



**AGREEMENT BETWEEN
THE UNITED NATIONS
AND
THE UNITED REPUBLIC OF TANZANIA
CONCERNING THE HEADQUARTERS OF
THE INTERNATIONAL TRIBUNAL FOR RWANDA**

Whereas the Security Council of the United Nations acting under Chapter VII of the Charter of the United Nations *inter alia* decided, by its resolution 955 (1994) of 8 November 1994, "to establish an international tribunal for the sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994";

Whereas the International Tribunal for Rwanda is established as a subsidiary organ within the terms of Article 29 of the Charter of the United Nations;

Whereas the Security Council, by its resolution 977 (1995) of 22 February 1995 decided that "subject to the conclusion of appropriate arrangements between the United Nations and the Government of the United Republic of Tanzania, the International Tribunal for Rwanda shall have its seat at Arusha";

Whereas the United Nations and the United Republic of Tanzania wish to conclude an Agreement regulating matters arising from the establishment and necessary for the proper functioning of the International Tribunal for Rwanda in the United Republic of Tanzania;

The United Nations and the United Republic of Tanzania have agreed as follows:

**ARTICLE I
DEFINITIONS**

For the purpose of the present Agreement, the following definitions shall apply:

- (a) "the Tribunal" means the International Tribunal for Rwanda established by the Security Council pursuant to its resolution 955 (1994);



- (b) "the premises of the Tribunal" means buildings, parts of buildings and areas, including installations and facilities made available to, maintained, occupied or used by the Tribunal in the host country in connection with its functions and purposes;
- (c) "the host country" means the United Republic of Tanzania;
- (d) "the Government" means the Government of the United Republic of Tanzania;
- (e) "the United Nations" means the United Nations, an international governmental organization established under the Charter of the United Nations;
- (f) "the Security Council" means the Security Council of the United Nations;
- (g) "the Secretary-General" means the Secretary-General of the United Nations;
- (h) "the competent authorities" means national, regional, municipal and other competent authorities under the law of the host country;
- (i) "the Statute" means the Statute of the Tribunal adopted by the Security Council by its resolution 955 (1994);
- (j) "the Judges" means the Judges of the Tribunal as referred to in Article 12 of the Statute;
- (k) "the President" means the President of the Tribunal as referred to in Article 13 of the Statute;
- (l) "the Prosecutor" means the Prosecutor of the Tribunal as referred to in Article 15 of the Statute;
- (m) "the Registrar" means the Registrar of the Tribunal as appointed by the Secretary-General pursuant to Article 16 of the Statute;
- (n) "the staff of the Tribunal" means the staff of the Office of the Prosecutor as referred to in paragraph 3 of Article 15 of the Statute and the staff of the Registry as referred to in paragraph 4 of Article 16 of the Statute;



- (o) "persons performing missions for the Tribunal" means persons performing certain missions for the Tribunal in the investigation or prosecution or in the judicial or appellate proceedings;
- (p) "the witnesses" means persons referred to as such in the Statute;
- (q) "experts" means persons called at the instance of the Tribunal, the Prosecutor, the suspect or the accused to present testimony based on special knowledge, skills, experience or training;
- (r) "counsel" means a person referred to as such in the Statute;
- (s) "the suspect" means a person referred to as such in the Statute;
- (t) "the accused" means a person referred to as such in the Statute;
- (u) "the General Convention" means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946, to which the United Republic of Tanzania acceded on 29 October 1962;
- (v) "the Vienna Convention" means the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961, to which the United Republic of Tanzania acceded on 5 November 1962;
- (w) "the regulations" means the regulations adopted by the Tribunal pursuant to this Agreement;
- (x) "Rules of Procedure and Evidence" means the rules of procedure and evidence adopted by the judges in accordance with Article 14 of the Statute.

ARTICLE II PURPOSE AND SCOPE OF THE AGREEMENT

This Agreement shall regulate matters relating to or arising out of the establishment and the proper functioning of the Tribunal in the United Republic of Tanzania.



ARTICLE III JURIDICAL PERSONALITY OF THE TRIBUNAL

1. The Tribunal shall possess in the host country full juridical personality. This shall, in particular, include the capacity:
 - (a) to contract;
 - (b) to acquire and dispose of movable and immovable property;
 - (c) to institute legal proceedings.
2. For the purpose of this Article the Tribunal shall be represented by the Registrar.

ARTICLE IV APPLICATION OF THE GENERAL AND VIENNA CONVENTIONS

The General Convention and the Vienna Convention shall be applicable *mutatis mutandis* to the Tribunal, its property, funds and assets, to the premises of the Tribunal, to the Judges, the Prosecutor and the Registrar, the staff of the Tribunal and persons performing missions for the Tribunal.

ARTICLE V INVIOABILITY OF THE PREMISES OF THE TRIBUNAL

1. The premises of the Tribunal shall be inviolable. The competent authorities shall take whatever action may be necessary to ensure that the Tribunal shall not be dispossessed of all or any part of the premises of the Tribunal without the express consent of the Tribunal. The property, funds and assets of the Tribunal, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.
2. The competent authorities shall not enter the premises of the Tribunal to perform any official duty, except with the express consent, or at the request of, the Registrar or an official designated by him. Judicial actions and the service or execution of legal process, including the seizure of private property, cannot be enforced on the premises of the Tribunal except with the consent of and in accordance with conditions approved by the Registrar.



3. In case of fire or other emergency requiring prompt protective action, or in the event that the competent authorities have reasonable cause to believe that such an emergency has occurred or is about to occur on the premises of the Tribunal, the consent of the Registrar, or an official designated by him, to any necessary entry into the premises of the Tribunal shall be presumed if neither of them can be reached in time.
4. Subject to paragraphs 1, 2 and 3 above, the competent authorities shall take the necessary action to protect the premises of the Tribunal against fire or other emergency.
5. The Tribunal may expel or exclude persons from the premises of the Tribunal for violation of its regulations.

ARTICLE VI LAW AND AUTHORITY ON THE PREMISES OF THE TRIBUNAL

1. The premises of the Tribunal shall be under the control and authority of the Tribunal, as provided in this Agreement.
2. Except as otherwise provided in this Agreement or in the General Convention, the laws and regulations of the host country shall apply within the premises of the Tribunal.
3. The Tribunal shall have the power to make regulations operative on the premises of the Tribunal for the purpose of establishing therein the conditions in all respects necessary for the full execution of its functions. The Tribunal shall promptly inform the competent authorities of regulations thus enacted in accordance with this paragraph. No law or regulation of the host country which is inconsistent with a regulation of the Tribunal shall, to the extent of such inconsistency, be applicable within the premises of the Tribunal.
4. Any dispute between the Tribunal and the host country, as to whether a regulation of the Tribunal is authorized by this Article, or as to whether a law or regulation of the host country is inconsistent with any regulation of the Tribunal authorized by this Article, shall be promptly settled by the procedure set out in Article XXIX, paragraph 2 of this Agreement. Pending such settlement, the regulation of the Tribunal shall apply and the law or regulation of the host country shall be inapplicable within the premises of the Tribunal to the extent that the Tribunal claims it to be inconsistent with its regulation.



ARTICLE VII PROTECTION OF THE PREMISES OF THE TRIBUNAL AND THEIR VICINITY

1. The competent authorities shall exercise due diligence to ensure the security and protection of the Tribunal and to ensure that the tranquility of the Tribunal is not disturbed by the intrusion of persons or groups of persons from outside the premises of the Tribunal or by disturbances in their immediate vicinity and shall provide to the premises of the Tribunal the appropriate protection as may be required.

2. If so requested by the President or the Registrar of the Tribunal, the competent authorities shall provide adequate police force necessary for the preservation of law and order on the premises of the Tribunal or in the immediate vicinity thereof, and for the removal of persons therefrom.

ARTICLE VIII FUNDS, ASSETS AND OTHER PROPERTY

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

2. Without being restricted by financial controls, regulations or moratoria of any kind, the Tribunal:

(a) May hold and use funds, gold or negotiable instruments of any kind and maintain and operate accounts in any currency and convert any currency held by it into any other currency;

(b) shall be free to transfer its funds, gold or currency from one country to another, or within the host country, to the United Nations or any other agency.

ARTICLE IX INVOLABILITY OF ARCHIVES AND ALL DOCUMENTS OF THE TRIBUNAL

The archives of the Tribunal, and in general all documents and materials made available, belonging to or used by it, wherever located in the host country and by whomsoever held, shall be inviolable.



ARTICLE X EXEMPTION FROM TAXES AND DUTIES

1. The Tribunal, its assets, income and other property shall be exempt from all direct taxes levied by state and other regional or local authorities or otherwise. It is understood, however, that the Tribunal shall not claim exemption from taxes and duties which are, in fact, no more than charges for public utility services provided at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized.
2. While the Tribunal will not generally claim exemption from indirect taxes which constitute part of the cost of goods purchased by or services rendered to the Tribunal, including rentals, nevertheless when the Tribunal is making important purchases for official use on which such taxes or duties have been charged or are chargeable, the Government shall make appropriate administrative arrangements for the remission or refund of such taxes or duties.
3. The Tribunal, its funds, assets and other property shall be exempt from all customs duties in respect of articles imported or exported by the Tribunal for its official use, including motor vehicles. The Tribunal shall also be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of its publications. Assets and other property for which an exemption from customs duties has been obtained shall not be sold within the United Republic of Tanzania except in accordance with conditions agreed to with the Government.

ARTICLE XI COMMUNICATIONS FACILITIES

1. The Tribunal shall enjoy, in respect of its official communications, treatment not less favourable than that accorded by the Government to any diplomatic mission in matters of establishment and operation, priorities, tariffs, charges on mail and cablegrams and on teleprinter, facsimile, telephone and other communications, as well as rates for information to the press and radio.
2. No official correspondence or other communication of the Tribunal shall be subject to censorship by the Government. Such immunity from censorship shall extend to printed matter, photographic and electronic data communications, and other forms of communications as may be used by the Tribunal. The Tribunal shall be entitled to use codes and to dispatch and receive correspondence and other material or communications



either by courier or in sealed bags, all of which shall be inviolable and shall have the same privileges and immunities as diplomatic couriers and bags.

3. The Tribunal shall have the right to operate radio and other telecommunications equipment on United Nations registered frequencies and those allocated to it by the Government, between the Tribunal offices, installations, facilities and means of transport, within and outside the host country, and in particular with the International Tribunal for the Former Yugoslavia, the Investigative/Prosecutorial Unit in Kigali and the United Nations Headquarters in New York.

4. For the fulfillment of its purposes, the Tribunal shall have the right to publish freely and without restrictions within the host country in conformity with this Agreement.

ARTICLE XII PUBLIC SERVICES FOR THE PREMISES OF THE TRIBUNAL

1. The competent authorities shall secure, on fair conditions and upon the request of the Registrar or on his behalf, the public services needed by the Tribunal such as, but not limited to, postal, telephone and telegraphic services, electricity, water, gas, sewage, collection of waste, fire protection, local transportation and cleaning of public streets.

2. In cases where electricity, water, gas or other services referred to in paragraph 1 above are made available to the Tribunal by the competent authorities, or where the prices thereof are under their control, the rates for such services shall not exceed the lowest comparable rates accorded to diplomatic missions or other international organizations.

3. In case of force majeure resulting in a complete or partial disruption of the aforementioned services, the Tribunal shall for the performance of its functions be accorded the priority given to essential agencies and organs of the Government.

4. Upon request of the competent authorities, the Registrar, or an official designated by him, shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers on the premises of the Tribunal under conditions which shall not unreasonably disturb the carrying out of the functions of the Tribunal. Underground constructions may be undertaken by the competent authorities on the premises of the Tribunal only after consultation with the Registrar, or an official designated by him, and under conditions which shall not disturb the carrying out of the functions of the Tribunal.



**ARTICLE XIII
FLAG, EMBLEM AND MARKINGS**

The Tribunal shall be entitled to display its flag, emblem and markings on the premises of the Tribunal, and to display its flag on vehicles used for official purposes.

**ARTICLE XIV
PRIVILEGES AND IMMUNITIES OF THE
JUDGES, THE PROSECUTOR AND THE REGISTRAR**

1. The Judges, the Prosecutor and the Registrar shall, together with members of their families forming part of their household and who do not have the nationality of the United Republic of Tanzania in the host country, enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic agents, in accordance with international law and in particular under the General Convention and the Vienna Convention. They shall *inter alia* enjoy:

- (a) personal inviolability, including immunity from arrest or detention;
- (b) immunity from criminal, civil and administrative jurisdiction in conformity with the Vienna Convention;
- (c) inviolability for all papers and documents;
- (d) exemption from immigration restrictions, alien registration or national service obligations;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents.

2. In the event the Tribunal operates a system for the payments of pensions and annuities to former Judges, Prosecutors and Registrars and their dependents, exemption from income tax in the host country shall not apply to such pensions and annuities.

3. Privileges and immunities are accorded to the Judges, the Prosecutor and the Registrar in the interest of the Tribunal and not for the personal benefit of individuals themselves. The right and the duty to waive the immunity in any case where it can be



waived without prejudice to the purpose for which it is accorded shall lie, as concerns the Judges, with the Tribunal in accordance with its rules; as concerns the Prosecutor and the Registrar, with the Secretary-General in consultation with the President.

ARTICLE XV

PRIVILEGES AND IMMUNITIES OF THE STAFF OF THE TRIBUNAL

1. The staff of the Tribunal shall be accorded the privileges and immunities as provided for in Articles V and VII of the General Convention. They shall inter alia:

(a) enjoy immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue to be accorded after termination of employment with the Tribunal;

(b) enjoy exemption from taxation on the salaries and emoluments paid to them by the Tribunal;

(c) enjoy immunity from national service obligations;

(d) enjoy immunity, together with members of their families forming part of their household, from immigration restrictions and alien registration;

(e) be accorded the same privileges in respect of exchange facilities as are accorded to the members of comparable rank of the diplomatic missions established in the host country;

(f) be given, together with members of their families forming part of their household, the same repatriation facilities in time of international crisis as diplomatic agents;

(g) have the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the host country.

2. Internationally-recruited staff of P-4 level and above who do not have the nationality of the United Republic of Tanzania, shall, together with members of their families forming part of their household who do not have the nationality of the United Republic of Tanzania, be accorded the privileges, immunities and facilities as are accorded to members of comparable rank of the diplomatic staff of missions accredited to the Government.



3. Internationally-recruited staff, who do not have Tanzanian nationality shall also be entitled to the following additional facilities:

(a) to import free of custom and excise duties limited quantities of certain articles intended for personal consumption in accordance with existing regulations of the host country;

(b) to import a motor vehicle free of customs and excise duties, including value-added tax, if applicable, in accordance with existing regulations of the host country applicable to members of diplomatic missions of comparable ranks;

(c) to export with relief from duties and taxes, on the termination of their function in the United Republic of Tanzania, their furniture and personal effects, including motor vehicles;

(d) they may be accorded such additional privileges, immunities and facilities as may be agreed upon between the Parties.

4. The privileges and immunities are granted to the staff of the Tribunal in the interest of the Tribunal and not for their personal benefit. The right and the duty to waive the immunity in any particular case, where it can be waived without prejudice to the purpose for which it is accorded shall lie with the Secretary-General.

5. The rights and entitlements referred to in paragraphs 1(g) and 3 above, shall be exercised in accordance with the formal requirements of the host country. These requirements, however, shall not affect the general principles laid down in this Article.

ARTICLE XVI PERSONNEL RECRUITED LOCALLY AND ASSIGNED TO HOURLY RATES

Personnel recruited by the Tribunal locally and assigned to hourly rates, shall be accorded immunity from legal process in respect of words spoken or written and acts performed by them in their official capacity for the Tribunal. Such immunity shall continue to be accorded after termination of employment with the Tribunal. They shall also be accorded such other facilities as may be necessary for the independent exercise of their functions for the Tribunal. The terms and conditions of their employment shall be in accordance with the relevant United Nations resolutions, decisions, regulations, rules and policies.



ARTICLE XVII PERSONS PERFORMING MISSIONS FOR THE TRIBUNAL

1. Persons performing missions for the Tribunal shall enjoy the privileges, immunities and facilities under Articles VI and VII of the General Convention, which are necessary for the independent exercise of their duties for the Tribunal.
2. The privileges and immunities are granted to persons performing missions for the Tribunal in the interest of the Tribunal and not for their personal benefit. The right and the duty to waive the immunity referred to in paragraph 1 above in any particular case where it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which it is granted, shall lie with the President of the Tribunal.

ARTICLE XVIII WITNESSES AND EXPERTS APPEARING BEFORE THE TRIBUNAL

1. The host country shall not exercise its criminal jurisdiction over witnesses and experts appearing from outside the host country on a summons or a request of the Tribunal, in respect of acts or convictions prior to their entry into the territory of the host country.
2. The immunity provided for in paragraph 1 above shall cease when the witness or expert having had, for a period of fifteen consecutive days from the date when his or her presence is no longer required by the Tribunal or the Prosecutor, an opportunity of leaving, has nevertheless remained in the territory of the host country, or having left it, has returned, unless such return is on another summons or request of the Tribunal or the Prosecutor.
3. Witnesses and experts referred to in paragraph 1 above shall not be subjected by the host country to any measure which may affect the free and independent exercise of their functions for the Tribunal.

ARTICLE XIX COUNSEL

1. The counsel of a suspect or an accused who has been admitted as such by the Tribunal, shall not be subjected by the host country to any measure which may affect the free and independent exercise of his or her functions under the Statute.



2. In particular, the counsel shall, when holding a certificate that he or she has been admitted as a counsel by the Tribunal, be accorded:

- (a) exemption from immigration restrictions;
- (b) inviolability of all documents relating to the exercise of his or her functions as a counsel of a suspect or accused;
- (c) immunity from criminal, civil and administrative jurisdiction in respect of words spoken or written and acts performed by him or her in his or her official capacity as counsel. Such immunity shall continue to be accorded to him or her after termination of his or her functions as a counsel of a suspect or accused.

3. This Article shall be without prejudice to such disciplinary rules as may be applicable to the counsel in accordance with the Rules of Procedure and Evidence adopted by the Tribunal.

4. The right and the duty to waive the immunity referred to in paragraph 2 above in any particular case where it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which it is granted, shall lie with the Secretary-General.

ARTICLE XX THE SUSPECT OR ACCUSED

1. The host country shall not exercise its criminal jurisdiction over any person present in its territory, who is to be or has been transferred as a suspect or an accused to the premises of the Tribunal pursuant to a request or an order of the Tribunal, in respect of acts, omissions or convictions prior to their entry into the territory of the host country.

2. The immunity provided for in this Article shall cease when the person, having been convicted or otherwise released by the Tribunal and having had for a period of six months consecutive days from the date of his or her release an opportunity of leaving, has nevertheless remained in the territory of the host country, or having left it, has returned.



ARTICLE XXI CO-OPERATION WITH THE COMPETENT AUTHORITIES

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the host country. They also have a duty not to interfere in the internal affairs of the host country.
2. The Tribunal shall cooperate at all times with the competent authorities to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities accorded under this Agreement.
3. The Tribunal shall observe all security directives as agreed with the host country or as issued, in coordination with the United Nations Security Service, by the competent authorities responsible for security conditions within the penitentiary institution where the Tribunal area for detention is located, as well as all directives of the competent authorities responsible for fire prevention regulations.

ARTICLE XXII NOTIFICATION

1. The Registrar shall notify the Government of the names and categories of persons referred to in this Agreement, in particular the Judges, the Prosecutors, the staff of the Tribunal, persons performing missions for the Tribunal, counsel admitted by the Tribunal, witnesses and experts called to appear before the Tribunal or the Prosecutor, and of any change in their status.
2. The Registrar shall also notify the Government of the name and identity of each official of the Tribunal who is entitled to carry fire arms on the premises of the Tribunal, as well as the name, type, calibre and serial number of the arm or arms at his or her disposition.

ARTICLE XXIII ENTRY INTO, EXIT FROM AND MOVEMENT WITHIN THE HOST COUNTRY

All persons referred to in Articles XIV, XV, XVII, XVIII and XIX of this Agreement as notified as such by the Registrar to the Government shall have the right of unimpeded entry into, exit from, and movement within, the host country, as appropriate and for the purposes of the Tribunal. They shall be granted facilities for speedy travel. Visas, entry permits or licenses, where required for official purposes of the Tribunal shall



IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

DONE at New York on this 21st day of August nineteen hundred and ninety five in duplicate, in the English language.

For the United Nations:

For the Government of the
United Republic of Tanzania:

Mr. Hans Corell
Under-Secretary-General
for Legal Affairs

Mr. Daudi Ngelautwa Mwakawago
Permanent Representative of the
Republic of Tanzania to the UN