ ~~MPs should not normally be required to handle reports of burglaries from non-UN sites when the trail has gone cold.~~

SEARCHES

16. UNAMIR MPs have no powers of search except when, given good reason, they are confident that a search will be supported by the chain of command and, in particular, by the SRSG and the FC. Generally:

a. As a safety measure. It is within UNAMIR Rules of Engagement to institute a search of anyone who is thought to pose an immediate threat to an MP, other member of UNAMIR or anyone whose duty it is for the MP to provide protection - including civilians. This should cover the requirement to search someone who had been arrested and taken into temporary custody by UN MPs.

b. For evidence. In the event that an MP believes that he has the need to search an individual, a vehicle or property for some other reason (eg., suspicion of stealing) he may ask the individual to cooperate. If faced with non-compliance, he should seek assistance and/or guidance from someone in higher authority from that person's own organization or within UNAMIR, as necessary.

These rules are outlined in UNAMIR SOPs, paragraph 16.12.

17. Unless the cause for the search is immediate (ie., to guarantee the safety of an MP or other person), no search should be conducted without first consulting the chain of command. In the case of an MP wishing to search the person, vehicle, property or dwelling place of a soldier, he should seek the authority of the soldier's contingent commander and you should notify HQ UNAMIR through me. In any other case, the MP should seek the authority - through me (and in turn, when necessary, through the CSO) - of the SRSG and/or FC, as appropriate.

POLICING ACTIVITIES OUTSIDE UNAMIR PREMISES

18. Above all, you should note the provisions of paragraph 40 of the SOMA regarding policing duties outside UNAMIR premises:

"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 amongst members of UNAMIR."

CONCLUSIONS

19. I hope that you find this useful; although it may fall short of the policy document that you were seeking, I think it represents sound advice on the way in which MPs should be guided. Please feel free to comment or ask for further clarification as you think necessary.

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ASSISTANCE MISSION FOR RWANDA

MISSION POUR L'ASSISTANCE AU RWANDA

From: Col K M Tutt
DCOS (Sp)

Extn 11109

To: FC, OIC Civil Administration,

Info: SRSG, DFC, COS, PM, OC Force Provost Company.

File Reference: 4000.1/LOG-27/1

Date: 24 Feb 95

Subject: CIVILIAN COMPONENT AND MILITARY POLICE RELATIONSHIPS

1. This afternoon I attended a meeting with OIC Civil Administration, his Special Task Officer, the Provost Marshal and Major Plante to discuss the relationship between the Force Military Police and civilian personnel.
2. It was a most useful meeting at which the following points were agreed:
 - a. It is a responsibility of military and civilian elements of UNAMIR to obey the law and it was the responsibility of the military police to enforce it.
 - b. The Force Military Police had the authority to enforce the law for military and civilian elements of UNAMIR.
 - c. There should be continuation training within the military police to reinforce the application of the correct procedures and courtesy when dealing with an alleged violation.
 - d. The civilian component would be reminded of the authority of the military police, and in conjunction with the Provost Marshal, Mr Lombardo would create a procedure by which a civilian offender in a case such as drinking and driving could be handed over to a senior member of the civilian staff.
 - e. The Civil Administration would be writing formally to other UN agencies to confirm their position in relationship to the Force Military Police.
 - f. The recent incidents of complaints against the military police would be investigated by a third party, in this case CIVPOL after which a report would go to the SRSG and FC.



TO: Col. K.M. Tutt
DCOS (Sp)

DATE: 1 June 1995
REF: OSRS/LA/001/95

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

SUBJECT: Use of Sirens and Emergency Lights on UNAMIR Vehicles

Reference your Memo of 31 May 1995 on the above, there is no inherent right on the part of UNAMIR to use emergency lights and sirens and to claim right of passage in that regard. Any such right has to be derived from UNAMIR's policing powers under the Status of Mission Agreement (SOMA). Those policing powers are defined in very narrow terms; however, they can be broadened by arrangement with the Government.

The only specific power granted to the Military Police under the SOMA is "the power of arrest over military members of UNAMIR" (para. 41). That is subsumed under the policing powers of UNAMIR, which are to be exercised by personnel designated by the SRSG (who may not necessarily be the Military Police in all instances). These policing functions, which are intended "to ensure the maintenance of discipline and good order among members of UNAMIR", are to be carried out on "the premises of UNAMIR and such areas where its members are deployed" (SOMA para. 40).

The same provision states: "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".

This narrow definition of UNAMIR's policing authority seems to have been broadened in practice to meet the demands of the Mission, particularly in view of the level of the host country's policing capacity. But, in my opinion, any such broadening must be cleared with the Government under the "elsewhere" provision. I had previously expressed the same views to the FPM in my (handwritten) comments on one of his memos on the Military Police.

cc: ED
CAO
FPM, MP Coy Cmd, FMO, MA/FC, CISS, CIVPOL

UNITED NATIONS



NATIONS UNIES

ASSISTANCE MISSION FOR RWANDA

MISSION POUR L'ASSISTANCE AU RWANDA

From: Col K M Tutt
DCOS (Sp)
HQ UNAMIR

Extn 11109

To: [REDACTED]

Info: FPM, MP Coy Comd, FMO, MA to FC, CISS, CIVPOL

File Reference: 4000.1/LOG-27/1

Date: 31 May 95

Subject: USE OF SIRENS AND EMERGENCY LIGHTS ON UNAMIR VEHICLES

Reference:

A. MP Coy unreferenced letter of 29 May 95.

1. In Reference A the MP Coy introduced what I believe to be a new request for sirens and emergency lights for all MP vehicles.

2. The current practice for UNAMIR ambulances is to make use of their emergency light to the scene of a suspected serious injury and use their siren sparingly when their passage is blocked. They obey all the normal traffic and right of way regulations. On return to the hospital they use their light, but not usually the siren as it is deemed to cause additional stress to the casualty and they obey all the normal traffic and right of way regulations.

3. I seek your advice on the right of UNAMIR vehicles to use sirens and emergency lights and when in use the right of passage that their use will grant within Rwanda.



TO: Ambassador Shaharyar Khan
SRSG

DATE: 25 May 1995
REF: OSRSG/LA/001/95

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

SUBJECT: Letter from Rwandese Ministry of Foreign Affairs Dated 22 May 1995

*Re 'A'
on the contrary,
we may have
started the AX
without... the
permission - by
the radio and
some telecom.
This needs to
be examined
urgently. How
can we put
the issue in
perspective?*

I have checked the contents and background to the above letter (attached as Annex A), after our discussion this morning. I can now confirm that the letter is not a response to your letter of 19 April 1995 on the SOMA violations.

Rather, it is a response to your letter of 26 October 1994 (attached as Annex B), and the proposed Supplementary Agreement (attached as Annex C), for the establishment of a Commissary by UNAMIR. The Ministry's references in their letter to Articles 1,2 and 4 are references to the proposed Supplementary Agreement (Annex C) rather than to the SOMA itself.

There is no reference to "Economat" in either your letter of 26 October 1994 (Annex B) or the proposed Supplementary Agreement (Annex C). The Ministry's reference to "Economat" is thus somewhat puzzling. They seem to be confusing the Commissary with one of UNAMIR's contractors called ECONOMAT.

Following our letter, the Director of Foreign Trade at the Ministry of Commerce, Mr. Sindayigaya, had visited UNAMIR to discuss the proposed Commissary (see my File Note of 25 November 1994, attached as Annex D). I had indicated in that Note that I suspected a connection between some of the points raised by him and the case of an employee of ECONOMAT who had been deported; but there was no reference to ECONOMAT in the discussion.

The next time the question of the Commissary came up was when I visited the Ministry of Foreign Affairs to discuss outstanding SOMA issues

*ED
LA*

..... with the then Chef de Cabinet and Director-General (see Annex E - my File Note on that meeting). In that meeting, they did refer to "Economat" when discussing the proposed Commissary. I pointed out to them that the company called **ECONOMAT** had nothing to do with the Commissary, and that we awaited their written response to our letter of 26 October 1994, after which we could respond to their objections - which, incidentally, had also been raised by their Director of Foreign Trade when he visited UNAMIR (Annex D). My File Note of 19 January 1995 reported those discussions: see page 1.

'A' |
..... | Nothing happened after all that. In the meantime, Mr. Golo issued a circular on 19 May 1995 announcing the establishment of UNAMIR's duty free shop at Trafipro (attached, Annex F). This, therefore, makes the whole issue under discussion irrelevant.

Note:

1. I await instructions on how to respond to Annex A.
2. I must point out that the Government is still yet to respond to our letter of 19 April 1995 on the SOMA violations.

REPUBLIQUE RWANDAISE



MINISTRE DES AFFAIRES ETRANGERES
ET DE LA COOPERATION

B.P. 179 KIGALI

"Annex A"

22 MAI 1995

Kigali, le

N° /03.02.7.05/AP/EA.
1162

/ Excellence Monsieur le Représentant
Spécial du Secrétaire Général des
Nations Unies au Rwanda.
C/O MINUAR -KIGALI.

N/Réf. :

V/Réf. :

Objet : Concerne le projet d'accord
complémentaire entre le
Gouvernement Rwandais et les
Nations-Unies sur l'Etablis-
sement d'un Economat pour la
MINUAR.

Son Excellence,

Référence faite au projet d'accord com-
plémentaire repris en marge, j'ai l'honneur de vous informer
qu'après avoir passé en revue l'accord entre les Nations Unies et
la République Rwandaise sur le statut de la MINUAR signé à New York
le 5 Novembre 1993, les articles 1 , 2 et 4 soulèvent mes objections
quant à :

? -La liste des bénéficiaires des services de l'Economat qui s'étend
aux missions diplomatiques accréditées au Rwanda et aux autres
personnes.

Je suis d'avis que les bénéficiaires
doivent être seulement les membres de la MINUAR et les fonction-
naires de l'ONU au Rwanda. Cela évitera des abus.

- Le recours aux services de concessionnaires pose des problèmes
car il deviendrait impossible de connaître l'usage fait de ces
produits importés hors taxes. Le statut de ces concessionnaires
ne devrait pas non plus être assimilé à celui de la MINUAR ,
mais être celui d'hommes d'affaires contractuels de la MINUAR.
- La liste des articles présentée par la MINUAR reprend même les
articles qui ne doivent pas être de besoins primaires hors taxes,
ce qui donne lieu à la fraude fiscale, comme c'est le cas actuel-
lement des produits alimentaires de la MINUAR qui se retrouvent
sur le marché.

... / ...

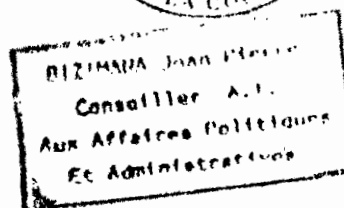
Tout en souhaitant une franche collaboration entre la MINUAR et le Gouvernement Rwandais, veuillez agréer, Excellence Monsieur le Représentant, l'assurance de ma considérations distinguée.

Dr. GASANA Anastase
Ministre des Affaires Etrangères
et de la Coopération.

P.O.
[Signature]

Copie pour information

- Son Excellence Monsieur le Président
de la République Rwandaise
KIGALI.
- Son Excellence Monsieur le Vice-Président
et Ministre de la Défense
KIGALI.
- Son Excellence Monsieur le Premier
Ministre
KIGALI.
- Monsieur le Ministre du Commerce
de l'Industrie et de l'Artisanat
KIGALI.
- Monsieur le Ministre des Finances
KIGALI.





DATE: 26 October 1994
REF: OSRSG/LA/007/94

Your Excellency,

The Special Representative of the Secretary-General presents his compliments to the Ministry of Foreign Affairs and Cooperation of the Republic of Rwanda and has the honour to convey the following:

1. Pursuant to Article IV paragraph 15 of the Mission Status Agreement between UNAMIR and Rwanda, UNAMIR has made arrangements for the establishment of commissaries at its Headquarters in Kigali for the benefit of its personnel and other United Nations and diplomatic personnel.
2. In order to formalize and facilitate the operation of such Commissary, UNAMIR would like to propose a Supplemental Agreement to the Mission Status Agreement, setting out the details for the operation of the Commissary. A draft of the proposed Supplemental Agreement is attached for the consideration of your Government.
3. I would be most grateful to receive an early response to this letter to enable us expedite our arrangements for the establishment of the Commissary.

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
Minister for Foreign Affairs and Cooperation
Kigali

Draft/20.X.94

SUPPLEMENTAL AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE UNITED NATIONS ORGANIZATION REGARDING THE ESTABLISHMENT OF A COMMISSARY BY THE UNITED NATIONS ASSISTANCE MISSION FOR RWANDA (UNAMIR)

The United Nations Assistance Mission for Rwanda (hereinafter referred to as "**UNAMIR**") being a subsidiary organ of the United Nations, and the Government of the Republic of Rwanda (hereinafter referred to as "**the Government**"), pursuant to Article IV paragraph 15 of the Agreement between the United Nations and the Republic of Rwanda on the Status of UNAMIR signed at the United Nations Headquarters in New York on 5 November 1993 (hereinafter referred to as "**the Status of Mission Agreement**") hereby agree as follows:

Article I

The importation of reasonable quantities of consumer articles for the personal use and consumption of the members of UNAMIR and other persons indicated in Article II below will be effectuated by a service within UNAMIR called the "**Commissary**". Such importation shall be free of customs duty or other restrictions in accordance with Article IV paragraph 15 (a) of the **Status of Mission Agreement**. Regulations shall be issued by the [SRSG or Executive Director] of UNAMIR concerning the administration and use of the Commissary to ensure that this service is used consistently with the provisions of the **Status of Mission Agreement** and the present supplemental Agreement and especially that the imported articles shall not be used for sale to persons not entitled to the privileges of the **Status of Mission Agreement**. Such regulations shall be communicated to the Government for information.

Article II

1. The following categories of persons shall have access to the Commissary:

- (a) Members of UNAMIR and other officials of the United Nations who are attached to United Nations Agencies in Rwanda;
- (b) Members of diplomatic missions accredited to Rwanda who have diplomatic status;
- (c) Such other persons as may be agreed upon from time to time.



- 2 -

2. UNAMIR shall communicate to the Government a list of persons having access to the Commissary under paragraph (1) (b) above and shall revise such list from time to time as may be necessary.

Article III

The categories of articles which may be imported for and sold by the Commissary are:

1. Tobacco products and smoking equipment;
2. Alcoholic beverages;
3. Non-alcoholic beverages;
4. Foodstuffs and alimentary products;
5. Cosmetics and toilet preparations (including perfumes; deodorants; tooth brushes; razors and razor blades);
6. Scouring preparations; polishes and similar products for furniture, floors, carpets; silver articles; dusters and similar cleaning cloths; cloths and sponges of plastic material;
7. Soaps, surface active preparations and washing preparations; glazing and dressings for textiles; disinfectants, insecticides and similar products;
8. Medical supplies and pharmaceuticals, excluding prescription drugs;
9. Sporting goods, such as tennis and golf equipment;
10. Photographic material, including films, flashbulbs, batteries and other accessories;
11. Women's and men's underwear and hosiery; baby items and apparel for children of pre-school age; sanitary towels and pads, of wadding or textile fabric;
12. Books, newspapers and magazines;
13. Electronic products including music systems, radio cassette recorders; phonograph records, magnetic tapes, disks, and cassettes, whether or not recorded.

Article IV

UNAMIR shall be entitled to engage the services of a concessionaire or concessionaires for the purpose of operating the Commissary on behalf of UNAMIR within the terms of this Agreement, and the officials and employees of such concessionaire assigned to operate the Commissary on behalf of UNAMIR, whose names shall be submitted to the Government, shall be regarded as members of UNAMIR for purposes of their travel to and from Rwanda and their residence in Rwanda while engaged in the operation of the Commissary.



- 3 -

Article V

If UNAMIR or any other UN agency covered by this Agreement establish restaurant and/or cafeterial facilities for personnel and guests, such facilities shall be entitled to draw from the Commissary any quantities of articles necessary for their operation, it being understood that any concessionaire who may be allowed to run these services will not be entitled to obtain profits or benefits from goods derived from the Commissary. This condition shall be included in the contract drawn up between UNAMIR and a concessionaire charged with running restaurant and/or cafeteria facilities.

Article VI

Informal consultations as may be necessary will be arranged at the administrative level concerning the implementation of this supplemental Agreement.

Article VII

This supplemental Agreement shall enter into force upon signature and shall remain in force for the duration of the **Status of Mission Agreement**.

Article VIII

A request for the revision of this Agreement may be made at any time by either of the parties by means of a communication in writing addressed to the other party. Amendments to this Agreement, as agreed upon by the parties shall enter into force through an Exchange of Notes between the [SRSG or Executive Director] of UNAMIR and the duly authorized representative of the Government.

DONE at Kigali this

day of

1994

For the United Nations (UNAMIR)

**For the Government of the Republic
of Rwanda**

25 November 1994
OSRSG/LA/007

Note for file: Commissary

The Director of Foreign Trade at the Ministry of Commerce, Industry and Handicrafts, Mr. François SINDAYIGAYA, came to see me yesterday, 24 November 1994, on our proposed Supplemental Agreement on the establishment of UNAMIR's Commissary, prior to his advising the Rwandese Government on their response to our proposal.

We discussed each provision of the draft in detail. They have no objections to the Commissary; in fact, the Director showed some enthusiasm for it, particularly the possibility that they could request access for senior Government Officials (through Article II.1.c). The following were their main concerns:

Persons entitled to use the Commissary - His office has no objections to extending the Commissary to members of other UN agencies (Article II.1.a).

But they do have some reservations - although not strongly - to extending it to members of diplomatic missions (para 1.b). If they agree on that point, they would add to para.2 that the list of diplomats so entitled should be submitted to them for approval (rather than for information).

Question of Control - Their most important concern is to prevent abuse of the Commissary. First, they were of the view that the categories of goods to be imported were too many; but their main concern here was to avoid importation in commercial quantities. They would expect UNAMIR to control that. Second, they were concerned about possible sales to persons not entitled. Third, they were concerned about the quantity of goods that eligible persons could purchase at any one time.

Although they noted (and agreed) with the provision in Article I requiring the SRSB to issue regulations on controls as required by the Mission Status Agreement, they wanted more specific controls to be spelt out in the Agreement, particularly on the second and third concerns above. They will propose an additional provision on this issue for our consideration.

The Concessionaire(s) to run the Commissary - They wanted detailed information on the status of the concessionaire(s) and their staff and families; their freedom to engage in other activities; whether they would be allowed a profit from the

These are
legitimate fears.
Sindayigaya
25/11
EJ
CAO
Let's discuss
am
24/11

Commissary and to what extent; and what controls UNAMIR would have on their commercial and any other activities (I got the impression that the recent case of the ECONOMAT employee who was deported was at the back of all this).

I informed him that these issues would normally be dealt with in a separate contract negotiated by the Administration. I called Mr. Golo at that time and arranged a meeting for further discussions on this. (The meeting was scheduled for 10:00 hrs today, Friday 25 November, but had to be postponed to the same time tomorrow 26 November).


Ike Minta
Legal Adviser

cc: Mr. S. Khan, SRSG
Dr. A. Kabia, Executive Director
Mr. A. Golo, OIC, Administration

"Annex E"

NOTE FOR THE FILE

19th January 1995

**Meeting at the Ministry of Foreign Affairs on implementation of
the Status of Mission Agreement; 18 January 1995**

Present: Mr. Leon NGARUKIYE, Head of Cabinet
Ambassador Simon INSONERE, Director General
Mr. Ike MINTA, Legal Adviser, UNAMIR
Maj. B. M. OSWALD, Legal Officer, AUSMED/UNAMIR
Ms. Sylvie NOSSEREAU, Interpreter, UNAMIR

Head of Cabinet:

We wrote to the technical ministries namely the Ministries of Finance, and Trade and Industry who are still working on the technical details regarding the correspondence on the mission status agreement between UNAMIR and Rwanda. We hope that they will finalize their work soon, and we apologize for this delay which is mainly due to the shortage in personnel, especially legal experts, which we are experiencing in the Government. Without anticipating the conclusions of the technical groups which are still pending, we foresee potential problems regarding the list of products that UNAMIR intends to import to the country [for the Commissary]. Although UNAMIR is regulated by the Vienna Convention and is, as such, entitled to run a commissary where duty-free items will be made available to its staff, the quantity of duty-free goods will have to be limited so that UNAMIR does not act as an importer or a concession holder, in which case customs duties would have to be levied.

Director:

You asked in your proposal [letter of 26 October 1994] whether the beneficiaries of the commissary, apart from UNAMIR staff, could be extended to include other diplomats and other persons. I think we must stay within the limits of the convention signed on 8 November 1993 and grant such privileges to UNAMIR personnel only. If UNAMIR's commissary were to act as some kind of sub-contractor, it would amount to a regular business. You will understand that our country cannot afford to extend diplomatic privileges and immunities to such a business. So we will have to work out the management arrangements for this commissary.

Legal Adviser:

We had lengthy meetings with the Director of Foreign Trade of the Ministry of Trade and Industry who came to see us and raised a number of issues, including that of beneficiaries. In our discussions we informed him that we are willing to amend some of our proposals after review of the Government of Rwanda's formal response embodying the issues he had raised, at which point we should sit down to discuss each item point by point at a joint meeting to finalize the proposal.

* Here I explained that ECONMAT had nothing to do with the proposed Commissary. *WCE*

* here they
referred to
ECONMAT

WCE

HC

We take good note of this proposal and will organize a meeting involving UNAMIR, the Ministries of Finance, Trade and Industry and Foreign Affairs as soon as we get the Ministries of Finance and Trade and Industry feedback on your proposal.

LA

I have a few additional points to raise:

1) The first one has to do with the exchange of letters on UNAMIR's status agreement. It is a mere formality but we insist on it as it was required by the Secretary General and the UN Legal Office in New York. Of course, the present agreement remains valid but this exchange is in light of the extension of UNAMIR's mandate. We first asked you for this exchange in a letter dated 5 October 1994 and have sent several reminders since then, but have received no formal response.

2) In the meantime, we would like you to issue instructions to Rwandan Government employees dealing with UNAMIR to make it clear that they should observe the privileges and immunities that UNAMIR and its staff are entitled to. We feel that this is necessary as we often have incidents occurring, e.g. at the airport with immigration officers (lengthy review of documents, body searches) and customs officers (when they try to levy tax on personal effects or even UNAMIR goods, such as fuel in a recent incident). Such instructions would certainly clarify our status with some of your people who may not be aware of our rights.

3) Similar briefings could also apply to the RPA. Indeed, at times we have incidents with RPA military in which we fear for our own security. There is a provision in the status agreement [paragraph 6] about the obligation of the host Government to provide security to UNAMIR staff. We understand if you are not in a position to provide such security and are not asking you to, but we should at least make sure that we do not feel threatened by your personnel. Problems arise mainly or probably because of lack of knowledge about our status. Therefore, instructions to clarify what our rights are may be appropriate.

4) When traffic accidents involving UNAMIR vehicles occur, our vehicles are systematically impounded until the results of the investigation become known and a fine is imposed on us. We are willing to cooperate in the investigation process and make amends for our mistakes, but it should be made clear that our vehicles are immune from such seizures.

HC's answer

1) As it has done in the past, the Government of Rwanda will spare no effort in cooperating with UNAMIR who have done so much for us. We will take action for the exchange of letters to take place soon.

2) We will also give instructions to our technical staff who work with UNAMIR for them to

be aware and respect UNAMIR's privileges and immunities. I have a suggestion to help get the message across to all the parties involved: as part of the meeting to be held between our three Ministries and yourselves, we could also include representatives from the Ministries of the Interior and Defence, so that all concerned know what procedures are applicable to UNAMIR. As far as problems such as the import of fuel, I suggest you turn directly to the Ministry of Foreign Affairs for us to take action immediately. This is what other diplomats and representatives of NGOs usually do whenever they have a problem. It will certainly save you time and a lot of hassle, as the Ministry of Foreign Affairs is more familiar with where to turn to depending on the matter.

3) About security, I did receive several letters from you about incidents when your staff felt threatened, and each time, I reported them to the Ministry of Defense for appropriate action to be taken. Whenever you feel that RPA soldiers are ill-informed about your status, turn to us and we will intercede to prevent similar incidents being repeated in the future so UNAMIR personnel are able to do their work without being hassled.

4) About traffic accidents involving diplomats, investigation work is undertaken by the host country under the Vienna Convention. The gendarmerie will abide by international standards and do its work, i.e., write a report and let the vehicle go. Should your cars be seized again, get in touch with the Ministry of Foreign Affairs, but gendarmes are supposed to obey the rules and should not impound vehicles in the first place. We will make it clear to them. On your side, try to make sure that your staff abides by our traffic regulations.

Director:

To complement what was said by the Head of Cabinet:

1) about the exchange of letters, I would like to know if you have any problem in operating under the existing Agreement signed in 1993. If not, I think that the present Agreement remains applicable. It covers all your requirements and provides all the necessary guarantees as long as it has not been repealed. However, if you insist it is a necessary formality, there is no reason why we should not meet your request.

2,3,4) About difficulties in the field, be it at the airport, with the army or after traffic incidents, I would like to point out that your staff, in spite of international conventions granting them privileges and immunities, are not exempt from complying with our national law. I think some work could be done to promote an attitude in the minds of your personnel to stress that they are not above local law and that they are to display cooperative spirit and goodwill with local authorities. If this is not felt, some of our people may be frustrated, which in turn may lead to incidents. Of course, on our side, we must educate our people as well.

LA

Thank you for your comments. We welcome your eagerness to solve remaining problems. The exchange of letters is no more than a formality we are asking for as it originates from the

Secretary General himself. In the meantime of course, the existing agreement remains applicable and this is precisely the reason why we are now asking you questions about its implementation. You are right to point out that our personnel must also respect Rwandese laws. In fact, they are also required not to abuse their privileges and we take appropriate measures whenever some individuals act beyond what is permitted. We have, under the convention, obligations to assist you, and this is also the reason why we would like to participate in investigative work following traffic accidents [as required under paragraph 44 of the Status Agreement]. We are ready to assume our responsibilities, especially when our personnel are liable. About the fuel problem, it was brought to my attention only yesterday and I will get back to you after more careful review of the matter. I think it may be a good idea for us to have a specific point of contact at the Ministry of Foreign Affairs to relay such problems.

I now give the floor to my colleague from the military side who may have additional points to raise.

Major Oswald

Let me just raise two points which affect specifically the military:

- 1) Our movements throughout the country are sometimes restricted by the RPA, which is an obstacle to our peace-keeping here.
- 2) Related to the first issue, our soldiers are sometimes asked by RPA authorities to surrender their IDs which is a problem as it is our only means of identification in this country.

HC

I take note of the points raised by both of you. May I suggest that each of you write us a note listing all these points, so that we can forward it to the relevant bodies. Let me stress again that the Ministry of Foreign Affairs is your privileged point of contact and that we are your best advocate to defend your rights, as we are better informed than technical departments about the content of conventions. Your specific point of contact here will be Ambassador INSONERE (Director-General, telephone 77652).

Thank you for a very useful meeting.

LA

Will it be all right if we prepare a note for the file on this meeting, with a copy to you, that will serve as a point of reference for follow-up action?

So Agreed

Distribution:

UNAMIR:	SRS	Government:	Head of Cabinet, Ministry of Foreign Affairs
	FC		Director General, Ministry of Foreign Affairs
	ED		Other Ministries (distribution by Ministry of
	DFC		Foreign Affairs)
	OIC/Admin.		
	All Section Heads		



INFORMATION CIRCULAR NO. 34

DATE 19 May, 1995

TO: All UNAMIR Personnel

FROM: A. H. Golo
O.I.C. Administration

SUBJECT: OPENING OF UNAMIR DUTY FREE SHOP AT TRAFIPRO COMPLEX

I am pleased to announce that the UNAMIR authorized contractor will open a duty free sales facility on 23 May, 1995 inside the Trafipro complex in the building next to the water purification plant.

It is extremely important for all personnel to understand that every item on sale in this new shop is for the exclusive use of UN personnel and cannot be resold or bartered.

All personnel, civilian and military alike, are advised that anyone found to be reselling or bartering duty free goods will be reported to the SRSG or to the Force Commander, and disciplinary action will be initiated.

A valid UNAMIR identity card must be shown and the ID number shall be recorded by the cashier each time items are paid for. Only US dollars will be accepted as payment for the items on sale in the duty free store. The duty free shop is not opened to UNAMIR local personnel.

Please note that a special register will be maintained of all customers who purchase electronic products and other items that have traditionally been considered 'attractive' for resale on the open market.



UNAMIR-MINUAR

Heff

25 May 1995

Your Excellency,

The Special Representative of the Secretary-General presents his compliments to the Prime Minister of the Republic of Rwanda and has the honour to convey the following information regarding the alleged provision of assistance to two Rwandese nationals by UNAMIR against the laws of Rwanda.

On 14 May 1995, at about 06:00 hours, two Rwandese nationals sought protection at a UNAMIR location manned by Zambian troops in the Rwamiko area. They identified themselves as Faustin Nduwimana and Ngabo Yves Bizimungu, and claimed to be part of the mass flight of people from Kibeho camp during the incidents of 22 April 1995. Further questioning revealed that Nduwimana was a Second Lieutenant in the former Government Forces, and that Bizimungu was the son of a former Rwandese Minister of Health.

These individuals agreed to be interviewed by UNAMIR regarding the incident at Kibeho camp and to give information about FRGF/Interhamwe activity in the camps. UNAMIR asked the individuals if they wished to give evidence before the International Commission investigating the events of 22 April 1995 at Kibeho camp. They volunteered to give evidence before that Commission. Accordingly, they were brought to Kigali in a helicopter, kept in UNAMIR custody and interviewed by the Commission on 15 May 1995.

After appearing before the Commission they were questioned by UNAMIR personnel to establish if they had committed any crimes with a view to handing them to the Government if they were suspected in accordance with established procedures. After investigation it could not be established that they were implicated in the genocide.

At that stage, because no criminal guilt was suspected, they were not handed over to the civil authority. They were further informed that UNAMIR could not offer indefinite protection and were therefore offered the choice of being taken to the Rwandan civil authority or being allowed to go free. They initially requested to be taken to Zaire, via Burundi, however, this request was refused outright by UNAMIR. They then requested to be taken to the Ruhengeri area. It was assumed that this was the area of their home commune and therefore the request was approved. They were taken by helicopter to Mutura (TUNBATT HQ) and released.

H.E. Mr. Faustin Twagiramungu
Primer Minister of Rwanda
Kigali



UNAMIR-MINUAR

- 2 -

from the above, it is obviously

~~It is thus~~ not correct to conclude ~~from the above~~ that UNAMIR has close ties, or any ties at all, with the former Government forces or with "Interhamwe". Nor did UNAMIR knowingly give any assistance to enemies of the Rwandese Government or lend them any UNAMIR uniforms. And, certainly, UNAMIR could not have assisted them to escape from prison in Butare. These allegations are totally unfounded.

The decision to transport them by helicopter from Gikongoro to Kigali and then from Kigali to Mutura was taken without consultation with me. Although the decision seems to have been taken in good faith for the purpose of assisting the work of the Kibeho Commission and of assisting the two men to return to their home communes after giving evidence before the Commission, I am conducting a detailed inquiry into that in order to take any appropriate measures.

But it should be quite clear from the foregoing that this incident does not demonstrate any hostile action or intention towards Rwanda on the part of UNAMIR. I would like to assure Your Excellency that there are absolutely no hostile intentions on our part towards your Government.

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

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

He
cc: **President of Republic of Rwanda**
Vice-President of Republic of Rwanda



DATE: 26 May 1995
REF: OSRSG/LA/001/95

Your Excellency,

I have the honour to refer to the Status of Mission Agreement signed on 5 November 1993 between the United Nations and Rwanda with regard to UNAMIR, and to the various letters and Notes Verbale bringing to your attention certain violations of the Agreement and requesting corrective action by your Government.

In particular, I would like to refer to my letter of 19 April 1995 to which was annexed a list containing examples of such violations, and to my Note Verbale SRSR/NV/60/95 of 2 May 1995 on the restriction of UNAMIR helicopter flights, and to remind Your Excellency that we still await your responses to these letters.

In addition, I would like to inform Your Excellency that there have been additional violations of the Status of Mission Agreement in recent weeks, despite assurances of your Government's commitment to ensure the observance of the Agreement. These incidents include:

1. The intensification of restrictions on UNAMIR's helicopter flights from Kanombe airport in Kigali, and the searching of UNAMIR helicopters prior to such flights and on their return to Kanombe;
2. Continued searching of UNAMIR and other United Nations vehicles at RPA checkpoints, in April and May, and restrictions on the freedom of movement of MILOBs and other UNAMIR personnel (examples: incidents at Mugesera, Masaka, Rukomo, Butare, Kibali, Ntongwe, Chyahinda, Kamembe, etc.)
3. The serving of an ultimatum by the RPA Brigade Commander in Ruhengeri on UNAMIR troops (Tunisian Battalion) to vacate their camps in Busogo and Gisenyi by 26 May 1995; this particular problem had been brought to your attention in my letter of 19 April 1995.

Your Excellency is aware of the recent discussions between UNAMIR and Rwanda on the review of UNAMIR's mandate, on which the Security Council is due to take a decision in the next few

Dr. Anastase Gasana
Minister of Foreign Affairs & Cooperation
Kigali



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weeks. In this connection, I would like to point out that it is particularly important for your Government to take appropriate steps to stop such violations of the Status of Mission Agreement, and to demonstrate its stated commitment to ensure the observance of the Agreement as this is necessary for the effective implementation of UNAMIR's mandate in Rwanda.

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

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