[6 CONFIDENTIAL]

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

OUT-GOING CODE CABLE

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

INFO: MEDILI, UNATIONS, NEW YORK

FROM: SHAHARYAR M. KHAN, UNAMIR, KIGALI

DATE: 28 August 1995

NO: MIR

NO. OF PAGES: 2

SUBJECT: STATUS OF UNAMIR CONTRACTORS

1. We refer to the legal opinion dated 14 August 1995 given by Mr. Corell to Mr. Medili regarding the status of the French company, Economat de l'Armée, which enclosed a copy of a memorandum addressed to Mr. Riza from Mr. Corell dated 23 June 1995 on the status of contractors and suppliers to United Nations peace-keeping operations.

2. Based upon the contents of these two documents, as well as the existing Status of Mission Agreement (SOMA) between the United Nations and the Government of Rwanda, it appears that the privileges and immunities granted to UNAMIR contractors are narrowly defined to the extent that these contractors can only claim exemption from the payment of direct taxes and customs duties on goods imported for the official and exclusive use of UNAMIR. However, recent conversations with representatives of some of our contractors reveal that they are operating in Rwanda under the assumption that they are also exempt from the payment of turnover tax (impôt sur les chiffres d'affaires) and social security benefits for their local Rwandese employees, as well as other requirements for foreign companies operating in Rwanda (e.g., compliance with governmental requirements for the registration of business entities).

3. Some of our contractors have provided services to other United Nations peace-keeping missions where the absence of a properly-functioning national or local government to enforce business regulations has given them the impression that they are de facto exempt from certain obligations vis à vis the national authorities. As such, we would appreciate it if clarification is provided to all UNAMIR contractors on this issue, either through New York or here in Kigali. In particular, we think it would be advisable to specify that our contractors are not exempt from the payment of social security and turnover tax, as well as from registration as a commercial enterprise, but that efforts are underway by the United Nations to extend to contractors certain

facilities which would facilitate the performance of their assigned tasks (e.g., freedom of movement for the proper performance of services, prompt issuance of necessary visas, licences or permits, exemption from immigration restrictions and alien registration, etc.).

4. In this regard, please advise whether you think it appropriate for this clarification to be made through New York or at the local level here in Kigali.

5. As you are aware, the implication of the decision by the Office of Legal Affairs on the status of contractors in United Nations peace-keeping operations is that the contractors' financial liability for the payment of such taxes will ultimately have to be reimbursed by the United Nations in cost plus fee contracts (as in the case of Brown & Root Services Corporation).

6. With respect to the status of the French company ECONOMAT, we request that a reconsideration of the legal opinion be made bearing in mind the following points:

a) The Letters of Assist for the provision of fresh food and subsistence rations to UNAMIR troops were signed between the United Nations in New York and the Government of France. Unlike our other contractors, this is not a case where a contractual arrangement was made between the United Nations and a commercial entity.

b) ECONOMAT is a wholly-owned state company and not a private enterprise. As stated in our MIR 2798, it was requested by the French Ministry of Defence to execute the obligations undertaken by the French Government in its agreements with the United Nations.

c) Based upon paragraph 1 (a) (ii) of the original French text of the SOMA, ECONOMAT could be considered a civilian component of UNAMIR, because it falls within the purview of "d'autres personnes...mises à la disposition de la MINUAR par les Etats participants."

d) Contrary to what has been stated, ECONOMAT was not "merely providing foodstuffs to UNAMIR". By providing subsistence rations and fresh food to our military component, ECONOMAT was performing a highly important function for the United Nations to the extent that the survival of our troops depended upon ECONOMAT's ability to perform its tasks properly. In this respect, the services provided by ECONOMAT can be distinguished from those provided by other UNAMIR contractors. It is indeed unfortunate that despite ECONOMAT's significant contribution to a United Nations peace-keeping effort, it is now faced with an alleged financial liability of $3,000,000 to the Rwandese Government.

7. We would appreciate hearing your comments on the above issues at the earliest, both with regard to notification to UNAMIR contractors of the limited extent of their privileges and immunities vis à vis host Governments, as well as our determination that ECONOMAT should be regarded as a civilian component of UNAMIR under the SOMA.

8. Best regards.

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UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

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MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

CRN-259

OUT-GOING CODE CABLE

IMMEDIATE

TO: ANNAN/GOULDING/CORELL/MEDILI, UNATIONS, NEW YORK

FROM: TOUSIGNANT, UNAMIR, KIGALI

DATE: 2 August 1995

NO: MIR 2798

NO. OF PAGES: 2

SUBJECT: STATUS OF FRENCH COMPANY ECONOMAT DE L'ARMEE

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1. We refer to our code cable dated 10 July 1995 (MIR 2340) outlining UNAMIR's contractual problems and, in particular, the difficulties being experienced by the French company, Economat de l'Armée, in its dealings with the Rwandese Government. Despite efforts undertaken by UNAMIR and the French Embasssy in Kigali to resolve this matter with the Rwandese authorities, the Government has yet to notify us in writing of its willingness to allow the Economat representative in Rwanda, Mr. Thierry Gardeux, to leave the country, or of its agreement to drop all claims for the payment of income tax on Economat's revenue in Rwanda.

2. Following a series of meetings with French and Rwandese Government officials, we believe that a resolution of this matter depends upon the status of Economat vis à vis the United Nations, and whether it can be granted any of the privileges and immunities specified in the Status of Mission Agreement (SOMA) signed with the Government of Rwanda. As mentioned, the Rwandese Government has made similar claims to other UNAMIR contractors, but Economat's case appears to be different based upon its relationship with the French Government, (and the fact that it is the current focus of the Rwandese Government).

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3. We have been informed by our contract management cell that New York Headquarters signed letters of assist (LOA 94/01 and 94/02) with the Government of France in January and February 1994 for the provision of fresh food and sustainment rations to UNAMIR. The French Ministry of Defence, in turn, requested one of its state companies, Economat, to provide these services. Based on this information, we believe that Economat may be considered an "élément civil" of UNAMIR under paragraph 1 (a) (ii) of the SOMA:

> La MINUAR comprendra:
>
> Un "élément civil" constitué de fonctionnaires de l'Organisation des Nations Unies et d'autres personnes chargées par le Secretaire général d'assister le Représentant spécial ou mises à la disposition de la MINUAR par les Etats participants."

(Please note that we are referring to the French version of the SOMA which we understand to be the original, since we have noted several discrepancies between the French and English versions, particularly with regard to this paragraph.)

4. Furthermore, we believe an argument can be made that the Government of France may be regarded as an "Etat participant" of UNAMIR under paragraph 1 (c) of the SOMA:

> Les mots "Etat participant" designent l'un quelconque des Etats mettant du personnel à la disposition de tel ou tel des éléments susvisés de la MINUAR.

This interpretation of the status of Economat is also supported by the French Embassy in Kigali.

5. Although UNAMIR was not involved in the negotiations preceding the signing of these letters of assist with the French Government, and we do not have a copy of the terms of the original agreement (which we would appreciate receiving from New York), we believe that Economat's problems with the Rwandese Government could be resolved if it were to benefit from some of the privileges and immunities accorded UNAMIR under the SOMA.

6. Please inform us on an urgent basis if you are in agreement with the above proposition regarding Economat's status in relation to UNAMIR. We would like to reiterate, however, that even with the resolution of this case, the issue of the Rwandese Government's claims will still have to be addressed with respect to our contractors who do not have the same relationship as Economat with their respective Governments. We foresee that the matter will pose serious problems in our ability to operate in Rwanda, as we rely on the support services of these contractors for many of our necessities. In order to be able to resolve these foreseeable problems, it is necessary for certain privileges and immunities to be granted to our contractors under a modified SOMA to be reached in agreement with the Rwandese Government. Any suggestions you may have in this respect would be greatly appreciated.

7. Best regards.

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

OUT-GOING CODE CABLE

IMMEDIATE

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7. Best regards.

CONFIDENTIEL

ECONOMAT DE L'ARMEE
EXPORT- MINUAR
KIGALI-RWANDA
TEL. 8 51 15
FAX 8 51 15

TELECOPIE / TELEFAX

N° : 0213

DE/FROM : **M. GARDEUX Thierry**

A/TO : **D G E A & Service Commercial.**

A L'ATTENTION DE/ FOR THE ATTENTION OF :
- Monsieur le Directeur Général de l'Economat LAURENT
- Monsieur POLLET

DATE : **27 juillet 1995.**

NOMBRE DE FEUILLETS INCLUANT LA PRESENTE/
NUMBER OF PAGES INCLUDING THIS ONE: **3**

Objet : Problèmes Economat-MINUAR.

Bonjour,

Comte-rendu de la réunion avec la Direction des Impôts.

Participants :

M NIYONTEZE Félicien	Directeur des Impôts.
M LOGOZ Christian	1er Secrétaire de l'Ambassade de France.
M GARDEUX Thierry	Représentant de l'Economat.

Cet entretien fait suite à la rencontre le mardi 25 juillet entre M COURBIN, Ambassadeur de FRANCE au RWANDA, et Monsieur le Ministre des Finances du RWANDA à laquelle participait M NIYONTEZE. Certains points indiqués ci-dessous ont été signalés au Ministre.

Après les présentations d'usage, nous avons donné les explications et interprétations suivantes à M NIYONTEZE, suite à l'action engagé par l'administration des Impôts auprès de la brigade de criminologie de Kigali :

1°) L'Economat est un établissement public français mandaté par son gouvernement afin d'effectuer une mission d'approvisionnement auprès de la MINUAR. Cette mission est définie dans le cadre d'une L.O.A. signée entre le siège des NATIONS-UNIES à New-York et le Gouvernement de la FRANCE. L'Economat est simplement le prestataire de service et ne peut

être considéré comme l'interlocuteur unique des administrations du RWANDA, ni être assimilé à une société privée venue faire des affaires sur le marché intérieur du RWANDA. Si la Direction des Impôts décide de poursuivre son action, elle devra s'adresser conjointement à Monsieur l'Ambassadeur de France, seul habilité à représenter l'Etat français, et à Monsieur le S.R.S.G. de la MINUAR.

2°) En aucun cas M GARDEUX, simple agent de l'Economat, ne peut être tenu pour responsable vis-à-vis d'une procédure engagée à l'encontre de l'Economat. L'interdiction de quitter le pays doit être abandonnée avant toute discussion supplémentaire.

3°) Sur le fond du problème et à la lecture du S.O.M.A. il apparaît évident que l'Economat, dans le cadre de sa mission, bénéficie de privilèges et de garanties qui n'ont pas été respectés par les procédures engagées à son encontre lors des mois précédents.

Il a été présenté à M NIYONTEZE les articles du S.O.M.A. suivants :

Page I - point c) : sur le statut des personnels mis à la disposition de la MINUAR par un "Etat participant".

Page 2 - point 4. : sur les droits, immunités et privilèges des biens, fonds et avoirs des "Etats participants".

Page 5 - points 15. a) b) & c) : sur les possibilités de la MINUAR et de ses "Economats" de créer, d'entretenir et de gérer leur propre activité.

Au vu de ces nouveaux éléments, M NIYONTEZE, nous a, dans un premier temps, indiqué qu'il n'avait jamais ordonné le dépôt par ses services d'une plainte à l'encontre de l'Economat et de son représentant. Cette procédure est due à l'initiative d'un de ses agents sans qu'il en soit lui-même avisé. Il s'est ensuite engagé à produire une lettre signifiant principalement que l'action engagée auprès de la brigade de la criminologie sous sa forme actuelle (plainte, saisie, etc.) est abandonnée. Instruction sera donnée au Directeur des douanes de libérer immédiatement l'ensemble des matériels saisi par la douane à l'aéroport (véhicules, pièces détachées, etc.). Le chef d'Etat Major de la gendarmerie sera également avisé que l'interdiction de quitter le pays concernant Monsieur GARDEUX devra être levée.

Cette lettre sera présentée au Ministre des Finances dès lundi pour signature et adressée à l'ensemble des parties intéressées :

- Monsieur le Vice-Président du RWANDA.
- Monsieur l'Ambassadeur de France au RWANDA.
- Monsieur le Ministre des Affaires Etrangères du RWANDA.
- Monsieur le Ministre de l'Intérieur.
- Monsieur le Chef d'Etat Major de la Gendarmerie.
- Monsieur le S. R. S. G. de la MINUAR à Kigali.
- Monsieur le représentant de l'Economat.

Une copie du S.O.M.A. sera demandée au Ministère des Affaires Etrangères du RWANDA par l'administration des impôts. En fonction de ce texte M NIYONTEZE avisera de la suite à donner à cette affaire d'imposition.

Suite à ces décisions notre réunion s'est terminée et nous nous sommes rendus, M LOGOZ et moi-même, à l'Ambassade de FRANCE afin d'aviser M COURBIN des résultats de cet entretien.

Ceci constitue une première étape dans la résolution des problèmes que rencontre l'Economat vis-à-vis des administrations du RWANDA.

Je tiens à signaler que la possibilité d'une issue favorable à ces problèmes est due en très grande partie aux différents contacts et engagements pris par M COURBIN et M LOGOZ auprès des différents responsables du gouvernement et services administratifs du RWANDA. Dès le premier contact, ils m'ont assurer de leur soutien et aide total. Leurs conseils de patience et de calme se sont avérés utiles compte-tenu de la situation locale.

Du coté de la MINUAR, j'attends les résultats des entretiens entre M DE SOUZA (E. D. UNAMIR) et le responsable de la brigade de la criminologie, ainsi qu'avec le Ministre des Finances. Pour ma part, j'ai signalé à Monsieur BRIERE (CMCO UNAMIR), les interprétations par l'Economat et l'Ambassade de FRANCE. des articles du S.O.M.A. en notre faveur. Une réunion, entre certaines parties intéressées, devrait prochainement avoir lieu afin de faire le point sur l'évolution de ce dossier.

Thierry GARDEUX

CRN 0237-7

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MOST IMMEDIATE

OUTGOING FAX NO. CRN 0237-7
MIR NO. 2340
MISC NO. CMC 067

PAGE 1 OF 10

TO: K. ANNAN USG DPKO UNHQ, NEW YORK	FROM: S. KHAN SRSG UNAMIR KIGALI, RWANDA
ATTN: ANNAN	DATE: 10 JULY 1995
FAX NO: 212 963 1999	PHONE : 212-963-3582 Ext. 11002 FAX NO: 212-963-3090
DRAFTED BY: G. BRIERE CCM	If all pages are not received in good order please contact number listed above.
CLEARED BY: C. OUZIEL, CAO W. CLIVE, CISS	SECTION: SPECIAL REPRESENTATIVE OF THE SECRETARY GENERAL
INTERNAL DISTRIBUTION: SRSG, FC, CAO, CISS, CCM	
REF: A. MIR 1094 DATED 22 MARCH 1995 B. MIR 2024 DATED 08 JUNE 1995 C. CMC 056 DATED 16 JUNE 95 D. CMC 063 DATED 21 JUNE 1995	
SUBJECT: **UNAMIR CONTRACTUAL PROBLEMS**	

PART I - GENERAL

1. THE AIM OF THIS FAX IS TO INFORM YOU OF THE VERY SERIOUS DIFFICULTIES THAT UNAMIR IS FACING WITH ITS CONTRACTORS. THESE PROBLEMS ARE DUE TO TWO MAIN CAUSES: LACK OF SUPPORT FROM UN NY AND THE POSITION THAT THE RWANDESE GOVERNMENT IS TAKING

TOWARDS THE CONTRACTORS SUPPORTING UNAMIR.

2. THIS INFORMATION IS FORWARDED TO YOU IN ORDER FOR YOU TO APPLY PRESSURE ON THE DIFFERENT AGENCIES INVOLVED IN UN NY TO EXPEDITE THE PROCESS IN RESOLVING THE DIFFICULTIES.

3. AS YOU ARE WELL AWARE, UNAMIR LARGELY DEPENDS ON CONTRACTORS FOR ITS LOGISTICAL SUPPORT. IT IS THEREFORE CRUCIAL THAT UN NY PROVIDES ADEQUATE SUPPORT TO ENSURE THAT CONTRACTS ARE PREPARED AND SIGNED IN A TIMELY MANNER AND THAT THE STATUS OF THE CONTRACTORS IS CLEARLY DEFINED IN UNAMIR'S STATUS OF MISSION AGREEMENT (SOMA).

4. SEVERAL REPORTS WERE SENT TO UN NY ON THE DIFFICULTIES THAT UNAMIR IS FACING IN THESE TWO AREAS. A SUMMARY OF THE DIFFICULTIES FACED BY UNAMIR IS PROVIDED IN THE NEXT FEW LINES BUT ADDITIONAL DETAILS CAN BE FOUND IN THE FOUR FAX SENT UNDER COVER OF REF A TO D.

PART II - REVIEW OF THE PROBLEMS

CONTRACTUAL ISSUES.

5. UNAMIR HAS BEEN FACING A MAJOR SHORTFALL IN THE TWO MOST CRUCIAL AREAS OF SUPPORT (SUPPORT SERVICES AND FRESH RATIONS) SINCE THE BEGINNING OF THE MISSION. THE SITUATION CAN BE SUMMARIZED AS EXPLAINED IN PARAGRAPHS 6 TO 20.

SUPPORT SERVICES CONTRACT.

6. AS YOU RECALL, IN ORDER TO DEPLOY THE ADDITIONAL TROOPS REQUIRED TO FULFILL THE MANDATE AFTER THE WAR, IT WAS NECESSARY TO PROVIDE THE INFRASTRUCTURE TO SUPPORT THESE TROOPS THROUGH A CIVILIAN CONTRACTOR ON AN EMERGENCY BASIS DUE TO THE ABSENCE OF FIRM COMMITMENTS FROM MEMBER STATES FOR MILITARY LOGISTICS. CONSIDERING THE URGENCY OF THE SITUATION, IT WAS DECIDED TO EXTEND THE SERVICE CONTRACT IN PLACE IN UNOSOM TO UNAMIR WITH THE UNDERSTANDING THAT A SEPARATE CONTRACT FOR UNAMIR WOULD BE NEGOTIATED AND PUT IN PLACE ASAP. ONE MUST RECALL THAT THE CONTRACTOR PROVIDING THESE SERVICES, BROWN AND ROOT SERVICES CORPORATION (BRSC), WAS SELECTED IN UNOSOM WITHOUT A PROPER BIDDING PROCESS. BRSC WAS SELECTED BECAUSE THEY WERE ALREADY SUPPORTING THE AMERICAN FORCES UNDER LOGCAP. AS THE AMERICAN FORCES WERE LEAVING SOMALIA IN SPRING 1994, UN NY DECIDED TO SIGN A CONTRACT WITH BRSC ON 31 MARCH 1994 FOR AN INITIAL PERIOD OF SIX MONTHS WITH AN OPTION TO EXTEND THE

CONTRACT FOR AN ADDITIONAL PERIOD UP TO ANOTHER SIX MONTHS AND WITH THE INTENT TO ENTER A BIDDING PROCESS ASAP.

7. AFTER THE INITIAL SIX MONTHS OF THE CONTRACT EXPIRED (30 SEPT 94), UN NY DECIDED TO EXTEND THE UNOSOM CONTRACT FOR AN ADDITIONAL PERIOD OF THREE MONTHS (01 OCT TO 31 DEC) WITH THE UNDERSTANDING THAT AN AMENDMENT TO THAT CONTRACT WOULD BE SIGNED IN ORDER FOR UNAMIR TO BECOME INDEPENDENT OF UNOSOM IN THE ADMINISTRATION OF ITS CONTRACT. THIS AMENDMENT KNOWN AS AMENDMENT #2 WAS SIGNED ON **29 DEC 94** AND THE BUDGET FOR UNAMIR FOR THIS PERIOD WAS APPROVED IN UN NY ON **05 DEC 94** (YOU WILL ALSO RECALL THAT THE BUDGET FOR THE MANDATE 09 JUNE - 08 DEC 94 WAS APPROVED ONLY IN DEC 94). DURING THIS PERIOD UNAMIR HAD TO ADMINISTER THE CONTRACT WITH NO OFFICIAL BUDGET AND NO OFFICIAL DOCUMENT WHICH CONSEQUENTLY CREATED A MYRIAD OF PROBLEMS. UNAMIR WAS ASKED IN EARLY OCT 94 TO WRITE A STATEMENT OF WORK (SOW) WITH A VIEW TO ENTERING INTO A BIDDING PROCESS FOR THIS CONTRACT. THIS SOW HAD TO BE UPDATED IN NOV AND AGAIN IN DEC BUT THE BIDDING PROCESS WAS NEVER INITIATED DURING THIS PERIOD.

8. IN LATE DEC 94, UN NY INFORMED UNAMIR THAT THEY INTENDED TO EXTEND BRSC CONTRACT FOR AN ADDITIONAL PERIOD OF ONE MONTH (01 JAN - 31 JAN 95). THIS AMENDMENT KNOWN AS AMENDMENT # 3 WAS APPROVED ONLY ON **27 JAN 95** AND THE BUDGET FOR THIS PERIOD WAS ALSO APPROVED VERY LATE i.e. ON **28 FEB 95**. DURING THIS PERIOD UNAMIR WAS AGAIN REQUESTED TO UPDATE ITS SOW WITH A VIEW TO ENTERING A BIDDING PROCESS.

9. IN LATE JAN 94, UN NY ONCE AGAIN DECIDED TO EXTEND THE BRSC CONTRACT FOR AN ADDITIONAL PERIOD OF FOUR MONTHS (01 FEB - 31 MAY 95). THIS AMENDMENT KNOWN AS AMENDMENT # 4 WAS APPROVED ONLY ON **12 MAY 95** AND THE BUDGET FOR THIS PERIOD WAS ALSO APPROVED ON **12 MAY 95**. HOWEVER, THE BIDDING PROCESS STARTED DURING THIS PERIOD AND A DETAILED TIME LINE WAS ESTABLISHED WHERE A NEW SERVICES CONTRACT WAS TO BE SIGNED BY **05 APRIL 95** FOR A CONTRACT WHICH WAS TO TAKE EFFECT ON **01 JUNE 95**. AS OF **10 JULY 95**, MORE THAN THREE MONTHS SUBSEQUENT TO THE DATE THAT THIS CONTRACT SHOULD HAVE BEEN SIGNED, WE ARE STILL WITHOUT A SIGNED CONTRACT.

10. YOU SHOULD ALSO BE MADE AWARE THAT ONCE THE BIDDING PROCESS WAS COMPLETED, TWO CONTRACTORS (BRSC AND SERV-AIR) WERE INITIALLY SELECTED (AGAINST THE RECOMMENDATION OF UNAMIR) TO REPLACE BRSC. ANNOUNCEMENTS WERE MADE IN LATE APRIL AND NEGOTIATIONS WITH THE TWO COMPANIES TOOK PLACE IN EARLY MAY. IT BECAME CLEAR DURING THESE NEGOTIATIONS THAT TWO CONTRACTORS

WOULD BE MUCH TOO EXPENSIVE (DUE TO PROHIBITIVE OVERHEAD COSTS OF TWO COMPANIES) AND HCC DECIDED TO SELECT ONLY ONE CONTRACTOR WHICH WAS BRSC. THEY WERE INFORMED BY PTS ONLY IN **MID JUNE 95**. HOWEVER, SINCE NO CONTRACT HAD BEEN SIGNED BY 31 MAY 95 (EXPIRY DATE OF THE LAST EXTENSION UNDER AMENDMENT # 4) THERE WAS NO CHOICE THAN TO PROCEED WITH A DEMOBILIZATION OF MORE THAN HALF OF THE WORK FORCE (FROM 1,900 LOCAL NATIONAL EMPLOYEES TO 800 AND FROM 139 INTERNATIONAL STAFF TO 69). THIS WAS DONE IN ORDER TO IMPLEMENT THE BASE LINE ESTABLISHED IN THE BRSC PROPOSAL SINCE NO OTHER GUIDELINES WERE PROVIDED AND NO MONEY WAS SET ASIDE TO MAINTAIN THE WORK FORCE IN PLACE EXCEPT FOR THE TRANSITION PERIOD.

11. CONSIDERING THESE MAJOR DELAYS, A SERIES OF NEGOTIATIONS TOOK PLACE BETWEEN PTS AND BRSC TO EXTEND THE TRANSITION PERIOD UNTIL THE STAFF IDENTIFIED IN BRSC PROPOSAL COULD BE MOBILIZED. AS OF TODAY, UNAMIR HAS STILL NOT BEEN OFFICIALLY NOTIFIED OF THESE DETAILS. BRSC HAS NOW ONLY 61 EXPATRIATE EMPLOYEES IN THEATER AND THE NUMBER IS DECREASING SINCE ONLY 23 OF THE 69 EMPLOYEES WERE TO STAY HERE PERMANENTLY WHEREAS THE OTHER 46 WERE TO REMAIN IN RWANDA UNTIL REPLACEMENT STAFF PROPOSED BY BRSC IN THEIR PROPOSAL WERE TO ARRIVE. THESE 46 EMPLOYEES WERE TOLD IN MARCH THAT THE TRANSITION PERIOD WOULD BE FINISHED BY 01 JUNE 95. HOWEVER, SINCE THE TRANSITION PERIOD IS EXTENDED MONTH AFTER MONTH BRSC IS TRYING TO RETAIN AS MANY AS POSSIBLE BUT MANY OF THEM ARE NOT HAPPY WITH THIS ARRANGEMENT AT ALL. IT IS ALSO TO BE NOTED THAT UNDER THE TERMS OF THE NEW CONTRACT, THESE EMPLOYEES HAVE SEEN THEIR PAY AND SOCIAL BENEFIT PACKAGES REDUCED DRASTICALLY.

12. COMPLICATING THE SITUATION FURTHER, THE NEW MANDATE OF THE MISSION HAS CREATED A TREMENDOUS AMOUNT OF ADDITIONAL WORK TO SUPPORT THE DEMOBILIZATION AND THE REDEPLOYMENT OF OUR TROOPS. TO COMPOUND THE PROBLEM, UNAMIR IS REQUESTED TO PROVIDE ASSISTANCE TO THE RWANDESE GOVERNMENT (ACCORDING TO THE NEW MANDATE ARTICLE 3 C). THESE ADDITIONAL TASKS WERE NOT IDENTIFIED IN THE SOW PREPARED IN FEB 94. BRSC PROPOSAL DEVELOPED FOR THE NEW CONTRACT DID NOT FACTORIZE THESE REQUIREMENTS IN THE EQUATION.

13. NOTWITHSTANDING ALL THESE DIFFICULTIES, UNAMIR AND BRSC HAVE TAKEN SOME MEASURES IN ORDER TO PROVIDE AT LEAST THE STRICT ESSENTIAL SUPPORT TO THE MISSION. **HOWEVER, IT IS IMPORTANT TO STRESS THAT ALL THIS WAS AND IS STILL DONE WITH NO OFFICIAL BUDGET, NO CONTRACT AND NO OFFICIAL GUIDELINES FROM UN NY. THIS SITUATION CANNOT CONTINUE ANY LONGER, THE CONTRACT AND**

THE BUDGET ASSOCIATED WITH THIS CONTRACT MUST BE APPROVED/ SIGNED NOW TO AVOID ADVERSE CONSEQUENCES TO THE SUPPORT OF THE MISSION AND THE DEMOBILIZATION PLAN.

FRESH FOOD PROVISION AND SUSTAINMENT RATIONS

14. IN THIS CASE, UN NY SIGNED A LETTER OF ASSIST (LOA 94/01) WITH THE FRENCH GOVERNMENT IN JAN 94 TO PROVIDE FRESH FOOD TO UNAMIR FOR THE PERIOD 01 FEB 94 TO 31 MAY 94. THE FRENCH GOVERNMENT REQUESTED ONE OF THEIR GOVERNMENT SOCIETIES, LES ECONOMATS DE L'ARMEE, TO PROVIDE THE SERVICES.

15. THIS LOA WAS MODIFIED ON 07 APRIL 94 DUE TO THE WAR IN RWANDA, TO DELIVER THE FOOD TO NAIROBI INSTEAD OF KIGALI. THE LOA WAS FURTHER EXTENDED FROM 01 JUNE 94 TO 31 AUG 94 AND THE DELIVERY POINT WAS CHANGED TO KIGALI STARTING 06 AUG 94. THIS LATEST EXTENSION WAS SIGNED **IN LATE AUG 94**.

16. THE LOA 94/01 WAS FURTHER EXTENDED FOR THE PERIOD OF 01 SEPT 94 TO 31 DEC 94 WITH AN OPTION TO EXTEND UNTIL 31 JAN 95. THIS EXTENSION WAS SIGNED ONLY ON **09 DEC 94** AND THE OPTION OF EXTENDING UNTIL 31 JAN 95 WAS EXERCISED. THIS LOA WAS EXTENDED ONCE AGAIN FROM 01 FEB 95 TO 30 APR 95. THIS EXTENSION WAS ONLY SIGNED ON **28 MARCH 95**. THE LOA 94/01 WAS FURTHER EXTENDED FOR THE PERIOD OF 01 MAY 95 TO 30 JUNE 95. NO SIGNED COPY OF THIS LAST EXTENSION HAS BEEN RECEIVED BY UNAMIR AS YET.

17. ANOTHER LOA 94/02 WAS SIGNED ON 25 FEB 94 FOR THE SUM OF $US 15,611,400 BETWEEN THE UN AND THE GOVERNMENT OF FRANCE WHERE LES ECONOMATS DE L'ARMEE WERE ONCE AGAIN SELECTED TO PROVIDE THE SERVICES. UNDER THIS LOA, SUSTAINMENT RATIONS WERE TO BE PROVIDED OVER AN EIGHT MONTH PERIOD (APR TO NOV 94) TO LOCAL TROOPS (20,000 RPF, 29,000 RGF AND 6,000 GENDARMES). ALL THESE SUSTAINMENT RATIONS REPRESENT 116 CONTAINERS OF RATIONS. 36 CONTAINERS WERE DELIVERED JUST BEFORE AND DURING THE WAR AND THEY WERE ALL LOOTED. THE OTHER 80 CONTAINERS WERE DIVERTED TO DAR ES SALAAM AND THEY HAVE BEEN REDISPATCHED BY ROAD, RAIL AND AIR TO RWANDA AFTER SEVERAL DISCUSSIONS TOOK PLACE ON WHAT TO DO WITH THEM. THE LAST TWO OF THESE CONTAINERS ARE EXPECTED IN KIGALI SHORTLY. SOME CONTAINERS WERE DESTROYED/DAMAGED IN DAR ES SALAAM SINCE THEY WERE STORED THERE FOR MORE THEN ONE YEAR BEFORE BEING MOVED. THIS IS A VERY COMPLEX CASE AND A BOARD OF INQUIRY WILL PROBABLY BE REQUIRED TO RESOLVE IT. THE UN HAS SO FAR REFUSED TO PAY FOR THESE RATIONS UNTIL THE WHOLE CASE IS RESOLVED. THE FRENCH GOVERNMENT/ LES ECONOMATS HAVE NOT YET RECEIVED A PENNY FOR THESE RATIONS.

18. IN MAY OF THIS YEAR AFTER SEVERAL REQUESTS FOR PAYMENT FOR LOA 94/01 AND 94/02, THE FRENCH GOVERNMENT DECIDED TO STOP PROVIDING FRESH RATIONS UNTIL PAYMENT WAS MADE. AFTER A FEW DAYS, THE UN DECIDED TO MAKE A PARTIAL PAYMENT (65 % OF THE AMOUNT DUE ON THE INVOICES RECEIVED AT THAT TIME FOR LOA 94/01). HOWEVER, UNAMIR HAD TO SUFFER AN INTERRUPTION OF DELIVERIES OF FRESH FOOD FOR SEVERAL DAYS.

19. ALL THE EXTENSIONS OF THE LOA 94/01 FOR THE PROVISION OF FRESH FOOD WERE NECESSARY BECAUSE THE BIDDING PROCESS TO SELECT A CONTRACTOR WAS POSTPONED ON SEVERAL OCCASIONS. THIS PROCESS FINALLY STARTED IN FEB 95 AND A NEW CONTRACTOR ES-KO INTERNATIONAL, A COMPANY BASED IN MONACO,WAS SELECTED IN MAY 95. HOWEVER, THE SIGNATURE OF THE CONTRACT WITH THIS COMPANY WAS ALSO POSTPONED ON SEVERAL OCCASIONS. THE NEW CONTRACT WAS SIGNED ONLY ON 26 JUNE 95 AFTER A SERIES OF DELAYS. SINCE THE NEW CONTRACTOR REQUIRED A MINIMUM OF 25 DAYS FROM THE SIGNATURE OF THE CONTRACT TO MOBILIZE, THE UN WAS FORCED TO ASK THE FRENCH GOVERNMENT ONCE AGAIN TO EXTEND THE LOA 94/01. THE FRENCH GOVERNMENT IMPOSED SEVERAL CONDITIONS AND THE MOST IMPORTANT OF WHICH WAS TO BE PAID IN FULL FOR ALL THE RATIONS DELIVERED SO FAR UNDER LOA 94/01 AND 94/02. THE UN PROPOSED TO MAKE A PARTIAL PAYMENT BUT THE FRENCH GOVERNMENT REFUSED. THEREFORE, THE UN WAS FORCED TO NEGOTIATE WITH ES-KO, AT THE LAST MINUTE AND AT GREAT COST, AN AMENDMENT OF THEIR CONTRACT TO EXPEDITE THE MOBILIZATION PROCESS. SINCE THIS AMENDMENT WAS APPROVED OFFICIALLY ON 30 JUNE 95, UNAMIR HAD TO SUFFER A SECOND INTERRUPTION OF DELIVERY OF FRESH FOOD FOR MORE THEN SIX DAYS. ES-KO RESUMED THE DELIVERY OF FRESH FOOD ON 06 JULY 95.

20. DUE TO THE LATE SIGNATURE OF THE CONTRACT WITH ES-KO, WE WILL ALSO HAVE TO MAKE AN ADDITIONAL SPECIAL ORDER OF FRESH RATIONS TO COVER THE PERIOD BETWEEN THE ARRIVAL OF THE FIRST SHIPMENT BY SHIP (60 DAYS AFTER THE SIGNATURE OF THE CONTRACT i.e. 26 AUG 95) AND THE QUANTITY OF FRESH RATIONS THAT THE CONTRACTOR MUST PROVIDE AS PER THE TERMS OF THE CONTRACT (28 DAYS OF RATIONS MUST BE IN THEATER 25 DAYS AFTER THE SIGNATURE OF THE CONTRACT IE ON 20 JUL 95). THESE RATIONS WILL THEN LAST UNTIL 18 AUG 95 WHICH MEANS THAT WE WILL HAVE TO PLACE AN ORDER TO BRING AN ADDITIONAL 08 DAYS OF FRESH FOOD BY AIR AGAIN AT GREAT COST TO THE UN IN ORDER TO COVER THE PERIOD UNTIL THE SHIP ARRIVES.

STATUS OF THE CONTRACTORS - SOMA.

21. THE STATUS OF THE CONTRACTORS IN THE SOMA IS ANOTHER VERY SERIOUS PROBLEM WHICH HAS BEEN THE OBJECT OF SEVERAL

CORRESPONDENCE. THIS PROBLEM HAS BEEN DISCUSSED WITH YOU DURING MY VISIT IN NY WHEN WE NEGOTIATED THE NEW MANDATE OF THE MISSION. THE SITUATION HAS TAKEN A SERIOUS TURN FOR THE WORSE DURING THE PAST FEW DAYS.

22. AS I EXPLAINED TO YOU, THE RWANDESE GOVERNMENT HAS IMPOUNDED SEVERAL PIECES OF EQUIPMENT/MATERIAL/FOOD DURING THE PAST FEW MONTHS: TWO VEHICLES WERE IMPOUNDED ON 09 MARCH 95 (THE PROCES VERBAL WAS SERVED ONLY ON 02 MAY 95), A FORK LIFT ON 08 MAY 95 (THE PROCES VERBAL WAS ONLY RECEIVED ON 13 JUNE 95), SPARE PARTS HAVE ALSO BEEN IMPOUNDED ON 14 APRIL 95 AND 43 TONS OF FLOUR WAS IMPOUNDED ON 17 MAY 95. ON 26 MAY 95, LES ECONOMATS WERE ALSO INFORMED BY THE RWANDESE GOVERNMENT THAT THEY WERE REQUESTED TO PAY INCOME TAX ON THEIR REVENUE FOR THE YEARS 1994 AND 1995 FOR A TOTAL SUM OF 464,885,616 RWF (APPROXIMATELY $US 1.6M). FINALLY, THE GOVERNMENT OFFICIALS HAVE BEEN ASKING BRSC TO PAY THE SOCIAL BENEFITS ON THE SALARIES PAID TO ALL THE LOCAL NATIONALS WORKING FOR THEM RETROACTIVE TO THEIR ARRIVAL IN RWANDA. THIS TAX IS ESTABLISHED AT 3% OF THE GROSS SALARY PAYABLE BY THE INDIVIDUAL AND 5 % PAYABLE BY THE EMPLOYER. SINCE IT WOULD BE VERY HARD TO RECOVER THE MONEY FROM THE EMPLOYEES IT MEANS THAT BRSC WOULD HAVE TO PAY 8% ON ALL THE SALARIES PAID SO FAR WHICH REPRESENTS APPROXIMATELY $US180,000 (8 % OF $US 2.25M).

23. THE ONLY CASE OF THOSE DESCRIBED ABOVE WHICH HAS BEEN RESOLVED IS THE RELEASE OF THE FLOUR. THIS FLOUR WAS RELEASED ON 15 JUNE 95 AFTER SEVERAL MEETINGS WITH THE CUSTOMS AUTHORITIES (PLEASE REFER TO REF C FOR FURTHER DETAILS). UNAMIR TROOPS WERE WITHOUT OF BREAD FOR MORE THEN ONE WEEK BECAUSE OF THIS PROBLEM.

24. NO DEVELOPMENTS OCCURRED ON THE OTHER ISSUES UNTIL THIS PAST THURSDAY. ON 06 JULY, MR GARDEUX THE ECONOMAT REPRESENTATIVE, WAS CALLED BY THE CRIMINAL INVESTIGATIONS DEPARTMENT OF THE MINISTRY OF JUSTICE FOR INTERROGATION ON THE NON PAYMENT OF INCOME TAXES. AFTER CONSULTATION WITH UNAMIR AND THE FRENCH EMBASSY, THE ECONOMAT REPRESENTATIVE REFUSED TO MEET THEM. LATER THAT DAY, A SUBPOENA WAS ISSUED ORDERING HIM TO APPEAR IN FRONT OF THIS DEPARTMENT OR FACE ARREST. IT WAS DECIDED TO COMPLY WITH THIS ORDER AND TWO REPRESENTATIVES OF UNAMIR ACCOMPANIED MR GARDEUX ON 07 JULY 95 TO MEET THE GOVERNMENT OFFICIALS. REPRESENTATIVES AT HIGH LEVELS OF THE MINISTRY OF FINANCE, EXTERNAL AFFAIRS, GENDARMERIE, AIRPORT SECURITY AND CRIMINAL DEPARTMENT OF THE RWANDESE GOVERNMENT CONDUCTED THIS INTERROGATION. THE FOLLOWING ELEMENTS EMERGED

DURING THIS MEETING:

A. A MEMBER OF THE PANEL SHOWED THE SUBPOENA TO UNAMIR REPRESENTATIVES BUT REFUSED TO PROVIDE A COPY;

B. THE REPRESENTATIVE OF MINISTRY OF FINANCE INDICATED THAT UNAMIR AND ITS CONTRACTORS DO NOT HAVE TO PAY ANY DUTIES ON ANY GOODS OR EQUIPMENT IMPORTED FOR THE SUPPORT AND USE OF UNAMIR. HOWEVER,THE INVESTIGATING OFFICER SAID THAT ALL COMPANIES CONDUCTING BUSINESS IN RWANDA MUST PAY INCOME TAXES;

C. UNAMIR REPRESENTATIVES ASKED WHY MATERIAL AND SOME FOOD (FLOUR) WERE IMPOUNDED. THE REPRESENTATIVE OF MINISTRY OF FINANCE EXPLAINED THAT THE IMPOUNDING OF THE EQUIPMENT AND FOOD WAS ORDERED BY HIS MINISTER TO ENSURE THAT ECONOMAT WOULD PAY THE INCOME TAXES CLAIMED BY THE GOVERNMENT. HE FURTHER CONFIRMED THAT THIS HAD NOTHING TO DO WITH THE PAYMENT OF CUSTOMS DUTIES ON THESE MERCHANDISES EVEN THOUGH THIS IS WHAT WAS INDICATED ON THE PROCES VERBAL SERVED TO ECONOMAT;

D. THE GOVERNMENT HAS APPLIED THIS PROCEDURE ONLY TO ECONOMAT THUS FAR, BUT THEY MADE IT CLEAR THAT THEY INTEND IN FUTURE TO ORDER ALL THE CONTRACTORS DEALING WITH UNAMIR TO PAY INCOME TAXES;

E. THE TOTAL AMOUNT OF INCOME TAXES CLAIMED FOR THE TWO YEARS HAS BEEN ESTABLISHED BY EXTRAPOLATION OF THE AMOUNT BASED ON COPIES OF THREE INVOICES OBTAINED SURREPTITIOUSLY FROM ECONOMAT;

F. THEY HAVE NOTIFIED THE ECONOMAT REPRESENTATIVE THAT HE WAS FORBIDDEN TO LEAVE THE COUNTRY UNTIL THIS CASE WAS RESOLVED. HOWEVER, THEY REFUSED TO PROVIDE THIS ORDER IN WRITING; INDEED THEY THREATENED MR GARDEUX AND THE UNAMIR REPRESENTATIVES ACCOMPANYING MR GARDEUX WITH ARREST IF MR GARDEUX ATTEMPTED TO LEAVE THE COUNTRY;

G. THE UNAMIR REPRESENTATIVES EXPLAINED CLEARLY THAT ECONOMAT HAD NO CONTRACT WITH UNAMIR, BUT THAT THE AGREEMENT (LOA) WAS BETWEEN THE UN AND THE FRENCH GOVERNMENT. THE RWANDESE REPRESENTATIVES REFUTED THIS ARGUMENT.

25. CONSIDERING THESE LATEST DEVELOPMENTS, I INTEND TO MEET THE DEPUTY PRIME MINISTER ASAP TO DISCUSS THE ISSUE AND I WILL WRITE A LETTER TO THE MINISTRY OF FOREIGN AFFAIRS. I WILL ALSO DISCUSS THE MATTER WITH THE SG DURING HIS VISIT. STEPS ARE ALSO BEING TAKEN IN CONCERT WITH THE FRENCH EMBASSY IN RWANDA TO ASSURE THE SAFETY OF THE ECONOMAT REPRESENTATIVE.

26. THE ISSUE OF THE STATUS OF THE CONTRACTORS IN THE SOMA MUST BE CLARIFIED ASAP. IN THE NEXT FEW DAYS, I EXPECT TO RECEIVE THE RWANDESE GOVERNMENT'S PROPOSED NEW TEXT OF THE SOMA AS AGREED DURING OUR DELIBERATIONS IN UN NY FOR THE RENEWAL OF THE MANDATE.

PART III - CONCLUSION

27. AS CAN BE SEEN FROM THIS FAX, THE SITUATION WITH REGARD TO OUR CONTRACTORS IS EXTREMELY DIFFICULT TO SAY THE LEAST.

28. IT IS IMPERATIVE THAT UN NY EXPEDITE THE PROCESS OF OBTAINING A SIGNED CONTRACT WITH BRSC OR AT LEAST ISSUE A NOTICE OF INTENT ASAP IN ORDER THAT STAFF MOBILIZATION CAN COMMENCE. FAILING TO DO THIS, THE SUPPORT OF THIS MISSION WILL BE IN JEOPARDY AND IT WILL BE IMPOSSIBLE TO MEET THE TARGET DATES OF THE REDEPLOYMENT/DEMOBILIZATION PLAN AGREED IN RESOLUTION 997 OF THE SECURITY COUNCIL.

29. THE NUMEROUS PROBLEMS FACED BY UNAMIR DURING THE LAST YEAR DUE TO THE INABILITY OF UN NY TO REACT IN A TIMELY MANNER IS UNACCEPTABLE. IT IS ESSENTIAL THAT UNAMIR OBTAINS A STRONGER AND MORE PROMPT SUPPORT FROM UN NY AND IN PARTICULAR FROM PTS AND OLA TO ENSURE THAT CONTRACTS, LOA, BUDGETS, ETC ARE APPROVED RAPIDLY AND ACCORDING TO THE SET SCHEDULES/PLANS. THUS FAR, UNAMIR HAS BEEN ABLE TO CONTINUE TO MEET ITS OBLIGATIONS BUT THIS IS MAINLY DUE TO THE INGENUITY OF OUR PEOPLE MANAGING THE CONTRACTS, THE EFFORTS OF SOME MEMBERS OF FALD (KULOV, AAMODT AND SAVENIUS) AND THE FLEXIBILITY DEMONSTRATED BY THE CONTRACTORS. HOWEVER, WE ARE STRETCHED TO THE LIMIT AND WE ARE PERIOUSLY CLOSE TO BREAKING POINT.

30. FINALLY, I AM EXTREMELY CONCERNED WITH THE SITUATION IN REGARD TO THE STATUS OF THE CONTRACTORS IN THE SOMA. IT IS ESSENTIAL THAT WE FIND A SOLUTION TO RESOLVE THIS PROBLEM BEFORE IT DEGENERATES ANY FURTHER.

31. I TRUST THAT YOU WILL TAKE THE NECESSARY STEPS TO ENSURE THAT CORRECTIVE MEASURES ARE PUT IN PLACE WITH REGARDS TO THE CONTRACTS IN UNAMIR. CONCERNING THE ISSUE OF THE SOMA, I WILL DISCUSS THIS TOPIC WITH THE SG DURING HIS VISIT. I ALSO REMAIN AVAILABLE TO FURTHER DISCUSS THE SUBJECT WITH YOU IN ORDER TO FIND A SOLUTION TO THIS DIFFICULT QUESTION.

ASSISTANCE MISSION FOR RWANDA | MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

CRN0198-6

UNAMIR
95 JUN -8 15 101

OUTGOING CODE CABLE

MOST IMMEDIATE

MIR NO. 2024

TO: ANNAN, UNATIONS NEW YORK

INFO: SHAHARYAR KHAN, SRSG, UNAMIR
(AT UNATIONS NEW YORK)

FROM: TOUSIGNANT, UNAMIR/KIGALI

DATE: 8 JUNE 1995

TOTAL PAGES: 2

SUBJECT: **STATUS OF MISSION AGREEMENT**

1. RECENTLY, SEVERAL DIFFICULTIES HAVE ARISEN WITH THE GOVERNMENT OF RWANDA REGARDING THE STATUS OF CUSTOMS AND TAX EXEMPTION TO UNAMIR'S CONTRACTORS AND SUPPLIERS: SPECIFICALLY, THE GOVERNMENT HAS TAKEN THE POSITION THAT WHILE UNAMIR ITSELF MAY BE EXEMPT FROM CUSTOMS DUTIES AND TAXES ON ITS IMPORTD GOODS AND SUPPLIES, UNAMIR'S CONTRACTORS AND SUPPLIERS ARE NOT EXEMPT FROM SUCH DUTIES AND TAXES. IN ADDITION, THE GOVERNMENT HAS DEMANDED FROM SOME CONTRACTORS THE PAYMENT OF INCOME TAXES AND EMPLOYERS TAXES.

2. THUS, AND IN THE GENERAL CONTEXT OF THE INCREASING DIFFICULTIES IMPOSED BY THE GOVERNMENT ON OUR DAY-TO-DAY OPERATIONS, IT IS IMPERATIVE THAT PARAGRAPH 15 OF THE SOMA SHOULD COVER UNAMIR AS WELL AS ITS SUPPLIERS AND CONTRACTORS.

3. A NEW PARAGRAPH (E) SHOULD BE ADDED TO PARAGRAPH 15 OF THE SOMA ALONG THE FOLLOWING LINES:

(E) IT IS EXPLICITLY RECOGNIZED BY THE GOVERNMENT OF RWANDA THAT IN CARRYING OUT ITS MANDATE, UNAMIR HEAVILY RELIES ON THE SERVICES OF OUTSIDE SUPPLIERS AND CONTRACTORS BOTH IN AND OUTSIDE OF RWANDA. ALL PRIVELEGES AND IMMUNITIES GRANTED TO UNAMIR IN PARAGRAPH 15 ALSO APPLY TO ALL UNAMIR CONTRACTORS AND SUPPLIERS IN THE PROVISION OF GOODS AND SERVICES TO UNAMIR.

4. BY THE SAME TOKEN, PARAGRAPHS 32-34 OF THE SOMA ON "ENTRY, RESIDENCE AND DEPARTURE," SHOULD COVER CONTRACTOR'S EXPATRIATE PERSONNEL AS WELL, TO PREVENT A SITUATION WHEREBY THE GOVERNMENT SIMPLY REFUSES TO GRANT VISAS TO THEM THEREBY IMPEDING OUR OPERATIONS. AGAIN THIS SHOULD BE SEEN IN LIGHT OF THE PRACTICAL DIFFICULTIES EXPERIENCED ON THE GROUND WHERE MANY CONTRACTOR PERSONNEL ARE NOW ONLY ISSUED WEEKLY VISAS WITH INSINUATIONS BY IMMIGRATION OFFICIALS OF THE POSSIBILITY OF NON-RENEWAL.

5. FINALLY, I SHOULD STRESS AGAIN THAT THE ABOVE IS PRESENTED IN A PRACTICAL CONTEXT OF OUR DAY-TO-DAY OPERATIONAL DIFFICULTIES: PRESENTLY WE HAVE ONLY TEN DAYS' COMBAT RATION SUPPLIES, MAKING US EXTREMELY VULNERABLE TO DELAYS IN CUSTOMS CLEARANCE OF FOOD IMPORTATION BY THE CONTRACTORS.

END.

~~BF 17/4/95~~ $863.

~~BF 17/4/95~~
BF 17/4/95

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

OUTGOING FAX NO: _____

MIR NO: _____

MISC NO: _____ (1)

TO: MR. H. MEDILI DIRECTOR FALD/DPKO	FROM: ALLY H. GOLO OIC ADMINISTRATION UNAMIR/KIGALI
ATTN: DA COSTA	DATE: 18 JANUARY 1995
FAX NO: 212-963-2116	FAX NO: 212-963-3090 PHONE: 212-963-3582
ORIGINATOR: PETER HORNSBY, CSS	SECTION: SUPPORT SERVICE
INTERNAL DIST: CCLogO, CMCO	
SUBJECT: STATUS/PROTECTION OF CONTRACTOR PERSONNEL	

A. OLA HAVE PROVIDED ADVICE TO THE EFFECT THAT INDEPENDENT CONTRACTORS AND THEIR STAFF ARE NOT COVERED UNDER THE CONVENTION, OR THE SOFA. GIVEN THE SITUATION HERE IN RWANDA, AND THE FACT THAT WE HAVE ALREADY EXPERIENCED A NUMBER OF INCIDENTS WITH CONTRACTORS AND STAFF AND THE LOCAL AUTHORITIES, THIS CONTINUES TO BE A MATTER OF SOME CONCERN HERE.

B. RECALL THAT, CERTAINLY IN THE CASE OF UNMOGIP, INDEPENDENT CONTRACTORS, SPECIFICALLY AIRCREW OPERATING A CHARTERED AIRCRAFT, WERE PROVIDED WITH A UN CONTRACTOR CERTIFICATE TO AID WITH OPERATIONS IN THEIR AREA. THIS DOCUMENT IDENTIFIED THE HOLDER AS SOMEONE WORKING FOR OR ON BEHALF OF THE UN AND WAS BASICALLY A TWO PAGE DOCUMENT IN THE SAME UN BLUE COLOUR AS THE LP.

C. PERHAPS REACHING, BUT (A) DOES THIS DOCUMENT STILL EXIST, AND, IF SO, (B) IS IT POSSIBLE TO PROVIDE THESE FOR EX-PAT CONTRACT PERSONNEL EMPLOYED IN SUPPORT OF THE UN?

(3) ~~sitrep~~ N7F req'd in my log rep this week 4/3

(2) CISS VIA CILM
Any news from NY on this proposal

CMCO 27/2/95

~~A/2/95~~ A/ 312.

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

INTER OFFICE MEMORANDUM

27 December 1994

(2) CSS UNA CCMO

1. As discussed earlier, did you have a chance to talk to Mr Ncube on this subject as you told me?
2. What's next

GBriere CMCO 15/1/95

TO: Mr. P. Hornsby / CSS

INFO: Mr. M Ncube / Legal Admin. Officer
Mr. J Albert / CA
Mr. M. Blumeris / CAA 3

FROM: Mr. G. Brière / CMCO GBriere

REF:
A. Memo dated 24 Nov 94 (copy attached)
B. Memo dated 07 Dec 94 (copy attached)
C. Memo dated 24 Nov 94 (copy attached)
D. Memo dated 19 Dec 94 (copy attached)

SUBJECT: LEGAL STATUS OF CONTRACTORS AND THEIR STAFF

1. I am sending you this memo having received your min 2 on the document written by Dr. Kabia on Dec. 6 1994.

2. A few weeks ago I was alerted by the confusion which has arisen over this matter when I received copy of a document published by the Force Commander on the subject of legal jurisdiction applicable to UNAMIR and Rwandese Authorities. The matter appeared straightforward to me then based on the definition of Civilian Component provided in the FC memo which read:"Civilian Component consists of UN officials and **of other persons assigned by the Secretary-General to assist the SRSG** or...UNAMIR". In my view, Contractors are hired to help us meet the Mandate given us by the Secretary-General.

3. It had been my intention to relay this information to BRSC and MGT for their information (ref A), and in spite of the simplicity with which I viewed the case, I asked Mr. Blumeris from CMC to discuss the matter with Mr. Ncube in order to receive a confirmation of my interpretation. Mr. Ncube referred Mr. Blumeris to Mr. Minta for further advice. Mr. Minta informed Mr. Blumeris that the question had been put to UN NY, and provided him with a copy of the reply from UN NY (the 2 faxes attached with Dr. Kabia's letter).

4. I provided a copy of these documents to BRSC and MGT for their information (ref A) and informed them that I would make enquiries and revert to them as soon as I received more information.

5. Since the interpretation I received was not what I expected, I asked Mr. Blumeris to consult with Mr. Minta and examine the various alternatives open to us, with a possible view of changing the legal status of the Contractors employees. Mr. Minta informed Mr. Blumeris that he would prepare a document for Dr. Kabia describing the alternatives along with his

recommendations on how best to approach the problem. I know this document was submitted to Dr. Kabia, but I am not aware of it's content. It would seem that the letter sent by Dr. Kabia to OIC Adm was based on Mr. Minta's counsel.

5. Since all of this occured, we have experienced another problem with reference to our contractors. Contractors are now required to obtain their own visas, and pay FRW 4,000.00 for each one. I believe that this should also be a point our legal advisors should try to re-negotiate.

6. As you are aware, the situation in Rwanda has been somewhat volatile. There have been several incidents involving BRSC Local Nationals, and each has been reported to UNAMIR authorities (ref B and C). However, I do feel that steps should be taken to guarantee that if a Contractor's employee is arrested (Local National or expatriate), they would receive active assistance from UNAMIR.

7. I understand the interpretation received was based on legal documents signed with the Rwandese Government (SOMA). It is my view, though, that if this document (which I am told was negotiated in NY with no consultation with UNAMIR) does not encompass all UNAMIR Components, then our legal advisors should go back to the Authorities with a proposal to re-negotiate the SOMA to ensure that the Contractors are covered in this Agreement.

8. For all the reasons above I have not re-opened the discussion with either Contractor; indeed, I have no intention of doing so until a new initiative is taken to formally re-address this problem with UN NY.

9. I would therefore urge very strongly that we ask our legal officers to appeal to New York to re-define our relationship with the Rwandese Government in such a way as to have the privileges enjoyed by us extended to our contractors employees. By this I mean that renewal of visas should not be as cumbersome as it is now, daily security should not always be foremost on their minds, and local staff should be free of harrassment whether UN or contractor.

#103. BF 1/2/95

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

OUTGOING FAX NO: _____

MIR NO: _____

MISC NO: _____ (1)

PAGE 1 OF 1

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++ CYCY ++
23 01:11 5602 UNITED NATIONS HQS NEW YORK

CNR 670 P1/2

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UNITED NATIONS
OPERATIONS

TO: KHAN, UNAMIR, KIGALI
FROM: ANNAN, UNATIONS, NEW YORK
DATE: 22 November 1994
NUMBER: UNAMIR: 3839

SUBJECT: Status of employees of independent contractors retained by UNAMIR

Re your MIR 2269 on the above, please find attached a self-explanatory memorandum from the Legal Office, dated 21 November. As you will see, the Legal Office considers that employees of independent contractors retained by UNAMIR cannot be considered as members of UNAMIR. Moreover, they are not covered by the Convention on the Privileges and Immunities of the United Nations nor the SOFA of 5 November 1993.

Regards.

Mr Nouler
To note
Sff in relation
to BKR con-
tract
22/11/94

Unless
For information
pse
23/11

Annex/Refer

CNR 670 P2/2

United Nations Nations Unies

INTEROFFICE MEMORANDUM MEMORANDUM INTERIEUR

TO: Mr. Hedi Annabi, Director
A: Department of Peace-keeping Operations

DATE: 21 November 1994

THROUGH:
S/C DE:

REFERENCE

FROM: Ralph Zacklin, Director and Deputy
DE: to the Under-Secretary-General,
Office of the Legal Counsel

SUBJECT: Status of employees of independent contractor retained by UNAMIR
OBJET:

1. This is with reference to your memorandum dated 15 November 1994 on the above subject, to which was attached a copy of a cable from the Special Representative requesting our views on whether employees of independent contractors retained by UNAMIR in Rwanda enjoy any privileges and immunities, specifically, whether they are entitled to any of the privileges and immunities provided for under the Convention on the Privileges and Immunities of the United Nations (the Convention) and/or the Agreement between the UN and Rwanda concluded on 5 November 1993 on the Status of UNAMIR (the SOFA).

2. From a legal point of view, neither the independent contractors nor their employees are members of UNAMIR. They are not covered by the Convention or the SOFA AND DO NOT ENJOY the privileges and immunities PROVIDED TO UNAMIR.