

UNAMIR

MISSION AGREEMENT

12 OCT 1998

PLEASE RETAIN
ORIGINAL ORDER

[10 STRICTLY CONFIDENTIAL]

[1 CONFIDENTIAL]

EL/WG APR 2009

UN ARCHIVES

SERIES S-1120

BOX 1

FILE 1

ACC. 1998/0278

ROUTING - REQUEST

- Please ☒ READ
☐ HANDLE
☐ APPROVE
and ☐ FORWARD
☐ RETURN
☐ KEEP OR DISCARD
☐ REVIEW WITH ME

To Wke
We have requested
Mar Petrowanda
give us some
notification in
writing of what
this is required for

ROUTING - REQUEST

- Please ☒ READ
☐ HANDLE
☐ APPROVE
and ☐ FORWARD
☐ RETURN
☐ KEEP OR DISCARD
☐ REVIEW WITH ME

To As soon as it
is received, I will
give it to you.
(I am chasing
it up.)

Date 2/1

From Chase

UNITED NATIONS

ASSISTANCE MISSION FOR RWANDA



UNAMIR - MINUAR

NATIONS UNIES

MISSION POUR L'ASSISTANCE AU RWANDA

95 FORCE LOGISTICS SUPPORT GROUP
KIGALI, RWANDA

③ 1Kc
Let's discuss
Auth
3/3

FILE NO: 9510-1

FROM: 95 FLSC/Adjt

TO: UNAMIRHQ/SRSG

INFO: FC
Legal Advisor/Mr. Minta

DATE: 28 Feb 95

② We cannot allow our
MSG & privileges to be
trampled upon with impunity.
We must now take them up
formally with Smt (FO) and
with RPA.

See
23.

**ILLEGAL SEARCH OF UNAMIR
CANADIAN SOLDIERS' LUGGAGE - KIGALI AIRPORT**

Refs: A. Telecon Capt Motari, Airport Security/Capt Hagar 21 Feb 95

B. UNAMIR SOP 8.2 issued Dec 1994

C. Discussion Mr Minta, Legal Adviser/Capt Hagar 23 Feb 95

1. On 21 Feb 95 the Adjt of 95 FLSC received a phone call from Capt Walden at the Kigali International Airport stating that the Canadian soldiers embarking on their 72-hour pass were being subject to a luggage search despite the fact that they were in uniform.

2. Capt Hagar immediately proceeded to the Airport where he observed the following:

- a. two indiv bearing plasticized ID cards were examining the Canadians' luggage prior to the soldiers receiving their boarding passes; and
- b. the two indiv wore no article of clothing to identify them as auth security employees.

3. When Capt Hagar introduced himself to the senior of the two individuals and explained the rights of uniformed UNAMIR soldiers, he was accosted by this person, a Ms Dimitri. Failing any sort of cooperation from this person, the Adjt contacted Capt Motari in the terminal by telephone. At ref A, Capt Hagar was subject to a tirade of insults, to which he thanked Capt Motari and terminated the conversation.

1/2

4. The Field Services Security Guard, in consultation with Mr Minta, informed Capt Hagar that nothing further could be done and the Canadian uniformed soldiers must continue to open their kit bags for "inspection". This action resulted in loss of face for both the Adjt and the soldiers who were firmly obeying UNAMIR directives, IAW ref B.

5. This memo concludes the action taken at ref C. I would appreciate your cooperation in confirming the present policy in order to avoid further embarrassment to UNAMIR contingents.

(4)

Cpt.
Hagar
came to
see me
after
the fact.

to report
the search
and state
that they
were going
to protest.

16cinfz
3/3

ROUTING SLIP		FICHE DE TRANSMISSION	
TO:	Mr. Minta		
A:	Ladan M. Rafii		
FROM:			
DE:			
Room No. - No de bureau	Extension - Poste	Date	
		28/2/95	
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	<input checked="" type="checkbox"/>	POUR INFORMATION	



TO: Ambassador Shaharyar M. Khan
SRSG

FROM: Ladan M. Rafii
Political/Legal Officer

A handwritten signature in dark ink, appearing to be "LML", is written over the "FROM:" line.

DATE: 28 February 1995

SUBJECT: Status of Mission Agreement

In accordance with your recent request, I am writing to inform you of certain observations made with regard to the current status of the Agreement signed on 5 November 1993 between the United Nations and the former Government of Rwanda on the status of the United Nations Assistance Mission for Rwanda (UNAMIR).

1. The Agreement is confined to UNAMIR's mandate as described in the Security Council resolution 872 (1993) of 5 October 1993. Pursuant to this resolution, UNAMIR was mandated to:

- contribute to the security of Kigali
- monitor observance of the ceasefire agreement
- monitor the security situation in the country
- assist with mine clearance
- investigate instances of alleged non-compliance with the provisions of the Arusha Peace Agreement relating to the integration of the armed forces
- monitor the repatriation of Rwandese refugees and resettlement of displaced persons
- assist in the coordination of humanitarian assistance
- investigate and report on activities of the gendarmerie and police

Although UNAMIR's mandate has been modified in other resolutions passed by the Security Council subsequent to resolution 872, a strict interpretation of the terms of the Agreement would indicate that its provisions do not encompass any tasks assigned to UNAMIR beyond the scope of those outlined above.

Accordingly, and in response to a request from U.N. Headquarters in New York, a draft exchange of letters was prepared to ensure that the Agreement of 5 November 1993 applied to UNAMIR's current mandate. A letter dated 5 October 1994 was sent from the SRSG to the former Rwandese Minister of Foreign Affairs seeking the Government's approval of these letters. At a meeting held on 24 October 1994 between our Legal Adviser and the Director of Cabinet of the same Ministry, we were informed that the matter of the exchange of letters was still under discussion with the Government, but that a formal response should be expected soon. On 8 November 1994, a Note Verbale was sent to the Ministry of Foreign Affairs from the SRSG's office reminding the Ministry that we had yet to receive a response on the issue.

On 18 January 1995, our Legal Adviser attended a meeting at the Ministry of Foreign Affairs during which Head of Cabinet at the Ministry stated that the Government of Rwanda would spare no effort in cooperating with UNAMIR and that action on the exchange of letters would take place soon. He further stated that instructions would be issued to their staff interacting with UNAMIR to be aware of and to respect UNAMIR's privileges and immunities. The Director-General of the Ministry of Foreign Affairs added at this meeting that, in his opinion, the existing Agreement signed in 1993 remained valid.

Following problems experienced by various UNAMIR personnel at Kigali airport, a Note Verbale dated 2 February 1995 was sent to the Minister of Foreign Affairs referring to the privileges and immunities granted members of UNAMIR in the status of mission Agreement. We reminded the Ministry of our previous requests regarding the exchange of letters. In response, the Minister of Foreign Affairs wrote a letter the same day addressed to the Ministries of Defence, of Transport and Communications, and of Finance (with copies to the Rwandese President and Prime Minister) referring to the status of mission Agreement and requesting their respective personnel to "respect the commitments undertaken by the Rwandese Government concerning the status of UNAMIR." Despite this acknowledgement of the validity of the Agreement, UNAMIR has yet to receive any formal notification on the part of the Government indicating its willingness to supplement the existing Agreement to include coverage of UNAMIR's expanded mandate. (It should also be noted that the draft exchange of letters submitted to the Government on 5 October 1994 has since become outdated due to the further expansion of UNAMIR's mandate in Security Council resolution 965 of 30 November 1994.)

2. The existing Agreement refers to "the status of the United Nations Assistance Mission for Rwanda". For purposes of this Agreement, UNAMIR is deemed to consist of the "Special Representative" (including any member of UNAMIR to whom he delegates a specific function or authority); a "civilian component" (consisting of U.N. officials and other persons assigned by the Secretary-General to assist the SRSG or made available by participating States to serve as part of UNAMIR); and a "military component" (consisting of military and civilian personnel made available by participating States to serve as part of UNAMIR).

Other U.N. agencies operating in Rwanda are not covered by the terms of this Agreement, but they may have concluded their own individual agreements with the Government (as in the case of the U.N. Human Rights Field Operation in Rwanda). Even in the absence of such separate bilateral agreements, they would be accorded certain rights under the Convention on the Privileges and Immunities of the United Nations adopted by the U.N. General Assembly on 13 February 1946 and to which Rwanda is a signatory party.

3. The Agreement only refers to the term "the Government" as meaning "the Government of the Republic of Rwanda". That is, it is not restricted to a particular type of regime governing the country. As such, despite the recent change in Government, the existing Agreement is still legally binding (assuming the Government has obtained formal recognition), and any violation of this international obligation by the current Rwandese Government would result in state responsibility for which it would be held liable (unless it raises a valid defence for the non-performance of its obligations).

MINISTÈRE DES FORCES ARMÉES

NT SÉNÉGALAIS AU RWANDA
ACHEMENT PREVOTALKibuyé, le 25 Février 1995
/ / 002 / 41 CAPITAINE Malick NIANG, Prevôt du contingent Sénégalais
à KibuyéS U B J E T: Renseignements d'ordre militaire.

Les renseignements reçus, les Sénégalais feraient l'objet d'une aversité de la part des forces de sécurité et d'une partie de la population Rwandaise qui les accuseraient d'être des agents au service de la France.

FAITS CONSTATÉS: Le 22 Février 1995 à notre arrivée à l'Aéroport de Kigali, le contingent a passé plus de onze heures de temps dans le Hall (08 Heures à 21 heures locales) sous prétexte que les militaires ne détenaient pas de passeport.

Après plusieurs tractations, il nous a été demandé de remplir des fiches de débarquement en plus des photos d'identité faites sur place.

Il fallait ensuite selon les responsables attendre l'avis des Ministres des Affaires Etrangères de l'Intérieur de la Défense qui selon une source Rwandaise serait absent de Kigali.

N'eût été l'intervention d'un GÉNÉRAL Canadien de l'ONU en poste au Rwanda, le contingent passerait certainement une nuit à l'Aéroport.

CONCLUSIONS

Les faits ci-dessus relatés traduisent une volonté manifeste tendant à retarder et à saper le moral.

De l'avis de personne non identifiée à l'Aéroport, jamais de tels faits ne se seraient produits.

Des recoupements sommaires, il ressort une nette tendance à confirmer les renseignements fournis tantôt, renseignements auxquels certains ne semblent pas accorder une grande importance. Même si les consignes reçues des Nations Unies vont dans le sens de l'amélioration des bons rapports entre ses forces et l'Armée Rwandaise, il serait souhaitable d'accorder beaucoup plus de crédit à ces renseignements qui restent cependant à vérifier.

DESTINATAIRES

- Monsieur le GÉNÉRAL, Commandant en Chef de la MINUAR à Kigali
- Monsieur le GÉNÉRAL de Division, Chef D'Etat Major GÉNÉRAL des Armées à Dakar
- Monsieur le GÉNÉRAL de Brigade, Haut Commandant de la Gendarmerie et Directeur de la Justice Militaire à Dakar
- Monsieur le Lieutenant/Colonel, Commandant le contingent Sénégalais au Rwanda à Kibuyé.

- / R C H I V E S /





To: SRSG, FC

Info: DFC, COS, DCOS Ops, DCOS Sp, CO ZAMBATT, CO AUSMED
UN HRFOR (one copy each for Mr Essaied and Team
Leader, Gikongoro)

From: Force PM/SO2 G1 Discipline *may*

Date: 23 Feb 95

File: FPM/5

Subject: OPERATION HOPE - 7TH REPORT ON THE HANDLING OF
DETAINÉES BY RWANDAN CIVIL AUTHORITIES

*Seen from
27/2*

1. I spent two and a half hours with the Public Prosecutor in Gikongoro today in the company of the new Australian Legal Officer (Maj McConachy) and UN HRFOR monitors to check on the situation of the 43 x Op HOPE detainees who remain in custody.

INVESTIGATIONS

lit.

2. The Prosecutor's investigations are now well under way despite two brief suspensions of activity imposed:

a. By the impact on the Prosecutor's assistants of the arrest by a Bourgemestre last week of one of their number. It has been accepted by them, however, that the arrest was not related to their work and was to do, only, with the individual concerned: he has been accused of travelling in the vehicle of a bourgemestre who was involved in the genocide.

b. By the impounding last weekend of the UNAMIR vehicle on loan to ZAMBATT following its involvement in a traffic accident.

3. To date, 19 cases have been investigated in Nyakizu commune, including that of the one detainee who has escaped. The result is that:

a. At least 3 statements alleging participation in the genocide have been recorded against 18 of the 19. More statements have been recorded against some detainees.

b. No evidence has been found to incriminate one member of this group. His name is being kept confidential for the time being.

4. The Prosecutor now plans to:

a. Instruct his deputies to commence investigations in Kigembe commune starting next week. This will be enabled by the delivery to ZAMBATT tomorrow of a vehicle - from amongst an allocation intended for the UNAMIR MP Company - to temporarily replace the one that is impounded.

b. Conduct the second interrogation of the 19 prisoners himself (the initial interrogations having been done for the most part by his assistants) to allow them to challenge the evidence recorded against them.

c. Do his best to confirm the innocence of the one man against whom he has found no evidence and provide the Bourgemestre of his commune with papers giving him a clean bill of health. He seemed confident that it would then be safe to release this detainee.

5. Another very encouraging step was his invitation for me to attend and assist in his interrogations despite the confidentiality that would normally apply to these proceedings: I have replied that I do not want to participate actively or to sit in on all his work but that I will attend - with the Australian Legal Officer - to observe a sample of this activity.

6. In our presence, the Prosecutor addressed 3 groups of detainees to explain to them his plans. The groups comprised:

a. Those from Nyakizu whose cases are moving towards the second interrogation

b. Those from Kigembe whose cases will be investigated shortly.

c. Those from other communes who can expect a slightly longer wait.

One of the detainees - apparently speaking for others with him - responded by admitting his role in the genocide but claimed to have been acting under duress.

CONDITIONS IN GIKONGORO PRISON

7. The prison population is now 397 - up from 315 when I visited on 9 Feb. Although conditions are becoming more cramped day by day, conditions remain much as before; the prison is clean, a good meal is provided daily (on this occasion, I saw it being served) and medication is given to those who need it. There is a dire need for beds (and, in particular, bunk beds); there are few mattresses and many inmates continue to sleep on stone floors with only blankets. Overall, however, I have seen much worse in other Rwandan prisons.

NEXT VISIT

8. Maj McConachy and I have accepted the Prosecutor's invitation to observe his interrogations and will visit Gikongoro again on Tue 7 Mar. I will report again, thereafter.

UNITED NATIONS



NATIONS UNIS

ASSISTANCE MISSION FOR RWANDA

MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

Ike - for info.

Mission Subs file

TO: Mr. A. Golo
OIC, Admin.

DATE: 23 February 1995
REF : MCC/CUS/346

COPY: Mr. P. Hornsby
CISS

FROM: Kel Gleeson
Chief, MCC

SUBJECT: MAGERWA - payment of handling fee

Please find attached a letter from the Director of Magerwa, in which a handling fee of 0.5 per cent is requested to be paid by UNAMIR.

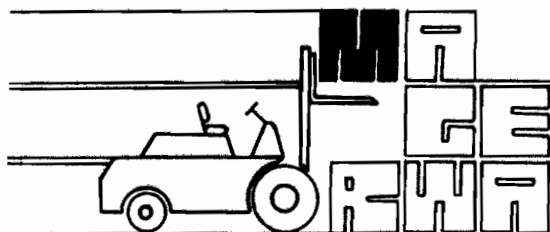
As you know, we have a contractual arrangement with Magerwa to perform services for us at the airport, for which we pay a monthly fee of US\$3,000 (copy of original requisition and purchase order attached). These services do not take into account the 0.5 per cent handling fee normally charged by Magerwa, since we were doing the handling ourselves.

At the time that this arrangement was made, the customs area at Gikondo was not operational. Gikondo has now been operational since before the end of 1994, and Magerwa, as official agents for the Government, have been performing the services for UNAMIR outlined in the attached letter from the Director. (These services are equivalent to those performed by Petrrowanda, for which we now pay a charge of 0.5 per cent.)

As you will see from the letter, the Director of Magerwa is requesting that we pay this 0.5 per cent handling fee for the services rendered at Gikondo. We have consulted the Legal Advisor, Mr. Minta, who confirms that, since this is a service charge, UNAMIR is not exempt from paying it, but that we are not obliged to pay any retroactive charges unless there is a specific agreement between UNAMIR and Magerwa that we will do so. He also advises that authorization to pay the service charge must come from your office.

We would point out that Magerwa continues to be the only company that owns workable cranes and a hammartruck, but that they have a very limited number of this equipment, which UNAMIR utilizes almost on a daily basis. Magerwa does not have the funds to purchase spare parts for the equipment which is extremely costly. We therefore also request that an agreement be made to pay the 0.5 per cent retroactive to 1 January 1995.

We therefore attach an amended requisition for your authorization.



MAGASINS GENERAUX DU RWANDA S.A.
B.P. 380 KIGALI

Tél.: 8 5325 / 7 5212 / 7 5543 / 7 4110 / 7 3548
R.C. A 071 Kigali

N/réf.:
V/réf.:

Kigali, le

10/02/1995

Mr. A. GOLO
OIC Administration
Attn : Mr. K. GESSON

OBJET : Frais de manutention.

1. Le gouvernement rwandais a concédé à la société "MAGASINS GENERAUX DU RWANDA", le droit d'entrepôt public ouvert à Gikondo. Cet entrepôt public dépend du bureau des douanes de Kigali.
2. Sur instructions de la douane, la société se charge :
 - a. du pesage des véhicules;
 - b. du contrôle de la circulation;
 - c. du contrôle de l'entrée et de la sortie des véhicules;
 - d. du déchargement, de l'entreposage et de la mise à quai à l'enlèvement des marchandises, y compris le pointage le reconditionnement et les constats sous palan ou à titre de témoin;
 - e. l'arrimage en entrepôt;
 - f. du changement d'emballage;
 - g. de la manipulation des marchandises;
 - h. de toutes autres opérations non contraires à l'objet normal d'une société de l'espèce et jugée nécessaires par l'Administration des douanes.

Concerne prestation de service rendu

1. Dans votre cas nous faisons le pointage à domicile c.à.d. le pointage de vos containers.
2. Nous émettons vos avis d'arrivée.
3. On s'assure que les manifestes sont conformes avec la réalité.
4. On donne une décharge au dernier transporteur.
En réalité il s'agit de ce que l'on pourrait appeler "Intervention et soins" ou commission d'intervention.
Aussi nous vous demandons de bien examiner notre demande de paiement de 0,5 % sur la valeur C.I.F. de vos marchandises.

Veuillez agréer, Monsieur, l'expression de ma considération distinguée.

Directeur Général,
Willy MATELBERGE.

23 February 1995
OSRSG/LA/001

NOTE FOR THE FILE

Incident at Kigali Airport Involving Senegalese Troops
on 22 February 1995

At about 10:30 hours on 22 February 1995 (on returning to the Office after accompanying the SRSg to a meeting with the Minister of Justice), I was called to attend to a problem at the airport involving 121 newly-arrived troops from Senegal. Ambassador Conde, our Chief of Protocol (in the absence of Ambassador Dessande), had already spoken to the Ministry of Foreign Affairs and requested their intervention.

At the airport, Immigration were refusing to let the troops in because they had no travel documents. I drew their attention to relevant provisions of UNAMIR's Status of Mission Agreement with Rwanda, which state in brief, that there should be no passport or visa requirements for UNAMIR personnel, and, instead, that an individual or collective movement order (issued by UNAMIR or a participating State) and a UNAMIR or National ID Card should suffice (ref: para 34 of SOMA). The UN Laissez-Passer should also suffice. The immigration officers were prepared to accept this if confirmed by the Ministry of Foreign Affairs and the Ministry of Interior.

While seeking such confirmation, Ambassador Conde informed me by radio that the Minister of Foreign Affairs had talked to Cpt Murari of the RPA (airport security) by phone and agreed with him that the troops should be photographed individually and processed through, after which UNAMIR would address any concerns raised by the Government. It took a while to locate the Captain to confirm this, and when he finally showed up, with Maj. Kamanzi, they raised security questions. For example, Maj. Kamanzi asked if we could vouch that the troops were not French Legionnaires. They also mentioned that the order should come only from the Minister of Defence.

There was thus a standoff, and some heated arguments. Fortunately, the President of Rwanda and the Minister of Interior were arriving at the airport from Akagera Park, by UNAMIR Helicopter. I joined Ambassador Conde and the Rwandese Chief of Protocol to meet them, and we raised the problem with the Minister of Interior. The Minister personally instructed the immigration officers to comply with the arrangement made by the Minister of Foreign Affairs. UNAMIR's Chief of Security, Mr. Ischlika, then arranged for the photographs to be taken. I left the airport when the processing began, at about 1430 hours.

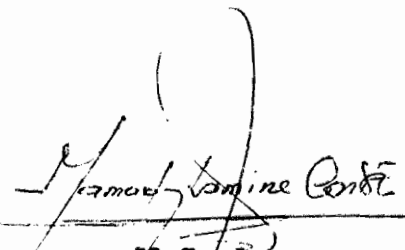
At about 17:00 hours, we were informed that the Minister of Defence had stopped that process, presumably on the same security grounds raised earlier. There was talk of the repatriation of the troops back to Senegal. It took more than an hour of subsequent negotiation between Ambassador Conde, State Protocol, and the various Ministries to get that resolved. The troops were finally processed through at about 20:30 hours on the intervention of the FC who contacted the Minister of Defence. Steps were also taken to stop a second batch of troops that was due in this morning.

Comments

UNAMIR is required to inform the Government, in advance, of incoming troops. That was not done ahead of time in this case. The SRSg's Office only learned of their arrival when there was a crisis. When our protocol office was informed of the presence of the troops at the Airport, they informed immediately the Foreign Ministry. There were two other incidents this month, on 2 February and 20 February, of crises relating to troops whose arrival had apparently not been previously notified.

As we continue to press the Government to honour its obligations under the Status of Mission Agreement, we must certainly honour our own obligations.


Ike Minta
Legal Adviser


M. Conde
Acting Chief of Protocol

cc: **SRSg**
FC
ED
OIC/Administration
MOVCON



TO: Mr. Kel Gleeson,
Chief MCC

DATE: 22 February 1995
REF: OSRSG/LA/001/95

FROM: *KCC*
Mr. I. Minta
Legal Adviser

SUBJECT: Problem of Malawicoy Personnel at Kigali Airport on 20 February 1995

I had seen the officers in question at the airport on Monday morning and tried to resolve the problem with the customs officers, who were adamant. I then returned to the office to pursue the problem with the Ministry of Foreign Affairs and the RPA Liaison.

After a telephone conversation with the Director-General of the Ministry and with the approval of the SRSG, I prepared a letter, to be countersigned by the Ministry and taken to the airport to resolve the problem. Mr. Ischlika, our Chief of Security, took the letter to the Ministry as I had three other engagements that afternoon, two outside the office.

On returning to the office at about 6:00pm, I found a note saying the Ministry had refused to countersign the letter (apparently because it did not list the serial numbers of the items in question: which was an impossible request). Their position, as it turns out, was due to the Government's dissatisfaction with privileged items that have found their way to the open market (see SRSG's letter of 21 February, copy attached).

.....

Until we get the Government (as a whole) to observe the SOMA, we must cope with the problems as best as we can. I think we must always make our rights clear to Government agents, namely, exemption from customs/import duties; no searches, no restrictions, arrests or detention, etc.

If Government agents want to violate these, we must always point out the fact of the violation, but use our discretion in avoiding a confrontation. For instance, we can allow a baggage search if only to make the point that we have nothing to hide, while still pointing out that the search is a violation.

I agree.
See
222

As regards customs or import duties, we must always refuse to pay. But we must also note that our duty free privileges are subject to safeguards, to ensure that the goods are not sold on the open market. The Government thus has the right to require guarantees to that effect.

The basic problem, though, remains, and the answer to that is to get all the relevant Ministries to sit down with us and establish relevant procedures. The Protocol Office, and myself, are pursuing that as best we can.

cc: SRSG
OIC/Administration
CISS

UNITED NATIONS

ASSISTANCE MISSION IN RWANDA



NATIONS UNIES

MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

4020

To: CTO

Info: UN HRFOR LO (Maj Racine), Legal Adviser (Mr Minta),
C BOI Unit, C Claims, CO UNAMIR MP Coy

From: Force PM/SO2 G1 Discipline

Date: 21 Feb 95

File: FPM/2

Subject: UNAMIR VEHICLE NUMBER 1914HR

1. I do not have the details to hand but I understand that 1914HR was involved in an accident in January and that the other driver's claim has not yet been paid. His persistent complaints at Muhima Gendarmerie seem to be bearing fruit; they are on the point of ordering the impoundment of the UNAMIR vehicle - despite this being in contravention of the Status of Mission Agreement.

2. I suggest that:

a. The vehicle is kept away from Kigali if at all possible.

b. The vehicle is allocated a new number - with the number 1914HR not being re-issued.

3. For CO UNAMIR MP Coy. If the report on the accident in which 1914HR was involved has not yet been completed, I would be grateful if you were to chase it along.

M. Cuthbert-Brown

M CUTHBERT-BROWN
Maj
Force PM/SO2 G1 Disc



DATE: 21 February 1995

To: FC
ED
CAO
LA

From: Shaharyar M. Khan
SRSG

Shaharyar M. Khan

Subject: Privileged items

I am concerned at the leakage of some UN privilege items that appear to be on the market. These include beverages, TVs, electrical items, toiletries. Justifiably the Rwandese government is concerned and has remonstrated.

I would like the strictest possible control on these items. In any case I must be informed of the quantities of these privileged items that are being brought in and their rationale. If leakage continues I shall have no hesitation to withdraw these privileges as I am not prepared to accept the tarnishing of UN's image in Rwanda.

- ⊗ check re contractors ?
- ⊗ any contingent imports ?
- ⊗ possible adverse effects re approval for commissary (which is still in pipeline)

KSC
21.2.95



TO: Mr. I. Minta
Legal Advisor

DATE: 21 February 1995
REF: MCC/CUS/339

THROUGH: Kel Gleeson
Chief
MCC

FROM: Carole Harris
Commercial Operations Co-ordinator
MCC

COPY: Mr. A. Golo
OIC, Admin.

Mr. P. Hornsby
CISS

SUBJECT: Malawicoy personnel - problem at Kanombe Airport

As you know, yesterday morning I was advised that several members of the Malawi contingent had arrived on the flight from Nairobi and had been detained by Customs. The soldiers were bringing in, as part of their personal effects, stereo equipment that they had purchased duty free in Nairobi. The Customs officer maintained that in order to bring the equipment into the country duty free, they needed a letter of exemption from UNAMIR.

Subsequent to my advising you of this situation, I met with the Director of Customs at Gikondo and gave him a copy of the relevant page of the SOFA. He confirmed that a letter of exemption was necessary, but that there should be no problem in getting the goods released in advance of the paperwork being received. The Director wrote a note to the Controller of Customs at the airport asking him to sort out the situation.

In the afternoon I met with the Controller of Customs at the airport. He did not appear willing to release the goods without the paperwork. He intimated that, in order for him to even consider doing so, their procès verbale would have to be signed by us. The Controller emphasized that they were not asking for customs duty to be paid on the equipment, but that anyone who was bringing goods in duty free had to present a letter of exemption.

In order to expedite the situation, I signed the procès verbale and returned it to the Controller, who then immediately authorized the release of the goods. However, as the Customs officer was about to release the equipment, a security official entered the office and said that the goods should stay there for security reasons, pending receipt of the paperwork. When I

questioned this, he replied that there might be some costs to be paid. I argued that the goods were for UNAMIR - he replied that not all goods could be brought in duty free. I explained that I had talked with the Director of Customs who had checked and confirmed that these items could be brought in free of customs duty. I requested that the security officer telephone the Director of Customs if there was a problem and maintained that the Customs Controller had already authorized the release. Eventually, the security officer asked if the soldiers had receipts for their items. This was confirmed, and he reluctantly allowed the equipment to be taken out.

This situation is likely to arise now whenever items are brought into the country. Please advise whether the conventions of the SOFA actually determine that UNAMIR is not required to provide documentation, i.e. lettre de garantie/attestation d'exonération, for UNAMIR staff members/military personnel to bring in goods purchased outside.

Your urgent clarification on this matter would be appreciated.



To: Legal Adviser, C BOI Unit, C Claims, CTO

Info: CAO, DFC, COS, MA/FC, CSO, DCOS Sp
Brown & Root (for Tom Scafide).

From: Force PM/SO2 G1 Disc

Date: 21 Feb 95

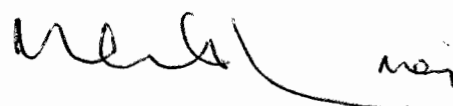
File: FPM/2

Subject: PROVIDING RWANDANS WITH AN ASSURANCE OF A PROPER LEGAL
PROCESS FOLLOWING ACCIDENTS INVOLVING UNAMIR PERSONNEL

1. Having received the very constructive comments of the Legal Adviser, I offer a new and abridged version of my trip ticket insert - which is attached. Further suggestions will, however, be welcome.

2. For those who have asked, I understand OPJ and IPJ to be French acronyms roughly translated as Officers/Investigators of the Judicial Police. If anyone can offer a better translation, I would be grateful.

Ike
Further to our
previous discussion,
here is the only
thing in writing
that I was able
to obtain - from our
Customs clearing


M CUTHBERT-BROWN
Maj
Force PM/SO2 G1 Disc

to do anything
with this?

Merci.

Carole

- To any Gendarme, OPI, IPJ and/or persons aggrieved in a traffic accident or other incident involving UNAMIR on the roads of Rwanda:

1. The following rules and procedures have been agreed between the Government of Rwanda (on whose behalf, they have been signed by the Minister of Defence) and UNAMIR (for whom, the SRSG has signed).

2. All UNAMIR personnel, all personnel of the National Gendarmerie and all other officials are to observe these rules and procedures following any accidents or incidents involving UNAMIR personnel, UNAMIR vehicles and any other UN personnel and vehicles:

a. UNAMIR undertakes to honour its obligations or liabilities arising from any accident, after proper investigations have been conducted to establish responsibility for such accident.

b. Pending the completion of such investigations, it is understood that:

(1) UNAMIR personnel are not subject to arrest for such accidents (in accordance with UNAMIR's Status of Mission Agreement with the Government of Rwanda).

(2) UNAMIR vehicles are not subject to seizure or impoundment for any reason.

(3) UNAMIR personnel and vehicles are to be allowed to proceed unhindered after the necessary information and evidence has been gathered at the scene of the accident.

c. UNAMIR personnel involved in such accidents are to wait at the scene for both the Gendarmes and UN MPs to attend. They should be allowed to make contact with other UNAMIR personnel using their radios but, if assistance is requested in making contact with UN Military Police, you should ask for a call to be made to Kigali 84265 (the number of the HQ UNAMIR Operations room, which is manned throughout the day and night).

d. UNAMIR is prepared to cooperate fully with the National Gendarmerie in carrying out investigations. UN MPs and Gendarmes should investigate the incident jointly, do their utmost to agree on its cause and undertake to produce to each other copies of their reports. UN MPs will, in due course, provide a copy of their report translated into French or Kinyarwanda should this be requested.

e. Any person wishing to make a claim for damages against UNAMIR should send a letter explaining the extent of the damages, and their reasons for believing that the claim is legitimate, to the Chief of Claims Department at HQ UNAMIR (through PO Box 749, KIGALI) as soon as possible. In the case of damages to property or vehicles, it will be normal for the Claims Department to require:

(1) Estimates from one or more businesses for the necessary repairs or replacements. The corroboration provided by having 2 or more estimates for the cost of repairs sometimes speeds up the processing of a claim because it adds to confidence in its accuracy.

(2) Copies of reports from UN MPs and the Gendarmerie. The UN MP report will be provided directly to the Claims Department: it is helpful if a copy of the Rwandan OPJ's report is available at the same time.

e. Following due consideration of the circumstances of the incident, apportionment of responsibility assessed by Gendarmes, UN MPs and any Board that might be appointed within HQ UNAMIR to consider the evidence, UNAMIR undertakes to request payment by its insurers of the element of the costs of an injured party that it accepts as having been caused by its personnel.

3. IN CASE OF DIFFICULTY OR DISPUTE, contact:


HQ UNAMIR on Rwandatel 84265 or by the radios carried by UN personnel.

HQ National Gendarmerie on Rwandatel xxxxxx or by other means.



TO: Force PM/S02 G1 Disc

DATE: 20 February 1995
REF: OSRSG/LA/001

FROM: 
I. Minta,
Legal Adviser

INFO: CAO, DFC, COS, MA/FC, CSO, DCOS Sp
C BOI Unit, C Claims, CTO, Brown & Root (Tom Scaife)

SUBJECT: Providing Rwandans with an Assurance of a Proper Legal Process Following Accidents Involving UNAMIR Personnel

1. I did not receive the draft distributed on 26 January 1995; I would have responded to it.
2. Regarding this draft, my comments to your draft of 1 February 1995 on the policing functions of UNAMIR Military Police apply here, wherever relevant.
3. I think the present draft is rather too long for the intended purpose. I would suggest a shorter version, perhaps no longer than 1 printed page, focusing on the following points (all included in your draft).

"The following rules and procedures have been agreed upon between UNAMIR [signed by the SRSG or FC] and the Government of Rwanda [signed by the Minister of Defence].

All UNAMIR personnel, all personnel of the National Gendarmerie, and all other Government personnel are to observe these rules and procedures in any accidents or incidents involving UNAMIR personnel, UNAMIR vehicles, [or any United Nations personnel or vehicles]:

- (a) UNAMIR undertakes to honour its obligations or liabilities arising from the accident, after proper investigations have been conducted to establish responsibility for such accident.
- (b) Pending the carrying out of such investigations, it is understood that:

- (i) UNAMIR personnel are not subject to arrest for such accidents, [in accordance with its Status of Mission Agreement with the Government of Rwanda];
 - (ii) UNAMIR vehicles are not subject to seizure or impoundment for any reasons;
 - (iii) UNAMIR personnel and vehicles are to be allowed to proceed unhindered after the necessary information or evidence has been gathered at the scene of the accident.
- (c) UNAMIR personnel involved in such accidents are to wait [use para 3(a) of your draft].
 - (d) UNAMIR is prepared to cooperate fully with the National Gendarmerie in carrying out such investigations [add para 3(b) of your draft].
 - (e) Any person wishing to make a claim [para 3(d) of your draft].
 - (f) Following due consideration [para 3(e) of your draft].

**IN CASE OF DIFFICULTY OR DISPUTE contact: (a) Gendarmerie HQ [phone numbers],
(b) UNAMIR HQ [phone numbers].**



To: Legal Adviser (Mr Minta)*

Info: COS

From: Force PM

Date: 18 Feb 95

File: FPM/2

Subject: PROVIDING RWANDANS WITH AN ASSURANCE OF A PROPER LEGAL
PROCESS FOLLOWING ACCIDENTS INVOLVING UNAMIR PERSONNEL

You have had a copy of my minute of 17 Feb and the latest draft of my suggested Trip Ticket insert. The COS has asked me to ensure that it is properly progressed through SRSG's Office; may I look to you to cover this angle and give guidance as necessary?

A handwritten signature in dark ink, appearing to read "M. Cuthbert-Brown", followed by a small mark that looks like "mej.".

M CUTHBERT-BROWN
Maj
Force PM/SO2 G1 Disc



To: Legal Adviser, C BOI Unit, C Claims, CTO

Info: CAO, DFC, COS, MA/FC, CSO, DCOS Sp
Brown & Root (for Tom Scafide).

From: Force PM/SO2 G1 Disc

Date: 17 Feb 95

File: FPM/2

Subject: PROVIDING RWANDANS WITH AN ASSURANCE OF A PROPER LEGAL
PROCESS FOLLOWING ACCIDENTS INVOLVING UNAMIR PERSONNEL

1. On 26 Jan, I distributed a draft insert for vehicle Trip Tickets and requested comments. Having received none of any substance at this stage, I must presume that my draft was 100% acceptable to all addressees. Those who have not seen it before ought to note that the intention is to provide the insert in 3 principal languages - English, French and Kinyarwanda.

2. As of today, I know of 6 x UN vehicles impounded in Rwanda (an INDBATT truck and one of the CSO's pickups at Gikondo Gendarmerie, an AUSMED Land Rover and a UNHCR Hinopak bus at Muhima, a Brown & Root tanker at Remera and a ZAMBATT truck in Butare). This new high figure seems to reflect the Rwandan Authorities' growing impatience of which I have previously spoken - not aided by the deaths of 3 Rwandans in the last week (and one Ugandan - with the resulting impoundment of a truck in Kabale, just outside Rwanda) in incidents which involve either UNAMIR (1) or other members of the international community (1 x UNICEF and 1 x OXFAM driver using a UNICEF vehicle). This week's incident at AUSMED, following which the Land Rover was taken into pound, also raises the profile of this issue and demands that we prepare as best we can to ease the tension at future incidents.

3. It has been explained to me at the scenes of more than one of these incidents that rules agreed by the Ministers of Justice and of Foreign Affairs have no bearing on the Gendarmerie; they accept instructions only from the Ministry of Defence. With this in mind, I have redrafted the Trip Ticket insert, together with reference to the use of an insurance company (which I believe to reflect the correct procedure). I would be most grateful for comments on this draft - of which a copy is attached - as soon as possible so that I may submit it to the Force Commander for possible discussion at a forthcoming meeting with General Kagame.

4. Many thanks in advance.

M CUTHBERT-BROWN
Maj
Force PM/SO2 G1 Disc

To any Gendarme, OPJ or person aggrieved in a traffic accident or other incident involving UNAMIR on the roads of Rwanda:

1. You are asked to cooperate with and assist the driver and passengers of the UNAMIR vehicle in every way that you can. In return, UNAMIR undertakes:

a. To cooperate with and assist everyone involved in the incident - within the laws and customs of Rwanda and in accordance with the Status of Mission Agreement concluded between its Government and the United Nations (the "SOMA").

b. To honour any debt that it incurs, subject to fair and impartial investigation by Gendarmes and by UN Military Police (UN MPs). Following such a joint investigation, in which it hopes that the police agencies will agree in their apportionment of responsibility, it undertakes to consider any reasonable claim made by another party.

2. UNAMIR requests that note is taken of the SOMA. In particular:

a. Notwithstanding their obligation to honour and respect the laws and customs of Rwanda, it is obliged to mention that its personnel are not normally subject to local jurisdiction.

b. Whilst accepting the duty of its personnel to cooperate with the necessary investigative processes of Rwandan authorities, it points out that they are entitled, under the agreement, to proceed without hindrance and to take with them their vehicles and other possessions.

c. If the investigation requires a vehicle or person to be made available at some time in the future, HQ UNAMIR undertakes to produce them, subject to any operational constraints that might temporarily have to take precedence.

3. The procedure that has been agreed between UNAMIR and the Minister of Justice for the speedy and amicable settling of disputes on the roads of Rwanda is that:

a. If UNAMIR personnel are involved in a traffic accident or other incident, they should wait at the scene for both the Gendarmes and UN MPs to attend. They should be allowed to make contact with other UNAMIR personnel using their radios but, if assistance is requested in making contact with UN Military Police, you should ask for a call to be made to Kigali 84265 (the number of the HQ UNAMIR Operations room, which is manned throughout the day and night).

b. UN MPs and Gendarmes should investigate the incident jointly, do their utmost to agree on its cause and undertake to produce to each other copies of their reports. UN MPs will, in due course, provide a copy of their report translated into French or Kinyarwanda should this be requested.

c. When the two police agencies agree that nothing further is to be gained by UNAMIR personnel remaining at the scene, the latter should be allowed to depart, taking with them their vehicles and possessions. If a vehicle is damaged to the extent that it cannot be driven or its driver is hurt and unable to drive his or her vehicle, it may be delivered to an appropriate place for temporary safekeeping until it can be recovered and repaired or the person (or another person) is able to return and collect the vehicle and possessions.

d. Any person wishing to make a claim for damages against UNAMIR should send a letter explaining the extent of the damages, and their reasons for believing that the claim is legitimate, to the Chief of Claims Department at HQ UNAMIR (through PO Box 749, KIGALI) as soon as possible. In the case of damages to property or vehicles, it will be normal for the Claims Department to require:

(1) Estimates from one or more businesses for the necessary repairs or replacements. The corroboration provided by having 2 or more estimates for the cost of repairs sometimes speeds up the processing of a claim because it adds to confidence in its accuracy.

(2) Copies of reports from UN MPs and the Gendarmerie. The UN MP report will be provided directly to the Claims Department: it is helpful if a copy of the Rwandan OPJ's report is available at the same time.

e. Following due consideration of the circumstances of the incident, apportionment of responsibility assessed by Gendarmes, UN MPs and any Board that might be appointed within HQ UNAMIR to consider the evidence, UNAMIR undertakes to repay an element of the costs of an injured party that it accepts as having been caused by the actions of its personnel.

4. You are requested to honour this procedure and allow free passage to all members of UNAMIR and its staff as soon as it is possible. If you feel unable to comply with this request:

a. The UNAMIR personnel on the scene should be informed of the reasons and allowed to communicate with their superiors using radios, telephones or a messenger from within their number, as necessary.

b. You should consult your own superiors as soon as you can.

c. HQ UNAMIR should be informed either by radio or by telephone (Rwandatel 84265) so that they may dispatch the Provost Marshal or other officer to the scene as soon as possible.

which is acknowledged below by the Minister of Justice of the Republic of Rwanda and by the Special Representative of the Secretary General of the United Nations and to

Ishami ry'Umuryango w'Abibumbye riharanira Amajyambere

ADM/250/26
No 011/95

The Ad story!
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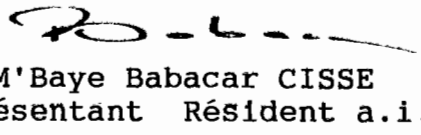
Kigali, le 16/02/1995

Monsieur,

Il a été récemment porté à l'attention de notre Officier de Sécurité que plusieurs Fonctionnaires Internationaux des Agences des Nations Unies ont été l'objet de recherche, de fouille dans les voitures et de saisie de passeports. Il a été également constaté qu'à l'Aéroport de Kanombe, les sacs diplomatiques sont fouillés.

Je vous saurais gré, en tant qu'Officier Désigné pour la sécurité des Agences du Système des Nations Unies, que vous mettiez l'accent sur les conventions d'immunités et privilèges du Personnel des Nations Unies, et insistiez auprès du Ministère des Affaires Etrangères et de la Coopération afin que lesdites conventions soient strictement respectées étant donné que le Rwanda reconnaît ces dernières.

Je vous remercie encore une fois, de votre soutien renouvelé et vous prie d'agréer les assurances de ma haute considération.


M'Baye Babacar CISSE
Représentant Résident a.i.

Monsieur Shaharyar KHAN
SRSG, D.O. RWANDA
UNAMIR

* Note Verbale
Sent by Protocol





UNAMIR - MINUAR

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. This is not to say that they should abrogate their responsibilities but that they should do their best to order offenders to remain on the scene - or to

accompany them to a suitable UNAMIR site - whilst a response is obtained from the soldier's national commander or other appropriate senior person - who should, according to Reference A, have his own contingent military police element. If an arrestable offence is involved or suspected, it would be proper, thereafter, for a joint investigation to be conducted although it should 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.

NON-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), therefore when it is known that the civil authority cannot respond adequately, and to produce a brief report of what was found and done. UN MPs should not normally be required to handle reports of thefts from non-UN sites when the trail has gone cold.

Ike Mink

Comments for Maj Althbert Brown

1. On para 7, last sentence.
In my opinion, that task can be performed by any UNAMIR officer on duty — since UNAMIR has a unified command — pending transfer of the person detained to his/her contingent command.
2. On para 8, regarding freedom of suspects to depart.
Note that under para 41 of SOMA, authorized UNAMIR officers "may take into custody any other person on the premises of UNAMIR" for offences committed.
3. On para 11
All that should be subject to SOMA para 41, as cited above.
4. Above all, note that as regards deployment of UNAMIR personnel for policing duties outside UNAMIR premises, para 40 of SOMA provides:
"Elsewhere, such personnel shall be employed only subject to arrangements with the Government and in liaison with it..." etc.

Ike
7.11.95



To: CO UNAMIR MP Coy

From: Force PM/SO2 G1 Discipline

Info: DCOS Sp
MA/FC
MA/DFC
Legal Officer (Maj Oswald)
Legal Adviser (Mr Minta)
Brown & Root (Mr Scafide)
CAO
CSO
CTO

Date: 1 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. This is not to say that they should abrogate their responsibilities but that they should do their best to order offenders to remain on the scene - or to accompany them to a suitable UNAMIR site - whilst a response is

like
I'd be grateful
for your comments on
this attempt to pull
a lot of separate strands
together.
mch 6 Feb.

obtained from the soldier's national commander or other appropriate senior person - who should, according to Reference A, have his own contingent military police element. If an arrestable offence is involved or suspected, it would be proper, thereafter, for a joint investigation to be conducted although it should 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: I am sure that this principle holds 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.

8. Powers over UNAMIR and UNAMIR-contracted civilians. MPs have no powers of arrest over UNAMIR civilians (including those employed by contractors such as Brown & Root) unless they are committing an offence on UN premises or are posing an immediate threat to the safety or property of another. In my view, these persons may be asked to cooperate with enquiries and may be reported to the superiors, however (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 A. 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.

NON-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. 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 we should not attend traffic incidents in which they are 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 is involved.
- b. 2nd Priority. Incidents in which other members of the UN or UNAMIR-contracted (eg., Brown & Root) workers are involved.
- 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. You should note that the UN High Commissioner for Human Rights mission in Rwanda 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.

OTHER INCIDENTS INVOLVING NGOS

14. General assistance. If it is within the capacity of the MP Company at any given time, it would be unreasonable not to give assistance should it be requested by an NGO worker.

15. Burglaries/Breaking and Entering. Authority for investigating burglaries normally rests with the civil authority, however, and 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) when it is known that the civil authority cannot respond adequately, and to produce a brief report of what was found and done. UN MPs should not be expected to handle reports of thefts 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 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

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.

17. I believe that, 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, property or dwelling place of a soldier, he should seek the authority of the soldier's contingent commander. In any other case, he should seek the authority - through me (and in turn, when necessary, through the CSO) - of the SRSG and/or FC, as appropriate.

18. 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.

M CUTHBERT-BROWN
Maj
Force PM/SO2 G1 Discipline

3 February 1995

**Note for the File: Incident at Kigali Airport Involving
Six MILOBs from Austria**

At about 0900 hours on 2 February 1995, Mr. Kel Gleeson of MOVCON and Maj. Franz Unger of the MILOBs came to consult me on the case of six MILOBs from Austria who were being held up at the airport on their arrival on a Sabena flight because they refused to submit to a baggage search.

I suggested several options to them:

- (a) they could waive their right against search and defuse the situation;
- (b) they could request that their baggage be put in secure storage, and exit the airport while we pursued the case through channels; or
- (c) they could continue to insist on their rights against search while we pursued a solution.

Maj. Unger stated that the officers were determined to make this a test case even if it involved having to sleep at the airport. I then proceeded with them to the airport to argue their case; there was no one at the RPA Liaison Office to accompany us. At the airport, the Sergeant in charge refused to let the officers go or even to recognize the existence of the Status of Mission Agreement; he refused to call the Ministry of Foreign Affairs to verify that.

I called the Director-General of Foreign Affairs, with whom I had met to discuss implementation of the Agreement two weeks earlier, and got him to speak to the Sergeant - who still insisted on his position unless he was ordered otherwise by the Gendarmerie Command. After waiting for a while, Maj. Emby of MOVCON and myself proceeded to the Ministry of Foreign Affairs to see the Director-General.

In our presence, the Director-General continued trying to reach the Gendarmerie Command and the RPA Liaison Officer, without success. At his request, we got him the names of the MILOBs involved so that he could write a letter for their release. We then returned to UNAMIR Headquarters to prepare a Note Verbale to which the Director-General's letter was to be a response.

When we returned to the Ministry at about 1400 hours with the Note Verbale, the Director-General expressed his disappointment at the fact that the officers were still being held despite a promise made to him on the phone, after we left his office, by a Captain at the airport. The Director-General then gave us their response to the Note Verbale - a

letter signed by both the Minister of Foreign Affairs and the Director-General, instructing that the MILOBs be allowed free passage.

When we took the letter back to the airport, it took a while for us to find any responsible officer on the Rwandese side. Eventually we were directed to a Lieutenant at the RPA Liaison Office back at UNAMIR Headquarters, who, in short, refused to recognize the letter from the Ministry of Foreign Affairs (after complaining at length about our having contacted the Ministry).

Finally, on the advice of the DFC, the officers waived their right against search and were processed through.

Recommendation

As we have been trying for several months now to get the Government and the RPA to respect the Status of Mission Agreement, and as it is now clear that the major part of the problem lies with the RPA, perhaps a direct approach should be made to sort these matters out with the RPA (with the involvement of Foreign Affairs and other Ministries: please see attached Note on 18 January Meeting with the Ministry).

We may also consider if another protest note is necessary, beyond the previous Note Verbale.


Ike Minta
Legal Adviser

cc: **SRSG**
FC
Executive Director
DFC
MOVCON

Attachments

1. **Note Verbale**
2. **Letter from Ministry of Foreign Affairs**
3. **File Note on 18 January 1995 Meeting**



SRS6/NV/13/95

NOTE VERBALE

The United Nations Assistance Mission for Rwanda (UNAMIR) presents its compliments to the Ministry of Foreign Affairs and International Cooperation of the Government of Rwanda and has the honour to convey the following:

1. Our personnel still encounter problems in connection with their entry into or departure from Rwanda through Kigali Airport. In particular, six Military Observers of UNAMIR are currently held up at the airport owing to efforts to search their personal baggage, contrary to paragraph 33 of the Status of Mission Agreement between Rwanda and UNAMIR, which reads as follows:

"33... 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".

2. Furthermore, the Military Observers, by virtue of their Status as **"Experts on Mission"**, are also entitled to **"the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys"**, under Article VI, Section 22 (f) of the Convention on the Privileges and Immunities of the United Nations.
3. May we respectfully request that appropriate instructions be issued to the relevant personnel at Kigali Airport to observe these and other privileges and immunities of UNAMIR and its personnel, as provided for under the above-mentioned Agreement and Convention.

**Minister of Foreign Affairs and
International Cooperation of the
Republic of Rwanda
Kigali**

4. May we accordingly request that the Military Observers in question, whose names are given below, be allowed free entry through Kigali Airport without any restrictions:

- (i) Maj. Bernhard Zemanek
- (ii) Mj. Andreas Trummer
- (iii) Maj. Gerald Hatzenbichler
- (iv) Maj. Peter Graeml
- (v) Capt. Mario Gasser
- (v) Capt. Edmund Kerschhackl.

5. Finally, we would like to remind the Ministry of our previous requests regarding the Exchange of Letters on the Status of Mission Agreement, as well as the issuance of standing instructions to all Agencies and personnel of the Rwandese Government regarding the observance of these privileges and immunities. The persistence of problems such as those encountered by our Military Observers today further illustrate the urgency of these requests.

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



Kigali, 2 February 1995

Kigali, le 02 FEV. 1995
N° 122 /03.00/CAB/PROTETAT

URGENT

Monsieur le Ministre de la Défense
KIGALI
Madame le Ministre des Transports
et des Communications
KIGALI
Monsieur le Ministre des Finances
KIGALI

Madame, Monsieur le Ministre,

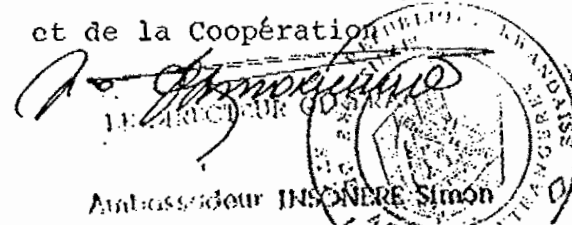
J'ai l'honneur de vous informer que la Mission des Nations Unies pour l'Assistance au Rwanda, par sa note verbale dont photocopie ci-annexée, porte plainte contre la violation des privilèges et immunités de six observateurs militaires de la MINUAR arrivés ce matin par le vol régulier de la SABENA.

Les services de sécurité de l'Aéroport International de KANOMBE auraient cherché à fouiller leurs bagages et les observateurs militaires de la MINUAR s'y sont refusés, en se prévalant des dispositions pertinentes de l'article VI paragraphe 33 de la Convention sur le statut de la MINUAR signée entre le Gouvernement Rwandais et l'Organisation des Nations Unies à NEW-YORK le 8 Novembre 1993.

Je vous demanderais de bien vouloir instruire vos services afin qu'ils accordent libre passage à ces six observateurs militaires de la MINUAR et qu'ils respectent les engagements pris par le Gouvernement Rwandais en ce qui concerne le statut de la MINUAR.

Veuillez agréer, Madame, Monsieur le Ministre l'expression de ma haute considération.

Dr Anastase GASANA
Ministre des Affaires Étrangères
et de la Coopération


Ambassadeur INSOMERE Simon

Copie pour information:

- S.E. Monsieur le Président de la République Rwandaise KIGALI
- S.E. Monsieur le Premier Ministre KIGALI

Republic of Rwanda
Ministry of Foreign Affairs
and Cooperation
B.P. 179 KIGALI

Kigali, 2 February 1995
N° 128/03.00/CAB/PROTETAT

Mister Minister of Defense
KIGALI
Madame Minister of Transport
and Communications
KIGALI
Mister Ministry of Finance
KIGALI

Mister Minister,

This letter is to inform you that the attached photocopy of the Note Verbale constitutes a complaint filed by the United Nations Assistance Mission in Rwanda regarding the breach of the privileges and immunities of six UNAMIR military observers who arrived this morning on the regularly scheduled SABENA flight.

Security at the KANOMBE International Airport is alleged to have attempted to search their bags which the military observers refused citing the relevant provisions of article VI paragraph 33 of the Convention of the UNAMIR statute signed between the Government of Rwanda and the United Nations in New York on 8 November 1993.

I ask that you kindly instruct your services to grant free passage to these six UNAMIR military observers and that they respect the commitments made by the Government of Rwanda to the UNAMIR statute.

Please Mister and Madame Minister accept my highest regards.

Dr. Anastas GASANA
Minister of Foreign Affairs
and Cooperation

Y. Amb. INONERE Simon, DG

CC: H.E. Mister President of the Republic of Rwanda, KIGALI
H.E. Mister Prime Minister, KIGALI



SRS6/NV/13/95

NOTE VERBALE

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2. Furthermore, the Military Observers, by virtue of their Status as **"Experts on Mission"**, are also entitled to **"the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys"**, under Article VI, Section 22 (f) of the Convention on the Privileges and Immunities of the United Nations.
3. May we respectfully request that appropriate instructions be issued to the relevant personnel at Kigali Airport to observe these and other privileges and immunities of UNAMIR and its personnel, as provided for under the above-mentioned Agreement and Convention.

**Minister of Foreign Affairs and
International Cooperation of the
Republic of Rwanda
Kigali**

4. May we accordingly request that the Military Observers in question, whose names are given below, be allowed free entry through Kigali Airport without any restrictions:

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5. Finally, we would like to remind the Ministry of our previous requests regarding the Exchange of Letters on the Status of Mission Agreement, as well as the issuance of standing instructions to all Agencies and personnel of the Rwandese Government regarding the observance of these privileges and immunities. The persistence of problems such as those encountered by our Military Observers today further illustrate the urgency of these requests.

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

Kigali, 2 February 1995

A circular stamp of the United Nations, with the words "UNITED NATIONS" and "NATIONS UNIES" around the perimeter. The date "Kigali, 2 February 1995" is stamped over the center of the stamp.

1 February 1995

NOTE TO THE EXECUTIVE DIRECTOR

It is usually an offence in most countries to mutilate or destroy national insignia, including currency (and flags as well). The statement in para.2 may thus be accurate, though probably exaggerated. If necessary - which I doubt - we may have to check this in a law library here.

At worst, the act may be an offence; but the Rwandese Government has no jurisdiction over it. This is because the Status of Mission Agreement provides, under para. 47 (b), that:

"Military members of the military component of UNAMIR shall be subject to the exclusive jurisdiction of their respective participating States in respect of any criminal offences which may be committed by them in Rwanda".

At best, the burning of a hundred franc note may be characterized as an act of disrespect to the host country - and also of undermining the Mission's relations with the host country. This may be subject to appropriate disciplinary action by the CO or FC, which should then be notified to the Government.

But I think it is an exaggeration to describe that act, by one soldier, as the "burning of Rwandan currency by UNAMIR troops".


Ike Minta
Legal Adviser

TO : UNAMIR FORCE COMMANDER

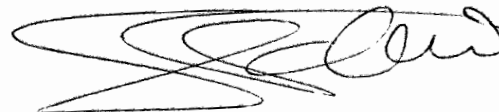
FROM : RPA C/LIASON OFFR

DATE : 30th JAN 1995

SUBJECT : RE : Burning of Rwandan currency by UNAMIR troops.

This morning at around 0815 HRS one PTE PEDLER of the Australian Contingent has caught red handed burning a one hundred Rwandese Francs note.

We consider this a serious violation of Rwandese law and we subsequently demand an explanation and that appropriate action be taken against the culprit



for
FRANK KAMANZI
MAJ
C/LIASON OFFICER

C.C :
VICE PRESIDENT AND MINISTER
OF DEFENCE
SRSG ✓

*Legal Adv
for your attention
you 15 para 2 accurate?
Please review before
we submit to the
F.C.
Aude
1/2*



26

25 January 1995
OSRSG/LA/001

Dear Sir,

On behalf of the Special Representative of the Secretary-General, I would like to bring to your attention certain taxes or fees that UNAMIR is being asked to pay by various Offices or Institutions of the Rwandese Government, which, we believe, are contrary to provisions of the Status of Mission Agreement between UNAMIR and Rwanda.

..... The first is a fee on fuel imported by UNAMIR (please see attached letter from Transintra Rwanda, our Clearing Agents). The second is apparently a fee demanded by the Kigali Post Office each time we collect UNAMIR's mail there (please see attached letter from the Director of the Rwandese National Post Office).
.....

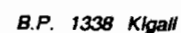
Following our discussions on 18 January 1995 on the implementation of the Status of Mission Agreement, I will be very grateful for your assistance in resolving these matters both with PETRORWANDA and the Rwandese National Post Office.

We look forward to a speedy resolution of these problems.

Yours sincerely

I. Minta
Legal Adviser

Ambassador Simon Insonere
Director General
Ministry of Foreign Affairs
Kigali



COMPTE B.C.R. 010-0005901-65
COMPTE B.K. 040-0000022-55
COMPTE BACAR
070-2230020-72/307
R.C. Kigali 065

transports internationaux - voyages - fret avion
connaissements directs aller et retour - agent IATA fret et passage
tel . 75287 75884 76314 - téléq hercules téléx: trakiq RW 22510

044/95-YD/bc
24.01.1995

UNAMIR
KIGALI

A l'attention de Mme CAROL HARRIS

Madame,

Concerne : Paiement des frais de passage PETRORWANDA

A votre demande, j'ai rencontré Mr BIZIMANA Aloïs, Directeur Général de PETRORWANDA, pour connaître les raisons du paiement des frais de passage à PETRORWANDA pour les carburants importés par l'UNAMIR en exonération.

Mr BIZIMANA m'a confirmé que par arrêté ministériel, le gouvernement du Rwanda avait confié à sa société la gestion du dépôt de GATSATA.

Tous les produits pétroliers importés au Rwanda sont frappés de cette perception de frais de passage (2,32% de la valeur CIF) qui se traduit par un contrôle de jaugeage, et vérification de la qualité.

Mr BIZIMANA n'est pas en mesure de supprimer cette perception en faveur de l'UNAMIR mais signale que ces frais sont habituellement à charge du fournisseur de ces produits.
Il vous reste le droit de contacter le Ministère des Finances pour lui soumettre ce problème.

Toujours à votre disposition, nous vous prions d'agréer, Messieurs, l'assurance de notre considération distinguée.

Yves DUCHATEAU,
Administrateur Délégué.-

ANTWERPEN BALTIMORE BOGOTA BOMA BREMEN BRUSSEL/BRUXELLES BUJUMBURA BUKAVU DOUALA GISENYI GOMA
HAMBURG IBA KAMPALA KASESE KHARTOUM KIGALI KINSHASA LAGOS LE HAVRE LISBOA LONDON LUBUMBASHI

REPUBLIQUE RWANDAISE
OFFICE NATIONAL DES POSTES
B.P. 4 KIGALI

Kigali, le 15/01/95
N° ONP/01,3PK/33/15

Objet : Remise des colis
et paquets recom-
mandés.

✓ Monsieur MUKOKO P. Matumona
Chef d'Enregistrement,
Courrier et Valise Diplo-
matique
MINUAR/KIGALI

Monsieur,

Suite à votre lettre du
04 janvier 1995 et dont l'objet est repris en marge,
j'ai l'honneur de porter à votre connaissance qu'il
vous est autorisé de retirer le courrier des militai-
res de la MINUAR moyennant une procuration réglementaire
délivrée par le Percepteur des Postes de Kigali.

La taxe de cette procuration
est de 200 FRW par an et sera déduite du montant de 50\$
que vous voudrez bien nous verser contre quittance.

Chaque fois que vous recevrez
un avis d'arrivée, vous êtes prié de vous présenter au
guichet de la poste indiqué sur cet avis et des taxes
éventuelles sur vos envois seront aussi déduites du
montant de la somme nous versée jusqu'à son épuisement.

En vous souhaitant une bonne
compréhension de la présente, je vous prie d'agréer,
Monsieur, l'assurance de ma considération très
distinguée.

Le Directeur de l'Office
National des Postes

NTIGULIRWA Benoît

Copie pour information à :

- Monsieur le Percepteur
Principal des Postes
KIGALI



OFFICE NATIONAL DES POSTES
B.P. 4 KIGALI

PROCURATION

Le soussigné _____
résidant à _____ autorise par les présentes
le bureau de poste de _____ à délivrer à
M _____ résidant à _____
les lettres et objets de correspondance quelconques, recommandés et autres ainsi que les colis postaux qui arriveront à son adresse
_____ le _____ 19 _____

Taxe à appliquer (par mandataire et année calendrier)

--	--	--

Le Mandant

Le mandataire

Les témoins

1

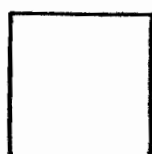
2

REPUBLIQUE RWANDAISE

SERVICE DES POSTES

Accusé de réception de formule de procuration

Je soussigné _____ perceuteur
des postes à _____ reconnais avoir
reçu de M _____ la formule de procuration
designant _____ comme mandataire
pour la remise des envois recommandés et des colis postaux.



Timbre à date

Mod. 105/173

Imprinakaf

**transintra
rwanda**

S.A. de droit rwandais

transports internationaux voyages fret avion
connaissances directs aller et retour agent IATA fret et passage
tel 75287 75884 76314 télex hercules telex trakig RW 22510



B.P. 1338 Kigali

COMPTE B.C.R. 010-0005901-65
COMPTE B.K. 040-0000022-55
COMPTE BACAR
070-2230020-72/307
R.C. Kigali 065

044/95-YD/bc
24.01.1995

UNAMIR
KIGALI

Attn to : Mrs CAROL HARRIS

Dear Madam,

Concern : Payment of the passage fees PETRORWANDA

At your demand, I met Mr BIZIMANA Aloïs, General Manager of PETRORWANDA, in order to know the raisons of payment for the passage fees at PETRORWANDA for the fuel imported by UNAMIR in exoneration.

Mr BIZIMANA confirmed me that by the ministerial ordinance, the government of Rwanda had confided at his society the administration of his store of GATSATA.

All the petroleum products imported in RWANDA are knocked at that perception of passage fees (2,32 % CIF value) then they control the mesuring and verification of the quality.

Mr BIZIMANA is not able to abolish that perception in favour of UNAMIR but signals that those fees are usually on charge of supplier of those products.

So you have to contact the Ministry of Finances in order to subdue him this problem.

Yours sincerely,

Yves DUCHATEAU,

General Manager.-

ANTWERPEN BALTIMORE BOGOTA BOMA BREMEN BRUSSEL/BRUXELLES BUJUMBURA BUKAVU DOUALA GISENYI GOMA
HAMBURG JUBA KAMPALA KASESE KHARTOUM KIGALI KINSHASA LAGOS LE HAVRE LISBOA LONDON LUBUMBASHI
MATADI MOMBASA NAIROBI NEW YORK PARIS PHILADELPHIA PORT SUDAN ROTTERDAM SINGAPORE

To MOVCON

URGENT ①

This is the only document I have on the levying of customs duties on UNAMIR's imported fuel. I need documents from the Rwandese side indicating precisely what fees are

RECONNAISSANCE DE DETTE

being charged, so that we can take it up formally with the Ministry of Foreign Affairs (see attached)

UNAMIR (MINUAR) reste redevable à la Société PETRORWANDA SA la somme de Deux cent deux mille huit cent soixante et onze francs rwandais pour avoir retiré huit camions transportant du carburant déclaré à la Douane et n'ayant pas payé la totalité des frais de passage dus aux Entrepôts Publics des Produits Pétroliers (Concessionnaire)
Cette somme sera réglée dès la régularisation de toutes les formalités.


Fait à Kigali, le 13 Janvier 1995

Pour UNAMIR (MINUAR)

Ces frais s'élèvent à	675.471 Frw
Ils ont payé	472.600 Frw
Reste à Payer	202.871 Frw

Pour accord

② Carole
Pls action, provide
the documents required
R. D. H. H.
C-H
21-1-95


Carole Haneis
MINUAR
13/1/95

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



INTEROFFICE MEMORANDUM

TO: Mr. I. Minta
Legal Adviser

DATE: 23 January 1995

FROM: Abdoulaye Bah, Chief
General Services Section

SUBJECT: Collection of Mail from Rwanda Post Office

Please find attached a letter and Procuration form from Mr. Benoît NTIGILIRWA, Director of the Rwandese National Post Office.

In order to allow the staff of the Registry Unit to collect private correspondence from UNAMIR Post Office Box, the mission is requested to pay a tax of FRW 200.00 each time the mail is to be collected. We would like to know if it is justified to ask the mission to pay this tax.

cc: Mr. A.H. Golo/Mr. M. Ncube
Registry



UNITED NATIONS

ASSISTANCE MISSION FOR RWANDA

NATIONS UNIES

MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

Le 04/01/1994

Monsieur NTIGULIRWA,

Objet : Enlèvement des colis recommandés.

Faisant suite à notre entretien de ce matin le 04/01/1994 avec Monsieur Deepak Das Maj Welfare Officer relatif à l'enlèvement des colis recommandés à la poste de Kigali.

Comme vous le savez, la MINUAR reçoit du courrier des contingents militaires basés à Kigali aussi bien à l'intérieur du pays, je vous serais très reconnaissant de bien vouloir, nous autoriser de déposer sous votre supervision une somme de 50\$ pouvant vous permettre de nous délivrer lettres ou colis de ces militaires résident à l'intérieur du pays en réduisant les frais de livraison à la dite somme.

Pour ce faire, je vous demande de nous communiquer le nom et prénom de l'agent que vous choisirez pour s'occuper de cette opération.

Je vous remercie vivement pour votre collaboration et vous prie d'agréer, Monsieur le Directeur, l'assurance de ma considération distinguée.


MUKOKO P. Matumona,
Chef d'Enregistrement,
Courrier et Valise
Diplomatique
MINUAR/KIGALI

Monsieur Benoit NTIGULIRWA
Directeur de l'Office National
des Postes
KIGALI/RWANDA



20 January 1995

Dear Sir,

Meeting on Status of Mission Agreement

As agreed at our meeting of 18 January on the implementation of the Status of Mission Agreement, I attach herewith a Note for the File summarizing our discussions.

If there are any inaccuracies in the Note, kindly bring them to our attention for the necessary corrections to be made. If there are so such inaccuracies, I will be grateful if you could distribute the Note to the relevant Ministries, including the Ministry of Justice, for their information.

We look forward to the requisite follow-up action on the various points discussed.

Yours Sincerely

A handwritten signature in dark ink, appearing to read "I. Minta". The signature is stylized with a large, sweeping "M" and a long horizontal stroke at the end.

I. Minta
Legal Adviser

Mr. Léon NGARUKIYE
Head of Cabinet
Ministry of Foreign Affairs
Kigali, Rwanda

cc. Mr. Simon INSONERE, Director General

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 of 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.

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

85209
airport

11164
UNAMIR
airport

Distribution:

UNAMIR:	SRSg	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		

*Covering letter
from Maj Oswald
missing*

**MEETING WITH RWANDA MINISTRY OF FOREIGN
AFFAIRS**

ately 1030 hrs, Mr Ike Minta and myself met with the Charge de General, Ambassador Insonere Simon (DG) of the Ministry of ose of the meeting was to discuss the current acceptance of the MA) which had been entered into between Rwanda and the UN in

number of issues were discussed and what now follows is a brief summary of the meeting:

- a. The CDA referred to an earlier discussion between the Ministry and Mr Minta where the issue of UNAMIR establishing a Commissary had been raised. The CDA stated that he was still waiting for other ministries to respond on this subject. He did think however, that UNAMIR was asking for too much. In particular, he argued, an agreement must be reached establishing what quantities of goods could be imported, who would be allowed to use the commissary, who should have the concession to operate it and what laws should apply to this concession. Mr Minta stated that when replies had been received from the different ministries UNAMIR would be willing to discuss each of the issues pertaining to the establishment of the Commissary on a point by point basis.
- b. The MFA agreed to exchange letters with UNAMIR thereby formulising the current Government's acceptance of the SOMA.
- c. The failure of people 'on the ground' understanding the rights and immunities of UNAMIR was also discussed. It was argued, for example, that UNAMIR personnel had unnecessary problems at the airport when going through immigration and customs and that tariffs had been placed illegally on UNAMIR imports, like petrol. The CDA agreed that this problem arose because information was not getting out to the 'technicians'. To this end it was suggested that a meeting should be held between the appropriate Ministries and UNAMIR to iron out some of these practical problems.
- d. On the matter of the RPA threatening the security of UNAMIR, the CDA agreed that this was a problem. He stated that the issue had been raised with the Ministry of Defence. He argued, and we agreed, that the root of the problem was the RPA not knowing UNAMIR's rights and immunities.
- e. It was mentioned by Mr Minta that on occasions UNAMIR vehicles have been impounded by the Rwandan authorities for various reasons. The MFA agreed that vehicles should not be impounded and that the gendarmes should abide by international law in relation to UNAMIR having diplomatic protection. The CDA did state however that UNAMIR personnel should abide by Rwandan law. It was explained that UNAMIR did strive to obey

these laws. The CDA said he would let the relevant authorities know not to impound vehicles in future. Mr Minta reminded the CDA that Rwandan authorities are required to assist UNAMIR with investigations and this was not happening. Again, the CDA undertook to pass the message on.

- f. The issue of the RPA restricting the movement of UNAMIR troops in Rwanda and making soldiers surrender their ID cards was also discussed. The CDA was reminded that such actions by the RPA unnecessarily hampered UNAMIR's ability to provide security in Rwanda. The CDA agreed and asked that UNAMIR provide a note on all these points and that he would raise the issues with the respective ministries and authorities.
- g. The CDA stated that should UNAMIR have problems in the future with any Rwandan authority UNAMIR should not hesitate in approaching the MFA for assistance. He argued that as the Ministry was very aware of the privileges and immunities available to UNAMIR it was appropriate that problems be raised with the Ministry. To this end, he nominated the DG, on phone 77652, as the liaison officer between the MFA and UNAMIR.
- h. The DG and CDA suggested that UNAMIR and the government authorities affected by UNAMIRs activities here in Rwanda should have a meeting to discuss all these problems so solutions may be found.

Conclusion

- 3. It appeared to me that both the CDA and DG were sympathetic with UNAMIRs problems and concerns. They went to some length to state the difficulties faced by the Rwandan authorities in re-establishing themselves after the war.
 - 4. I think there is considerable merit in choosing the MFA as the point of access if UNAMIR has difficulties with a particular ministry or authority. I also fully support the idea of having a meeting with the Rwanda authorities to iron out some of the problems discussed above.
-

9 January 1995

Note to the SRSG

=====

I have an appointment with the Minister of Foreign Affairs tomorrow morning, Tuesday 10 January at 9 am, to discuss the ongoing problems regarding observance of our privileges and immunities.

yes

Are there any issues I should raise in addition to those regarding the Mission Status Agreement, or any particular points of detail on the Agreement?

yes


Ike Minta

Also remind
him about radio.
See

Mr Minta.

ⓧ Short meeting owing to conflicting engagements,
another meeting fixed for 18 Jan '95, at 9 am.

The Ministry of Foreign Affairs and Co-operation would like to present its compliments to the Special Representative of the Secretary General (SRSG) and has the honour to acknowledge receipt of his verbal note OSRG/1/94 of the 27 December 1994 about the UN Radio's policy in Rwanda.

The Ministry of Foreign Affairs would like to thank the SRSG for the UNAMIR'S support to Radio Rwanda's effort at bringing reconciliation, humanity and peace, and for his promise to strengthen Radio Rwanda's capacity regardless of the installation of Radio UN. In fact, the Rwanda Government would appreciate very much the SRSG'S help to the extension of the broadcasting program of Radio Rwanda, to reach at least the same time of broadcast as before the 6th April 1994, i.e. three hours in the morning and twelve hours from 11:00 am. As a matter of fact, the former listeners of Radio Rwanda, these days, are most of the time, tuned to some neighbouring countries cannot meet their need satisfactorily with less than eight hours of a day broadcast.

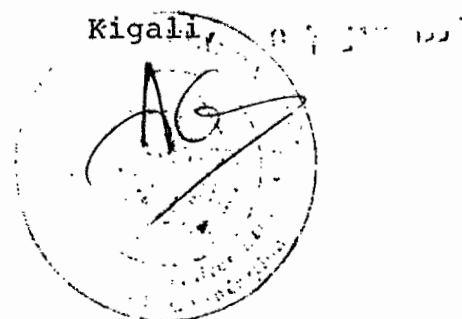
First post-6th
April 1994. Then
ambassadors

Mr. G. M. Ntari
L. Ntari
91

In view of the fact that the UN Security Council, of which Rwanda is one member, has attached importance to the opening of UN Radio in Kigali, it would be much more beneficial if Radio Rwanda were previously able to reach the population's need. Thus, UN Radio would complement it efficiently. The Ministry of Foreign Affairs, therefore, assures the SRSG that, in that condition, the UN Radio is welcome.

The Ministry of Foreign Affairs and Co-operation would like to ask the SRSG to understand the Rwanda Government's preoccupations and obligations towards the population, and would like to take this opportunity to reaffirm its highest consideration to the UNAMIR.

UNITED NATIONS MISSION
FOR ASSISTANCE IN RWANDA
KIGALI



06 JANUARY 1995

NOTE TO OIC ADMINISTRATION

Re: Searches of UNAMIR personnel at Kigali Airport.

There have been many letters, reminders and meetings with Senior officials of the Ministry of Foreign Affairs, as well as the Ministry of Justice, on the problems we have been encountering regarding UNAMIR's privileges and immunities (see copies attached). We have had many verbal assurances that action will be taken and yet the problems continue.

I have discussed Mr. Ischlika's memo with the SRSG, today. He thinks the problem lies with the Government's inability to control the RPA. He himself will try again with the Minister of Foreign Affairs. Additionally, the DFC is to talk to the RPA on the issue.

We will keep pressing the Government to take the necessary action.


I. Minta
Legal Adviser

CC. Mr. Paul Ischlika
CSO/ASC

Attachments: (4 pages)

File

24 October 1994

Note for the File: Status of Mission Agreement

I had a meeting with Mr. Leon NGARUKIYE, Le Directeur de Cabinet at the Ministry of Foreign Affairs today at 10.30 hrs. I was accompanied by Mr. Patrick Francis, UNAMIR Interpreter. The following were discussed.

1. Exchange of Notes

After conveying the compliments of the SRSg and the desire of UNAMIR for continued cordial relations with the Government, I pointed out that UNAMIR still awaited a response to the SRSg's letter of 5 October 1994 regarding a proposed Exchange of Notes on the Status of Mission Agreement. (I gave Mr. Ngarukiye another copy of the letter and two copies of the Status of Mission Agreement, in English and French).

Mr. Ngarukiye responded that the question of an Exchange of Notes is still under discussion by the Government, the delay has arisen from their usual difficulties in running the Ministries, and we should expect a formal response very soon.

2. Instructions to Government Agencies

I raised the question of instructions being issued to relevant Government agencies in the meantime, as UNAMIR personnel continued to encounter difficulties with various Government agencies and personnel. In particular, I drew Mr. Ngarukiye's attention to persistent problems faced by UNAMIR personnel at Kigali airport regarding the observance of our immunities from customs and immigration inspections, as well as free access to parts of the airport premises. These problems had also been brought to the attention of the Ministry in previous correspondence.

Mr. Ngarukiye promised that appropriate instructions will be issued to the customs and immigration authorities, in accordance with diplomatic practice. In addition, other problems we had raised in previous correspondence, pertaining to arrests and detention of UNAMIR personnel are also being addressed and we should soon expect responses to the relevant correspondence.

3. Appointment of Liaison Officer

I finally raised the need to have a Liaison Officer appointed by the Government and charged with the responsibility of handling all problems pertaining to UNAMIR/Government relations.

Mr. Ngarukiye responded that their Prime Minister had in fact raised that issue, which was under discussion and they will soon appoint a high level official from his Ministry to perform that function.


Ike Minta
Legal Adviser

cc:

- **Dr. A. Kabia, Executive Director**
- **Mr. A. Golo, OIC/Administration**
- **MOVCON**
- **MA to FC**
- **CSS**



SRSG/NV/53/94

NOTE VERBALE

The United Nations Assistance Mission in Rwanda presents its compliments to the Ministry of Foreign Affairs and Cooperation of the Rwandese Republic and has the honour to refer to its letter dated 5 October 1994 regarding the proposed exchange of letters on the Status of Mission Agreement signed in New York on 5 November 1993. May we respectfully remind your Ministry that we still await the response of your Government to enable us to advise the Secretary-General accordingly for the purpose of expediting such exchange of letters. We would be most grateful if we could be informed of your Government's position on this matter as soon as possible. *AM*

We take this opportunity to renew our sincere collaboration.



Kigali, 8 November 1994

Ministry of Foreign Affairs & Cooperation
Kigali
Rwanda

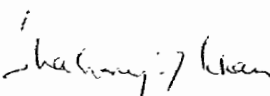


DATE: 5 October 1994

Your Excellency,

1. I have the honour to refer to the Agreement concluded on 5 November 1993 between the United Nations and Rwanda on the Status of UNAMIR.
2. In view of the expansion of the mandate of UNAMIR in subsequent Security Council resolutions, the Secretary-General would like to propose an exchange of letters with the Government of Rwanda to facilitate the application of the Agreement to UNAMIR's expanded mandate.
3. Accordingly, a draft exchange of letters is attached for your consideration. I will be very grateful if you could advise me, as soon as possible, as to whether the attached draft meets with your Government's approval, following which the Secretary-General will send the letter formally to effect such exchange.
4. Meanwhile, I would like to bring to your attention that UNAMIR personnel have encountered occasional difficulties at Kigali Airport on the clearance of UNAMIR supplies through customs as well as on the free transit of our staff.
5. In order to avoid such difficulties, may I respectfully request that your Government issue the necessary instructions to all relevant Government agencies on the observance of the privileges and immunities of UNAMIR under the Agreement.
6. Please accept, Sir, the assurances of my highest consideration.

Yours sincerely,


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

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



To: CO ZAMBATT

Info (with copies of MP report on the same subject):

COS
Legal Advisor (Mr Minta)
DCOS Sp

Info (without a copy of the MP report):

CO Force MP Coy

From: Force PM

Date: 7 Jan 95

Subject: TRAFFIC VIOLATION ON 6 JAN 95 - UNAMIR 3536

1. CO Zambatt should have received previously a copy of the MP report on the minor traffic violation by the driver of UNAMIR 3536 on Fri 6 Jan. He is advised that no payment of a fine should take place because UNAMIR troops on duty are not subject to Rwandan jurisdiction; he may, however, proceed with his own disciplinary action should he see fit and is requested to notify me of any that he does take.

2. I will visit the Gendarmerie and advise it that the fine will not be paid.

M CUTHBERT-BROWN
Maj
Force PM/SO2 G1 Discipline



UNAMIR

UNITED NATIONS ASSISTANCE MISSION FOR RWANDA

INTER-OFFICE MEMORANDUM

TO: Force ~~PM~~ ,

INFO: Co Force MP COY
Co ZAMBATT

FROM: Kigali Det Comd *[Signature]*

DATE: 6 Jan 95

SUBJECT: TRAFFIC VIOLATION - UNAMIR 3536

1. The above mentioned vehicle UNAMIR 3536 DAF track driven by M1811 Sgt MULONDA Amon of ZAMBATT - GIKONGORO was on 6 January 1995 at approximately 0945 hrs impounded by Remera Bde (Gendarmerie) for traffic violation.
2. The driver drove in the wrong direction along a one way road which branches off from the road running from AMAHORO Stadium joining Boulevard de l'Umuganda (Airport Road).
3. Release of the vehicle was going to be done after payment of a fine of 20,000 RF but the vehicle was released after negotiations and assurance of payment being made.
4. Attached Gendarmerie letter dated 6 January 1995 and statement from Sgt MULONDA refers.

12042015E

Le 06 Janvier 1995

MERIE POTONZÉ
ITE ROUTIERE
de KENYA

Le camion DAF UNAMIR 3536 conduit
par SGT MULONDA (ZONAIE) logistique defaillant a e
attaqué dans le "bus unique" par vos gendarmes
~~qui se trouvaient a la poste de surveillance de Kene~~

Le camion vient d'être libéré par
demande de CAPT KAUONDA et le CAPT CHEMINQ.
de la Police Militaire (PM) de la MINAR. L'amen
transactionnelle qui a été demandée était de 20000
(vingt mille francs rwandais) que le M.P.U. va se
charger de payer a la sécurité routière de la Pol
de KENYA.

- CAPT. KAUONDA (ZONAIE)

6/1/95

- CAPT CHEMINQ (TUNISIE)

J'espère que le présent RV est arrivé
à l'Officier de Police judiciaire chargé
de la sécurité routière de la Pol de
Kenya.

MBONYUMUNYU J. M

STATEMENT/DECLARATION

UNAMIR MILITARY POLICE COMPANY

PLACE/LIEU	UN MP COY.	DATE	06-01-95
UNIT	M1811	RANK/GRADE	Sgt
GIVEN NAMES/PRENOMS	AMON	SURNAME/NOM DE FAMILLE	MULIDAA
ADDRESS/ADRESSE		DATE OF BIRTH/DATE DE NAISSANCE	25-12-53
UNIT AND LOCATION/UNITE ET LOCATION	ZAMBATT KIKONGORO	PLACE OF BIRTH/LIEU DE NAISSANCE	ZAMBATT
		EMPLOYMENT/EMPLOI	DRIVER

STATEMENT BEGINS/DEBUT DE LA DECLARATION TIME/HEURE : 1410 HRS DATE : 06-01-95

On 6th January 95 five Daf trucks were detailed to collect rations in Kigali. Upon our arrival we refuelled our vehicles at Logistic base, since I was the last man to refuel I reported to the air port and I didn't find any truck. I thought all trucks were at force ~~to~~ immediately I was approaching Unicef building I by passed with one truck and I used the short cut going to the Air port of which I had to use the wrong lane and I was stopped by RPA Police to say you have used a wrong lane and 3536 Daf truck was impounded at RPA Police Station. From Police Station I reported to UN Military Police direct to Capt Kaunda informing him about the impounding of my vehicle I was told to pay 20,000 francs

STATEMENT ENDS/FIN DE LA DECLARATION TIME/HEURE 1500 DATE : 06/01/95

WITNESS/TMOIN :

[Signature]

SIGNATURE :

[Signature]

6/1/95



TO: Chief of Administration

FROM: Paul Ischlika
CSO/ASC

DATE: 5 January 1995
Ref.: UNAMIR/SO/001

SUBJECT: Searching of UNAMIR Staff Members at the
Kanombe Airport, Kigali

I have just received a disturbing report from one of my Security Officers at the Airport that the RPA Airport Authorities are embarrassing our International staff arriving at the airport by subjecting them to both body and luggage searching to a point of humiliation.

I have every reason to believe that all UNAMIR International staff are immuned from any search under the convention and status of the Mission Agreement between UNAMIR and the Government of Rwanda.

I would therefore on the basis of this, advise that this matter be taken up with the appropriate authorities to avoid any future harassment and possible open confrontation.

cc: Legal Adviser

Mr. Hunter

Can we not do anything here?
A couple of months ago, we
had an exchange of memoranda
on this matter.

C. 57.



TO: Mr. A. Golo
OIC, Administration

DATE: 28 November 1994
REF: OSRSG/LA/001

THROUGH: Dr. A. Kabia *AK*
Executive Director

FROM: I. Minta *IM*
Legal Adviser

SUBJECT: Payment of Import Duties/Fees in Uganda

Reference the fax from Mr. Goeransson on the above, it has to be ascertained exactly what tax or duty or fee is involved, because despite the UN's privileges and immunities, certain fees may still apply in some limited instances.

If it is customs duty, it will not be correct for the Clearing Agent to pay it on UNAMIR's behalf, because:

1. Goods in transit are not imports and are therefore not liable to customs or import duties;
2. Even if they are mistakenly treated as imports, the UN is exempt from such duties under the 1946 Convention, and additionally under the Status of Mission Agreement with the Government of Uganda (if one was signed as required under Security Council resolution 846, para.4).

It may very well be only a matter of making the requisite administrative arrangements to facilitate observance of the privileges and immunities under the Convention and the Status of Mission Agreement (if one exists).

It is quite possible, though, that the fee involved is something other than customs or import duty. For example, para.14 of the Status of Mission Agreement with the Government of Rwanda (which does not apply in Uganda, although there may be a similar provision in the Ugandan Agreement) provides:

"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".

If the fees in question fall under the category of "charges for services rendered", we may not be exempt. Otherwise I believe we are exempt from other customs and port charges, taxes, or fees.

UNITED NATIONS

ASSISTANCE MISSION FOR RWANDA



NATIONS UNIES

MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - KIGALI

F/IN-4984

94 11 11

P1/1

OUTGOING FAX NO 3020

MIR NO

MISC NO 1954

TO: MR. A.H. GOLO OIC/ADMINISTRATION UNAMIR, KIGALI, RWANDA	FROM: N.I. GOERANSSON SAO UNAMIR NAIROBI, KENYA
ATTN: MINTA, LEGAL ADVISOR INFO:	DATE: 26/11/94 REFERENCE:
FAX NO: 250-86877	PHONE: 254-2-62 3140 FAX: 254-2-62 2668
ORIGINATOR: NG	SECTION: ADMINISTRATION
SUBJECT: BOND IN FORCE: T & C	

1. PLEASE ADVISE IF UNAMIR IS TO PAY ABOVE MENTIONED FEE IN RESPECT OF GOODS IN TRANSIT THROUGH UGANDA TO KIGALI.

2. THE REASON FOR THIS QUERY IS THAT THE CLEARING AGENT, USED AT ENTEBBE AIRPORT BY UNAMIR, IS CLAIMING THAT HE HAD TO PAY THIS TAX ON BEHALF OF UNAMIR.

3. TO MY KNOWLEDGE, THE UNITED NATIONS IS EXEMPT FROM TAXES AND CUSTOMS FEES.

4. PLEASE ADVISE.

E/SIR (CME)



TO: Dr. A. Kabia,
Executive Director

DATE: 26 November 1994
REF: OSRSG/LA/001

FROM: I. Minta, *IEM*
Legal Adviser

SUBJECT: OLA Letter on the Legal Status of Contractors and their Employees

As requested, the following are my views on follow-up action on the above.

Since it is in our interest to have the contractors working for us and presumably our indication of privilege has been given (I think), I would agree with the option II. New York would be approached as I am sure they have precedents.

EI
LA

3. A' /
28.11

1. It is now quite clear, as I had argued previously, that Contractors and their staff are not covered by UNAMIR's privileges and immunities. When we use the Status of Mission Agreement to protect them - as we have done previously - we do so on humanitarian rather than legal grounds.

However, we can continue to do so only as long as the Government of Rwanda does not object - which they are legally entitled to do. I believe that, in due course, when their lawyers get around to scrutinizing the Status of Mission Agreement they will come to the same conclusion, and object. We will then be in no position to use the Status of Mission Agreement to protect Contractors and their staff.

3. A' / But, on the other hand, Contractors and their staff do need some protection. We must therefore consider some other options of securing such protection for them, other than through the Status of Mission Agreement. Besides, despite the fact that we have gone out of our way to use the Status of Mission Agreement to protect them in some instances, I have heard through general conversation that they are not satisfied with those efforts. For example, the ECONOMAT employee whom we saved from arrest by the RPA but who was eventually deported, seemed inclined to doubt the correctness of my position when I told him that UNAMIR could not legally protect his properties in Kigali.

4. The only legally effective channel of protecting Contractors and their staff and properties in Rwanda is to have a direct legal commitment from the Government of Rwanda to that effect, and to seek implementation of such commitment. There is no such commitment in our current Status of Mission Agreement, which was negotiated in New York about a year ago. In contrast, in the Status of Mission Agreement that governed UNOMSA - which was negotiated by the Mission in Johannesburg, and cleared by New York - we did negotiate such a provision protecting Contractors and their staff. But, of course, that does not apply here.
5. It is not enough to have provisions in the Contractors' contracts with UNAMIR or the UN promising such protection, because such provisions will not be binding on the Government of Rwanda. (Such contracts have been cited to me as one source of the UN's protective obligation, and yet I have not seen any of those contracts. I believe - and I would request - that all UNAMIR contracts should be copied to the SRSg's Office, at least for information, if not for authorization prior to their finalization.

Options

- I. Since some Contractors or their staff are unhappy with our efforts to protect them, we may consider discontinuing such efforts, particularly as there is no firm legal foundation for them in the first place.

UNAMIR could then sit back and expect or require them to take their own steps to fulfill their contractual obligations with UNAMIR. The Contractors would have to conduct all their dealings with the Government on their own for the purpose of fulfilling those contractual obligations, before they could get paid by UNAMIR. This is, admittedly, a hard option. We could soften it, somewhat, by using our good offices to assist the Contractors in their relations with the Government, such as their requests for visas, particularly if the contracts require such support from us. But, the Government of Rwanda would naturally have the final say on such matters in their own discretion. (In fact, that is currently the legal position so far as relations between the Government, on the one hand, and Contractors and their staff are concerned).

- II. We could ask New York, since they negotiated and signed the Status of Mission Agreement, to consider proposing an additional provision committing Rwanda to legal protections for Contractors and their staff and properties. This could be done as part of the Exchange of Letters already proposed (on 5 October 1994) to the Government on which we still

await a response. We could recommend this, but the decision will be up to New York and the Government of Rwanda.

- III. I do not see any other feasible options, other than asking the Contractors to negotiate their own protections with the Government.

cc: SRSg



TO: Dr. A. Kabia,
Executive Director

DATE: 26 November 1994
REF: OSRS6/LA/001

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

SUBJECT: Law Enforcement/Traffic Tickets

To answer the question whether we are immune from traffic tickets, we need to balance our immunity against legal process in Rwanda, with our obligation to observe the laws and regulations of Rwanda.

The relevant provisions of the Status of Mission Agreement are as follows:

Article IV. Status of UNAMIR: para. 5 (last 2 sentences): *"UNAMIR and its members shall respect all local laws and regulations. The Special Representative shall take all appropriate measures to ensure the observance of those obligations"*.

We cannot obey the local laws. So traffic penalties should be paid. We must not be dropped out of court of law

In contrast, the immunities of UNAMIR and its personnel include immunity *"from legal process in respect of words spoken or written and all acts performed by them in their official capacity"* (Article V, Section 18 (a) of the 1946 Convention, incorporated by reference through para. 25 of the Status of Mission Agreement).

The issuance of traffic tickets and fines constitute a "legal process". If the ticket is issued in respect of acts performed in an official capacity, we can protest and refuse to pay.

*Shelley) (L.A.)
28.11*

It should be noted in this connection that the Government or its agents will not be entitled to seize or detain any UNAMIR property on these (or any other) grounds, because Article II, Section 2 of the 1946 Convention - incorporated by reference through Section 15 of the Status of Mission Agreement - provides:

"The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity"

*EJ
LA*

Section 3 of that same Article further provides, inter alia:

"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".

But if the legal process does not relate to acts performed in an official capacity, the immunity would not apply. The obligation to observe local laws and regulations would then prevail in such situations. This view is also reinforced by other provisions specifically limiting the privileges and immunities to official purposes, and also precluding abuse of such privileges.

cc: SRSG
OIC, Administration

1480

SRSG



UNAMIR

UNITED NATIONS ASSISTANCE MISSION FOR RWANDA

INTER-OFFICE MEMORANDUM

TO: Distribution List
FROM: Maj J-G Plante *Plante*
Force Provost Marshal
DATE: 19 Nov 94
SUBJECT: LAW ENFORCEMENT-
RWANDA

Are we immune or not?
LA
24/11
LA
Pl. response
20/11

1. Following a discussion with members of the Rwanda Gendarmerie (Rwanda Police Force), I learned that they are now issuing Traffic Violation Tickets to UN/NGOs offenders.
2. A simple traffic violation can cost \$50.00 and has to be paid immediately at the Gendarmerie Brigade HQ.

DISTRIBUTION LIST

Action

List A,B,C,D and E

Information

SRSG and EX Director
FC and DFC



TO: Dr. A. Kabia,
Executive Director

DATE: 26 November 1994
REF: OSRSG/LA/001

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Legal Adviser

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cc: SRSg
OIC, Administration



UNAMIR

UNITED NATIONS ASSISTANCE MISSION FOR RWANDA

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DISTRIBUTION LISTAction

List A,B,C,D and E

InformationSRSG and EX Director
FC and DFC



SRSR/NV/53/94

NOTE VERBALE

The United Nations Assistance Mission in Rwanda presents its compliments to the Ministry of Foreign Affairs and Cooperation of the Rwandese Republic and has the honour to refer to its letter dated 5 October 1994 regarding the proposed exchange of letters on the Status of Mission Agreement signed in New York on 5 November 1993. May we respectfully remind your Ministry that we still await the response of your Government to enable us to advise the Secretary-General accordingly for the purpose of expediting such exchange of letters. We would be most grateful if we could be informed of your Government's position on this matter as soon as possible. *AM*

We take this opportunity to renew our sincere collaboration.



Kigali, 8 November 1994

**Ministry of Foreign Affairs & Cooperation
Kigali
Rwanda**



NOTE VERBALE

SRSR/NV/35/94

The United Nations Assistance Mission in Rwanda (UNAMIR) presents its compliments to the Ministry of Foreign Affairs and International Co-operation of the Rwandese Republic and has the honour to bring to its attention a matter concerning the arrest, detention and questioning of Mr. Ronan John O'Reardon, by the gendarmes No. 017, is an international employee of Economat, a company performing services for UNAMIR under special contract. Mr. O'Reardon was taken away by the Kigali gendarmes at about 12.30 p.m. under circumstances which raise some concern. As an employee of an organisation working for UNAMIR under contract, his security and that of the other employees of that organisation is of concern to UNAMIR.

Mr. O'Reardon was arrested or otherwise required to accompany a team of gendarmes from the Kigali International Airport to the Police Station at the former Presidential Guard. There was initial denial that Mr. O'Reardon had in fact been apprehended and brought to the said former Presidential Guard building until much later when, as a result of UNAMIR's persistent investigation, he was released and he confirmed that he had been taken to the said building for questioning.

Mr. O'Reardon was released about two hours after he had been detained. It transpires that Mr. O'Reardon was not there suspicion of committing a criminal offence. If the about questions about Mr. O'Reardon's past or present behaviour which the gendarmes wanted clarification UNAMIR would be well disposed, as it will always be in the spirit of the now firmly established between the Government of the Rwanda and UNAMIR, to examine the matter speedily in the context of paragraph 47 of the Agreement between the of the Republic of Rwanda and UNAMIR.

The United Nations Assistance Mission in Rwanda is concerned about possible recurrence of such incidents try that Ministry of Foreign Affairs and International Co-operation of the Rwandese Republic to indicate to the appropriate authorities with the exception of cases in which a state committing a criminal offence, UNAMIR would incidents first before there is an arrest.

The United Nations Assistance Mission in Rwanda avails itself of this occasion to renew to the Ministry of Foreign Affairs and International Co-operation of the Rwandese Republic the assurances of its highest consideration. *AMM*



Ministry of Foreign Affairs
and International Co-operation of
the Rwandese Republic
Kigali, Rwanda.

bc: Mr. Ally H. Golo
OIC Administration.

Mr. Ischlika Paul
Ag. CSO.

*E*conomat

AT THE AIRPORT

MR. ROHIN OREADON WORKING FOR ECONON, HE HAS BEEN QUESTIONING
BY THE RPA AND TODAY THE RPA CAME AND TOOK HIM

contractor

Sera Oscar +
Pera
~~Oscar 4~~

Ch. 11

same person
as previously arrested

10 11 017

RPA wants to arrest him again
31 Oct 94

24 October 1994

Note for the File: Status of Mission Agreement

I had a meeting with Mr. Leon NGARUKIYE, Le Directeur de Cabinet at the Ministry of Foreign Affairs today at 10.30 hrs. I was accompanied by Mr. Patrick Francis, UNAMIR Interpreter. The following were discussed.

1. Exchange of Notes

After conveying the compliments of the SRSG and the desire of UNAMIR for continued cordial relations with the Government, I pointed out that UNAMIR still awaited a response to the SRSG's letter of 5 October 1994 regarding a proposed Exchange of Notes on the Status of Mission Agreement. (I gave Mr. Ngarukiye another copy of the letter and two copies of the Status of Mission Agreement, in English and French).

Mr. Ngarukiye responded that the question of an Exchange of Notes is still under discussion by the Government, the delay has arisen from their usual difficulties in running the Ministries, and we should expect a formal response very soon.

2. Instructions to Government Agencies

I raised the question of instructions being issued to relevant Government agencies in the meantime, as UNAMIR personnel continued to encounter difficulties with various Government agencies and personnel. In particular, I drew Mr. Ngarukiye's attention to persistent problems faced by UNAMIR personnel at Kigali airport regarding the observance of our immunities from customs and immigration inspections, as well as free access to parts of the airport premises. These problems had also been brought to the attention of the Ministry in previous correspondence.

Mr. Ngarukiye promised that appropriate instructions will be issued to the customs and immigration authorities, in accordance with diplomatic practice. In addition, other problems we had raised in previous correspondence, pertaining to arrests and detention of UNAMIR personnel are also being addressed and we should soon expect responses to the relevant correspondence.

3. Appointment of Liaison Officer

I finally raised the need to have a Liaison Officer appointed by the Government and charged with the responsibility of handling all problems pertaining to UNAMIR/Government relations.

Mr. Ngarukiye responded that their Prime Minister had in fact raised that issue, which was under discussion and they will soon appoint a high level official from his Ministry to perform that function.


Ike Minta
Legal Adviser

cc:

- Dr. A. Kabia, Executive Director
- Mr. A. Golo, OIC/Administration
- MOVCON
- MA to FC
- CSS



TO: Col. K.P. O'Kelly
DCOS (SP)

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

SUBJECT: Status of Mission Agreement

DATE: 18 October 1994
REF: OSRSG/LA/001

Regarding the clarification sought in your response to OIC/Administrative Circular No.007/94, please note that the information contained in the Attachment to that Circular were abbreviated versions of the provisions of the Status of Mission Agreement.

The full text of the provision on the wearing of uniforms - Article VI, paragraph 37 - answers your questions as follows:

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

On all other points, formal requests were made by the SRSg to the Ministry of Foreign Affairs, on 5 October and 11 October 1994, for appropriate instructions to be issued to all Government agencies regarding implementation of the Mission Status Agreement. Follow-up is currently being organized after responses to the above circular were received.

Regards.

cc:

- ◆ Dr. A. Kabia, Executive Director
- ◆ Mr. Ally Golo, OIC/Administration
- ◆ MA to FC
- ◆ DCOS (Ops)
- ◆ CSS



TO: Mr. K. Nilsvang
CCPO

DATE: 18 October 1994
REF: OSRSG/LA/001

FROM: I. Minta 
Legal Adviser, OSRSG

SUBJECT: Status of Mission Agreement

Regarding the clarification sought in your response to OIC/Administrative Circular No.007/94, the legal position is exactly as stated in the Attachment to that circular, namely, that UNAMIR personnel are exempt from customs duties and inspections as well as passport and visa requirements (once the UN Laissez-Passer or the UNAMIR ID is shown).

It is important to note, though, that any instance or suggestion of abuse of privileges by UNAMIR personnel may give the Rwandese authorities an excuse to infringe on these privileges. A hardline approach could also backfire on us: some sensitivity to their security concerns could actually contribute to safeguarding our rights and privileges.

In any event, formal requests have already been made by the SRSB (on 5 and 11 October 1994) to the Ministry of Foreign Affairs for appropriate instructions to be issued to all relevant Government Agencies on the observance of UNAMIR's Status Agreement. Follow-up is currently being arranged through that Ministry, after responses to the above circular were received.

cc:

- ◆ Dr. A. Kabia, Executive Director
- ◆ Mr. Ally Golo, OIC/Administration
- ◆ Mr. K. Gleeson, MOVCON



DATE: 17 Oct 94
REF: MCC/POL/149

TO: I. Minta
Legal Adviser

FROM: Kel Gleeson
Movement Coordination Centre

SUBJECT: Status of Mission Agreement(SMA)

A handwritten signature in black ink, appearing to read "Kel Gleeson".

1. As requested vide your memo dated 11 October 1994 the following comments are offered:

a. Aircraft Operations: UNAMIR has an agreement in principle that our aircraft should not be charged landing, navigation and parking fees but it should be included in the SMA.

b. Immigration: Issue 22 needs to be reinforced as the Airport Authority is carrying out a detailed inspection of the luggage of outbound UNAMIR passengers.

c. Airport Tax: Issue 21 advises that UNAMIR is exempt from direct taxes and registration fees but the Airport Authority imposes an Airport Departure Tax on UNAMIR staff.

d. Airport Warehouse: Issue 10 states that UN alone control of entry into UNAMIR premises but at the airport the Authority is still maintaining a right of entry.

2. MOVCON is addressing the problem in para.1c but the other three points will need assistance from the the agreement and the implementation of the SMA.



Major B.M. Oswald
Legal Officer
AS MED SPT Force
RWANDA

17 Oct 94.

Dear Ike,

Am sorry about the informality of this note. However as I am about to go on my 72 hours leave to Nairobi I thought I would drop you a quick note on some issues concerning the Status of Mission Agreement.

From the Australian Contingent Side, at least, there are some issues which need to be clarified with the BBNU. These issues, not necessarily in order of importance are:

(i) Art VI: 35, 36 - ID cards not to be surrendered. On a number of occasions especially at the airport, Australian soldiers have been asked to surrender their ID cards. As the UN ID card is the only official ID soldiers have to prove their bona fides it is important that they not be forced to surrender that item.





Major B.M. Oswald
Legal Officer
AS MED SPT Force
RWANDA

(ii) Art IV, 12 - Freedom of Movement. There have been a number of occasions where Austrian soldiers have been denied access to various parts of Rwanda. On all occasions it has been the RPA denying the access.

Ike, I can present you with a formal letter from my Commanding Officer highlighting these issues if you would like something formal. Unfortunately it will have to be done on my return on Friday, 21st Oct 94.

Till I return, I hope all remains well.

Regards
Osse



Memorandum

MOD Form 4A
(Revised 4/89)

To:		From:	
Mr Minter Legal Advisor		MA to FC	
Date: 17 Oct 94		Number:	
Your Reference:		Our Reference:	
Subject: STATUS OF MISSION AGREEMENT			

1. Please find attached the unitary comment on the S of M agreement. The top paper is the comment of DCS JP, who is responsible for legal, personnel and logistical efforts, the highlighted comments on the text of the main document are from DCS Ops, responsible for operational matters.
2. Please contact me if you need further assistance.

Name
(in Block Letters Please):

HADDON

Signature:

Joe Haddon Lt Col RM

Rank:



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

Extn: 11109

To: MA to FC

Copy to: DCOS (Ops)
CSS

File Reference: 4000-1/Log-3

Date: 12 Oct 94

Subject: STATUS OF MISSION AGREEMENT

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

2. Serial 6. The barge operation from Gisenyi to Kibuyi⁹ is being restricted to an unnecessary respect, contrary to the freedom guaranteed under this Serial.

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

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

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

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


K P O'KELLY
Col
DCOS (Sp)

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA



NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

ADMINISTRATIVE CIRCULAR NO. 007/94

DATE: 11 October 1994

TO: All Military and Civilian Section Chiefs

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

SUBJECT: Status of Mission Agreement

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

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

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

cc: SRSG
~~Force Commander~~
Executive Director
Legal Adviser

② G3 Plans
G3 Ops

Pls review and pass problem areas/
concerns of non-compliance to me
by 15 Oct 94.

DCOS Ops
13.10

②
DCOS Ops
Request for review. DCS Ops has
been given separate copy to do
same

DCOS Ops
1. response applied in
manuscript

G3 Plans
15/10

RIGHTS AND OBLIGATIONS UNDER UNAMIR STATUS AGREEMENT AND NECESSARY IMPLEMENTING MEASURES

ISSUE/REFERENCE	UNAMIR	GOVERNMENT
1. UNAMIR's status and activities (Art. IV.5 & 6)	<ul style="list-style-type: none"> To <u>strictly observe</u> impartial and international nature; to observe local laws/regs. 	<ul style="list-style-type: none"> To respect exclusive international nature, and to <u>take appropriate steps</u> to ensure security/safety of UNAMIR personnel
2. Military Conventions (Geneva - UNESCO)	<ul style="list-style-type: none"> Full respect of general Conventions re:conduct of military personnel (Art. IV.7.a) 	<ul style="list-style-type: none"> Full respect of general Conventions re:treatment of military personnel (Art. IV.7.b)
3. UNAMIR identification/insignia (Art. IV.8 & 9)	<ul style="list-style-type: none"> SRSB to decide/display/notify Government regarding 	
4. Communications facilities (Art. IV.10 & 11)	<ul style="list-style-type: none"> Right to install/operate viz Art.10 of 1946 Convention 	<ul style="list-style-type: none"> To facilitate; allocate radio frequencies
5. Private (UNAMIR) mail	<ul style="list-style-type: none"> Own arrangements; if involving currency, parcels or packages, conditions by arrangement with Government 	
6. Freedom of movement (Art. IV.12)	<ul style="list-style-type: none"> Entitled to such, throughout territory; Coordinate with Government re:large movements of personnel, stores, vehicles, thru airports, etc. 	<ul style="list-style-type: none"> To <u>supply</u>, where necessary, <u>maps</u> and other information, including <u>locations of mine fields</u> and other dangers/impediment:
7. UNAMIR vehicles (Art. IV.13)	<ul style="list-style-type: none"> Shall carry 3rd party insurance per relevant legislation 	<ul style="list-style-type: none"> No registration/licensing requirements
8. Roads, bridges, canals, ports, airfields (Art. IV.14)	<ul style="list-style-type: none"> Exemption from dues/tolls/charges, <u>except charges for services rendered</u> 	<ul style="list-style-type: none"> Not to levy dues/tolls/charges, except for services rendered
9. UNAMIR's status as subsidiary organ of UN; privileges, immunities under 1946 Convention; extend to funds/assets of participating states (Art. IV.15)	<ul style="list-style-type: none"> For details, see under Government. SRSB to ensure that commissaries established are not abused (eg, by sale/resale of goods to persons not entitled) 	<p><u>Recognizes rights of UNAMIR to</u></p> <ul style="list-style-type: none"> Duty-free importation establish/operate commissaries no customs/excise warehouse restrictions re-export or otherwise dispose of goods/material

*^① Airport access restricted / Certain areas throughout restricted
 *^② Has this info been provided/sought?

ISSUE/REFERENCE	UNAMIR	GOVERNMENT
10. UNAMIR premises (Art. V.16)	<ul style="list-style-type: none"> Such premises, even when provided by Government, shall be <u>inviolable and subject to exclusive control and authority of the UN</u> <u>Entry to UNAMIR premises: UN alone controls (Art. V.19)</u> 	<ul style="list-style-type: none"> * Shall provide, to extent possible headquarters, camp, and other premise for operational and administrative activities, and for accommodation of members of UNAMIR (no mention of charges)
11. Shared premises (Art. V.16)	<ul style="list-style-type: none"> Where UN troops are co-located with Rwandese troops, direct/immediate access by UNAMIR shall be guaranteed 	<ul style="list-style-type: none"> * To guarantee such access
12. Water, electricity and "other necessary facilities" (Art. V.17)	<ul style="list-style-type: none"> To maintain any facilities provided by Government; may generate own electricity (Art V.18) 	<ul style="list-style-type: none"> To assist, as far as possible, in obtaining the same priority as essential Government services; payment on agreed terms
13. Local purchases/services (Art. V.20)	<ul style="list-style-type: none"> To ensure, on basis of information from Government, that local purchases do not adversely affect the economy 	<ul style="list-style-type: none"> To assist in obtaining, as far as possible; no sales taxes
14. Sanitary/health services (Art. V.21)	<ul style="list-style-type: none"> Both parties to cooperate fully in accordance with international Conventions 	
15. Local personnel (Arts V. 22; VI. 28, 46)	<ul style="list-style-type: none"> Recruitment at UNAMIR's discretion Immunity regarding official activities; exemption from tax and national service obligations 	<ul style="list-style-type: none"> Government to facilitate upon request
16. Local currency (Art. V.23)	<ul style="list-style-type: none"> As needed 	<ul style="list-style-type: none"> Government to provide most favourable rates
17. Diplomatic privileges of SRSG, FC & PC (Art. VI.24)	<ul style="list-style-type: none"> ... and of "such high-ranking members of the SRSG's staff as may be agreed upon" with Government (<u>Agreement needed here</u>) 	<ul style="list-style-type: none"> Government to recognize observe diplomatic privileges under sections 19 & 1946 Convention

* lack of cooperation

ISSUE/REFERENCE	UNAMIR	GOVERNMENT
18. Other UN officials (Art. VI.25)	<ul style="list-style-type: none"> • Privileges and immunities under Arts V & VII of 1946 Convention, including: • immunity from legal process • exemption from income tax and other direct taxes/fees/charges except municipal rates • immunity from immigration/alien registration requirements • duty free import of furniture/personal effects. All for official, not personal benefit; avoid abuse of privileges 	<ul style="list-style-type: none"> • Government to recognize and observe Arts V & VII regarding.
19. MILOBS, Civ-Pol and Civilian personnel other than UN officials (Art. VI.26)	<ul style="list-style-type: none"> • Privileges/immunities of "Experts on Mission": Art. VI of Convention • UNAMIR to notify names to Government 	<ul style="list-style-type: none"> • To recognize/observe Art. V (Convention)
20. Military personnel of national contingents (Art. VI. 27, 37, 38, 39, 47)	<ul style="list-style-type: none"> • Privileges/immunities same as "Members of UNAMIR" (see below) • Shall wear their national uniform with UN insignia (Art VI. 37) • May carry arms on duty (also, civ-pol and security officers (Art. VI. 37) • <u>Under exclusive jurisdiction of their states regarding any criminal acts (Art. VI. 47. b)</u> 	<ul style="list-style-type: none"> • To recognize/observe same • To recognize <u>permits or licenses</u> issued by UN/SRSG to UNAMIR personnel <u>re:firearms</u> (also, <u>drivers' licenses</u>)
21. Members of UNAMIR (including military; excluding locals) Arts VI: 29, 30-34, 46-48	<ul style="list-style-type: none"> • <u>Exempt from:</u> income tax; direct taxes (except municipality rates); registration fees/charges; customs duty on personal effects; immigration registration/restriction; • <u>Immune from</u> legal process regarding official activities • Any crimes to be handled by SRSG and Government • Civil claims against: SRSG to be notified for certification before proceeding, but personal liberty not to be restricted regarding. 	<ul style="list-style-type: none"> • To recognize/observe same

ISSUE/REFERENCE	UNAMIR	GOVERNMENT
22. Entry, residence, departure (Art. VI: 32-34)	<ul style="list-style-type: none"> • SRSG and members of UNAMIR: right to freely enter, reside in, and depart from Rwanda; • To inform Government of entry/departure; • No passport/visa requirements or immigration inspections; etc. 	<ul style="list-style-type: none"> • To facilitate entry/departure • Entry/exit only requires: <ul style="list-style-type: none"> (a) individual or collective movement order by SRSG or Participating State (b) Personal ID (or national, or UN LP)
23. Staff identification (Art VI: 35, 36)	<ul style="list-style-type: none"> • SRSG to issue numbered ID cards; • Members to present on demand by Government official, but not surrender IDs 	<ul style="list-style-type: none"> • UNAMIR IDs the only documents required
24. Policing/Powers of Arrest (Art VI: 40-42)	<ul style="list-style-type: none"> • Personnel designated by SRSG shall police UNAMIR premises and deployment areas with powers of arrest; • Military police have powers of arrest over military personnel. 	<ul style="list-style-type: none"> • Government officials may take into custody any member of UNAMIR: <ul style="list-style-type: none"> (a) at request of SRSG; or (b) in the commission/attempt of a crime [42]
25. Custody/Investigations/ (Art VI: 41-45; 47)	<ul style="list-style-type: none"> • Military personnel arrested shall be transferred to their contingent commander [41]; • Arrested on UNAMIR premises: transfer to Government [41]; • Preliminary investigation shall not delay transfer of custody; • UNAMIR and Government to cooperate regarding all necessary investigations [44] • Prosecution of UNAMIR civilians subject to SRSG/Government agreement [47.a]; failing which: see <u>Settlement of Disputes</u> 	<ul style="list-style-type: none"> • UNAMIR personnel arrested for crimes: transfer immediately to UNAMIR [42] • Government to promptly inform UNAMIR regarding any UNAMIR member suspected of crime with evidence [47] • Government to prosecute persons accused of acts against UNAMIR or its members [45]
26. Deceased members (Art. VI. 49)	<ul style="list-style-type: none"> • SRSG to take charge 	

*^① Passport required at KIA.
 *^② Surrender required at KIA
 *^③ Is dismissed 14/10 (will issue directive)

ISSUE/REFERENCE	UNAMIR	GOVERNMENT
27. Settlement of disputes (Art. VII: 50-54)	<ul style="list-style-type: none"> Any private-law claims excluded from Rwandese jurisdiction by this Agreement: submit to standing <u>Claims Settlement Commission to be established</u> [50]; Disputes regarding local staff: submit to SRSG/Admin procedures [51]; Any other disputes, or appeals from claims settlement commission: submit to <u>tribunal of three arbitrators</u>, unless otherwise agreed [52]; Disputes regarding 1946 Convention: see Section 30 of Convention [53] 	<ul style="list-style-type: none"> <u>Government has ultimate responsibility for implementation/observance of privileges/immunities of UNAMIR by all Government agencies</u>
28. <u>Liaison/Implementation</u> (Arts. IX; X. 56)	<ul style="list-style-type: none"> Appropriate steps by both parties; 	