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# UNITED NATIONS

Office of Internal Oversight Services Investigations Division

# **REPORT OF INVESTIGATION**

**ID CASE NO. 0072/04** 



### **EXECUTIVE SUMMARY**

An article published in the French newspaper, *Le Monde* of 10 March 2004, reported that the United Nations had in its possession the Cockpit Voice Recorder (CVR), commonly known as a "black box", from the aircraft that carried the Presidents of Rwanda and Burundi, amongst others, when it crashed on its approach to Kigali International Airport in Rwanda on 6 April 1994. This report was significant because the crash and the resulting deaths ignited the Rwanda genocide, and so any evidence which might shed light on the crash remains of importance.

Following the publication of the article, United Nations management learned that a CVR, which had been found in Rwanda a few weeks after the crash and sent to UNHQ, had been stored for 10 years in the Aviation Safety Unit of the Department of Peacekeeping Operations (DPKO). Because the contents and provenance of this CVR were unknown, the Office of Internal Oversight Services (OIOS) was requested to determine whether the CVR was from the crash of the presidential aircraft; why the senior management of DPKO had not been made aware previously of the existence of this CVR at the United Nations; and why its contents had not been analysed, given the serious legal and political implications. Most importantly, if this CVR had been on board the aircraft when it crashed in Kigali, setting off the weeks of genocide in Rwanda, any recording in it could hold important evidence of the last minutes of the flight.

OIOS had the CVR examined by the United States National Transportation Safety Board (NTSB) under the supervision of the International Civil Aviation Organization (ICAO) and extensively analyzed by a private firm, recommended by ICAO, which specialises in the analysis of CVR recordings. Both entities concluded that while they could not rule out that this CVR could have been utilized in the Presidential aircraft at some time, this CVR was not installed in that aircraft at the time of the crash.

OIOS researched documentation, including at the United Nations and in aviation related companies; interviewed numerous individuals who had direct access to the CVR or may have been in a position to know of its existence; and initiated contact with the French judge who is conducting an inquiry into the crash. However, as the events surrounding the initial discovery of this CVR and its transmittal to UNHQ occurred 10 years ago, memories have faded and documentary evidence was not always still available.

It is the recollection of those who were directly involved with the CVR in 1994, both in Kigali and in New York, it was assumed that this CVR did not come from the crash site because of the belief that the CVR could not have emerged from a crash in such "pristine condition". This belief was held by those in DPKO who had custody or knowledge of the CVR even though no actual measures or analyses were undertaken to determine whether or not it was involved in the crash of the presidential plane. Furthermore, the cost of analysis was believed to be \$25,000 and thus quoted by DPKO staff as a reason for not having the tape analysed even though this estimate could not be substantiated. In reality, agencies that undertake such analyses do so without charge.

DPKO senior management was unaware of the delivery of this CVR to UNHQ in June 1994, even though it had been reported to UNHQ a few weeks earlier. In a routine daily situation report dated 28 May 1994, the head of the United Nations peacekeeping mission in Rwanda reported that a recorder had been found. The most senior DPKO person at the time who received the cable said that his operations were extremely busy and as he was then receiving "thousands" of cables, this must have fallen through the cracks.

Moreover, when the United Nations was asked in 2001/2002 to assist the French judge conducting an inquiry into the 1994 crash of the Presidential aircraft, it was accepted in DPKO that the CVR in the possession of the United Nations was not from the fatal crash even though no analyses had ever been conducted.

From its investigation, and based on expert evidence, OIOS concludes that the CVR in the possession of the United Nations is <u>not</u> from the flight of the Presidential aircraft when it crashed on 6 April 1994; that the CVR recovered in Kigali some weeks later in 1994 was neither properly tracked nor examined from the time it was received in United Nations Headquarters; that the reporting mechanisms within DPKO did not keep senior management sufficiently aware of significant field developments; that DPKO staff concluded simply on visual inspection that the CVR was not from the plane crash; and that this belief coloured every subsequent decision, including the failure to report up the chain of command. Much of the recent furor could have been avoided had DPKO, in 1994 sought to analyse the contents of the CVR as has now been done.

OIOS recommendations for corrective action include that DPKO conduct a risk analysis of information flow through the chain of command within DPKO and institute procedures that will mitigate the risk of important matters not being reported to senior managers particularly during times of crisis, as happened in 1994 with regard to the CVR. OIOS also recommends improving archiving procedures in DPKO as well as improving the Archives facilities, which deserve greater attention from the Organization.

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#### I. BACKGROUND

- 1. On 6 April 1994, a Falcon 50 aircraft (hereafter "the Presidential aircraft"), a gift from the President of France to the President of Rwanda some four years earlier, crashed near Kigali International Airport, killing President Juvénal Habyarimana of Rwanda and President Cyprien Ntaryamira of Burundi, as well as other passengers and the crew, precipitating the Rwandan genocide. An article published in *Le Monde* dated 10 March 2004, alleged that the United Nations had possession of a "black box" from that crashed aircraft.
- 2. Following that article, DPKO and United Nations senior management learned that a Cockpit Voice Recorder (CVR) had been held for a number of years in the Aviation Safety Unit, Office of Mission Support, Department of Peacekeeping Operations (ASU/OMS/DPKO) at United Nations Headquarters. The term "black box" is often used by the media and others to describe an aircraft's CVR or flight recorder. In this case, it appeared that the CVR in DPKO was the "black box" referred to by the press. Immediately upon learning of the existence of the CVR, the Secretary-General requested OIOS to conduct an investigation, focusing on the following issues:
  - The provenance of the CVR, especially whether the CVR held in UNHQ was from the 1994 crash of the Presidential aircraft in Kigali;
  - The persons responsible for the unreported United Nations possession of the CVR since 1994, and why they neither reported its possession to senior management in DPKO nor had the contents of the CVR analyzed.

#### II. IDENTIFICATION OF THE CVR

#### A. Tracing Ownership of the CVR in United Nations possession

3. Upon the commencement of the investigation, no information was available to identify the owner of the CVR. Thus, OIOS began a two-track search of the provenance of the CVR and

the crashed Presidential aircraft to ascertain whether the Fairchild recorder had been in that aircraft in April, 1994. First, given that each CVR has a serial number that is traceable to the manufacturer; OIOS began a search to determine ownership of the CVR in the UN's possession which had the serial number 6285. Second, the Presidential aircraft which crashed in 1994 was a Falcon 50, serial number 6, a French aircraft dating back to 1980, but operated between 1980 and 1990 in the United States; thus a search was also made to trace the CVRs in that aircraft from 1980-1994.

- 4. The manufacturer of the CVR in the United Nations' possession is an A-100 type, manufactured by Fairchild Industrial Products, an American company. Their representative informed OIOS that Fairchild's records go back only seven years [FAA Regulations require only that a company maintain CVR records for a period of two years]. Thus, as the CVR in question was manufactured in 1980, no relevant records remained. Additionally, OIOS sought to trace information on this CVR through American authorities but to no avail.
- 5. The U.S. Federal Aviation and Safety Board (FASB) was able to confirm that the aircraft was last registered in the United States in 1989. However, it had no information as to the CVR on board, if any, nor did FASB have information concerning the Fairchild CVR held by the United Nations.
- 6. The National Transportation Safety Board (NTSB) was also contacted to determine whether they held any information on the crash of the Presidential aircraft in Rwanda in 1994. They had none because the plane was not built in the United States; there were no Americans aboard; and there was no request for the NTSB's assistance following the crash.
- 7. OIOS contacted the aircraft manufacturer, "Dassault Falcon Jet" in France and in the United States in an effort to match the CVR in the United Nations' possession to the Presidential aircraft. A representative of Dassault informed OIOS that a different CVR, a Sunstrand AV-557 Cockpit Voice Recorder, was installed in the Presidential aircraft when it was sold to the original

American owner in 1980. He explained that the aircraft was built in France and shipped to their "Completion Center" in Arkansas, United States, for the installation of all internal items including the CVR. He explained that whenever work is performed on an aircraft or an installation is made, an FAA form #337 must be prepared, submitted and approved. A copy of this form was provided to OIOS which shows the installation of the Sunstrand Cockpit Voice Recorder.

- 8. OIOS also received copies of all FAA forms that pertained to the Presidential aircraft to determine whether the Sunstrand CVR was changed, but no changes were found. OIOS also determined that several companies owned this aircraft before it became the property of the Rwandese government. All available records for the aircraft before it was given to the Rwandese government in 1990 were reviewed in an attempt to identify the CVR installed during the period 1980 to 1989. These records do not indicate that the Sunstrand CVR was replaced. However, maintenance records from Rwanda, now not available, might have identified the equipment on the Presidential aircraft from 1990 to 1994.
- 9. An aviation operator, "Canadian Helicopters", was based at the airport in Kigali under United Nations contract at the time of the crash. A representative of the company told OIOS that the firm shared a hangar with the Belgium military, but this hangar was on the opposite side of the airport runway from the hangar utilized for the Presidential aircraft. He added that helicopters use the same CVRs as fixed-wing aircraft and suggested that the CVR in the United Nations' possession might be from a helicopter. It was not until sometime in August 1994, when his firm returned to Kigali after the cessation of hostilities, that they utilized space in the Presidential hangar. The Canadian Helicopters representative also stated that the Belgium military had many spare parts, including CVRs in their hangar.
- 10. The CVR in United Nation possession has an Air France "sticker" on it, usually indicating that Air France was maintaining the CVR. OIOS contacted Air France maintenance personnel in the United States and in France in an attempt to match the CVR held by the

United Nations with their records. However, all attempts to match the serial number of the United Nations CVR with Air France records were unsuccessful.

11. The efforts, including contact with Fairchild and the American and French aviation authorities, to identify the ownership of the Fairchild CVR in the United Nations' possession failed due to the unavailability of identifying documentation. The only confirmed CVR in the Presidential aircraft was a Sunstrand CVR. Nevertheless, because the Fairchild A100 was the most widely used CVR at the time, it cannot be ruled out as having been, at some time, on the Presidential aircraft.

#### B. NTSB Review of CVR

- 12. The International Civil Aviation Organization (ICAO) was contacted on 11 March 2004 for their assistance in determining the contents and origin of the CVR found in the Aviation Safety Unit. ICAO suggested that the United Nations select a suitable read-out facility, with ICAO providing an observer who would be present at the opening of the CVR and the decoding of the recording. It was decided that the NTSB in Washington D.C. would undertake the examination of the CVR tape with an ICAO Observer Team present. Thus, the chain of custody could be preserved with OIOS taking the CVR by road to the closest facility.
- 13. On 16 March 2004, two OIOS Investigators, escorted by a United Nations Security Officer, took the CVR to the NTSB in Washington D.C. and were joined there by two ICAO observers. The NTSB Inspector who opened the CVR commented that the visual appearance of the CVR was good and showed no signs of having been in a fire or having been submerged in water. However, he did note that seals normally in place were missing. This, he added, could be attributed to either of two things: maintenance workers had failed to replace the seals or the CVR had been opened; consequently he could not determine categorically whether the CVR had been previously opened. The Inspector found the main screw that secures the reel of recording tape in place to be loose something he noted as being most unusual. He also commented that

the underwater locator beacon (ULB), which was usually attached to the front of the CVR, was missing, but added that this was common. He then removed the tape from the box by cutting the tape at the erasure/recording point, a standard procedure. Once removed, the tape was copied for protection purposes and then the copy was subjected to a filtering process to try and remove any extraneous noise from the voice recording. After all possible filtering was completed, it was determined that the tape contained four separate recording tracks, but that only one track had any conversation, the majority of which was in French, with some English words.

- 14. The two ICAO representatives, the Chief of the Accident Investigation Section and an ICAO Technical Officer who is also a French-speaking pilot, listened to the tape as well. Neither the NTSB nor ICAO staff found any language or aviation-related sounds that link this tape to the Presidential aircraft downed on 6 April 1994. In fact, even though it appeared that all the recorded voices could be heard, the ICAO representatives suggested the tape be offered to another laboratory located in Canada for a more lengthy review and enhancement process, leading to the production of a detailed transcript of the recorded voices.
- 15. Three sets of diskettes, each a two-disc set with a complete copy of both the original (unfiltered) tape and the filtered version, were prepared by the NTSB Technician for OIOS. One set was provided to ICAO, for their transfer to the commercial laboratory in Canada, with the remaining two sets retained by OIOS which continues to hold the original CVR, including the tape, in its possession. The third set was later provided to the judge in Paris who had been conducting an inquiry into the crash of the Presidential aircraft [see paras. 55 to 66].
- 16. The NTSB, based on the brief review they conducted, concluded that the recording did not identify any information to link this CVR to a Falcon aircraft or the fateful crash of 6 April 1994 of the Presidential aircraft.

#### III. EXPERT ANALYSIS OF THE CVR TAPE

- 17. After the review of the CVR tape undertaken by NTSB in Washington with ICAO observers, it was agreed that in order to obtain a detailed transcript of the tape and to make every effort to retrieve all recorded information the tape be provided to a Canadian laboratory suggested by ICAO which had special equipment and skills to fully analyze the tape ["the laboratory"]. OIOS contacted the laboratory which conducted detailed analysis and testing and concluded that the CVR in the possession of the United Nations had not been on the flight of the Presidential aircraft when it crashed.
- 18. The laboratory confirmed the NTSB assessment that the CVR recording contained four tracks of which only one contained speech/audio information. Further, they found that the tape contained no radio communications, no in-flight type communications, no aerodynamic noise and no sound of aircraft engines consistent with flight, thereby indicating the aircraft was stationary and on the ground.
- 19. A Morse Code identifier for "K-N-M", a navigational aid (beacon) located in the direct vicinity of the Kigali airport was heard throughout the recording. KNM is a Very High Frequency (VHF) Omnidirectional Range (VOR) with Distance Measuring Equipment (DME) type navigation aid commonly referred to as a KNM VOR/DME. Instrumentation in the cockpit of virtually all aircraft can be tuned into navigational aids such as the KNM VOR/DME to ensure correct calibration of navigational equipment. Given that the aircraft was evidently stationary on the ground and that VOR/DME's have a limited reception range of only a few miles when an aircraft is on the ground, the presence of the KNM VOR/DME Morse Code identifier indicated that the aircraft was in close proximity to the KNM VOR/DME navigational aid and most likely parked at the Kigali International Airport.
- 20. The laboratory also concludes that the CVR contains speech considered consistent with maintenance personnel carrying out normal tasks and was of the proper duration, of 30 minutes.

They also checked for but found (contrary to some press reports in the French media) no evidence of any tampering or splicing. Critically, the experts at the laboratory concluded that the CVR contained no information linking the recording with any aircraft, nor was there any information on the CVR that related to the crashed aircraft or the crash itself.

21. Thus, the analysis demonstrates that this CVR was not involved in the 6 April 1994 crash of the Presidential aircraft in Kigali.

#### IV. DOCUMENT SEARCH

#### A. Background - United Nations files

- 22. In the Division's efforts to retrace the events from the date of the crash of the Presidential aircraft on 6 April 1994 to the date of the *Le Monde* article, OIOS conducted an extensive search of archived United Nations Assistance Mission in Rwanda (UNAMIR), DPKO and the Office of Legal Affairs (OLA) files; DPKO Headquarters available documentation; OLA Headquarters available documentation; and the personal files of pertinent senior United Nations officials.
- 23. OIOS retrieved from the United Nations Archives, several hundred boxes of material relating to UNAMIR from the period April through December 1994, as well as material relating to the high-level investigation into the Rwanda genocide that was requested in 1998 by the Security Council. Those records were searched in an effort to locate documents that made mention of the "black box", the crash of the Presidential aircraft, the discovery of the CVR or related activity after the crash. While a few records were located, none shed any light on the location where the CVR was found, when it was found, by whom it was found, or how it was transported to the UNAMIR offices in Kigali, to the UNAMIR offices in Nairobi, and to UNHQ.

- 24. In general, found a lack of relevant documents for the critical period in question April to June 1994. Documentation specific to the most senior UNAMIR and DPKO/UNHQ officials were also in short supply. The reason for the paucity of records could be attributable to several reasons: the documents may have been removed before the material was archived in connection with other searches, such as the aforementioned Security Council investigation or non-United Nations personnel conducting research activities on the Rwanda genocide; rapid evacuation of nearly all UNAMIR staff from Kigali in early April after the commencement of hostilities, some of which went to New York, some to Nairobi where staff were operating temporarily; or, the documents in question were not properly archived by DPKO. In any event, such lack of documentation highlights a related problem of establishing facts in a critical period long after the events have taken place.
- 25. Upon the commencement of the investigation, in an interoffice memorandum dated 11 March 2004, the Under-Secretary-General for DPKO, advised officials in his department to "assist OIOS in the investigation requested by the Secretary-General on the allegations contained in the article published in *Le Monde* on 10 March 2003." He also requested that his officials extend their full cooperation.
- 26. This request did not make specific mention in terms of document searches or the provision of relevant documentation, but was viewed by OIOS as being part of his advice. However, as described above, OIOS had difficulty in obtaining files held in the Secretariat. For example, one senior DPKO official advised that he did not maintain files on Rwanda for the period in question; rather he would "farm them out" to the relevant staff of his office. A few hours after this revelation, the same official advised OIOS that the files had been "found" in a filing cabinet outside his office. Upon review of the files, OIOS found that the cabinet contained UNAMIR documents from 1993 and 1995 but only three folders for 1994; moreover, the 1994 folders contained documentation relating to issues other than the crash. It is unlikely that these folders comprised the entirety of the 1994 files given that the crash and the subsequent genocide occurred in 1994. Further attempts by OIOS Investigators to review files of other senior DPKO

officials proved similarly difficult; even when such files were located, documentation relating to the crash in 1994 was not found.

- 27. Efforts to locate and retrieve the relevant documentation were also hampered by an apparent lack of coordination and centralized control of DPKO documentation relating to the period in question. DPKO files are located in a several locations, generally under the control of individuals, rather than a registry (even though a registry exists). Furthermore, no overall policy as to which documents gets archived; how they get archived; and how the archives are organized appears to be followed. The United Nations Archives and Records Management Section have provided written instructions as to procedures for document management which appear to be ignored in DPKO. In addition, there is a lack of a functioning, overarching indexing system to assist in the identification of files. In the current system, the United Nations Archives and Records Management Section must rely on individual departments to adhere to the procedures without any power to enforce those agreed upon procedures.
- 28. During the archival record searches, OIOS spent time in the 45<sup>th</sup> Street offices of the Archives and Records Management Section. It was apparent to OIOS that while the staff of the Section are professional and have made significant efforts to protect records under their control, problems exist with the physical storage facility. Some of these problems can be characterised as risks: i.e. the offices are located at street-level with large windows; the secure entry point to the street regularly malfunctioned and was therefore open to the public; the air-conditioning system was inadequate for the protection of sensitive records; the basement level, where many of the records are kept, has a door that renders the location as insecure and contains building management equipment requiring maintenance staff to have access; there is no security presence onsite to react to break-ins, problems with members of the public or just to attend to normal security problems; the lower level may also be subject to for flooding. OIOS learned that many of the problems with this facility are well documented, but remain unresolved.

#### B. Analysis of documents retrieved

- 29. A review of the documents retrieved by OIOS did not reveal any evidence to suggest that the United Nations ever had possession of the CVR or "black box" from the crash of the Presidential aircraft on 6 April 1994. Documents from the period after the crash, as well as reports in the international media at the time, suggest that the "black box" was in the possession of either the Rwandan or French military, both of whom were at the crash site immediately after the incident.
- 30. It is clear that UNAMIR was not able to access the crash site. In a code cable dated 7 April 1994 to the DPKO/UNHQ Military Adviser, the UNAMIR Force Commander reported the following, which he subsequently confirmed in an interview with OIOS:
  - that the Presidents of Rwanda and Burundi were killed in an airplane crash at Kigali Airport at approximately 2040 hours on 6 April 1994;
  - at 2118 hours a platoon of the Presidential Guard established a roadblock at the Meridien traffic circle and blocked traffic;
  - at 2135 hours Kigali Sector HQ reported that the UNAMIR patrol sent to investigate the crash had been stopped, disarmed and were being held at the airport. In addition, the UN Military Observers at the airport were confined to a room at the airport;
  - at 2210 hours a call from the Assistant Secretary-General/DPKO, in New York was received and the unconfirmed information as known at that time was passed to him;
  - at 2250 hours the Force Commander met with a group that included the Chief of Staff of the Gendarmerie and told them that it was critical that UNAMIR be allowed to investigate the crash site;
  - at 0245 hours of 7 April, the Head of the French Military mission and another French Officer arrived at the Rwandan Governmental Forces (RGF) HQ and stated they had directions from Paris to ensure a qualified accident investigation was

conducted into the crash. The Force Commander assured them it would be. They offered their military technical team currently investigating six hours away at Bangui.

- 31. Following receipt of the code cable from the Force Commander, the Under-Secretary-General/DPKO sent a code cable to the Secretary-General, who was on business in Geneva, informing him that: "[the] Presidential guard has obstructed UNAMIR personnel from examining the wreckage of the aircraft. The United States, France and Belgium are ready to send experts to investigate [the] crash, but as yet there is no authority in Kigali to take decision. [The] UNAMIR mandate could extend to such an investigation without which no conclusion can be reached as to how the crash was caused."
- 32. By code cable of 13 April 1994, the Special Representative of the Secretary-General in Rwanda reiterated the message of 7 April, that they had not been allowed access to the crash site nor given any concrete information as to the circumstances surrounding the crash.
- 33. In a memorandum dated 22 April 1994, the ICAO Representative in Nairobi requested information from UNAMIR concerning the downing of the aircraft on 6 April 1994, asking: "has the wreckage been preserved (if so please ensure custody of the Black Box and flight data recorder Kindly ensure the ATC Logbook and ATC voice Recorder are preserved." On 28 April 1994, ICAO sent a fax to the United Nations Secretary-General stating that the ICAO Council, in considering whether to include the crash of 6 April 1994 in its programme of work, concluded that it had not yet received adequate information and confirmation regarding the facts pertaining to the case and decided to suspend its consideration of this subject until such information and confirmation became available. Furthermore, ICAO requested the United Nations to provide any information it may have regarding this tragic incident.
- 34. In a letter dated 2 May 1994, the UNAMIR Force Commander informed the Rwandan Prime Minister, that UNAMIR was ready to establish an international investigation commission

into the plane crash of 6 April. He asked the Prime Minister to inform him of the countries he would like to see included in the make-up of the commission. He also restated the position that UNAMIR had not been allowed access to the crash site by the Rwandan army. On 25 May, he forwarded to the Under-Secretary-General/DPKO, the response from the Rwandan Prime Minister, in which he advises on the composition of the commission of inquiry to investigate the crash of the Presidential plane as the following: France, as the Head of the Commission, because it was the country which built the plane; the country of origin for the victim Rwanda, Burundi and Tanzania; UNAMIR, who was responsible for airport security; and ICAO who should be responsible for selecting the experts to analyze the accident. OIOS found no other correspondence regarding this Commission. It would appear that the Commission was never established, probably because of the genocide and response to those events. The Force Commander does not recall that the Mission was ever able to set up any inquiry.

- 35. A UNAMIR Daily Situation Report (Sitrep) for 27 May 1994 (271800B May to 280600B May 94) dated 28 May 1994 from the Special Representative of the Secretary-General in Rwanda and signed by the Deputy Force Commander addressed to the Under-Secretary-General of DPKO reports that "an abandoned aircraft flight recorder has been found near the log base at KIA. Please advise disposal action soonest. Recorder presently under the custody of Force HQ". The cable was given to staff in the Field Operations Division/DPKO who issued a response.
- 36. It should be noted that the reference to the "flight recorder<sup>1</sup>" in the Sitrep is contained only in the last item of the two-page report under "Miscellaneous". OIOS observed, 10 years later of course, that the author of the Sitrep did not consider the implication of that decision. If the flight recorder was of such import that it was added to the Sitrep, why was it not in a section which would attract the attention of the DPKO Political Officers? Or why did those same

<sup>&</sup>lt;sup>1</sup> ICAO has explained to OIOS that both flight data recorders and cockpit voice recorders are generically referred to as "flight recorders". It has been confirmed to OIOS by those who had direct contact with the recorder both in Kigali and in UNHQ that a CVR was located in Kigali, transferred to New York and held for the last 10 years in DPKO.

Political Officers – who are provided with copies of all Sitreps – not see the potential significance of the inclusion of the item on the flight recorder given that it was only the Presidential aircraft that had crashed in Rwanda in the preceding two months?

- 37. UNHQ responded to UNAMIR's Sitrep in a fax dated 31 May 1994 from the Acting Director, Field Operations Division/DPKO to the UNAMIR Chief Administrative Officer that states: "Please ensure that the FDR<sup>2</sup> is handed over to [the] UNAMIR Air Ops Specialist, for initial identification and disposal as required." This fax was drafted by the Officer-in-Charge of the Air Safety Unit, cleared by the Office-in-Charge of the Transport Section, and signed by the Acting Chief of Logistics and Communication Service (LCS) on behalf of the absent LCS Chief.
- 38. The drafter of the 31 May 1994 fax had to have been in possession of the information contained in the previously mentioned 28 May 1994 Sitrep. As he could not recall the matter and no documents are available to provide clarification, OIOS was unable to determine how that information was transmitted to him.

#### V. INTERVIEWS OF UNITED NATIONS AND MILITARY PERSONNEL

39. OIOS interviewed the UNAMIR Force Commander ["the General"] to determine his recollection as to the CVR found in UNAMIR. The General said that it was possible that "the box" was delivered to his office after UNAMIR had been given access to the crash site which was some time after the RPF took over the airport and Kunumbi camp, several weeks after the crash of the Presidential aircraft. He also recalled that on the night of the crash, two French Lieutenant Colonels asked him for permission to do an investigation of the crash. As he had reported to UNHQ, the General had sent a Belgian patrol to the crash site but the Presidential Guard was already there in force and disarmed the patrol after refusing access to the site. The General himself was unable to get to the crash site until approximately 21 or 22 May.

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<sup>&</sup>lt;sup>2</sup> The response by DPKO misapplied the term "FDR" here; it was understood by all to mean the CVR.

- 40. The General recalled that the CVR was kept in his outer office for approximately 10-14 days after it was found, that "wires on the box had been neatly cut" and that it was "red in colour". OIOS showed the General the CVR in the United Nation's possession for identification purposes, which he found looked like the box but he could not be "100% sure" it was the same box, especially as he did not remember the Air France sticker. He commented that the box in his office was in better condition than the one shown, but the dents could be the result of the movement of the CVR over the last 10 years. It was the General's impression that no one in UNAMIR believed it to be the CVR from the crash but he could not recall why – perhaps because it was in such good condition. He was reminded by OIOS of a memorandum that indicated that he had met with ICAO in Nairobi on 14 June 1994 to discuss the future role of ICAO as to the management and operation of Kigali Airport. In a letter dated 20 June 1994 from ICAO to the Secretary-General, the meeting and the future operation of the Kigali International Airport is referenced and ICAO notes that it "would appreciate receiving any information you may have concerning the circumstances surrounding the incident of 6 April 1994." Although the General had no specific recollection of either issue, it is his impression that UNAMIR was never involved in any investigation of the crash.
- 41. The Deputy Force Commander, UNAMIR ["the Deputy"] did not recall the Sitrep of 28 May 1994 which he signed or any information pertaining to the CVR that had been found. With his assistance, OIOS attempted to identify the manner in which the information about the CVR was included in the Sitrep. These attempts were unsuccessful due to difficulties in finding the relevant staff and, in some cases, both the effects of trauma resulting from the genocide and problems of recall after a span of 10 years.
- 42. The Air Operations Specialist, UNAMIR ["the Specialist"], who was referenced in the DPKO cable of 31 May 1994, confirmed that he had, indeed, been given the CVR which "appeared on his desk one morning". The Specialist was unable to recall whether his desk at the time was in Kigali or in Nairobi; although he had been evacuated from Kigali shortly after the hostilities commenced, he had regularly traveled back and forth to Kigali on official business in

the interim (OIOS has viewed documentation to suggest that he was stationed in Nairobi in May and June 1994, but this does not discount the possibility the CVR was placed on his Kigali office desk). The Specialist was also unable to confirm how the CVR was sent to New York, but believes the United Nations Pouch was utilized because the Officer-in-Charge of the Air Safety Unit at UNHQ had told him that the CVR should be sent to New York for analysis purposes.

- 43. In 1995, the Specialist was assigned to work in the Air Safety Unit in UNHQ. Upon joining his new Unit, he was surprised to see that the same CVR was still in New York. It was his belief, based on discussions with UNHQ DPKO staff in 1994, that the CVR had not come from the Presidential aircraft; therefore, he thought it was of no importance. The Specialist was also of the view that the CVR manufacturer had advised DPKO that the CVR in the United Nation's possession was not from the Presidential aircraft.
- 44. The Officer-in-Charge, Transport Section/DPKO, said that he was actually in Kigali on business from UNHQ when the Presidential aircraft crashed in 1994. He recalled that French military personnel arrived in Kigali shortly after the crash. A French Colonel, whose name he did not recall, took control of the airport and successfully secured it. In his view, the French military could have easily accessed the crash site at that time. His recollection was that the CVR was found at the airport in Kigali some weeks later.
- 45. His recollection of how the United Nations obtained the CVR that is currently in its possesion, is that someone from UNAMIR had called the Officer-in-Charge of Air Safety about it shortly after it was found. He does not recall any other documentation aside from the 31 May 1994 fax drafted in Field Operations Division and then sent to UNAMIR giving instructions to the Chief Administrative Officer to hand the box to the Specialist. He thought that the box should have been provided to ICAO for transmission to the Rwandan authorities for examination, but given the events that happened after the crash and the death of the President, it was not clear who the "authorities" were.

- He had thought that DPKO/UNHQ staff had tried to determine which aircraft the CVR could have come from by contacting the manufacturer of the CVR. He also recalled discussing making contact with the NTSB and believed that some time in 1994 the NTSB had reviewed the CVR but that their report did not provide any clear findings. He expressed surprise when told by OIOS that the CVR had not been sent to the NTSB, a fact confirmed by OIOS with NTSB and DPKO. Finally, he was unable to recall who in DPKO had been aware of the existence of the CVR.
- 47. The Officer-in-Charge, Air Safety Unit/DPKO ["the OIC"] told OIOS that after the Specialist received the CVR, they discussed by telephone what should be done with it. The Specialist was not able to recount how the CVR was found; however, the OIC thought he had been told it was found in the "VIP" hangar (or Presidential hangar), which was located on the far side of the airport from the Control Tower and main buildings. He was advised possibly by the Specialist that the Presidential aircraft used this hanger. As a result, the OIC told the Specialist to secure the CVR, as it may be of evidentiary value to any subsequent accident investigation, and to send it to UNHQ where it arrived, according to his notes, on 27 June 1994.
- 48. The OIC said that his efforts to obtain the assistance of aviation authorities America to analyse the CVR were unsuccessful. He also tried unsuccessfully in 1994 to obtain information from Air France as to their knowledge of the CVR, again because of the sticker. Moreover, he had learned, directly or indirectly, that one agency whose name he could not recall had said that it would cost approximately \$25,000 to have the tape analyzed. This cost, he said, led his supervisors, the Officer-in-Charge of Planning and Support and the Officer-in-Charge of Logistics and Communications, to decide against analyzing the contents of the CVR.
- 49. According to the OIC, when he and others in DPKO saw that the CVR was in pristine condition, they presumed it could not have come from the crashed Presidential aircraft. That belief and the since discredited story that it would cost \$25,000 to analyze the CVR led FOD/DPKO to the decision that they would not have the CVR analyzed. Thus, two incorrect

beliefs or assumptions foreclosed an analysis which could have determined in 1994 that the CVR was not, in fact, involved in the fatal crash. These beliefs were not challenged in the DPKO hierarchy because the line managers – most of whom were only "officers-in-charge" – did not report the issues to senior management.

- On 12 March 2004, OIOS first contacted the now retired staff member who had been the Acting Director, Field Operations Division/DPKO in 1994. He told OIOS that he had no recollection as to the CVR or "black box" matter, nor the cables received and sent concerning the CVR because he was handling up to "1000 faxes etc. per week at that time" and therefore could not remember everything that was given to him. However, in an Associated Press article from that same day, he is quoted as saying that he had "received the black box and believed it was important, but there were so many peacekeeping missions at the time that it was forgotten". Further, he told the press: "When we tried to get a lot of attention to the issue and tried to get it analyzed, nobody would. I suppose it got put on a shelf... our workload was so intense during that time that you'd make an honest effort to get something like that organized and if you weren't able to, there were six or seven other emergencies to attend to." The article also quoted him as saying:" My recollection is that we thought that somebody ought to be interested...The air safety professionals that were working with us thought that some state ought to help us with that, but nobody came forward."
- 51. The 19 March 2004 edition of the CNN television program, Diplomatic License, also interviewed the Acting Director, who told CNN that the NTSB had reviewed the CVR and found that "there was nothing on the box". Thereafter, instead of throwing the box out, he noted, DPKO had decided to keep it. OIOS learned from NTSB staff that the NTSB did not receive or review the CVR in the United Nations' possession in 1994, and so could not have provided such a report. When OIOS re-questioned the Acting Director about his initial statements, his only explanation was that as he kept thinking about it, he remembered more and that is what he told the press and later OIOS.

- 52. OIOS attempted to contact other UNHQ/DPKO officials and other persons who might have had contact with or knowledge of the CVR held by the United Nations. Most United Nations officials at the time stated that they had no knowledge about the original discovery of this CVR and its transmittal to or presence at UNHQ. The United Nations Spokesman, on 11 March 2004, during the daily Press Briefing, reported the following: "Kofi Annan, as Secretary-General, Kofi Annan, as Head of the Peacekeeping Department before that had no knowledge. S. Iqbal Riza, the Chief of Staff and previously number two in the Peacekeeping Department had no knowledge. Hédi Annabi, Riza's Deputy in the Peacekeeping Department at that time, had no knowledge. General Baril, the Military Adviser in the Peacekeeping Department at that time, had no knowledge. General Dallaire, the Commander of the Peacekeeping Mission in Rwanda, had no knowledge."
- 53. Whilst this comment is generally correct, based on available information, it should be noted that the former UNAMIR Force Commander confirmed to OIOS that he was aware of the existence of the CVR in UNAMIR, as it was in his offices at Amahoro for some days, but he could not recall how it arrived in the Kigali offices or how it was transferred to UNHQ.
- 54. OIOS cannot, therefore, identify how the CVR was transmitted from the Force Commander's office in Kigali to Nairobi, and then on to UNHQ due to an absence of testimonial or documentary evidence. Furthermore, due to the routine destruction of historical Pouch records, OIOS could find no record of the CVR being sent via the Pouch from Nairobi to UNHQ. Nevertheless, it is clear from the Specialist that the CVR he received in Kigali or Nairobi is the one transported to and held at DPKO.

# VI. 2001-2002 – QUESTIONS ABOUT THE CVR IN THE FRENCH JUDICIAL INQUIRY

55. OIOS learned that in early 2001, a French judge was conducting an inquiry into the crash of the presidential aircraft on behalf of family of the deceased crew and passengers. The Judge,

as part of his inquiry, in November 2001 contacted the Specialist and provided a list of questions relating to the Specialist's knowledge of the CVR. By that time, the Specialist was employed by ICAO and, quite correctly, raised the issue with his employer for their advice, as well as making contact with his former employer, DPKO.

- 56. Staff of the Field and Logistics Division of DPKO then began the process of determining whether the United Nations had such a CVR. Notably, the Chief of the Air Safety Unit confirmed that a CVR was still in a file cabinet in the offices of the Aviation Safety Unit.
- 57. In a background information note dated 27 February 2002, to the Officer-in-Charge of the Logistics and Communication Service (OIC/LCS), an Administrative Officer in FALD/DPKO described what he had learned about the CVR specifically, that it was found in UNAMIR and handed over to the Specialist upon direction from the Acting Director, FOD/DPKO; that Air Safety had requested the Specialist to send it to UNHQ via diplomatic pouch; that it arrived in pristine condition which caused DPKO to conclude that it was not involved in a crash; that attempts to have the CVR identified through calls to Air France, amongst others, and to obtain the assistance of the NTSB, were unsuccessful; that an analysis of the recorder would have cost at least \$25,000; and that in light of the above mentioned information and lacking any evidence tying this recorder to the crash of 6 April 1994, the OICs in Planning and Support Services and Transport Section made the decision not to proceed with any further examination of the CVR.
- 58. All of this information was simply passed on without being re-checked, and the cost factor easily disproven became fact, along with the view unsupported by evidence that the CVR was in such good condition it could not have been in the 1994 crash. The Officer-in-Charge/LCS told OIOS that he did not recall that note nor the events regarding the CVR in connection to the French inquiry in 2001/2002 and was surprised to learn that the CVR was in the United Nation's possession.

- 59. The Administrative Officer told OIOS that the FALD Director had asked him to look into the questions being raised to the Specialist by the French. He then conducted a document search at DPKO with regard to the CVR, but found nothing. He did provide OIOS with copies of his notes from 2001 in which he documented his conversation with the OIC, Air Safety. His notes contain the particulars of the CVR (manufacturer, type, serial number, etc.) as well as names and telephone numbers of individuals at Air France and NTSB. He also noted that the box was pristine and could not have been involved in a crash. He also wrote that the Specialist had "found it in a hanger"; that the "serial number belonged to Air France aircraft"; that "NTSB refused to touch it (US Mission refused to check it)"; "no one wants to pay it (\$25,000 to open it...too expensive)".
- 60. In an interview, the Specialist confirmed to OIOS that the French Police had contacted him about the CVR and he had cleared the questions with ICAO and with DPKO. Following the submission of his answers to the French Police, he did not receive any follow-up call from them or from DPKO.
- 61. The Specialist, in his written response to the Judge stated that he had sent the CVR via diplomatic pouch to the Air Safety Unit in UNHQ based on instructions he had received; that he had no information that this CVR belonged to the Presidential aircraft; the CVR was in good condition and had not been opened; that he had confirmed that the CVR had been received in UNHQ and that enquiries were being made to determine whether or not the CVR belonged to the Presidential aircraft; that someone in DPKO subsequently informed him that it did not belong to the Presidential aircraft and so he considered the matter to be closed. He also indicated that it was his understanding that the CVR was still being kept at UNHQ.
- 62. The Chief of the Aviation Safety Unit at the time of the French judicial inquiry told OIOS that the Specialist had briefed him about the CVR. He did not have any records or documentation regarding the CVR's handling only the CVR itself. His memory was that the CVR was not connected with the Presidential crash in 1994. He also believes that the Acting

Director, FOD/DPKO and the OIC, Planning and Support Services were aware that the CVR was at UNHQ. His only involvement with the CVR in 2001/2002 was a response to a request from FALD/DPKO as to his knowledge of the CVR; he had reported that he had possession of the CVR.

- 63. The current Chief of the Aviation Safety Unit told OIOS that he had possession of the CVR and was aware of the French investigation in 2001. He added that in his opinion, the CVR could not have been involved in a crash given its pristine condition. He believed that the OIC, Planning and Support Services, had been advised of the condition of the CVR at the time and made the decision not to have the CVR examined further.
- 64. The OIC Planning and Support Services told OIOS that he had no recollection as to the CVR and that in 1994 he had little interaction with the missions as the Acting Director, FOD/DPKO undertook this responsibility. He said that any inquiry from the Specialist in 2001 would have been given to the Administrative Officer. However, he was not involved as this matter concerned procedures for giving testimony and that OLA had to be consulted. He also stated that he never heard that DPKO had possession of the CVR; if he had, he would have asked questions and forwarded the CVR to investigative authorities.
- 65. The Director of the Africa Division in DPKO in 1994 told OIOS that he was unaware of the inquiry by the French Judicial authorities in 2001/2002, and had no knowledge that the CVR was held by the United Nations until after the report in *Le Monde* appeared on 10 March 2004.
- 66. OIOS also found that even though the responses provided to the Judge by the Specialist in March 2002 stated that the United Nations did hold a CVR, the French judicial authorities did not make any requests to the United Nations for access to the CVR. Through the French Mission to the United Nations, OIOS contacted the Judge and, in March 2004, met with him in Paris to discuss the matter. At that time, the Judge was provided with identifying information as to the CVR held by the United Nations; a copy of the recording on the tape, both filtered and

unfiltered, of that CVR; and an offer of any support to his judicial inquiry. No further requests for assistance have emanated from the Judge or any other French authorities despite a follow-up letter through the French Mission, which advised that the Judge had received the letter but had indicated that he would only contact the United Nations if he had sufficient reason to do so. To date, he has not.

#### VII. CONCLUSION

- 67. The evidence, particularly that of the expert laboratory's analysis, strongly supports a finding that the CVR in the United Nation's possession is not the "black box" from the Presidential aircraft when it crashed upon approach to Kigali International Airport on 6 April 1994, leading to the Rwanda genocide.
- 68. Communication protocols within DPKO in 1994 as well as in 2001/2002 did not require senior management to be apprised of such a potentially serious matter. Moreover, there is no testimony or documentary evidence that indicates senior management awareness of it in 1994. The mere fact that a flight recorder found in UNAMIR six weeks after the crash was included in the daily Sitrep, indicates that someone in UNAMIR did consider the matter to be significant enough to seek UNHQ's advice.
- 69. Unfortunately, the staff of the Africa Division of DPKO in 1994 did not share a similar view of the matter and therefore took no action. Nor did the matter receive any attention in UNHQ besides a request to UNAMIR for the CVR to be sent to DPKO for assessment. It could be that placing the matter under the heading of "Miscellaneous" in the Sitrep, did not draw the attention of the political division of DPKO or the Department of Political Affairs.
- 70. However, it seems that the handling of the CVR since June 1994, when it was received at UNHQ, was in keeping with the unsupported assumption held by managers in the Logistics and Communications Service of DPKO that the CVR being in pristine condition could not

have come from the crashed Presidential aircraft. This assessment was accepted in DPKO through the years, even in 2001/2002 when the United Nations was engaged in responding to the French judicial inquiry. Yet, no actual measures or analyses were undertaken even then to determine whether or not the CVR was actually involved in the crash. Aviation experts have confirmed that it is possible for a CVR to be involved in a crash and not suffer structural damage. In addition, the supposed cost of analysis, \$25,000, was often quoted as the reason why the CVR was not analyzed. However, staff from national transportation agencies in France, Canada and the United States told OIOS that they perform such analyses at no cost. OIOS was unable to determine the source of the \$25,000 quote and yet it was invoked by those in DPKO who had contact with this CVR in 1994, in 2001 and in 2004. Even if the cost were \$25,000, it seems unlikely that it should have deterred an effort at establishing whether this CVR was involved in a crash which killed the Presidents of Burundi and Rwanda and precipitated the genocide in Rwanda. Rather, the belief that it was "not the box" became established fact within DPKO and went unchallenged for 10 years.

- 71. Accordingly, the CVR was simply stored in the Air Safety Unit where each new head of the Unit was informed by his predecessor of its existence and its location in the Unit. Whether the failure in 1994 by the Acting Director FOD/DPKO to take action on the Sitrep from the UNAMIR Deputy Force Commander can be attributed solely to the hectic time in peacekeeping [e.g. crises in Somalia and Haiti] or to the discredited assumption that the CVR was "not the box", action should have been taken. For it not to be raised by him or considered by the political officers in DPKO creates questions not only as to the handling of this sensitive case, but also as to the internal communications and decision making processes within DPKO, and perhaps to the fact that many of the middle managers were "acting" or "officer-in-charge", suggesting a weakened chain of command.
- 72. While it maybe understandable for field-based personnel, particularly those operating in extreme conditions, to accept and make erroneous decisions because of lack of information, this cannot be accepted at UNHQ. The fact that a request was made to UNHQ for advice and

information was provided to DPKO via code cable on the existence of the recorder, meant that those at UNHQ should be able to decide, away from the pressures of the field, on the appropriate course of action. Mistakes of course may be made at UNHQ as well as in the field; but the mistakes in this case were certainly avoidable. The referral of the CVR to a proper facility would not have taken time or resources from the staff at UNHQ, and would have avoided the current furor.

- 73. The management of documentation inside DPKO and its adherence to archiving procedures suggests much room for improvement. OIOS had great difficulty in locating documents belonging to the critical period April to July 1994 both from archived records and from within the Secretariat.
- 74. The Organization should stress the importance that must be placed on the archives of the United Nations and the potential loss that could occur due to inadequate storage facilities as well as departmental archiving practices. Furthermore, OIOS found significant security and storage problems in the 45<sup>th</sup> St Archives and Records Management Section, especially with regard to the protection of critical records and the possibility of illegal access to a street level facility with large plate glass windows and no on-site security presence. Staffing of that Section also needs to be strengthened to ensure adequate control and management of the records of the Organization.

#### VIII. RECOMMENDATIONS

- 75. Given the recent increase in peacekeeping activities, and in order to reduce the risk of a recurrence of the failure to report to senior management a matter of potential importance to the Organization, it is recommended that DPKO conduct a risk analysis of how potentially serious matters are reported to the correct management levels and institute procedures that will mitigate the risk of matters not being so reported. This analysis should cover:
  - the procedures for handling code cables
  - the designation of persons responsible for handling and assessing code cables

- the highlighting of matters for political, legal or humanitarian assessment
- the routing of key information and decisions to senior DPKO managers and, when appropriate, to the Secretary-General's office. (ID Rec. No. IV04/072/01)

A few months ago, DPKO initiated a comprehensive study into the guidance systems in place in the Department all, the way from doctrine down to SOPs. This is a major effort that will take the next year to complete. The issue of handling communications raised in this recommendation will be dealt with in the context of this project. This recommendation is accepted.

76. Pending the completion of such a risk analysis, it is recommended that DPKO management broaden the scope of its on-going project with the Archives and Records Management Section to standardize the classification of documentation, and archival in accordance with organizational policies and procedures. The project scope should incorporate specifically a code cable tracking system which includes the designated responder; an assessment protocol to include need for assessment by other divisions within DPKO and other offices in the Secretariat; and the advice to field managers on the need for them to highlight especially sensitive material. (ID Rec. No. IV04/072/02)

DPKO accepts this recommendation and adds that it has also recognized the need to strengthen its registry, information management and archival procedures and has begun to act in this regard.

- 77. The importance of the lessons from this exercise should not be missed. It is recommended that DPKO request an immediate report from its Peacekeeping Best Practices Unit on similar communication issues in its files for prompt action as necessary and for the Unit to provide regular reports to DPKO management on both new lessons learned and implementation of corrective action. (ID Rec. No. IV04/072/03)

  DPKO accepts this recommendation:
- 78. The Organization needs to recognize the value of properly maintaining its historical records as well as organizing them in a fashion so that information can be easily retrieved and facts established. OIOS, in this particular case, found that DPKO [as well as other

United Nations departments] did not have a standard archiving procedure or policy as to how documents are archived and when records should be archived. OIOS recommends that the United Nations dedicate resources to ensuring that documents are properly archived in a timely fashion and in a central location. (ID Rec. No. IV04/072/04)

The Department of Management's Office of Central Support Services has agreed to look into the findings and take appropriate action.

79. In connection with the previous recommendation, OIOS recommends that the Department of Management evaluate the adequacy of the facilities of the current Archives on 45<sup>th</sup> Street as well as the staffing and other resources needed to maintain and organize the historical documents of the Organization. (ID Rec. No. IV04/072/05)

The Department of Management's Office of Central Support Services has agreed to look into the findings and take appropriate action.

#### **ACKNOWLEDGEMENT**

80. OIOS would like to extend its appreciation to the staff of the Archives and Records Management Section for their dedication and assistance during this investigation, as well as the designated Focal Points from DPKO and OLA, and all other staff who met with the investigators or provided information on how to contact former staff. OIOS is especially appreciative of the assistance provided by the UNAMIR staff, from their Force Commander to the civilian staff, who resurrected painful memories, at the time of the 10<sup>th</sup> Anniversary of the crash, to assist in this inquiry.

Dileep Nair
Under-Secretary-General
for Internal Oversight Services

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