

Claims
C/ADM/630-General

26/08/1961 - 25/09/1964

PLEASE RETAIN
ORIGINAL ORDER

UN ARCHIVES

SERIES	<u>S-0731</u>
BOX	<u>13</u>
FILE	<u>9</u>
ACC.	<u>DAG-13/1.6.1.0</u>

DECLASSIFIED

9 April 1962

TO: Mr. C. C. Timbrell
Deputy Chief Administrative Officer

FROM: D. B. H. Vickers *DBH*
Special Legal Adviser

SUBJECT: Claim on behalf of SOTRANSCONGO -
re invoice for 170,494 Francs

.....

I attach herewith a letter dated 26 March 1962 from the Advocates of SOTRANSCONGO, requesting payment of an invoice for 170,494 Francs. This amount represents the total of 9 bills in respect of services said to have been rendered to ONUC at Gemena in the first six months of 1961.

I understand that Mr. Duqué was in Gemena at the material time and may be able to provide further information on this matter.

I assume you will wish to acknowledge this letter as appropriate, and in the event that there are any legal questions in regard to this claim you will no doubt let us know.

DBHV/ln

C/Adm 630

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

BOITE POSTALE 7248
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE : ONUC LEOPOLDVILLE

INTER - OFFICE MEMORANDUM

7 April 1962

To : Mr. Z. Marcella, Legal Adviser
From : S. Habib Ahmed, Chief Administrative Officer
Subject : Claims arising from Matadi and Port Francqui incidents

.....
1. With reference to our conversation at Mr. Gardiner's meeting the other day, attached is Mr. Halbert's report on losses at Matadi and Port Francqui.

2. You will recall that it was agreed at the meeting that following New York's decision sometime ago we shall request the Congolese Government (Ministry of Defence) to arrange for the recuperation of our equipment and materials from the local authorities at Matadi and Port Francqui. [Several months ago a letter was written by Mr. Linner to the Congolese Government referring to the loss of UN vehicles at Matadi and requesting their return to us. We can now present a complete list of all equipment and materials lost at both places following up the request previously submitted to the Government.]

3. After you have looked over the papers attached to Mr. Halbert's memo of 6 March and the previous correspondence on the subject we might discuss together the procedure for preparing our case for submission to the Congolese Government.

cc: Mr. B. Halbert

18 October 1961

namany

ONUC Court File

28 March 1962

Miss Mary Tabachni, Secretary, Claims Board
C. Taff, Special Legal Adviser
Review of claim for motor scooter
stolen from ONUC Headquarters

..... I am sending you herewith for appropriate
action a memorandum dated 23 March 1962, together
with attachment, addressed to me by Mr. W. Rose,
Social Worker, Refugee Relief, Elisabethville.

Encl:

CT/ln

1. Will investigate and report upon all traffic accidents involving ONUC vehicles and ONUC hired vehicles. Copies of the Accident Reports will be forwarded to : -

(a)	DPM	(3)
(b)	Unit or branch	(1)
(c)	File	(1)

2. Will retain a complete record system on the distribution of ONUC vehicles in the Leopoldville area.

3. Will investigate and report upon all losses, thefts of and/or damage to, public and non-public, stores of military units. Copies of the investigation report (CAFB 1634) will be forwarded to : -

(a)	DPM	(2)
(b)	Unit or branch	(1)
(c)	File	(1)

4. Will investigate and report upon all losses, thefts of and/or damage to, personal property of military persons. Copies of the investigation report (CAFB 1634) will be forwarded to : -

(a)	DPM	(2)
(b)	Unit or branch	(1)
(c)	File	(1)

5. Will investigate and report upon all bodily harm of, or caused by, military persons and any other civilian incidents which involve military persons. Copies of the investigation report will be forwarded to : -

(a)	DPM	(2)
(b)	Unit or branch	(1)
(c)	File	(1)

6. Will maintain a crime file card system showing the principal offenders, suspects and witnesses in cases handled.

7. Will maintain patrols to assist the military commanders in the maintenance of discipline and will report, when necessary, upon any infraction.

8. Will maintain patrols to enforce the existing traffic regulations in relation to ONUC vehicles and report on all infractions. Where infractions are observed by other persons or agencies, the information will be forwarded to the ONUC MP Coy who will prepare the violation report for HQ ONUC. Copies of the ONUC MP Coy Traffic Violation Report will be forwarded to : -

(a)	DPM	(2)
(b)	File	(1)

9. Will conduct traffic control duties at official functions and parades in conjunction with the Nigeria Police.

10. Will act as vehicle escort for VIPs.

11. Will escort prisoners and political refugees when and where required.

12. Will allocate one NCO as personal bodyguard/driver to the Force Comd.

13. Will conduct surveys and check to ensure against mis-use of ONUC vehicles in conjunction with the Nigeria Police.

14. Will maintain liaison with Civil Police Agencies.

15. Will maintain patrols to check any areas placed Out Of Bounds in conjunction with ONUC HQ Security Police and Nigeria Police.

TERMS OF REFERENCE - ONUC HQ SECURITY POLICE

1. Will escort all ONUC stores, PX stores and Finance specie when and where required.
2. Will investigate and report upon all losses, theft of and/or damage to ONUC and PX stores, excluding ONUC vehicles. Copies of the ONUC HQ Security Police report will be forwarded to:-
 - (a) Chief of General Services (2)
 - (b) Chief of Civilian Personnel
 - (c) Branch or department concerned
 - (d) File
3. Will maintain and circulate a record of all reported lost personal items and maintain control on all personal items found and turned over to them.
4. Will investigate and report upon all bodily harm of, or caused by, ONUC International staff and any other incidents of a civil nature involving civilians employed by ONUC. Copies of the ONUC HQ Security Police Report will be forwarded to:-
 - (a) Chief of General Services (2)
 - (b) Chief of Civilian Personnel
 - (c) Branch or department concerned
 - (d) File
5. Will investigate and report upon all losses, theft of and/or damage to, personal property of civilian employees of ONUC. Copies of the ONUC HQ Security Police report will be forwarded to:-
 - (a) Chief of General Services (2)
 - (b) Chief of Civilian Personnel
 - (c) Branch or department concerned
 - (d) File
6. Will be responsible for the security of ONUC HQ and for the investigation and reporting of any breaches of security. Copies of the ONUC HQ Security Police report will be forwarded to:-
 - (a) Chief of General Services (2)
 - (b) Chief of Civilian Personnel
 - (c) Branch or department concerned
 - (d) File
7. Will be responsible for the traffic control at ONUC HQ and precincts.
8. Will investigate into and report upon the illegal, sale and/or disposition of, PX items and stores, in conjunction with the Nigeria Police. Copies of the ONUC HQ Security Police Report will be forwarded to:-
 - (a) Chief of General Services
 - (b) PX Head Office
 - (c) File
9. Will undertake patrols, by day and night, to check ONUC vehicles found parked and unattended. Vehicles found to be insecure will be cleared of all removeable items and a report submitted. Copies of the ONUC HQ Security Police Report will be forwarded as follows:-
 - (a) Chief of General Services (3)
 - (b) File
10. Will report all traffic violations, by persons driving ONUC vehs, to the ONUC MP Coy who will in turn, prepare the violation report. One copy of the ONUC MP Coy Traffic violation report will be forwarded to that office.
11. Will maintain liaison with Civil Police Agencies.
12. Will maintain patrols to check any areas placed Out Of Bounds in conjunction with the ONUC MP Coy and the Nigeria Police.

TERMS OF REFERENCE - NIGERIA POLICE FORCE

1. Will conduct traffic control duties at official functions and parades in conjunction with the ONUC MP Coy.

2. Will maintain liaison with Civil Police Agencies.

3. Will report all traffic violations, by persons driving ONUC vehicles, to the MP coy who will, in turn, prepare the violation report. One copy of the ONUC MP Coy Traffic Violation report will be forwarded to that office.

4. Will investigate and report upon all stolen and/or lost ONUC vehicles. A register will be maintained of all such missing vehicles and circulars will be sent to all Police Agencies. Copies of the investigation will be forwarded as follows:-

(a)	Branch or unit concerned	(1)
(b)	Logistics branch	(1)
(c)	File	(1)

5. Will conduct surveys and checks to ensure against mis-use of ONUC vehicles in conjunction with the ONUC MP Coy.

6. Will investigate into and report upon all illegal, sale and or disposition of PX items and stores, in conjunction the the ONUC HQ Security Police. Copies of the investigation report will be forwarded to :-

(a)	Chief of General Services
(b)	PX Head Office
(c)	File

7. Will maintain patrols to check any areas placed Out Of Bounds in conjunction the the ONUC MP Coy and the ONUC HQ Security Police.

Legal

26 March 1962

TO: Mr. G. Pagnanelli, Property Survey and Claims Board
FROM: C. Taff, Special Legal Adviser
SUBJECT: Claim - J. J. Staquet

1. This will refer to your memoranda of 22 and 23 February 1962, relating to the claim of Mr. J. J. Staquet.

2. In his letter of 6 February 1962, a copy of which was transmitted with your memorandum of 22 February, Mr. Staquet states that his house in Elizabethville was damaged in December 1961 as a result of shells fired by ONUC guns. It appears, therefore, that Mr. Staquet's claim is of the standard type charging that ONUC is responsible for all damages and losses arising from the December hostilities. This position, as you know, is legally unsound, since ONUC has no obligation to pay compensation for damages arising out of the exercise of its right of self-defence against the illegal attack by the Katangese gendarmerie.

3. In his memorandum to you of 8 February 1962, a copy of which was transmitted with your memorandum of 23 February 1962, Mr. Brackenbury inquires whether Mr. Staquet, as the owner of the house in question, may legally refuse to accept it back unless ONUC first repairs the damage caused under the circumstances noted in paragraph 2 above. Under Congolese law, a tenant is required to return the rented premises in the same condition in which it was made available to him. This rule, however, is subject to certain limitations. Insofar as here relevant, it is to be noted that this obligation on the tenant ceases to exist by reason of force majeure. Second, Congolese law provides that a lessor is obligated to make all repairs which are not chargeable to the tenant. As noted above, damages sustained by third parties as a direct result of the hostilities in Katanga are chargeable not to ONUC but to the Katanga Government. Inasmuch as Mr. Staquet has apparently not repaired the damages in question, he cannot validly refuse to accept the return of the premises unless ONUC first makes the repairs.

4. I take it to be the case that the final decision on this case will be made by the Claims Board.

CT/ln

22 March,

2

To : Mr. R. Halbert
Secretary of Claims and Survey Boards

From : C. Taff
Special Legal Adviser

Subject: Motor Vehicle Accidents

....

Transmitted herewith for your action are two letters from the Substitut du Procureur d'Etat, dealing with motor vehicle accidents: letters dated 9 March 1962 No 370/R.M.P. 2341/AF and 8 March 1962, No 405/R.M.P. 3876/SG/MG.

CT/mm

Legal

20 March,

2

To : Mr. C. Timbrell
Deputy Chief Administrative Officer

From : C. Taff
Special Legal Adviser

Subject: Motor Vehicle Accidents

Mr. Marotti of the Ministry of Foreign Affairs mentioned to me to-day that the Ministry has not yet received a reply to its note verbale to ONUC of 14 February 1962 No 134/1225/C.23. The Ministry's note requested ONUC to provide it with information regarding regulations issued by ONUC in connection with motor vehicle accidents. I remember that Mr. Grunswieg discussed the matter with me stating that he was preparing a reply. I would appreciate it if you would let me know whether a reply has been sent by ONUC to this note verbale so that I might advise Mr. Marotti.

CT/mm

17 March 1962

Mr. S. Habib Ahmed, Chief Administrative Officer
Z. F. Marcella, Legal Adviser *hsm*
Claims

... In the attached note verbale, the Belgian Government proposes that ONUC sets up a Claims Board in Elisabethville to deal with the claims submitted by Belgians residing in Katanga.

As the problem appears at this stage to be primarily an administrative one, we are forwarding the attached to you presuming that you will wish to prepare a reply for Mr. Gardiner's signature (comments asked by New York on the Belgian proposal).

Mr. Taff and I are studying the attached note verbale and will be glad to discuss the matter with you, if you so desire, at your convenience.

cc: Mr. R. Gardiner

EM/ln

1962 MAR 16 AM 6:38

O.N.U.C.

RECEIVED
O.N.U.C.

replied 22/3
under G-321
J. I.

S. R. S. G.

YC 128 F NY 862/795 15 2254Z P1/54/50 ;

ETAT

ONUC

LEO ;

2023 GARDINER FROM BUNCHE. FOLLOWING NOTE DATED 13 MARCH
RECEIVED FROM BELGIAN PERMANENT REPRESENTATIVE.

QUOTE LE REPRESENTANT PERMANENT DE LA BELGIQUE AUPRES DES
NATIONS UNIES PRESENTE SES COMPLIMENTS A MONSIEUR LE SECRE-
TAIRE GENERAL PAR INTERIM DE L'ORGANISATION DES NATIONS
UNIES ET A L'HONNEUR DE SE ;

P2 ;

REFERER A SA CORRESPONDANCE ANTERIEURE CONCERNANT LA RZPAR-
ATION DES DOMMAGES CAUSES A DES PERSONNES PRIVEEF COMME
SUITE A CERTAINS ACTES ET OMISSIONS IMPUTABLES AUX AGENTS
DE L'ONU DANS LA REPUBLIQUE DU CONGO. PARA PAR SES

QU'EN

P10/66/50 ;

L'ORGANISATION DES NATIONS UNIES SERVIRAIT EN FAIT L'INTERET COMMUN DE TOUTES LES PARTIES EN CAUSE: ELLE PERMETTRAIT EN PREMIER LIEU D'EVITER LES DIVERS RETARDS ET DIFFICULTES QU'UNE STRICTE CENTRALISATION A LEOPOLDVILLE EST SUSCEPTIBLE D'ENTRAINER, TANT SUR LE PLAN DE L'ENQUETE QU'EN CE QUI CONCERNE L'OCTROI D'UNE INDEMNISATION, ;.

P11/54/50 ;

NOTES DU 12 JUILLET ET DU 28 SEPTEMBRE 1961, LE SECRETAIRE
GENERAL DE ;

P3/56/50 ;

L'ORGANISATION A BIEN VOULU FOURNIR DES INFORMATIONS SUR
LA PROCEDURE QUI ETAIT ALORS SUIVIE POUR REGLER LE CONTEN-
TIEUX RELATIF AUX CAS MENTIONNES CI-DESSUS, ET QUI
AVAIT ETE ETABLIE PAR LES SERVICES DE L'ONUC A LEOPOLDVILLE.
PARA COMME SUITE AU GRAND NOMBRE DE RECLAMATIONS EMANANT
DE BELGES, QUI ;

P4 ;

DEPUIS LORS ONT ETE PORTEES A SA CONNAISSANCE ET QUI SOUVENT
ONT TRAIT A DES FAITS QUI SE SONT PRODUITS DANS DES REGIONS
TRES ELOIGNEES DE LA CAPITALE DE LA REPUBLIQUE DU CONGO,
LE GOUVERNEMENT BELGE A ETE AMENE A EXAMINER SI LES SERVICES
CHARGES EN 1961 DE REGLER ;

P5/58/50 ;

LES DIFFERENDS DONT IL S'AGIT, SUIVANT LA PROCEDURE DECRITE
DANS LES NOTES SUSMENTIONNEES DU SECRETAIRE GENERAL, SONT
ACTUELLEMENT A MEME D'ASSURER AUX NOMBREUX INTERESSES UNE
PROTECTION ADEQUATE DE LEURS DROITS ET INTERETS, OU SI
L'EXPERIENCE DU TRAVAIL EFFECTUE JUSQU'ICI A LEOPOLDVILLE

AINSI ;

P6/52/50 ;

QUE LES NOUVEAUX ELEMENTS INTERVENUS DEPUIS L'ANNEE
DERNIERE RENDENT DESIRABLE QUE DE NOUVELLES MESURES SOIENT
PRISES EN LA MATIERE. PARA LES RENSEIGNEMENTS QU'IL A
PU RECUEILLIR A CE SUJET OBLIGENT LE GOUVERNEMENT
BELGE A CONCLURE QUE POUR PROTEGER LES
BELGES LESES COMME SUITE A DES ACTES OU OMISSIONS DE ;

P7/56/50 ;

L'ONUC AU KATANGA, IL SERAIT SOUHAITABLE QUE L'ORGANISATION
INTERNATIONALE DISPOSE A ELISABETHVILLE D'UN SERVICE DE
RECLAMATIONS, ANALOGUE A CELUI QUI FONCTIONNE DEPUIS 1961
A LEOPOLDVILLE, ET CHARGE D'EXAMINER SUR PLACE LES REQUETES
QUI LUI SERAIENT ADRESSEES. PARA EN PRENANT LES MESURES
NECESSAIRES A CETTE FIN, ;

P10/66/50 ;

P11/54/50 ;

ET QUI RISQUENT COMPLIQUER TRES SERIEUSEMENT LE REGLEMENT
DU CONTENTIEUX DONT IL S'AGIT. PARA EN FORMULANT LA PRE-
SENTE DEMANDE, LE GOUVERNEMENT BELGE TIENT EN MEME TEMPS
J EXPRIMER SON SOUHAIT DE VOIR L'ONUC SUIVRE EN LA MATIERE
DES REPARATIONS DES CRITERES UNIFORMES ET APPLICABLES DANS
TOUT LE ;

P12/56/50 ;

CONGO. POUR ABOUTIR A UNE SECURITE DE DROIT SATISFAISANTE
IL PARAIT EN EFFET TRES DESIRABLE QUE, DANS TOUTE LA MESURE
OU L'EQUITE LE PERMET, LES DECISIONS RELATIVES A DES IN-
DEMNISATIONS SOIENT TOUJOURS BASEES SUR DES ELEMENTS
D'APPRECIATION OBJECTIFS, SUSCEPTIBLES D'ETRE ACCEPTEES
PAR LES INTERESSES, ET ;

P13/54/50 ;

VALABLES POUR LES DIVERS CAS D'ESPECE, QUEL QUE SOIT LE
LIEU OU LES FAITS SE SONT PRODUITS OU QUEL QUE SOIT LE
SERVICE APPELE A CONNAITRE DES RECLAMATIONS QUI Y ONT TRAIT.
UNE PRATIQUE QUI CONSISTERAIT A RESERVER AUX REQUETES
UNE SUITE DIFFERENTE, D'APRES LE SERVICE DE ;

P14/52/50 ;

L'ONUC QUI EN AURAIT ETE SAISI, CONSTITUERAIT SANS AUCUN
DOUTE UN IMPORTANT OBSTACLE AU REGLEMENT DU PROBLEME DES
REPARATIONS DANS SON ENSEMBLE. PARA CETTE PRISE DE POSITION
GENERALE NE SAURAIT ETRE INTERPRETEE COMME MECONNAISSANT
LE CARACTERE PARTICULIER DES DEMANDES DE REPARATION LIEES
AUX OPERATIONS MILITAIRES QUI ONT EU ;

P15 ;

LIEU AU KATANGA PENDANT LES MOIS DE SEPTEMBRE ET DECEMBRE

1961. LE NOMBRE ET LA NATURE DES FAITS GRAVES QUI SE
SONT PRODUITS AU COURS DE CES COMBATS EXIGENT UN EXAMEN
SPECIALEMENT APPROFONDI DES REQUETES Y RELATIVES, ET IL SEMBLE
OPPORTUN QUE QUELLES QUE SOIENT LES MODALITES QUI ;

P15/56/50 ;

POURRONT EN DEFINITIVE S'IMPOSER POUR LE REGLEMENT DE CETTE
CATEGORIE DE RECLAMATIONS, LES ENQUETES NECESSAIRES PUIS-
SENT ETRE MENEES D'UNE MANIERE PARTICULIEREMENT SEVERE
ET SUSCEPTIBLE DE SATISFAIRE TOUTES LES AUTORITIES
INTERESSEES. PARA LE REPRESENTANT PERMANENT
DE LA BELGIQUE SERAIT RECONNAISSANT A MONSIEUR LE SECRE-
TAIRE GENERAL PAR INTERIM DE L'ORGANISATION ;

16/47/45 ;

DES NATIONS UNIES DE VOULOIR BIEN LUI FAIRE SAVOIR QUELLE
SUITE IL ESTIME POUVOIR DONNER AU SOUHAIT EXPRIME
CI-DESSUS, ET IL SAISIT CETTE OCCASION POUR LUI RENOUVELER
L'ASSURANCE DE SA TRES HAUTE CONSIDERATION. UNQUOTE
WOULD APPRECIATE YOUR COMMENTS BEFORE DRAFTING OUR REPLY. "

COL 2023 13 28 1961 1961 1961

✓ / ✓ / ✓ / ✓

Leys

Le 15 mars 1962

Monsieur le Substitut,

J'ai l'honneur d'accuser réception de votre lettre No 369/R.M.P. 4161/MG en date du 21 février 1962, concernant un accident de camion survenu à Limeté le 28 octobre 1961.

Notre dossier relatif à cet accident indique que, ce jour-là, le camion de l'ONUC No 8365, conduit par le soldat ABUL BASHAR, est entré en collision avec un véhicule conduit par M. Simon NTEMO.

En vue de faciliter votre enquête, l'ONUC ne manquera pas de fournir à votre bureau tous autres renseignements qu'elle possède sur ledit accident. A cet égard, nous voudrions appeler votre attention sur le fait que l'ONUC est assurée, auprès de la compagnie LA PAIX, contre les réclamations de tierces parties résultant d'accidents de véhicule.

Veuillez agréer, Monsieur le Substitut, l'assurance de ma considération distinguée.

C. Taff
Conseiller Juridique Spécial

M. Maurice Gillain
Substitut du Procureur d'Etat
Tribunal de police
Léopoldville

cc. Mr. Halbert, Secretary, Claims Board
Mr. Taff

ROUTING SLIP

Comments for the record should not be written on this slip. REFERRAL SHEET PT.108 should be used instead.

TO:

Mr. Toft

APPROVAL	YOUR INFORMATION
MAY WE CONFER?	AS REQUESTED
YOUR SIGNATURE	FOR ACTION
NOTE AND FILE	REPLY FOR MY SIGNATURE
NOTE AND RETURN	PREPARE DRAFT
YOUR COMMENTS	ATTACH RELATED PAPERS

We had only the letter dated 28-2-62 which was sent to Gunnar on 9.3.62

DATE:

14/3/62

FROM:

O.P.

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

BOITE POSTALE 7248
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE: ONUC, LEOPOLDVILLE

LE 9 MARS 1962

A : Monsieur C. Taff, Conseiller juridique adjoint
De : M. Khiary, Chef des Opérations civiles
Objet: Plainte portée contre M. Henri Khoury

J'ai reçu à trois reprises M. Khoury et son propriétaire. M. Khoury n'a, actuellement, en mains aucun document lui permettant de se défendre devant la Justice. Je ne pense pas d'autre part que votre témoignage soit suffisant pour porter l'affaire devant les tribunaux.

J'ai demandé moi-même à M. Verken s'il voulait toucher son loyer en devises étrangères et il a refusé cette offre. J'ai également informé M. Verken que s'il n'occupait pas personnellement sa villa je le ferai poursuivre à ce moment-là devant les tribunaux. Il a accepté cela et est disposé à nous donner une lettre dans laquelle il s'engage à occuper personnellement sa maison.

M. Khoury m'avait promis de libérer la villa au terme du mois en cours. Je tiens à ce qu'il le fasse et ne voudrais à aucun prix des procès devant les tribunaux engagés par les fonctionnaires des Nations Unies.

Je vous prierai en conséquence de conseiller M. Khoury dans ce sens et ne pas m'obliger à d'autres interventions.

A handwritten signature in blue ink, appearing to be 'M. J.', is written over a large, stylized blue 'X' mark.

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

BOITE POSTALE 728
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE : ONUC LEOPOLDVILLE

INTER-OFFICE MEMORANDUM

TO: _____
FROM: _____
SUBJECT: _____
DATE: 9 March 1962
ACTION: _____

To: Mr B. Grunzweig, Deputy Chief Administrative Officer
From: G. Pagnanelli, Property Survey and Claims Board
Subject: Request for Sgt Abul Bashar (Pakistan) to present
himself for questioning re accident of 28 October 1961

... I am attaching hereto letter dated 21 February 1962 from the Substitut du Procureur d'Etat, requesting the presence of Sgt Abul Bashar before the Parquet du Tribunal de Police de Léopoldville for questioning on the matter of an accident which occurred on 28 October 1961.

Inasmuch as this matter pre-supposes the application of the provisions of the "Status Agreement" (jurisdiction of local courts over ONUC members, etc.) and possibly legal assistance, I am returning herewith file for action by the appropriate office.

... ENCL: (1) Letter of 21 Feb. 1961
(2) Transmitting note from
Asst. Legal Adviser of 8 Mar. 1962.

cc: Mr Marcella, Legal Adviser

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

Handwritten circled '4' and 'Legal' in red ink.

Ref: CLSBD/3/10

BOITE POSTALE 7248
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE : ONUC LEOPOLDVILLE

INTER - OFFICE MEMORANDUM

23 February 196²

To: Mr Z. F. Marcella, Legal Adviser
From: G. Pagnanelli, Property Survey and Claims Board
Subject: Claim - Mr J. J. Staquet

Handwritten initials 'QF.' and a signature.

... I am attaching hereto copy of a memorandum from
the Administrative Officer, Elisabethville.

I should appreciate your comments, particularly on
the third paragraph of the memorandum.

... ENCL: 1

C O P Y

U R G E N T

From: C. E. Brackenbury, Senior Administrative Officer, Elisabethville

To: Mr G. Pagnanelli, Claims Section, ONUC, Léopoldville

Subject: Claim - Mr J. J. Staquet

Date: 8 February 1962

... I enclose the original of a letter from Mr J. J. Staquet regarding damage to his house in Avenue Rediaff.

From his statement it is clear that this is war damage, even though his contention is that UN soldiers were amusing themselves by firing at each other through the walls of his house. I will be grateful if you will send him your standard letter regarding illegal acts to UN, as he is becoming a bit of a nuisance.

His claim raises one interesting point upon which I would like guidance. I understand that we may have a liability for continuing rent of houses we wish to hand back if we ourselves have caused damage which enables the owner to refuse the return of the house. Does this apply if the damage is war damage? That is to say, can the owner legally refuse to accept the house back unless we repair war damage?

We have a claim file on this case, which I will send you in the near future, but I would like to know the answer to this general principle.

23 February

2

Mr. G. Paganelli, Property Survey and Claims Board
G. Yaff, Assistant Legal Adviser
Claim - Mr. J.J. Staquet

In order that we may let you have our opinion on the question raised by Mr. Brackenbury in his memorandum to you of 8 February 1962, it would be necessary for us to examine the original letter from Mr. Staquet setting forth the fact on the basis of which he has presented his claim. We would appreciate it if you would let us have Mr. Staquet's letter for review.

CE/mb

23 February

2

Mr. E. Grunzweig, Deputy GAO
G. Taff, Assistant Legal Adviser

Claims of Belgian Nationals transmitted by Belgian Embassy

I am transmitting herewith for your action a note verbale, no. 690, dated 22 February 1962, from the Belgian Embassy, together with the files on the claims of 19 Belgian Nationals.

CT/mb

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

BOITE POSTALE 7248
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE : ONUC LEOPOLDVILLE

Ref: CLSBD/3/10

INTER - OFFICE MEMORANDUM

22 February 1962

To: Mr C. Taff, Assistant Legal Adviser
From: G. Pagnanelli, Property Survey and Claims Board
Subject: Claim - J. J. Staquet

... I am attaching herewith copy of a letter dated 6 February 1962 from Mr Staquet to the U.N. representative in Elisabethville.

You will note that this letter does not contain the points of law which have been raised by Mr Brackenbury; presumably these points were discussed orally between Mr Brackenbury and the claimant.

... ENCL: 1

C O P I E

J. J. STAQUET
B.P. 538
ELISABETHVILLE

Elisabethville, le 6 février 1962

A Monsieur le Représentant de l'ONU
ELISABETHVILLE

Monsieur le Représentant,

Mon immeuble, sis Avenue Rediaff, a été loué à l'ONU en avril 1961. Il était destiné au logement des Officiers supérieurs irlandais.

A la suite des événements de décembre, l'immeuble a été considérablement endommagé. En effet, la façade a reçu trois projectiles dont deux ont pénétré dans l'immeuble en y occasionnant un début d'incendie (matelas et lits brûlés).

Il semblerait, à première vue, que ces projectiles ont été tirés sur la maison à très courte distance de cette dernière.

Il me serait agréable que deux de vos officiers spécialistes en balistique, si possible, puissent m'accompagner et étudier sur place, en fonction des dégâts, les trajectoires présumées des projectiles. Depuis trois semaines, mes demandes auprès des autorités onusiennes à Elisabethville sont vaines.

Etant donné l'urgence et la nécessité de continuer à mettre mon immeuble à l'abri des intempéries de la saison des pluies, je vous prie, Monsieur le Représentant, de réserver une suite favorable à ma demande.

Je vous prie d'agréer, avec mes remerciements, mes salutations distinguées.

(Signed) J. Staquet.

21 February 1962

Dear Gurdon,

You will recall that on 18 November 1961, you and Mr. Kanakaratne cabled N.Y. Headquarters on the subject of claims against ONUC not arising from military necessity. For your convenience, I am attaching a copy of this cable. It does not appear that we have received a reply to your inquiry, and it would be very much appreciated if we could have an official statement from Headquarters on this category of claims.

Sincerely,

C. Taff,
Assistant Legal Adviser

Mr. G. Wattlea
Office of Legal Affairs
United Nations
New York

CT/mb

21 February

2

Mr. B. Grunzweig, Deputy CAO

C. Taff, Assistant Legal Adviser

Claims Board meeting of 10 January 1962

1. With reference to my memorandum of 20 February 1962, I am returning herewith the draft of a form letter to be used with respect to claims arising from alleged lack of protection by ONUC military personnel.
2. Also transmitted for your consideration is a revised draft that I have prepared. It is understood that the form letter will not be used automatically, but that it will be modified as the circumstances of each case warrant.

CT/mb

21 February

2

Mr. B. Grunzweig, Deputy CAO
C. Taff, Assistant Legal Adviser
Motor Vehicle Accidents

1. I am returning herewith the letter of 20 January 1962 of NAHU in which they list the motor vehicle accidents giving rise to claims by ONUC against third parties.
2. As you will note, NAHU has stated that in a very large number of these cases they can make no recovery on behalf of ONUC for the reason that no procès-verbal de constat was executed and signed immediately after the accident.
3. I discussed with Mr. Cafferelli, a local lawyer, the question whether the absence of a procès verbal de constat precludes recovery under Congolese law by a party involved in a motor vehicle accident. Mr. Cafferelli informed me that the law does preclude such recovery, with certain exception e.g. death. He stated that experience had shown that witnesses at a trial were too dishonest and unreliable - that, for example, whites testified for whites, and Congolese for Congolese, - regardless of the truth of the facts; hence, the law had been changed to require the execution and signing of a formal document as soon after the accident as conditions permitted.
4. In view of the very serious implications that this rule of law holds for ONUC, you will no doubt wish to consider the necessity of taking more effective measures to ensure the execution and signing of such documents by ONUC personnel involved in motor vehicle accidents. The Survey Board, also, may be interested in having the minutes indicate whether or not such a document has been executed and signed in each case.

CT/nb

c.c. Mr. Bronsema

Direction Générale — Algemene Directie

Direction — Directie

MXAF/=

VILLE DE LEOPOLDVILLE
TRIBUNAL DE POLICE.

Legal
Leopoldville, le 21 février 1962.
Leopoldstad, de

(1) N° 362/R.M.P.4161/MG.-

(45)

Réf. n° :

Annexe

Bijlage :

Objet

Voorwerp :

Affaire : 1°/ABUL Bashar,
2°/NTEMO Simon,

Monsieur l'Officier de Sécurité

l'O.N.U.C.

à LEOPOLDVILLE.-

Monsieur,

J'ai l'honneur de vous informer que mon Office est saisi d'un dossier ouvert à charge de Monsieur NTEMO Simon, qui le 28 octobre 1961 à Limeté, entra en collision avec le camion l'O.N.U.C. n° 8364 conduit par le militaire Pakistanais Sergeant ABUL BASHAR, à ce moment cantonné à Limeté, 16ème rue.

Les besoins de l'enquête requérant l'audition du Sergeant ABUL BASHAR, je vous serais très obligé de bien vouloir l'inviter à se présenter au Parquet du Tribunal de Police de Léopoldville, accompagné si possible d'un interprète.-

Avec mes remerciements, je vous prie d'agréer, Monsieur l'Officier de Sécurité l'assurance de ma considération distinguée.

LE SUBSTITUT DU PROCUREUR D'ETAT
MAURICE GHILLAIN.

[Signature]

(2)
8 PM
Jours
Office of Security
28 Feb

(3)
R.
Sect to Mr. TAFK
Legal Branch

21 February

2

File

C. Taff, Assistant Legal Adviser

The subject file relates to certain crimes, "a hurt at à la pudeur" and "outrage public aux bonnies moeurs", said to have been committed by Moroccan soldiers in Jadotville. The dates of the alleged crimes are given as March 1961. The files on the subject were not communicated to Hdqs until 10 February 1962. In view of the time that has elapsed since the dates of the alleged crimes, and inasmuch as all Moroccan troops have left the Congo, it is felt that there is no useful action that we can take at this time.

CT/mb

20 February

2

Mr. B. Grunzweig, Deputy CAO
C. Taff, Assistant Legal Adviser
Claims Board meeting of 30 January 1962

1. I have reviewed the draft minutes of the subject meeting and have written certain suggestions on the draft itself for your consideration.
2. I agree with the form letter to be used "in connection with" "claims arising from acts of aggression against ONUC", it being understood, however, that it is not to be used on claims not arising out of military necessity, unless N.Y. Headquarters decides that this latter type of claim is to be rejected in principle.
3. I cannot fully agree with the second form letter. It contains a statement of fact which in some cases may be untrue, namely "ou la non-prévention d'un acte qu'il n'était pas en son pouvoir d'empêcher". The same is true for the clause "par de tierces personnes sur lesquelles elle ne pouvait exercer aucun contrôle". I do not see that as a matter for a form letter, one can always make such statements of fact. I would add that in virtually all such cases, it will be sufficient to point out that ONUC has no legal responsibility for the acts of the third persons involved.
4. I am of the very strong opinion that in the early days of ONUC's operation, a number of claims were improperly rejected. This is particularly true of the period before the Claims Board was established, and, in fact, of the early decisions made by the Board itself. I therefore consider that we should not adopt a rigid rule which would preclude reconsideration of a claim unless new evidence is advanced. My feeling is that these old claims, now being re-submitted, should be approached pragmatically on a case to case basis without any preconceived fixed rule as to entitlement to reconsideration.
5. I agree to request N.Y. Headquarters for a statement of policy on Katangese claims, and will clear my letter with the CAO.
6. The draft minutes of the Claims Board meeting of 30 January 1962 and your memo of 19 February to the CAO are returned herewith.

CT/mb

c.c. Mr. Halbert

19 February

2

To: Mr. S. Habib Ahmed, Chief Administrative Officer
From: B. Grunzweig, Deputy Chief Administrative Officer
Subject: Claims Meeting - 30 January 1962

1. I have now received draft minutes of the short discussion we had some time ago regarding the procedure to be followed with regard to claims arising from the hostilities in Katanga and similar matters.

..... 2. I should appreciate your indicating any changes you may wish to have made on the attached minutes which I will then submit to the Legal Adviser for his comments and/or additions. When the minutes have been approved, and particularly the annexed standard draft letters have been accepted, I intend to forward the material to New York for their information via the Administrative Report.

cc: Messrs. Halbert
Taff ✓

19 February

2

Mr. B. GRUNEWIG, Deputy Chief Administrative Officer
C. Taft, Assistant Legal Advisor

Letter of 5 December, 1961 - Geomines - Libert.

I am transmitting herewith for your action a letter from Geomines
Banono, dealing with the claim of one Libert. The letter just reached
my office, in the original envelope, the other day.

GT/el

GEOMINES

G^e GÉOLOGIQUE ET MINIERE
DES INGÉNIEURS ET INDUSTRIELS BELGES
SOCIÉTÉ PAR ACTIONS À RESPONSABILITÉ LIMITÉE
REG. COMMERCE ELISABETHVILLE N° 1409

MINES ET Fonderie d'ÉTAIN

MANONO

KATANGA - CONGO BELGE

GS/JM/526/61.-

Manoni 5 Décembre 1961.-

Monsieur C. T A F F

Secrétaire de la Commission du Contentieux

B.P. 7248

LEOPOLDVILLE.-

Messieurs,

Votre lettre du 17/11/61.-

Notre Agent Libert se trouve en Belgique et nous a chargé de faire le nécessaire au sujet de sa voiture. C'est ainsi que nous vous avons adressé la facture.

Nous vous serions obligés de verser le montant de 40.000 frs à notre compte N° 901.278 chez la Banque du Congo à Léopoldville.

Nous profitons de l'occasion pour vous rappeler notre lettre N° 208/61 - du 5/8/61 adressée au H.Q./O.N.U.C. à Léopoldville concernant d'autres factures anciennes dont le paiement est en suspens.

Veuillez agréer, Messieurs, l'assurance de notre considération distinguée.

Pour la Cie GEOMINES

Le Directeur Général,

GEOMINES

Cie GÉOLOGIQUE ET MINIERE
DES INGÉNIEURS ET INDUSTRIELS BELGES
SOCIÉTÉ PAR ACTIONS À RESPONSABILITÉ LIMITÉE
REG. COMMERCE ELISABETHVILLE N° 1409

MINES ET Fonderie d'Étain

MANONO

KATANGA — CONGO BELGE

GS/JM/526/61.-

Manono, le 5 Décembre 1961.-

Monsieur C. T A F F

Secrétaire de la Commission du Contentieux

R.P. 7248

LEOPOLDVILLE.-

Messieurs,

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Veillez agréer, Messieurs, l'assurance de notre considération distinguée.

Pour la Cie GEOMINES

Le Directeur Général

19 February

2

Mr. G. Pagnanelli
C. Taff, Assistant Legal Adviser

1. With reference to your memorandum CLSBD/3/10 of 16 February, 1962, we are of the opinion, that the claim of Mr. Michel should be rejected on the ground that he was forced to leave the Congo pursuant to the terms of the Security Council resolution of 21 February, 1961.
2. As regards the procedural aspects of the matter, I take it that the claim will be presented to the Claims Board for its consideration.

CT/sl

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

BOITE POSTALE 7248
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE : ONUC LEOPOLDVILLE

Ref: CLSBD/3/10

INTER - OFFICE MEMORANDUM

16 February 1962

To: Mr Marcella, Legal Adviser

From: G. Pagnanelli

Subject: Claim - MICHEL, R.A. (Katanga)

This is a new type of claim!

It concerns a person expelled from the Congo (Katanga), in pursuance of Security Council Resolution of 21 February, who is claiming 1,000,000 Belgian Francs in compensation for the loss of his military career.

Could we please have your opinion on this claim.

ENCL: Case file on
Michel, (R.A.
(Katanga)

19 February 2

Mr. B. Grunzweig, Deputy Chief Administrative Officer
C. Taff, Assistant Legal Adviser

Motor Vehicle Accidents - Note Verbale of 14 February, of Ministry of Foreign Affairs.

Mr. Gardiner has passed on to me the attached note verbale, No. 134/1225/C.23, dated 14 February, of the Ministry of Foreign Affairs. I think it appropriate that the matter be handled by your office. As the note raises various questions relating to privileges and immunities. I would like to discuss these points at your convenience.

CT/sl



Ministère des Affaires Etrangères

(1) N° I34/

1225 /C.23

Réf. n° :

Annexe :

Objet :

Le Ministère des Affaires étrangères de la République du Congo présente ses compliments à Monsieur le Chargé de la Mission des Nations Unies au Congo et a l'honneur de lui exposer ce qui suit.

L'attention du Ministère a été attirée sur les accidents de circulation causés par des véhicules à moteur des Nations Unies et sur les dommages qui en résultent à l'égard des tiers. Suivant ces réclamations, les conducteurs des véhicules militaires ou civils des Nations Unies se dérobent, dans la plupart des cas, de se soumettre à l'établissement d'un procès-verbal ou d'un constat, en affirmant qu'ils jouissent des immunités.

Le Ministère serait reconnaissant à Monsieur le Chargé de la Mission pour tout éclaircissement qu'il pourrait lui fournir concernant les instructions qui ont été données aux conducteurs de véhicules pour le cas d'un accident ou d'un dommage causé aux tiers. Il serait particulièrement heureux de connaître également si les véhicules des Nations Unies sont tous assurés.

Le Ministère souhaiterait que des instructions nouvelles et précises soient données aux responsables des véhicules à moteur de l'O.N.U.C. afin qu'ils se soumettent aux représentants des autorités qui interviendraient pour dresser un procès-verbal ou un constat. Vu le grand nombre de réclamations, le Ministère croit nécessaire d'informer le public, par un communiqué officiel, de la procédure à suivre en cas d'accident avec un véhicule de l'O.N.U.C. Ce communiqué pourrait être fait par les autorités de l'O.N.U.C. ou par ce Ministère.

Le Ministère des Affaires étrangères saisit cette occasion pour renouveler à Monsieur le Chargé de la Mission des Nations Unies au Congo l'assurance de sa haute considération.

Léopoldville, le 14. FEV. 1962

A Monsieur le Chargé de la Mission
des Nations Unies au Congo
LEOPOLDVILLE

16 February

2

Mr. B. Grunsweig, Deputy Chief Administrative Officer

C. Taff, Assistant Legal Adviser

Claim against ONUC arising from Katanga Hostilities - Mr. Clement Margos .-

I am transmitting herewith for your action a letter, dated 12 February, 1962, with attachment, from one Mr. Clement Margos, presenting a claim against ONUC relating to a motor vehicle .

CT/al

Mr. C. Timbrell , Deputy Chief Administrative Officer
C. Taff , Assistant Legal Adviser

9 February

2

Motor Vehicle Accidents.

I am transmitting herewith for your action the following letters from the Substitut du Procureur d'Etat, all dealing with motor vehicle accidents :

No 240/D.14/TH	-	dated 11 January, 1962
No 120/RMP.4331/MG	-	dated 24 January , 1962
No 109/RMP.4264/MG	-	dated 26 January , 1962
No 150 /RMP.2204/SG/MG	-	dated 26 January , 1962 .

CT/al

9 February

2

Mr. C. Timbrell , Deputy Chief Administrative Officer
C. Taff , Assistant Legal Adviser

Claims of Private Individuals Against ONUC

I am transmitting herewith for your action a Note Verbale, No 469, dated 7 February, 1962, of the Belgian Embassy, with attached papers dealing with the claim of Mr. Georges Benoit .

8 February 2

Mr. C. Timbrell, Deputy Chief Administrative Officer
C. Taff, Assistant Legal Adviser

Motor vehicle accident

1. I am transmitting herewith for your action a letter, No 190/RMP. 4577/MO, dated 30 January, 1962, dealing with a motor vehicle accident said to have taken place on 18 January, 1962.

2. You will note that the letter ~~even~~ does not deal with any alleged violation of the penal laws by the ONUC driver, but inquires only as to whether ONUC intends to compensate the civilian driver for his damages. While we recognize that the Government has under the Status Agreement ~~has~~ a legitimate interest in ascertaining whether one of its citizen has been compensated for damages reported to have been caused by an ONUC soldier, we would not wish to submit a report on each case to the Office of the Procureur d'Etat. I think therefore that our reply should include the following points : (a) ONUC carries 3rd party liability insurance against claims arising from motor vehicle accident ; (b) in accordance with standard insurance procedures, the determination as to whether the 3rd party shall be paid for his damages is made not by the insured but by the insurer, here "La Paix" ; and (c) the third party, in this case Mr. Kangu, Simon, should therefore address his enquiry as to compensation to Mr. Van ~~606~~ ⁶⁰⁶ ~~then~~, the representative of La Paix .

3. I would appreciate receiving a copy of the reply to the attached letter.

cc : Mr Halbert

CT/al

3 February 1962

To : Mr. B. Halbert, Secretary of Claims Board
From : E.F. Marcella, Legal Advisor

Subject : ANC claim for losses of furniture and equipment at Camp N'Kokolo.

(S)
With reference to Mr. Pagnanelli memorandum of 26 January, 1962, I suggest that the question of submitting a counter-claim against the Congolese Government be considered by the Claims Board when the subject claim is presented for its consideration.

OT/sl

5 February

2

Mr. S. H. Ahmed, Chief Administrative Officer
S. Linnér, Officer-in-Charge
Mr. Duncan-Smith

CONFIDENTIAL

Mr. A. Duncan-Smith raised with me to-day various complications in connection with his standing and work with ONUC. May I suggest that you, Khiary and myself have a talk about this matter at your earliest convenience.

cc: Mr. M. Khiary

1 February 2

Mr. B. Grunweig, Deputy Chief Administrative Officer
G. Taff, Assistant Legal Advisor

Claim from Sabena for Refund of Customs Duty.

With reference to your memorandum of 29 January, 1962, I am transmitting herewith a draft of a letter which I have prepared for Mr. Ahmed's consideration. I would appreciate receiving a copy of a final letter that is sent to Sabena .

OT/sl

1 February

2

Mr. R. Melbert, Secretary of the Claims Board, ONUC, Léopoldville
C. Taff, Assistant Legal Advisor

Claims arising from Katanga hostilities - Mr. Paul Bodeen

1. I am transmitting herewith for your action the following papers dealing with the subject claim :

Letter by Mr. Bodeen, dated December 1961

Letter by Mr. D. Schachter to Mr. Bodeen
dated 20 December, 1961

Memorandum by Mr. D. Schachter to the CAO,
dated 20 December, 1961.

CT/bm

31 January

2

Mr. B. Grunzweig, Deputy Chief Administrative Officer
C. Taff, Assistant Legal Adviser

ONUC Claims Board - Case number 182 .-

1. The Office of the Legal Adviser has been requested to give its opinion on the question as to whether a legal liability exists on the part of the Organisation to compensate Dr. G. Fernandez Cartagena for the 40,000 Cfrs stolen from him on 24 October, 1961, in Bukavu.

2. According to the Minutes of the 25th Meeting of the Claims Board, held on 28 November, 1961, the theft occurred as follows :

" While in Bukavu, on 24 October, 1961, Dr. Fernandez-Cartagena obtained 40, 000 C.frs. in cash and \$40 in travellers' cheques from the ONUC Finance Officer to pay for the shipment of his daughter's coffin to Spain. He then went to a store in Bukavu to purchase certain items needed in connexion with the shipment of the coffin. On leaving the store, a group of Congolese blocked the door. Whilst trying to force his way through the group, one of the Congolese, pressed against him by the force of the crowd, pushed him back into the shop.

A few minutes later, Dr. Fernandez-Cartagena noticed that all his money, including the travellers' cheques, which he had placed in the right-hand pocket of his trousers, had disappeared. The travellers' cheques had not yet been signed."

3. Under Staff Rule 106.5 the Organisation is required to pay compensation for the loss of personal effects when the loss is determined to be directly attributable to the performance of official duties on behalf of the United Nations .

4. The account of the circumstances leading up to the theft of the 40,000 C Frs, as set forth in paragraph 3 above, clearly indicates that the loss was sustained in connection with a personal activity of the claimant. The purchase of items needed by the claimant in connection with the shipment of the coffin of his deceased daughter cannot be considered in any way as the performance of an official duty on behalf of ONUC.

5. The data made available to the Claims Board clearly shows that a large number of staff members have sustained losses of personal effects as a consequence of the burglary of their housing accommodations. The relative number of such burglaries greatly exceeds those occurring in New York, Geneva, and other areas of UN activity. The Board therefore has determined that the risk of the loss of personal effects through the burglary of a housing accommodation constitutes a special hazard, upon the occurrence of which the staff member concerned will be entitled to reasonable compensation, from the Organization, provided, among other conditions, he had not failed to exercise due diligence to protect his property against such loss.

6. On the other hand the number of cases where staff members have sustained losses of personal effects through robbery in public places, such as streets or stores, has been exceedingly small. Accordingly, the Board has considered that such losses do not constitute a "special hazard" so as to entitle a staff member to compensation. The risk of loss by robbery in a public place is thus not considered as directly attributable to the performance of an official duty on behalf of ONUC.

7. In view of the foregoing considerations, we are of the opinion that no legal liability exists on the part of the United Nations to compensate the claimant for the 40,000 Cfrs stolen from him on 24 October, 1961, in Bukavu. We are in agreement with the recommendation of the Claims Board that the matter be referred to New York Hdqs for the consideration of the payment of compensation to the claimant on an ex gratia basis.

cc - Mr. Hallbert

CT/sl

30 January 1962

OTHER POINTS FOR DISCUSSIONA. GENERAL

1. Claims entirely rejected by ONUC or settlement offer by ONUC not accepted by claimant and subsequently re-presented through diplomatic channels.
2. Claims involving contingents (UAR, Ghanaian etc.) which have left the Congo; difficulty in obtaining any information to evaluate such claims.
3. ONUC Office responsible for communications relating to claims submitted through diplomatic channels (possible form reply attached).

NOT

B. CLAIMS /RELATING TO MILITARY ACTION

1. Property occupied or reported occupied by ONUC without rental agreement.
 - (a) Settlement of claims relating to looting of premises or damage to furniture, fixtures and buildings:
Basis for settlement; value of property, devaluation of currency.
2. Property (dwellings, vehicles, fire-arms, etc.) reportedly turned over to ONUC for "protective custody".
 - (a) Claims arising from damage or loss of such property.
3. Property damaged as a result of acts by the local population. (Mr Scharter's letter of 21 December 1961).
 - (a) ONUC position vis-à-vis such claims.

S I N G E D E L' O N U C

Léopoldville
B.P. n°7248

Date :

Monsieur/Madame,

En réponse à votre lettre du _____
concernant _____

par des éléments de l'ONUC et votre demande de compensation y afférente, j'ai l'honneur de vous faire connaître qu'une Commission d'Enquête a été créée à l'effet d'étudier toutes les réclamations et formuler des recommandations sur les mesures à prendre dans chaque cas considéré.

Je me mettrai à nouveau en rapport avec vous dès que la Commission d'enquête aura été saisie de l'affaire vous concernant.

Nous vous rendons cependant attentifs au fait, que la présente communication ne préjuge en rien la position des Nations Unies à l'égard de votre demande.

Veuillez agréer, Monsieur/Madame, l'assurance de ma considération distinguée.

Services Généraux

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

Ref: CLSBD/3/5

BOITE POSTALE 7248
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE : ONUC LEOPOLDVILLE

INTER - OFFICE MEMORANDUM

29 January 1962

Assistant to Legal Adviser

To: Mr C. Taff, Room 630

From: B. Halbert, Secretary, Property Survey and Claims Board

Subject: Belgian Claims

As you are aware, Belgian nationals are now submitting claims through their chargé d'affaires in Léopoldville. This procedure is being used for new claims as well as claims which were presented over the past months.

In view of the diplomatic channel which is now being used to present claims, Mr Pagnanelli has suggested that we should send UN Headquarters a sample of the claim form and transmittal letter now being used. Mr Grunzweig agrees that these be forwarded to New York for their information and any observations which they may wish to make on this subject. I am attaching copies of the standard claim form and transmittal letter which we are now receiving.

... ENCLS: 2

Bruxelles, le 18 octobre 1961

Monsieur le Chef des Services
Administratifs de l'ONUC
Immeuble Royal,
B.P. 7248 à

LEOPOLDVILLE.

Monsieur,

J'ai l'honneur d'introduire, ci-jointe, une
demande d'indemnisation pour les dommages que j'ai
subis au Congo et qui ont été causés par des Services
ou des Agents des Nations Unies.

Je fournis, en annexe, de plus amples renseignements à ce sujet.

Veuillez me faire parvenir toute correspondance,
par l'intermédiaire du Ministère belge des Affaires Etran-
gères, à l'adresse que j'ai indiquée à la rubrique III
de l'annexe.

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

Lucien

FORMULAIRE DE DECLARATION.

I.- Renseignement concernant la personne qui a subi au Congo des dommages causés par l'action des Services ou des agents des Nations-Unies (1)

A. Personnes physiques

- 1) Nom : *BOVIER*
(en caractères d'imprimerie)
Pour les personnes mariées ou veuves indiquer le nom de jeune fille, suivi du nom et des prénoms du mari (lorsque le dommage a été subi par la communauté, il convient de fournir ces renseignements pour chacun des deux époux).
- 2) Prénoms : *Augustin Henri*
(souligner le prénom usuel) *BOVIER*
- 3) Lieu et date de naissance : *HOLBOURN, France*
11 Mars 1911
- 4) Nationalité (joindre un certificat de nationalité, à délivrer par l'Administration Communale) *BEUGE*
- 5) Etat civil au moment du sinistre : *Marié*
(marié - célibataire - divorcé - veuf - séparé de corps et de biens)
- 6) Profession : *Officier Forcé Arbitrage*
- 7) Régime matrimonial au moment du sinistre :
(ex communauté légale - séparation de biens, etc.. Le cas échéant, indiquer la date du contrat de mariage, ainsi que le nom et la résidence du notaire instrumentant)
Communauté légale

- (1) Lorsque le bien ou l'objet, pour lequel une indemnisation est demandée, appartient à plusieurs personnes, au moment du sinistre, il y a lieu de fournir les renseignements demandés à la Rubrique I pour chacun des propriétaires indivis.
Lorsque la personne qui a subi des dommages est décédée, prière de joindre un acte de décès (à délivrer par l'Administration Communale), ainsi qu'un acte de notoriété désignant les ayants-droit actuels de la succession (à délivrer par un notaire).

8) a) Domicile actuel :

b) Domicile ou résidence au Congo
avant le 30 juin 1961 :

Schanket

B. Personnes morales.

- 1) Raison sociale ou dénomination :
(en caractères d'imprimerie)
- 2) Forme juridique :
(Société Anonyme, en nom collectif,
S.P.R.L., A.S.B.L., etc..)
- 3) Lieu et date de constitution et
date et références concernant la
publication de l'acte constitutif :
- 4) Siège social en Belgique ou au
Congo et dans le premier cas le
cas échéant siège de la succur-
sale au Congo :
- 5) Nationalité :

II.- Description détaillée des dommages subis au Congo, causés par
l'action de services ou d'agents des Nations-Unies.

- 1) Indication complète du lieu où
le dommage a été subi :
- 2) Indiquer la nature des biens qui
ont été endommagés ou pour les-
quels une indemnisation est de-
mandée :
(ex. maison : donner la situation
exacte ; voiture automobile :
fournir l'identification complète)
En vertu de quel titre ces biens
appartiennent-ils en pleine pro-
priété au déclarant ? (2)

:/.

- (2) Lorsque le demandeur ne possédait la totalité du bien ou de
l'objet en pleine propriété, indiquer quelle partie lui ap-
partenait en pleine propriété a) au moment du dommage, b) de-
puis lors. Si le déclarant n'était pas propriétaire, indi-
quer en quelle qualité il réclame une indemnisation (ex. :
usufruitier, nu-propriétaire).
Indiquer l'origine du droit de propriété, la date et le mode
d'acquisition (ex. : achat, héritage, donation, etc..)

- 3) Quand le dommage a-t-il eu lieu ?
Indiquer éventuellement la date (par exemple, en cas de réquisition d'un véhicule). Indiquer éventuellement la période (par exemple durant laquelle un immeuble a été utilisé, réquisitionné par les services ou les agents des Nations-Unies) et la période pour laquelle le demandeur réclame une indemnisation.

- 4) Pour quels motifs, le déclarant réclame-t-il une indemnisation. Indiquer d'une manière aussi précise que possible l'étendue des dommages subis et l'identité des services ou agents qui causeront les dégâts. Le cas échéant joindre un inventaire des dommages subis ainsi que tous documents pouvant servir de preuve.

- 5) Nom et adresse des témoins, de préférence résidant encore sur place :

III.- Election de domicile en Belgique.

- a) Indiquer d'une manière complète le nom et l'adresse où toute correspondance devra être envoyée (3)

- b) Numéro du Compte-Chèques-Postaux de l'intéressé en Belgique; numéro du compte en banque et adresse complète de la banque où l'intéressé possède un compte.

IV.- Liste des annexes et pièces jointes à cette déclaration.

1. Certificat de nationalité
2. Procès-verbal du 20 oct 1960 - Réunion aff. afric. - Réunion aff. étrangères
3. " 13 dec 1960 - Réunion aff. afric. - Réunion aff. étrangères
4. " 21 oct 1960 - Réunion aff. afric. - Réunion aff. étrangères
5. " 21 jan 61 - Réunion aff. étrangères
- 6.

./.

- (3) S'il s'agit d'un bien ou d'un objet qui appartient à plusieurs personnes, il est préférable, pour simplifier la procédure, que les demandeurs se mettent d'accord pour une seule election de domicile en Belgique. Il y a lieu de préciser clairement s'ils donnent procuration à la personne chez laquelle ils font election de domicile pour qu'elle puisse recevoir les sommes qui pourraient leur revenir et les transmettre ensuite aux ayants-droit. Si une pareille intention n'est pas clairement mentionnée, dans la déclaration, chacun des demandeurs devra fournir les renseignements demandés à la rubrique III b).

V.- Remarques.

La personne mentionnée à la rubrique I déclare avoir subi au Congo les dommages indiqués à la rubrique II, dommages qui ont été causés par des services ou agents des Nations-Unies. En outre, il évalue le montant des dommages qu'il a subis à et il demande une indemnisation de Il affirme sur l'honneur que la présente déclaration est sincère et véritable.

.... le,

signature(s)

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

BOITE POSTALE 7248
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE : ONUC LEOPOLDVILLE

Ref: CLSBD/3/4/182

INTER - OFFICE MEMORANDUM

29 January 2
196

To: Mr C. Taff, Room 630

From: B. Halbert, Secretary, Property Survey and Claims Board

Subject: Claim of Dr G. Fernandez Cortagena

At its 25th meeting on 28 November 1961, the ONUC Claims Board recommended that Dr Fernandez Cortagena's case be referred to U.N. Headquarters for consideration of an ex gratia payment, in view of the circumstances. Our minute on this case stated that the matter had been discussed with the Legal Adviser. U.N. Headquarters Administrative Report No. 8 of 19 January 1962, item 5(b), requests that we inform New York of the Legal Adviser's recommendation. As I believe your recommendation at the time the case was discussed was that the matter be referred to Headquarters for consideration of an ex gratia payment, as stated in our minutes. In view of the question raised by Headquarters could you reply to their Administrative Report, giving perhaps your reason for having recommended an ex gratia payment.

(please copy to us)

27 January

2

Mr. Halbert, Chief of the Claims Board
C. Taff, Assistant Legal Adviser

Motor vehicles accidents .

I am transmitting herewith 9 letters from the Substitut du Procureur d'Etat. In order that we may reply to these letters, it will be appreciated if you would provide us with the information requested as to what disciplinary action was taken against the ONUC driver in each of these cases. It would be also helpful if you let us know whether the Survey Board found in any of these cases that the ONUC driver was not responsible for the accident.

CE/nl

26 January 1962

Mr. R.E. Grindall, Acting Chief Accomodation Officer
A. Habib Ahmed, Chief Administrative Officer
Mrs Atkins - Claim for Compensation for Personal Injuries

1. I wish to refer to your memorandum of 16 January, 1962, addressed to Mr. Taff, dealing with the claim Mrs. Atkins, a local employee, has presented with Damseaux for compensation for personal injuries. I would call your attention to the fact that claims of this type that are presented against ONUC are handled by this office. Insofar as staff members are concerned, whether local or international, the Claims Board handles only claims for loss of personal effects.

2. It appears from your memorandum that Mrs. Atkins' injuries are directly attributable to the performance of official duties, since the accident occurred as she was leaving the old Commissary where she was then employed. It further appears that the accident can be attributed to the negligence of Damseaux, the landlord of the premises, in that it left unattended a manhole in a broken condition.

3. You will understand that Mrs. Atkins can not be compensated both by Damseaux and ONUC, as this would result in her being paid twice for the same injuries. As Damseaux has, according to your memorandum, agreed to compensate her, it would not be appropriate for her to submit any claim against ONUC in respect of the same injuries.

4. Inasmuch as her injuries appear to be service incurred, Mrs. Atkins would be entitled to compensation from ONUC under Article XXIII of the "Staff Rules for Locally Recruited Personnel". By the terms of this Article, the amount of compensation is fixed by the Chief Administrative Officer. On the basis of the provisions of the Status Agreement, the standard generally to be used by the Chief Administrative Officer will be the amount of compensation locally paid for the type of injuries sustained by the ONUC employee. Mrs. Atkins therefore should not settle with Damseaux for a smaller sum than she would be entitled to under the ONUC rules. As a practical matter, I do not expect that this will present any difficulties since the amount of compensation received from a private party on a negligence claim generally greatly exceeds the amount paid by an employer under a "workmen's compensation plan".

5. If Mrs. Atkins encounters any difficulties in obtaining a prompt and equitable settlement from Damseaux, she should so advise you, and ONUC will consider using its good offices on her behalf.

27 January

To: Messrs. S. H. Ahmed, Chief Administrative Officer
C. C. Timbrell, Deputy Chief Administrative Officer
B. Halbert, Secretary Claims Board
C. Taff, Assistant Legal Adviser
G. Paganelli, Legal Officer

From: B. Grunzweig, Deputy Chief Administrative Officer

Subject: Meeting to Discuss Settlement of Claims Arising from
Katanga Hostilities

-
1. Please see attached draft of the point of discussion regarding the above which I would appreciate taking up with you in the Office of the Chief Administrative Officer on Tuesday, 30 January, at 3 p.m.
 2. During Mr. Stavropoulos' presence a decision may be requested from him on the spot.

Points for discussion regarding private claims arising
out of the Katanga Hostilities

1. Request for clear-cut instructions from Headquarters New York regarding the stand to be taken by ONUC on claims submitted by private individuals or governmental agencies.
2. Collection of claims received either in New York or in Leo and/or Elisabethville in one administrative unit.
3. Drafting of a standard reply dealing with the following cases:
 - (a) Claims relating clearly to military measures (war action)
 - (b) Marginal claims resulting from such action.
4. Proposal that such letters should go out over the signature of the Secretary of the Claims Board.
5. Discuss possibility of establishing a local Survey Board in Elisabethville since information regarding validity of claims can only be established on the spot.

BO/pfac
25 January 1962

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

BOITE POSTALE 7248
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE : ONUC LEOPOLDVILLE

INTER - OFFICE MEMORANDUM

(cr)

CLSBD 3/5

26 January, 1962

To: Mr Z.Marcella, Office of the Officer-in-Charge.
From: G. Pagnanelli, Property Survey and Claims Board.

G. Pagnanelli

Subject: ANC claim for losses of furniture and equipment at
Camp N'Kokolo

I am attaching hereto the case file in this matter, which is self-explanatory.

Inasmuch as a "counter-claim procedure" against the Congolese Government and its agents (Port Francqui, Matadi incidents etc.) is under consideration by your office, I should greatly appreciate the benefit of your advice in this matter.

24 January 1962

Mr. B. GRUNZWEIG, Deputy Chief Administrative Officer
C.Taff, Assistant Legal Adviser

Claim of Mr.J. Courtoy

On 23 January , 1962, I transmitted to you various papers dealing with the subject claim. I now transmit a letter, dated 20 January, 1962, from Mr. Courtoy, requesting prompt disposition of his claim. I take it that you will make the necessary arrangements to have Mr. Courtoy 's letter acknowledged, and his claim settled as he has requested.

CT/sl

23 January

2

Mr. S. Habib Ahmed, GAO

C. Taff, Assistant Legal Adviser

Private claims arisen from Katanga hostilities

1. With reference to your request of 15 January 1962 for legal advice on the claim of a Nigerian national transmitted through his Embassy, I am transmitting herewith a copy of cable L-75, dated 18 November 1961, that had been drafted by Mr. Wattles.
2. It appears that Mr. Khiary's view was that all claims arising from the Katanga hostilities should be unqualifically rejected, while Messrs. Wattles and Kanakarathne were of the opinion that an exception should be made where investigation showed that the damages did not result from military necessity. It does not seem that any reply to this cable has been received from New York.
3. The claim in question is based upon the alleged looting of a gift shop in Elisabethville by ONUC personnel during the September fighting. As looting cannot of course be deemed to be a military necessity, the question as to how the claim should be treated will depend on which of the two positions set forth in the cable is adopted by New York HQ.
4. I understand that, as requested by the Deputy GAO, a meeting may be held shortly to discuss the handling of Katanga claims. I take it that the subject of claims not arising from military necessity will be considered then, and also, the matter of approaching New York again for a statement of policy.
5. The papers transmitted with your note are returned herewith.

CT/mb

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

BOITE POSTALE 7248
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE : ONUC LEOPOLDVILLE

INTER - OFFICE MEMORANDUM

22 January, 1962

To: Mr C. Taff, Assistant Legal Adviser.

From: S. Habib Ahmed, Chief Administrative Officer.

Subject: Austrian medical team claim for personal losses:
Claims Board Case 143

In June, 1961, Headquarters forwarded to ONUC 52 individual claims concerning losses of personal effects suffered by the Austrian medical team at Bukavu on 15 December, 1960. Our records indicate that this case was reviewed by the Claims Board at its 18th meeting on 29 September, 1961. The Minutes setting forth the case were sent to New York on 23 October, 1961. However, it appears from Headquarters Administrative Report No. 4, item 5, of 11 January, 1962, that our original minutes did not include a list (with amounts) of members of the Austrian medical team who lost more than \$50 (cash) and for whom the Board recommended the Controller be asked to consider the possibility of allowing compensation of \$100 per claim.

It is unfortunate that settlement of this case has been delayed because of incomplete information.

I should appreciate it if you would let me know whether Headquarters was given the information which they are now requesting. If such information was sent, I should like to know the date in order that I may inform Headquarters.

ORGANISATION DES NATIONS UNIES
AU CONGO



UNITED NATIONS ORGANIZATION
IN THE CONGO

BOITE POSTALE 7248
LEOPOLDVILLE
REPUBLIQUE DU CONGO
CABLE : ONUC LEOPOLDVILLE

INTER - OFFICE MEMORANDUM

16th January, 1962.

To : Mr. Taff, Secretary, Property Survey & Claims Board,
From : R.E. Grindall, Acting Chief Accommodation Officer, *R.E. Grindall*
Subject : ONUC Non Congolese employees injuries.

The case of Mrs. Atkins of the Commissary where she had sustained injuries had been brought to the notice of the Chief Accommodation Officer a little while ago. The circumstances were due to the following facts :

When the Commissary was located at Avenue Valcke the landlords through their negligence had left the manhole unattended which had been in a broken condition. Mrs. Atkins at the end of the day's work, whilst leaving the premises fell in the manhole and sustained serious injuries.

The case was discussed by the Chief Accommodation Officer with Mr. Blindeberg representative of Damseaux and we have been assured that Mrs. Atkins will be suitably compensated both in regard to medical expenses as well as compensation for physical and mental injuries. Attached please see a photostatic copy of the medical certificate.

We feel since the injuries sustained was during the course of the performance of Mrs. Atkins duties and the manhole had been allegedly unrepaired due to negligence of the landlords it would be a fit and proper case to pursue further.

c.c. Chief Civilian Personnel Officer,

c.c. Mrs. Atkins - the original medical report
is returned herewith.

ARMÉE NATIONALE CONGOLAISE
QUARTIER GÉNÉRAL
DIRECTION SERVICE SANTÉ

MÉDECIN DIRECTEUR S.S.
DR. CINOtti GEORGES
TÉL. 3537 EX. 239
TÉL. 5062 HAB
LÉOPOLDVILLE

21.12.61

Certificat Médical

Je soussigné, médecin chef
A.N.C. déclare avoir eu un
traitement pour troubles
nerveux et artériosclérotiques
essuyés au choc,

M^e Alfreda Atkins,

Depuis le 7 novembre 1961

son état de santé nécessite
encore d'un repos trois
semaines de repos, sans
complications.

Pour les usages, de la loi



Le Directeur S.S. A.N.C.
DR. G. CINOtti

17 January

2

To : Mr. Lanser , Chief Procurement Officer
From : C. Taff, Assistant Legal Adviser
Subject : Claim by Piet Van Neer

I am transmitting herewith our file on the subject claim. You will note that on 7 September, 1961, Mr. ^{BERNARD} ~~Lanser~~ sent ~~the~~ file to me with the view that it be taken up by our Claims Board. On 13 September, 1961, ~~I~~ forwarded the file to the office of the Legal Adviser for an opinion. The handwritten note on my memorandum of 13 September, 1961, indicates that I transmitted the file to Mr. Pagnanelli on 24 of October for his review. In any event, the Legal Office took no action on this matter, and on 13 January 1962, it was referred to me. As I do not know whether this claim has by now been settled, I would appreciate if you would look into the matter and advise whether a legal opinion is still required. ^{MR. VAN HANSTEDT}

CT/sl

11 January 1962

Sir ,

Sinistre SOREHAIR - AVION CESSNA du 11.9.1960 c/CHUG survenu
à Stanleyville.-

I am transmitting herewith a copy of a letter, dated 5 January, 1962, from Thilly and Rittweger dealing with this subject accident, also transmitting herewith a copy of my reply to them, it will be appreciated if you would arrange for an early settlement .

G. Taff
Assistant Legal Advisor

Mr. Van Goethem
R. VanGoethem and Company
BP 30 999
Leopoldville

cc Mr. Grunzweig
Mr. Halbert *gmv*

CT/sl

11 Janvier 1962

Messieurs,

Sinistre SOBELAIR - AVION CESSNA du 11.9. 1960 c/ONUC survenu
à Stanleyville .-

Nous vous accusons réception de votre lettre du 5 janvier 1962,
relative à la réclamation de la SOBELAIR concernant l'accident
cité en référence .

Nous regrettons le retard apporté au règlement de cette affaire
et nous vous serions reconnaissants de bien vouloir nous faire
connaître votre décision au plus tôt. Comme vous le savez l'ONUC
est assurée pour les indemnisations résultant des accidents causés par
les voitures automobiles et notre Compagnie d'Assurance " LA PAIX " a
accepté la responsabilité de l'ONUC vis à vis de la SOBELAIR. Selon
les termes de notre police avec "La Paix " nous ne sommes pas autorisés
à négocier aucune demande d'indemnisation, toutefois, nous transmettons
à notre Compagnie d'Assurance votre lettre du 5 janvier 1962 et nous
leur demandons de régler cette affaire au plus tôt.

Veuillez agréer, Messieurs, nos sincères salutations.

C. Taff
Conseiller Juridique Adjoint

MM Thilly et Rittweger
Assureurs -Conseils
20 Av. Marnix
Bruxelles

cc Mr. Grunzweig
Mr. Halbert

CT/sl

THILLY & RITTWEGER

Société de Personnes à Responsabilité Limitée

Tél: 11.81.68 (10 lignes)
Télégr: Tiritas.Bruxelles
Telex: Bruxelles 02-119

ASSUREURS - CONSEILS
MAISON FONDÉE EN 1862

Reg. Comm. Bruxelles 167
C. Ch. Postaux: 270.51

DEPARTEMENT SINISTRES HM/MRF.
ANNEXE

BRUXELLES 5, 5.I.1962
20, AV. MARNIX

O.N.U.C.
Boite Postale 7248
LEOPOLDVILLE.
REPUBLIQUE DU CONGO.
=====

à l'aimable attention de Monsieur TAFF.

Messieurs,

Sinistre SOBELAIR - AVION CESSNA du 11.9.1960 c/ONUC. survenu à STAN
LEYVILLE.

Par la présente, nous nous permettons de revenir à notre
courrier du 7 décembre 1961 resté à ce jour sans réponse.

Nous vous saurions gré de vouloir bien nous faire connaî-
tre votre décision quant à l'indemnisation de notre cliente, la
S.A. SOBELAIR.

A vous lire et vous en remerciant à l'avance, nous vous
prions d'agréer, Messieurs, nos bien sincères salutations. ↓

THILLY & RITTWEGER

Copys for Legal Adviser, ONUC.

BV/ap

Chief Administrative Officer
ONUC, Leopoldville

5 January 1962

AD 632/1 (2) ONUC

G. W. Wattles, Officer in Charge
General Legal Division, Office of Legal Affairs

Claim by Messrs. Van Grootven and Coelho

.....
With reference to your memoranda to Mr. Cox and Mr. Schachter of 13 September 1961 and 21 November 1961 respectively, with attachments, and the memorandum to you from the Chief of Military Information dated 28 September 1961, I now enclose herewith for your information a copy of the reply which we have sent to Maître Devroey on the subject of this claim.

As you will see, we have replied directly in this case on the basis of the very useful material you sent us. I would only add for your records, however, that we are not aware of any enquiry having been made by the Belgian Permanent Mission in regard to this claim, as was indicated in Mr. Gruzweig's letter to Maître Devroey of 21 November 1961.

cc: Legal Adviser, ONUC ✓
Chief, Field Operations

AD 632/1 (2) ONUC

Le 21 décembre 1961

Maitre,

J'ai l'honneur de me référer à la réclamation que vous avez présentée dans votre lettre du 2 juin 1961 au Secrétaire Général, de la part de vos clients MM. Van Grootven et Coelho ainsi qu'à notre accusé réception du 6 juillet 1961 et à l'échange postérieur de correspondance entre vous et nos Représentants à Léopoldville.

Le Secrétaire Général par intérim s'a chargé de vous faire savoir qu'à la suite d'une enquête approfondie, compte tenu de toutes les circonstances de la cause, et malgré la vive sympathie qu'il éprouve pour vos clients, il est parvenu à la conclusion que la responsabilité de l'Organisation des Nations Unies n'est pas engagée dans cette affaire, ceci pour les motifs suivants:

Pour mettre en jeu la responsabilité de l'Organisation des Nations Unies, l'argument principal que vous invoquez dans votre lettre du 28 février est la délivrance d'un sauf-conduit enjoignant aux troupes du convoi d'accorder aide et protection au porteur dudit sauf-conduit. Cet argument est sans fondement. En effet, interpréter une telle formule, couramment employée dans des documents de ce genre, comme un engagement solennel de garantir la personne et les biens du porteur serait se méprendre aussi bien sur la portée normale et le caractère humanitaire de tels sauf-conduits que sur les conditions dans lesquelles vos clients ont accepté de voyager le 21 août 1961. De plus, il est indiqué au paragraphe 8 de votre lettre du 28 février que le sauf-conduit n'aurait été délivré qu'à vous-même, et non pas à vos clients. Le paragraphe 12 de la même lettre précise en outre que ceux-ci n'ont pu se joindre au convoi qu'après avoir obtenu une autorisation du Commandant du poste militaire de Tshikapa. Cette autorisation n'impliquait et ne pouvait impliquer aucune garantie et aucun engagement de la part de l'Organisation des Nations Unies, et permettait seulement à vos clients de s'intégrer au convoi à leurs propres risques.

.../

Maitre Raymond Devroye
Rue du Luxembourg 14
Bruxelles

Le Secrétaire général des Nations Unies par intérim ne saurait accepter non plus la thèse implicite selon laquelle vos clients auraient subi des préjudices par suite d'une faute des troupes des Nations Unies. Le Secrétaire général par intérim tient à préciser qu'on ne saurait relever aucune faute de la part de ces troupes qui, en égard aux circonstances dans lesquelles s'est produit l'incident du 21 août 1961, ont fait tout ce qui était en leur pouvoir pour assurer la sécurité des personnes voyageant dans le convoi. Le préjudice subi par vos clients est la disparition immédiate des actes regrettables des troupes Baluba qui se trouvaient sur les lieux et ne résulte d'aucune carence de la part des troupes des Nations Unies. Il est un fait que les assaillants étaient de loin supérieurs en nombre et que malgré ses efforts l'escorte a succombé à l'attaque et s'est trouvée séparée du convoi; un soldat a été blessé. Dans ces conditions, il est évident que l'Organisation ne peut être tenue à réparation pour un acte qu'elle n'a pas commis, ou la non-prévention d'un acte qu'il n'était pas en son pouvoir d'empêcher.

De plus, les circonstances dans lesquelles vos clients ont voyagé, la situation tendue au Kasai, l'arrêt total des transports par voie ferrée et les préparatifs minutieux auxquels ils se sont apparemment livrés (achat à prix élevé d'une Mercedes et d'un camion Thames, tous deux neufs, pour transporter les 74 valises et coffres de Monsieur Van Grootven à traverser le pays) ne laissent subsister aucun doute sur le fait que vos clients étaient fermement décidés à voyager par la route, malgré les risques que cela devait entraîner. C'est là une nouvelle preuve qu'on ne saurait voir aucune relation de causalité entre les actes de l'Organisation des Nations Unies et les pertes subies par vos clients le 21 août 1961.

Enfin, le Secrétaire général par intérim tient à souligner qu'il ne peut en aucune façon admettre l'allégation selon laquelle l'ONU aurait failli au devoir de protection qui lui incomberait en vertu des principes qui sont à la base même des Nations Unies (paragraphe 25 de votre lettre du 28 février). Il va sans dire que les documents de base de l'Organisation n'imposent à celle-ci aucune obligation du genre de celle que vous allégués. L'Organisation des Nations Unies n'a jamais pris un tel engagement ni envers les ressortissants du Congo ni envers les étrangers qui se trouvaient dans ce pays. L'Organisation des Nations Unies ne saurait non plus répondre des actes illicites, commis dans des circonstances fortuites, par de tierces personnes sur lesquelles elle ne pouvait exercer aucun contrôle.

.../

- 3 -

Le Secrétaire général par intérim m'a donc chargé de vous informer que, pour les raisons citées plus haut, il lui est impossible de donner suite à votre demande.

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

Le Directeur de la Division
des questions juridiques générales

Oscar Schachter