

Subject Files Regarding Legal Matters

C/LEG/000 - Legal Matters - General

01 | 08 | 1961-18 | 05 | 1962

2/4

PLEASE RETAIN  
ORIGINAL ORDER

P

DECLASSIFIED

UN ARCHIVES

SERIES 9-0734

BOX 1

FILE 2

ACC. DAG 13 / LG-1.0



C/49000  
15 October 1962

TO: Mrs. M. Achton, Room 761, ONUC Hq. Beo.

FROM: John S. Lumpkin, Jr.

SUBJECT: Statement regarding payment of dollars to R. A. Joory.

I arrived in the Congo on March 23, 1962. On this date, upon pre-arrangement with Mr. Edward C. Johnson, who was departing for the United States on March 25, 1962, I moved in with R. A. Joory at No 15 B 86 Armee. Mr. Johnson told me that he paid my rent up to the end of March 1962 and that he was paying Mr. Joory the amount of CF 5050. This sum included half payment of the rent, half payment of the houseboy (salary at that time CF 2800 per month) and half payment of water and electricity. Mr. Johnson also stated that the only additional expenses to the above would be half share for incidentals such as insect spray etc. On the 1st day of April 1962 I gave Mr. Joory the sum of 5050 CF which represented my share of the expenses for the month of April. Mr. Joory refused this amount stating that the landlord, a Mr. Israel, was departing for a visit to France and that Mr. Israel had asked him for three months rent in advance--in Dollars, Mr. Joory then stated that he gave Mr. Israel a check for the amount of \$540.00 and that my half share for the coming three months would be \$270.00. I explained to Mr. Joory that I did not bring any blank checks with me, however Mr. Joory then stated that he would accept a check written on note-book paper. I told him that I did not believe that this was the right thing to do and he said, quote "Take it or leave it"--end of quote. I then proceeded to give Mr. Joory this amount written on note-book paper with the understanding that he was not to cash this check, that my bank in Chicago would refuse it unless the check was written on authorized bank-note paper. I stated that I would send to the United States for my checks and when they arrived I would full-fill my obligation. On 15 May 1962 I received my blank checks and immediately made Mr. Joory out a check for the amount of \$135.00---stating that the other half would be given to him when my salary was deposited by the UN at my bank in Chicago. This arrangement was all right with him. As I was writing the date on the check Mr. Joory said that he owed his brother-in-law money and he wanted me to make the check payable to Salomon Ouahba who he said was the name of his brother-in law who was living in Paris. On 11 June 1962 I again gave Mr. Joory a check for the amount of ninety dollars. This check he also requested me to make payable to Salomon Ouahba. This paid my rent in full up to the 15th of June 1962. Mr. Joory said that my share of expenses amounted to three dollars daily and whenever I protested that the landlord shouldn't demand the rent in dollars, the answer was always



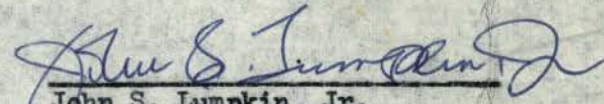
"Take it or leave it". He also mentioned that under certain conditions a landlord could demand rent in dollars and that is what Mr. Israel was doing. Joory also mentioned to me on several occasions that accommodations were impossible to obtain here in Leo and that some people here were even living in tents. I met Mr. Israel several times but I never discussed the rent situation with him knowing that Joory would vigorously object. I did however inquire to several of the neighbors as to how they were paying Mr. Israel, and the answer was always "In francs". This I mentioned to Joory and he stated that it wouldn't be too long before the landlord would be requiring dollars from them also. On the 6th day of August 1962 Joory was doing some paper work on the dining room table and there was someone on the road outside in an automobile that called for him. He left his papers on the big table and as he went outside I started to set the table for my dinner and on the inside of one of the opened correspondence files I noticed a rent receipt for the month of June or July 1962 for the amount of 5000 Francs. This was very difficult for me to believe, however one of the men from the hospital that was going to have dinner with me and who was sitting in the front room at this time, when I called his attention to it--just to verify what I had seen--he suggested that I take a photograph of it. This man was Flt. Sgt Mukherjee, wardmaster ONUC Hospital. On the 9th of August 1962 I received from my bank in Chicago the two vouchers which I paid to Joory for rent and took them to Mr. John Wood, now administrative officer in Goma. Mr. Wood stated that "I see Joory is pulling the same stuff here as he did in Luluabourg" and then Mr. Wood suggested that I take the matter up with Mr. Nejman of UNESCO. I did not want to cause any trouble so I decided to settle this my own way--therefore I calculated one half of the monthly expenses--including houseboy and figured it at the legal rate of 64 francs per dollar and I enclosed the balance due Joory of the amount of CF3330. Meanwhile I located other quarters and on the 18th day of August 1962 at 11AM--I went to Joory's office to lay my cards on the line because I had all the proof I needed. He was out of his office so I went back to his residence and gave his wife the envelope and told her to give it to Joory when he arrived. From there I went to Royal--and at the service entrance I met Joory and I told him I was moving and that this mess had to be straightened out. He said, quote "It is not necessary for you to move, we can work things out". I then departed for my transport and went back to the house for a box of shaving supplies I had left. This was a closed matter as far as I was concerned; however on the 16th day of August 1962 I received a letter from Joory stating that he had only BORROWED the dollars from me and that I owed him 20, 190 Francs for all of my back rent. I read very little French and there was much of his letter I could not understand. At this



point I decided to take Mr. Woods advise and see Mr. Nejman. Mr. Nejman told me to write out a report to him--which I have a copy of---and to also make photocopies of the checks and other documents of evidence I have and I told Mr. Nejman I would wait for his decision on any action that he wished to take. As of this date I have heard nothing from Mr. Nejman. The statements which Joory made in his letter--of which I could interpret---are false and untrue. He was charging me my share of rent in DOLLARS. He also stated that I went thru his personal belongings to get the rent receipt---this is also untrue. He also stated that it was a hardship on his wife and boys--having me at his apartment and that I used bad language around his family. This is all false and untrue. I offered the bed-room I had for the use of his boys but his answer was no--they will be comfortable where they are. During this period of time I made a visit to Personnel office pending word from Mr. Nejman. I explained the situation to Mrs. Achton and she told me to write an account of what had happened. Up until this date I gave it up for a lost cause---knowing that I had preformed my responsibility as a UN employee by reporting the matter to Mr. Nejman. As of 9AM this morning nothing else had been done until a Nigerian Police Officer came to my office here in the Hospital and told me that it was reported that I had a monkey that belonged to Joory. This is true however for the past two months I never felt it necessary to explain the circumstances. Joory purchased this monkey in May, I believe, however he was always cruel to him. This animal never liked Joory because he use to take the animal by the neck and slap it until it bled from its nose and mouth. It was either on the 15th or 16th of August 1962 that during the evening hours the monkey who was on the porch got loose. Joory and myself and the neighbors both searched for the animal and after a while at searching Joory said that the Congolese probably had taken the monkey because he was not tied too securely. On the morning that I left his apartment (18 August 1962) I went to my transport which was parked in the rear of the apartment building and this monkey was perched by the automobile. Knowing that Joory would keep on beating this animal--instead of bringing him back in his house I picked the monkey up and put him in my transport---knowing that the monkey did not belong to me; however since there is no Society for the Prevention of Cruelty to Animals here I made the decision to bring the animal with me where he would be given good treatment. Somehow Joory found out I had this animal and when the Nigerian Police came today they gave the animal back to Joory. The reason that I am writing you this entire report is because now---more than ever before--I realize that this man is unfit to serve as a United Nations employee and certain psychological traits that are involved make him a very poor example for the Congolese and other people that he must come in contact with. On my behalf-----taking this animal from him under the circumstances any



real man would do the same thing. Not too many people here seem to be interested in a thing such as this but a person can be rightly judged by the way they treat animals. Under the circumstances I feel it is my obligation to charge R. A; Joory with Fraud and dealing in Foreign Currency. I have the cancelled checks and other documents in my possession and if you so require them I may be contacted at telephone Number 4601 or 5000.

  
John S. Lumpkin, Jr.

cc: Mr. Taff ONUC Legal adviser  
Nigerian Police



213

PRIORITY

OUTGOING CLEAR

LEOPOLDVILLE  
1 August 1961

BUKE-952

ONUC  
BUKAVU

BU- 301 CUPERUS/HAMID FROM LINNER/MACEOIN

1. ~~ANC~~ and Congolese officials will not repeat not be permitted to search any UN vehicles. Any attempts to search or interfere with UN vehicles will be resisted, if necessary, by force.
2. You will convey above to local military and civilian authorities as your instructions from ONUC Headquarters and warn them that these instructions will have to be carried out if local authorities try in any way to obstruct UN freedom of movement.
3. Section 3 de la Convention sur le privilège et l'immunité:  
"Les locaux de l'Organisation sont inviolables. Ses biens et avoirs, où qu'ils se trouvent et quel que soit leur détenteur, sont exempts de perquisition, réquisition, confiscation, expropriation ou de toute autre forme de contrainte exécutive, administrative, judiciaire ou législative." Section 7 (b):  
"L'Organisation des Nations Unies, ses avoirs, revenus et autres biens sont exonérés de tous droits de douane et prohibitions et restrictions d'importation ou d'exportation à l'égard d'objets importés ou exportés par l'Organisation des Nations Unies pour son usage officiel." Accord sur le statut de l'ONUC, article 15: "L'Organisation des Nations Unies, ses biens et avoirs, ainsi que les biens et avoirs des Etats participants à la Force des Nations Unies situés au Congo pour les besoins de la Force, jouissent de l'immunité de juridiction, et sont exempts de perquisition et de réquisition, comme de toute autre forme d'intervention gouvernementale. Les documents de l'Organisation des Nations Unies et des Etats participants sont inviolables en quelque endroit qu'ils se trouvent."



Article 30: "Le Gouvernement assure aux membres de la Force et aux fonctionnaires au service de l'Organisation des Nations Unies au Congo une entière liberté de mouvement sur toute l'étendue du territoire congolais, ainsi qu'en provenance et en direction des points d'accès au territoire congolais. Cette liberté s'applique à l'utilisation de tous les véhicules, aéronefs, navires et équipements au service de l'Organisation des Nations Unies."



*Mr. Linn*

27 July 1961

TO : Mr. J. Poujoulat

FROM : V. Fabry

*SL*

SUBJECT: Liability for premature termination of contracts of persons evacuated under A-2 of 21 February resolution.

1. There can certainly be no question of UN's liability or even moral responsibility for payment of indemnities to persons who are being removed from the Congo pursuant to A-2 of Security Council resolution. Any resolution adopted by the Security Council in matters pertaining to the maintenance of international peace and security must be considered as being taken in an overriding public interest. ~~In~~ <sup>All members of the UN</sup> ~~sovereign states~~ are bound to comply with such decisions and consequently, their legal effects on private contracts are such as would normally devolve from sovereign decisions made iure imperii, against which there could normally be no recourse in law.

2. Moreover, contracts for services prohibited by the resolution may be considered as illegal, as they violate a prohibition which all Member States are bound to observe and give effect to. As regards contracts concluded after 21 February, no legally valid claim should arise to either party from the violation of contractual terms. The position is somewhat less clear with regards to contracts concluded before 21 February, but even there it should be assumed that they became invalidated as of that date.

3. I do not think O'Brien needs to go into the question of liability for payment of indemnities at all, firstly because it is a matter purely between the Katanga Government and the persons to be evacuated into which UN should not be involved, and secondly because it might complicate the question of evacuation even for Katanga authorities. In my opinion, as the contracts were broken for reasons of overriding <sup>public</sup> interest the Katanga



Government needs not be unduly concerned about paying indemnities, in particular as it is at least doubtful whether after 21 February 1961 the contracts had any validity at all in view of the fact that their object was illegal.



## UNITED NATIONS — NATIONS UN

INDICATE  
PRIORITY

SVC Service	FFFFF Routine	SSSSS Priority	PRIORITE NATIONS
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Priorité Nations traffic  
is strictly limited.

NR

1961 JUL 25 AM 9:06

Address(es)

UNATIONS NEW YORK

O.N.U.C.

(TEXT &amp; SIGNATURE)

insert prefix &amp; / or number as required

USE DOUBLE SPACING.

ONUC 4342 VAUGHAN FROM AHMED REUR 5037 EYE REQUESTED COPY OF CONTRACT FOR LIBRARY CONSTRUCTION UPON ADVICE OF TAFF WHO THOUGHT THAT SOME OF THE CLAUSES OF THAT AGREEMENT INTENDED TO SAFEGUARD UNATIONS FINANCIAL INTERESTS WOULD APPLY EQUALLY TO OUR ARRANGEMENTS FOR CONSTRUCTION OF CAMPS STOP ONE COPY OF CONTRACT ALONE WOULD SERVE OUR PURPOSE AND SPECIFICATIONS AND DETAILS OF LIBRARY CONSTRUCTION ARE NOT REQUIRED STOP

cc: Mr. N. Kanakarathna, Legal Adviser

Mr. C. Taff, Secretary ONUC Property Survey Board

CONFIRMATION  
OF MESSAGE DISPATCHED

1001  
25  
09:39

TRANSMITTED  
O.N.U.C.

T. O. R.

T. O. D.

BY :

Drafted by : Ahmed

Authorized : 24.7.61

Date :



PRESS CONFERENCE GENERAL MOBUTU

At his Press Conference this morning at 11 General Mobutu announced that a Protocol of Agreement had been reached between the Katangese Government and himself.

At the actual stage of the political negotiations it is not possible to say if the Congo will take the shape of a Federation or of a Confederation. It is why it has been decided between the Katangese government and General Mobutu to call the Congolese Army "Armée Unifiée" - there are ten points in this Protocol of Agreement.

- 1) The Katangese Government reaffirms its intention to cooperate with the entire Congo in establishing these military relations with General Mobutu.
- 2) Katanga recognizes the supreme authority of General Mobutu over the unified army.
- 3) In Elisabethville will be established the first commanding group of the unified army.
- 4) The rank of the Katangese officers will be recognized and confirmed by President Kasa-Vubu.
- 5) An exchange of officers will take place between Katanga and Leopoldville.
- 6) The military technicians in service in the Katangese forces will be put at the disposal of the Unified Army.
- 7) The Katangese Air Force will become part of the Unified Army; a plane will be put at the disposal of General Mobutu.
- 8) A complex of military instructions for the Unified Army will be created in Kamina. The United Nations will have eventually a "droit de regard" on this complex.
- 9) All the stocks of arms and ammunitions will be put together and an inventory of the stocks will be made. All future orders of arms and ammunitions will be made through Leopoldville.
- 10) Katanga will bring its contribution to the Unified Army. This contribution will be at least equal to the amount of money paid by Katanga to its Gendarmerie. The money will be given each month to Mobutu who will be in charge of its distribution.

Answering questions General Mobutu said that, according to information from UN sources there are actually 634 technicians in the Katangese gendarmerie. He will decide what best to do with them. General Mobutu declared that the aim of President Kasa-Vubu is the reunification of the Congolese military forces and he is acting in Kasa-Vubu's name.

20 July 1961



OUTGOING CLEAR

LEOPOLDVILLE  
20 July 1961

URGENT  
GAZA

1961 JUL 21 AM 8:56  
O.N.U.C.

19 73  
FOR BEIRUT FROM FABRY

RE YOUR GL-66. AFFIRMATIVE. MANY THANKS.

TRANSMITTED  
O.N.U.C.

1961 JUL 21 09:03

laz

P/laz

CONFIRMATION COPY  
OF MESSAGE DISPATCHED



RECEIVED

C. C.

Tsu

1 JUL 18

06:59

ZC1 GAZA 23 18 0645Z ;

ONUC

LEO ;

GL 66 FABRY FROM BEIRNE STOP REF TWIGTS LETTER TWELVE JUNE RE  
TIMEPIECE PROCUREMENT ENQUIRING IF CHEQUE MAILED STOP KIND  
REGARDS "

ICFM 66 "



ORGANISATION DES NATIONS  
UNIES AU CONGO



UNITED NATIONS ORGANIZATION  
IN THE CONGO

INTER OFFICE MEMORANDUM

18 July 1961

A Mr. V. Fabry, Legal Adviser

DE S. Habib Ahmad, Chief Administrative Officer

OBJET Accident involving death of Congolese girl - Kamina

..... Mr. Linner has probably already sent the original of the attached cable to you for your advice. As far as I can recall the civil jurisdiction in matters of the kind referred to in the cable is within the province of the Grand Chef who maintains a magistrature on the Base.

In any case we have never accepted the jurisdiction of the Grand Chef with respect to United Nations personnel in any matter. I am also surprised that Mr. Caprario should suggest taking the case to Kaminaville courts. Perhaps the best solution would be for us to settle the case amicably by paying the necessary compensation, discussions on which could take place between Mr. Caprario and the guardians of the girl.

May we have your advice.



OUTGOING CLEAR

LEOPOLEVILLE

18 July 1961

ONUC

KAMINA

KA- 77 FOR CAPRARIO FROM LINNER, AIMED

Re your 1077.

1. Members of the Force are subject to the exclusive criminal jurisdiction of authorities of their own countries and can, therefore, under no circumstances appear as defendants before any local court.
2. Thorough investigation of the cause and circumstances of the accident shall be immediately made, preferably by UN military police, if available. If not, a board of investigation shall be appointed by the Base Commander and shall carry out the investigation with the assistance of such expert personnel as you may be able to provide. Board of investigation shall record any physical evidence available (brake marks, etc.) and shall take down testimony of witnesses, UN as well as Congolese. Testimony of Congolese witnesses should be taken down in presence of local police officials and if appropriate of the Grand Chef. On basis of such evidence board of investigation will make its findings and recommendations. Copy of board of investigation's records shall be submitted to the Commanding Officer of the soldier involved in accident and, together with copy of any inquiry records made by unit~~s~~ concerned, to the Force Commander and CAO at this Headquarters. Disciplinary action against the soldier involved is the responsibility of his Commanding Officer who may wish, in view of the implications of the case, await the outcome of the investigation and consult with the Force Commander.



3. Compensation to the victim of the accident is the responsibility of the UN and subject to <sup>approval</sup> ~~decision~~ by the GAO. If liability of driver is established by investigation, full or partial compensation, depending on extent of liability, will be paid. In the meanwhile, if you consider such action necessary in the UN interest, you are authorized to make to the guardian of the deceased girl against proper receipt a payment sufficient to cover funeral and related expenses, which, depending on the outcome of the investigation, will be considered as an advance on liability payment or on an ex gratia payment. Please make recommendations for amount of ex gratia which should take into account financial circumstances of bereaved family and local custom, <sup>should</sup> but be less than customary amounts payable in cases where responsibility of driver is established.



LEG

28

HA-77

UC 024

CUK 008

PEP CUA CUL

DE CUK 08/18

FM ONUC KAMINA

TO ONUCLEO

INFO COMMANDER 3 BDE LULUABOURG

BT

KALEO CLEAR 1077 (.) LINNER AHMED FROM CAPRARIO (.) NIGERIAN SOLDIER  
DRIVING UN JEEP HAS JUST KILLED CONGOLESE GIRL ON BASE (.) ACCORDING  
OUR POLICE REPORT FAULT ENTIRELY GIRLS (.) SHOULD WE HAVE THIS CASE  
GO TO KAMINAVILLE COURTS QUERY PLEASE SEND URGENTLY FULL  
INSTRUCTIONS AND EXPLANATIONS AS ACCORDING BANTU MIND DRIVER GUILTY  
AND SHOULD BE KILLED AND WE EXPECT CONGOLESE POPULATION ON BASE  
AND KAMINAVILLE TO HAVE INTENSE FEELINGS ON MATTER (.) KAMINAVILLE  
JUDGE BELGIAN AND OF COURSE WONT APPLY BANTU CUSTOMS (.) WE ARE CONCERNED  
ABOUT CONGOLESE AND NIGERIAN FEELINGS ON THIS MATTER (.) I SHALL  
PROBABLY RECOMMEND SOME EXGRATIA PAYMENT (.) ACCORDING BANTU LAW  
ONUC HAS CIVIL RESPONSIBILITY ZMOUNTING TEN THOUSAND FRANCS

BT

CFN 107/

18/07572 JUL CUK

0846



17 July

1

Major Fleming, Military Information  
V. Fabry, Legal Adviser  
Right of Search

1. Unlawful imports of arms and military equipment from outside the territory of the Republic of the Congo.

The General Assembly resolution of 15 April 1961 contains an explicit provision giving the Secretary-General authority to take "necessary and effective measures to prevent the importation of arms, military equipment and supplies into the Congo". It derives consequently that the UN Force has the authority, in circumstances where it has reasonable grounds to assume that illegal imports of arms are taking place, to search aircraft, trains and vehicles coming to the Congo and to take other appropriate measures to prevent imports of arms and military equipment or supplies. If any arms or military equipment and supplies are discovered during the search, the vehicle, cargo and accompanying personnel may be detained until such time as the necessary preliminary interrogation is completed or further orders are received from this Headquarters.

2. Traffic of arms and military equipment within the territory of the Republic of the Congo.

There, the authority of ONUC forces to check or search for arms and other military equipment is limited to flagrant cases when there is reasonable evidence for believing that they are transported for unlawful purposes, or when there are serious grounds for believing that the arms in question are intended for obtaining a solution of political conflict by force.

3. I am enclosing a memorandum outlining principles which are customarily applied in exerting the right of search; these principles may in some cases serve as general guidance for the ONUC personnel exercising control over arms traffic.





BOITE POSTALE 7248  
LEOPOLDVILLE  
REPUBLIQUE DU CONGO  
CABLE : ONUC LEOPOLDVILLE

INTER - OFFICE MEMORANDUM

17 July

1961

A : Mr. V. Fabry, Legal Adviser  
De : G. Pagnanelli, Legal Office  
Objet : Search and detention procedures

GP

a) Search is naturally a measure which must always be preceded by a visit. It is because the visit has given no satisfaction that search is instituted. Search is always affected by an officer, or his representative, in the presence of the person in charge of the vessel, aircraft, vehicle, train. The search must take place in an orderly way; no damage must be done to the cargo. If the search has satisfied the searching officers and proves everything to be in order and dispelled of suspicion, the searching party must carefully replace everything removed, a memorandum of the search being made. On the other hand, if search has brought <sup>up</sup> a presence of arms, military equipment or supplies to be used for illegal purposes, or any other cause for seizure to be applied, the vessel, aircraft, train or other vehicles may be detained and the illicit cargo confiscated.

b) Since the prius for an effective search is the reasonable evidence that arms, military supplies and equipment were to be used for unlawful purposes, the so-called "deficiency of papers" procedure may be applied. If a vessel, aircraft, train or other vehicles cannot produce one or more of the usual papers showing the character of the cargo and its origin and destination, there are reasonable suspicions and therefore search is admissible for the purpose of verifying the suspicion. The same naturally applies if the vessel, aircraft or other vehicles carry double or false papers.

c) Preventive custody may be affected whenever there is sufficient evidence for believing that a person suspected to be involved in ~~the~~ smuggling arms and military equipment committed such offence or was an accomplice or an accessory to it. Custody shall be limited to the time necessary for the preliminary investigation and examination of the suspected person to be carried out. It shall not be extended beyond the time required to reveal that there is no case against such person. The examination shall be aimed at determining the facts and the relation of the suspected person or other persons to such facts. The suspected person is entitled to dictate his statement; if he does not, the officer in charge of the examination shall dictate it, endeavouring to use as far as possible the same words used by the suspected person. The suspected person may also read his statement;



if he does not avail himself of this right or he cannot, the officer in charge of the examination shall read it. The statement shall be signed by the officer in charge of the examination and by all of those who have taken part in the examination.

d) Preventive custody must be carried out in such a way as to cause the least possible vexation to the person concerned or injury to his reputation. His freedom shall be restricted <sup>or</sup> so far as it is absolutely essential for the purpose of the investigation and examination, <sup>his</sup> the protection of ~~his~~ and the prevention of any communications which might impede the progress of the investigations.



15 July, 1961

TO: *Ag. Plan, Dis. Org.*FROM: ~~Ag. Plan, Dis. Org.~~ *V. Lely*SUBJECT: Right of Search1. Unlawful imports of arms and military equipment from outside the territory of the Republic of the Congo.

The General Assembly resolution of 15 April, 1961 contains ~~the~~ *an* explicit provision giving the Secretary-General authority to take "necessary and effective measures to prevent the importation of arms, military equipment and supplies into the Congo". It derives consequently that the UN Force ~~may undertake not only surveillance activities linked to the maintenance of law and order, but may also exercise the right to inspect and search trains, planes, aircraft and vehicles coming to the Congo so as to see to it that no arms imports come about. Such a right of search is a necessary measure for implementing the pertinent General Assemblies' and Security Council resolutions.~~ *has the authority, in circumstances where it has reasonable grounds to assume that illegal imports of arms are taking place, to and to take other appropriate measures to prevent* *of arms and military equipment & supplies. If any arms or military equipment & supplies are discovered during the search, the vehicle, cargo and accompanying personnel may be detained until such time as the necessary preliminary investigation is completed or justice delays are removed from this.*

2. Traffic of arms and military equipment within the territory of the Republic of the Congo. *There, the authority of,*

*There are* The ONUC Forces ~~have the right of checking or searching for arms and other military equipment whenever there is reasonable evidence for believing that they are transported for unlawful purposes, or whenever circumstances come to light which give serious grounds for believing that the arms in question are intended for military and para-military purposes of any group or faction and therefore for use in the internal political conflict within the Congo.~~ *is limited to flagrant cases where* *obtaining a solution* *by force.* This function of ONUC Force is closely related to the protective activity and normally part of the police responsibility for maintenance of law and order, and as a measure of reducing the spread of violence, for avoiding a greater clash and for preventing the occurrence of civil war. Consequently, the searching for illegal arms and even their seizure (when there is *persuasive* ~~suspected~~ evidence that they were to be used unlawfully) falls within the authority conferred to the UN Force and is within the terms of the ONUC mandate.



### 3. Procedure:

3. 0 an enclosing a Memorandum <sup>outlining</sup>

In applying and enforcing the above-mentioned measures, the following principles may be of general guidance, <sup>which are customarily applied in executing the right of search; these may in some cases serve as general guidance for the on-site personnel dealing with cases.</sup>

Uniform formalities are practiced with regards to many points,

but as regards others the practice may differ considerably according to each case. <sup>Subject: Search & detention procedures.</sup>

From: Papamarcos, Legal Officer.  
To: V. Fels,  
Sect.  
Council.

a) Search is naturally a measure which must always be preceded by a visit. It is because the visit has given no satisfaction that search is instituted. Search is always affected by an officer, or his representative, in the presence of the person in charge of the vessel, aircraft, vehicle, train. The search must take place in an orderly way; no damage must be done to the cargo. Search being completed, everything removed has to be replaced with care. If the search has satisfied the searching officers and proves everything to be in order and dispelled of suspicion, the searching party must carefully replace everything removed, a memorandum of the search being made. On the other hand, if search has brought a presence of arms, military equipment or supplies to be used for illegal purposes, or any other cause for seizure to be applied, the vessel, aircraft, train or other vehicles may be <sup>detained</sup> ~~seized~~ and the <sup>illicit</sup> cargo confiscated.

b) Since the prerequisite for an effective search is the reasonable evidence that arms, military supplies and equipment were to be used for unlawful purposes, the so-called "deficiency of papers" procedure may be applied. The purpose of visit is to ascertain the nationality of a vessel, aircraft or any other vehicles, the character of the cargo, and the ports, airports or the origin from which they are sailing, flying or travelling from, and it is obvious that this purpose cannot be realized in case the vessel, aircraft, train or other vehicles are deficient in the customary papers they ought to carry. If the a vessel, ~~xxxx~~ aircraft, train or other vehicles cannot produce one or more of the usual papers, <sup>(showing the character of the cargo and its origin and destination)</sup> there are reasonable suspicions and therefore search is admissible for the purpose of verifying the suspicion. The same naturally applies if the vessel, aircraft or other vehicles carry



double or false papers.

4. Preventive Custody of persons suspected of smuggling arms and military equipment. <sup>(to be involved in the)</sup>

c) Preventive custody may be affected whenever there is sufficient evidence for believing that ~~the~~ <sup>a</sup> suspected person committed ~~the~~ <sup>such</sup> offence or was an accomplice or an accessory to it. ~~Such~~ custody shall be limited to the time necessary for the preliminary investigation and examination of the suspected person to be carried out. It shall not be extended beyond the time required by the investigations to reveal that there is no case <sup>against that person.</sup> The examination shall be aimed at determining the facts and the relation of the suspected person or other persons to such facts. The suspected person is entitled to dictate his statement; if he does not, the officer in charge of the examination shall dictate it, endeavoring to use as far as possible the same words used by the suspected person. The suspected person may also read his statement; if he does not ~~may~~ avail himself of this right or he cannot, the officer in charge of the examination shall read it. The statement shall be signed by the officer in charge of the examination and by all of those who have taken part in the examination.

d) Preventive custody must be carried out in such a way as to cause the least possible vexation to the person concerned or injury to his reputation. His freedom shall be restricted so far as it is absolutely essential for the purpose of ~~the~~ <sup>such</sup> investigation, ~~for the~~ purpose of the examination, the protection of his person and the prevention of any communications which might impede the progress of the investigations.



ROUTING SLIP  
(Ops Sec)

TO:

CDO

1. For approval	
2. For signature	
3. For information	
4. For action	
5. For comments	
6. Investigate and report	
7. Reply please	
8. Reply for my signature	
9. For despatch	
10. Initial and return	
11. Note and return	
12. Note and file	
13. Returned as requested	
14. Sent as requested	
15. See me please	

Ref att signal

No. OPS 084 of 13 Jul from  
EVILLE.

1. The subject is being handled by Mil Info.
2. Suggest the signal is passed to them.
3. The question of search has legal implications and any orders issued by Mil Info will have to be cleared by 6th floor.

Date:

From:

Scharif  
my

14/7



Mil In/o 4

Please handle  
with COS

Jy Mil ops  
14/7/61

MILITARY INFORMATION		
SEEN	Initial	Date
OC		
GS02		
I (A)		
I (B)		
I (C)		
I (D)		

Mr Fabry h A SR

Please let me have your considered  
opinion on this matter for  
transmission to COS.

Stanning



P 131610Z

FM HQ SOUTH KATANGA ELI

TO CNUC LEO

BT

SECRET OPS084 FOR MIL OPS FROM COS. REUR NF 1001/11 (OPS)

27/4 1961.

PLEASE CLARIFY INSTRUCTIONS REFERENCE POWERS TO SEARCH VEHICLES

AND POWERS TO ARREST PERSONS SUSPECTED OF SMUGGLING ARMS AND

SUCH EQUIPMENT

BT

22/13/MER/131940Z JUL 61

*Original Eli  
cable file*



*File*

*Seen*  
*Nash*  
*20/6*

19/6/

1

(see list below)

Military Legal Adviser

Procedure in respect of legal advice

1. General requests for legal advice -

All requests to this Branch for legal advice will be directed to Military Legal Adviser in the first instance by the officers making them. Officers making requests to this Branch for legal advice are advised to put such requests into writing; and on no account will legal advice or opinion be given in writing unless the request therefor has been made in writing. This procedure which will help keep our records as well as give precisely the points upon which advice is sought.

2. Boards of Inquiry -

Any request for any officer of this Branch to serve on any board of inquiry will be made to Military Legal Adviser in the first instance, and subject only to the Force Commander's directions, Military Legal Adviser will normally take a decision as to which officer will so serve.

3. Removal of files from this Branch -

Except to the Force Commanders's Office, no file belonging to this Branch will be given out to any other Branch unless and until Military Legal Adviser has been informed, and then, every file so released by this Branch must be signed for by some officer from the Branch to which  
.../2



4. The foregoing procedure will take effect immediately.
5. My circular memo dated 16th inst. is hereby cancelled.

*Tabo*  
.....Lt. Col.  
Military Legal Adviser

For information, copy to: -

- a) Military Assistant to Force Commander
- b) Military Assistant to Deputy Force Commander
- c) Legal Adviser (Civilian)
- d) Deputy Chief of Staff
- e) Chief of Military Personnel
- f) Assistant Provost Marshall.



10 June 1

Mr. S. Habib Ahmed, Chief Administrative Officer  
V. Fabry, Legal Adviser

UNICEF status

I wish to refer to your note of 31 May C/ADM 61B.

UNICEF is a subsidiary organ of the United Nations and its personnel and supplies are entitled to the privileges, immunities and treatment applicable to other UN missions. Specifically, the ONUC Status Agreement provides that the duty-free entry entitlement applies to any part of the UN programme in the Congo, therefore presumably covering UNICEF as well. Pending the rectification of the Status Agreement, it may however be useful, from a practical point of view and also to establish that UNICEF is part of the UN programme in the Congo, to have requests for customs exemptions channelled through the ONUC Chief Procurement Officer.

Encl.



cc. Govt. Notes  
N'Djili  
Matadi Incident  
Legal

26 May 1961

*Log mine*

Dr. Sture Linner, Acting Special Representative

R.K.A. GARDINER

Secret P-105 from Poujoulat for Linner

This subject was raised by Gen. Mobutu during the discussion of the Matadi problem (1st May 1961). The General wanted to make the stationing of ANC personnel at N'Djili airport a condition for the return of UN forces to Matadi. Both the President and Mr. Bomboko agreed that the two subjects should be kept separate.

For strategical reasons Gen. Mobutu's request is to be refused. The matter may have to be settled at the Bomboko or Presidential level because it concerns an important provision in the Basic Agreement signed in July 1960 and the Status Agreement which is at present being examined at the civil service level.

cc. Mr. V. Fabry



14 May 1961

Dear Oscar,

I have received from the fifth floor a revised draft of the Regulations for the United Nations Force in the Congo, which bears the date of 27 March 1961. I am not sure whether it is not too late now to comment on them, but I thought I would try to give you my remarks and suggestions for amendments anyhow, for whatever they are worth:

Page 1, Regulation 3 : "'Command" or "United Nations Command" means the Commander together with all the members of the Headquarters staff of the United Nations Force in the Congo (Leopoldville)."

Page 2, second sub-para. : "'Host State" means the Republic of the Congo (Leopoldville)."

Page 2, last sub-para. of Reg. 3 : "'United Nations Organisation in the Congo" or "ONUC" means the subsidiary organ of the United Nations described in Regulation 6, and includes the United Nations Force in the Congo."

Page 3, Regulation 5 : "Subject to the provisions of these Regulations and any supplemental instructions issued thereunder, and to the Resolutions of the Security Council and the General Assembly relating to the Force, the Commander may, in the discharge of his duties as such Officer and in the implementation or explanation of these Regulations, issue command or standing orders not inconsistent with these Resolutions or Regulations, as he may deem necessary."

*subject to review by Sec Gen*

Mr. Oscar Schachter  
Director General  
Legal Division, Room 3444  
United Nations  
NEW YORK, N.Y.



Page 3, Regulation 5 : "The present Regulations and instructions or orders issued pursuant thereto are binding on all members of the United Nations Force in the Congo. Contravention thereof shall constitute an offence subject to disciplinary action in accordance with the military law and regulations applicable to the national contingent to which the offender belongs."

Page 4, Regulation 6 : I suggest to omit the second sentence relating to ONUC civilian staff and their privileges, and to place corresponding provision in Regulation 19.

Page 5, Regulation 10: I suggest to omit the words "upon their first arrival" in line 7; the arrangements under which personal effects may be imported duty free would, in any event, be provided under arrangements made with the Host State, and there may be circumstances under which personal effects required by a member of the Force by reason of his service with the Force in the Congo would be imported only subsequent to his arrival as, for instance, if a short term assignment is extended, if he is transferred to a region with different climatic conditions, or if he wishes to replace stolen or lost articles.

Page 6, Regulation 12: I would suggest to split up this Regulation in three sub-paragraphs: sub-para.1 to contain the first two and the fifth sentence, all of which deal with the chain of command; sub-para.2 would include the third, fourth, sixth and seventh sentences, which deal with consultations or relations with authorities of participating governments; sub-para.3 would include the last sentence, which deals with channelling of instructions.

Page 8, Regulation 15: I suggest to omit the words "and personnel" in line 3. In military parlance this could imply that the Secretary General would deal with matters normally handled through the A Section of the General staff (military personnel), such as replacements, transfers, strength reports, disciplinary measures, etc. What was intended I believe was to cover matters affecting civilian personnel which are specified elsewhere and would be included in "administrative matters".



Page 8-9, Regulation 19: I propose the following rearrangements in addition to this Regulation:

- (1) "The Commander of the Force shall be appointed by the Secretary General after consultation with the Advisory Committee on the Congo. The Special Representative, the Commander and the Chief of Civilian Operations shall be entitled to diplomatic privileges, immunities and facilities."
- (2) "The Secretary General shall recruit from Member Governments officers for the Command. Such officers shall be entitled to the privileges and immunities of ~~experts~~ <sup>United Nations</sup> on mission for the United Nations."
- (3) "The Secretary General shall arrange for such international recruitment or detailment of staff from the United Nations Secretariat or from Specialized Agencies to serve with the United Nations in the Congo as may be necessary. Such personnel, unless otherwise specified in the terms of their contracts, are staff members of the United Nations, subject to the Staff Regulations thereof and entitled to privileges and immunities of United Nations officials as provided or envisaged in Article 105 of the Charter of the United Nations."
- (4) "The Special Representative may recruit ...  
... (previous sub-para. 2 without change)."

*V. i. P. shall  
arrange with*

Page 14, Regulation 36: The effect provision at the end of the Regulations should refer to losses occasioned to the United Nations, not to the Force.

Additional Regulation: I suggest that, in order to make the ONUC Regulations comprehensive, an additional Regulation on "ONUC Medal" might be included somewhat along the following lines:  
"Members of the Force may be entitled to the award of an ONUC medal if they fulfill the qualifying conditions described by the Secretary General."

I am now working with the Military Legal Advisor and Chief of Military Personnel on the drafting of comprehensive Standing Orders for the Force, taking advantage of my experience with UNEF. Such a document seemed to be long overdue, not only from the point of view of discipline but also for



extensive financial losses to the United Nations occasioned by the lack of proper investigation procedure. I will report to you on this as soon as we have a first draft ready, which I hope will be within a fortnight.

I will write you separately on more general aspects of my assignment here shortly.

With best regards.

Sincerely yours,

(Vladimir Fabry)



28 April

1

Mr. S. Dharman, Deputy Chief Administrative Officer  
V. Fabry, Legal Adviser

Administrative Circular on Accommodation

I suggest the following redraft of this circular:

1. ONUC personnel who have made private arrangements for renting apartments or houses cannot invoke UN privileges or immunities as an excuse for non-compliance with their contractual obligations, or as a defence against eviction notices or other lawful actions by the landlords aiming at the termination of their leases.
2. ONUC personnel wishing to rent apartments or houses are advised to contact the Chief Accommodations Officer for obtaining guidance before finalizing their lease arrangements, and should whenever possible use the Lease Agreement form supplied by the Chief Accommodations Officer.
3. ONUC personnel who receive notice from the owners or agents to vacate an apartment or house rented by them, shall immediately bring the matter to the attention of the Chief Accommodations Officer. The Chief Accommodations Officer may, if he considers it advisable and if the lease agreement was terminated through no fault of the staff member concerned, enter on behalf of the staff member into negotiations with the landlord with a view of obtaining suitable arrangements which would permit the retention of the accommodation by ONUC personnel; as an alternative the Chief Accommodations Officer may offer to the staff member other accommodation on premises rented by the UN or assist him in locating suitable housing.
4. ONUC personnel who intend to vacate apartments/houses now occupied by them because of the termination of their assignments or for other reasons will inform the Chief Accommodation and Travel Officer, whenever possible at least two weeks in advance of their departure. This notification is required in order to enable the Chief Accommodations Officer to take such action as he may consider appropriate to secure the vacated accommodation for other ONUC personnel.

c.c. Mr. Marek, Chief Accommodations Officer.



Le 28 avril 1

Monsieur A. Hubert, Intendance  
V. Fabry, Conseiller juridique  
Exonération de droits d'entrée

B'

1. Le Contrôleur des douanes à Usumbura est dans l'erreur en prétendant que l'Organisation des Nations Unies ne bénéficie pas d'une exonération de droits de douane. Cette exonération doit être accordée aux Nations Unies par le Gouvernement belge en vertu de ses obligations découlant de la Convention sur les Privilèges et Immunités des Nations Unies.
2. Selon la section 7 de cette Convention sur les Privilèges et Immunités des Nations Unies, l'Organisation des Nations Unies, ses avoirs, revenus et autres biens sont exonérés de tout impôt direct et de tous droits de douane à l'égard d'objets importés ou exportés pour son usage officiel.
3. Les documents que vous m'avez faits parvenir ne me permettent pas de déterminer si les droits de douane dont il est question n'ont peut-être pas déjà été prélevés avant que l'essence soit devenue la propriété des Nations Unies. Cela me semble peu probable; d'après mon expérience dans les autres missions, les Nations Unies insistent pour que le prix des fournitures soit cité à l'exclusion de tout impôt et droit de douane pour éviter une revendication éventuelle du remboursement de leur montant. Mais même si les droits de douane ont été payés avant que la vente ait été effectuée, la section 8 de la même Convention prévoit que les Etats Membres devront prendre des dispositions administratives appropriées en vue de la remise ou du remboursement du montant de droits ou taxes comprises dans les prix à la vente.

c.c. Mr. S.H. Ahmed, Chief Administrative Officer.



LEOPOLDVILLE  
15 April 1961

OUTGOING CLEAR

CONTINENTALE DEUTSCHE LUFTREEDEREI  
HAMBURG (WEST GERMANY)

Matter referred in your telex 256/368 dated 13 1840 is  
being dealt with by Secretary-General in New York where any enquiries  
may be addressed.

UND HEADQUARTERS LEOPOLDVILLE



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

15 April 1961

A : Mr. M. Abbas  
De : V. Fabry *DF*  
Objet : Reply to Telex from Continentale

I suggest that you may wish to send the following reply to the telex communication sent to you by Continentale Deutsche Luftreederei, Hamburg:

Matter referred in your telex 256/368 dated 13 1840 is being <sup>dealt with</sup> ~~handled~~ by Secretary-General in New York where any enquiries may be addressed.

2. You may wish to send copy of the communications to New York as well as to the German Embassy in Leopoldville.



## ROUTING SLIP

TO

Mr. Fabry

APPROVAL	NOTE AND RETURN
SEE ME, PLEASE	YOUR COMMENTS
YOUR SIGNATURE	YOUR INFORMATION
NOTE AND FILE	FOR ACTION

Should I answer this directly, or through the German Consul General here, or should I ignore it since the matter is being taken up by the S.G. with the German mission in N.Y.?

DATE

15/4

FROM

H. A.



CONGO BELGE — BELGISCH-CONGO  
SERVICE DES TÉLÉCOMMUNICATIONS  
DIENST DER TELEVERBINDINGEN

NUMERO Nummer	ORIGINE Oorsprong	MOTS Woorden	DATE Datum	HEURE Uur	VIA Via

Arrivé à :  
Aangekomen te :



Heure : 12 9 15  
Uur :  

Indications de service  
taxées  
Betaalde diensaanwij-  
zingen

## TÉLÉGRAMME

### Telegram

UNO HEADQUARTERS LEOPOLDVILLE

Explication des abrévia-  
tions admises pour les in-  
dications de service ta-  
xées :

Verklaring van de afkor-  
tingen toegelaten voor de  
betaalde diensaanwijzin-  
gen :

RP = Réponse payée.

Antwoord betaald.

LT = Télégramme lettre.

Brieftelegram.

CR = Accusé de récep.

Kennisgeving van  
ontvangst.

TC = Collationnement.

Te collationneren.

La Colonie n'est soumise à aucune responsabilité en raison de la correspondance privée par voie télégraphique.  
De Kolonie is niet verantwoordelijk wat betreft de private correspondentie langs telegrafische weg.

(Ordonnance législative n° 254/Télec. du 23 août 1940.)  
(Wetgevende ordonnantie nr. 254/Telev. van 23 augustus 1940.)

p 256/368

hamburg telex 48 13 1840

via bro=

lt=

uno headqurters leopoldville

we learnt that our dcf our dabef was stopped in leopoldville by  
unoc stop we herewith request you to release crew and aircraft and  
to forward us statement showing reasons and legal ground your  
action stop reasons and legal ground your action=

continentale deutscheluftreederei

coll 25+?368 lt deutsche bien lire deutsche



(signed February 26, 1885)

CHAPTER IV

Act of Navigation for the Congo

Article 13

The navigation of the Congo, without excepting any of its branches or outlets is, and shall remain, free for the merchant-ships of all nations equally, whether carrying cargo or ballast, for the transport of goods or passengers. It shall be regulated by the provisions of this Act of Navigation, and by the Rules to be made in pursuance thereof.

In the exercise of this navigation the subjects and flags of all nations shall in all respects be treated on a footing of perfect equality, not only for the direct navigation from the open sea to the inland ports of the Congo and vice versa, but also for the great and small coasting trade, and for boat traffic on the course of the river.

Consequently, on all the course and mouths of the Congo there will be no distinction made between the subjects of Riverain States and those of non-Riverain States, and no exclusive privilege of navigation will be conceded to Companies, Corporations, or private persons whatsoever.

These provisions are recognised by the Signatory Powers as becoming henceforth a part of international law.

Article 14

The navigation of the Congo shall not be subject to any restriction or obligation which is not expressly stipulated by the present Act. It shall not be exposed to any landing dues, to any station or depôt tax, or to any charge for breaking bulk, or for compulsory entry into port.

In all the extent of the Congo the ships and goods in process of transit on the river shall be submitted to no transit dues, whatever their starting-place or destination.

*This concerns the interruption of the ferry service  
between Leopoldville and Brazzaville. Mr. Fabry has seen.  
JK 17/5*



See "Lumumba"  
file for complete  
corres.

7 April

1

Mr. Ahmed, Chief Administrative Officer

V. Fabry, Legal Advisor

Liability for transportation costs of Mr. Lumumba's child

1. I have reviewed Dr. Schurer's and Mr. Martin's memoranda concerning the transport of Miss Anne Christine Lumumba for medical treatment to Basle and the transport of her body to Leopoldville, Luluaburg and Stanleyville. I have come to the conclusion that Dr. Beck's actions were limited to assistance extended in a medical emergency to Mr. Lumumba at his request, and that Dr. Beck could not be deemed to have acted as an agent of UN in signing the request to Sabena for transportation arrangements. I have not seen the document containing his signature and am therefore unable to state to which extent, if any, he committed himself or the Swiss medical unit to the payment of any expenses. In any event, however, there was no valid authority on the part of the UN to commit funds of the Organization and the description of the events preceding Dr. Beck's signature of the transportation request show clearly that the request was made in the name and on behalf of Mr. Patrice Lumumba.

2. I agree that the charges for the transportation of Miss Lumumba should be referred for payment to the executor of Mr. Patrice Lumumba's estate. As far as I know, Mr. Lumumba's bank account and other property situated in Leopoldville have been sequestered by the Congolese Government and the bill should therefore be turned over for further action to the local authorities. Dr. Beck should be requested to give an explanatory statement showing the circumstances under which he signed the transportation request, and copy of this statement should be attached to the bill.

c.c. Mr. Linner  
Mr. Martin  
Dr. Schurer



8 April

1

Chief Procurement Officer

V. Fabry, Legal Adviser

Airport fees

The views expressed by Air Ops in the memorandum No. 858 of 6 April are substantially correct. No landing fees or other charges in the nature of a tax are payable by the United Nations in connection with the utilization of air fields by planes/<sup>owned</sup>~~ANN~~ or operated by the United Nations. This applies not only to air fields located within the territory of the Republic of the Congo, but generally in all countries. The exemption does not apply however to fees or charges for services actually rendered, such as illuminating during night landing, rent of hangars, etc.

As regards aircraft chartered by the UN from private companies on a commercial basis, it was as far as I know the policy to place the obligation for payment of fees etc. on the contract, <sup>or</sup> so as to avoid the question whether UN privileges could be extended also to the property owned by commercial companies. I assume however that this principle was not followed in the charters under reference, as the bills are being addressed to the United Nations.

cc. Mr. Ahmed

Air Ops.



## ROUTING SLIP

TO

Tony Bahinski

APPROVAL

SEE ME, PLEASE

YOUR SIGNATURE

NOTE AND FILE

NOTE AND RETURN

YOUR COMMENTS

YOUR INFORMATION

FOR ACTION

Sorry, but Kiernik took  
no action on this - I found  
it among the papers left  
over by him to Reganelli.

DATE

7. IV.

FROM

B.



7 April

1

Mr. J.P. Fournier, Chief ICAO TA Mission, Congo  
V. Fabry, Legal Adviser 3  
Membership of the Republic of the Congo in ICAO

1. I refer to our telephone conversation concerning your memorandum of 4 March to Dr. Linner on the above subject, which was passed to me by Mr. Balinski for advice on the legal implications involved.
2. The ICAO Convention is deposited with the Government of the United States. It is therefore the responsibility of the United States Government to examine whether the instrument notifying accession to the Convention is in due form and satisfies the conditions set forth in the Convention. As the Convention is open for accession to all Members of the United Nations, the only question that could arise (unless accession is subject to reservations) would be whether the instrument of notification was issued in "due form". I am inclined to doubt that the US Government would refuse the acceptance of a duly signed instrument on the grounds that the Congolese Government lacks constitutional authority.
3. I am not in a position to offer any comments on the question of financial commitments raised in your memorandum.

c.c. Mr. Balinski



# ROUTING SLIP

TO

*M. Fabry - Legal  
Admission*

APPROVAL	NOTE AND RETURN
SEE ME, PLEASE	YOUR COMMENTS
YOUR SIGNATURE	YOUR INFORMATION
NOTE AND FILE	FOR ACTION

*The Council of the  
unlike appreciate  
your opinion - legal -  
on the attached  
paper in particular  
whether the present  
f. is entitled to  
make an application  
for membership.*

DATE

FROM

*8/10/44*

*W. D. Hunt*





INTER - OFFICE MEMORANDUM

4 March

1961

A:

Dr. S. Linnér, Chief, Civilian Operations  
cc : Director, TA Bureau, ICAO, Montreal

DE:

J.P. Fournier, Chief ICAO TA Mission, Congo

OBJET:

ICAO Membership for Congo

During the past two months, there has been discussion between ourselves and officials of the Congolese Directorate of Civil Aviation regarding Congo membership in the International Civil Aviation Organization. From the Congolese point of view, it is my understanding that such suggestions have been sponsored by the Belgian legal adviser to the Directorate, M. Thyran.

While it would be highly desirable for the Republic of Congo to join ICAO, it is certain that this country would not be able to assume the implied technical responsibilities unless the present Directorate of Civil Aviation is adequately supported by a team of advisers such as ICAO has already suggested in its program for 1961-62. Of course, you are already aware that at the present time, the Directorate does not accept ICAO advisers at its headquarters. A membership in ICAO would also imply financial commitments amounting to a few thousand dollars and in view of the continuous financial difficulty the Directorate is encountering, it is doubtful if money could be found to pay the fee.

Nevertheless, I am highly favourable to the idea of this country joining ICAO as soon as a UN recognized and constitutional government is in a position to submit an application. In view of the financial commitments involved, when the time comes, you may wish to review this matter in coordination with membership in other specialized agencies.



7 April

1

Mr. J.M. Marek, Chief Accommodation and Travel Officer

V. Fabry, Legal Adviser *MF*  
Apartment occupied by Miss Rondot

1. The eviction order against Miss Rondot raises in the first place a question of principle which the administration must settle by a policy decision, to wit, whether it considers the housing of UN staff members to be a United Nations responsibility or the private responsibility of each staff member.
2. If housing of staff members is considered to be a UN responsibility, (as is the case for instance in UNEF) the United Nations ~~could~~ make the necessary arrangements and become the lessee of the apartment, signing in its own name contracts with the landlords. If this was the case, the housing accommodation would become UN premises and would be inviolable. UN could then claim immunity from legal process as regards any attempts to subject the further occupancy of the apartment to court action, and would be in a better position to invoke the assistance of authorities should the landlords raise any undue difficulties.
3. As long as the provision of housing remains the individual responsibility of each staff member and lease contracts are entered into by them in their own name, the relationship between the landlord and the lessee is one governed by private law. From a strictly legal point of view, the UN cannot intercede on behalf of the staff member in any disputes arising with the landlord. If such a dispute is brought before the courts, the UN staff member concerned cannot invoke any immunity as the court action concerns a private law relationship and not an act performed by the staff member in his official capacity.
4. Although I have not yet been able to see the contract for the lease of the apartment occupied by Miss Rondot, I would assume that a reputable lawyer would not have asked for a court order unless he was satisfied that the contractual provisions would permit the court to issue such an eviction order. I do not see how Miss Rondot could avoid complying with such an order once it had been issued. I do not think that we could raise the objection of the absence of due legal process, because as far as I know



the Leopoldville district courts are now functioning quite efficiently in civil law matters.

5. In my opinion, the only <sup>way</sup> in which the UN could assist Miss Rondet would be by trying to come to some arrangement with the landlord and to obtain from him the revocation of the petition to the district court. From the correspondence it appears that the landlord has offered on 17 March an alternative accommodation which however was not accepted by Miss Rondet. If the offer still stands, I would suggest that she be advised taking advantage of it, as under the present circumstances we could hardly count on obtaining any support from the authorities in exercising pressure on the landlord to desist from pursuing the eviction order.



## ROUTING SLIP

TO

M. Marek.

APPROVAL	NOTE AND RETURN
SEE ME, PLEASE	YOUR COMMENTS
YOUR SIGNATURE	YOUR INFORMATION
NOTE AND FILE	FOR ACTION

1- En attente jusqu'au  
10 avril, date du retour  
de M<sup>re</sup> Rondot.

2. Pour l'intervalle,  
voulons vous occuper  
du paragraphe 3. ?

DATE

FROM

4.4.61

P. Pichon



## ROUTING SLIP

TO

M. Pichon

APPROVAL

SEE ME, PLEASE

YOUR SIGNATURE

NOTE AND FILE

NOTE AND RETURN

YOUR COMMENTS

YOUR INFORMATION

FOR ACTION

Veuillez-vous préparer  
une réunion avec  
M<sup>e</sup> Desbéc

DATE

4/4/61

FROM

J M M





INTER - OFFICE MEMORANDUM

C/ADM 460/2

.....1 April..... 1961

TO : Mr. J. M. Marek, Chief Accommodation and Travel Officer  
FROM : S. Dharman, Deputy Chief Administrative Officer  
SUBJECT : Apartment Occupied by Miss Rondot

- ..... 1. Reference the attached letter from Mr. Pierre-Yves Destree concerning the apartment presently occupied by Miss Rondot.
2. I have discussed with the Chief Administrative Officer, and I understand from him that in his conversations with Mr. Destree he had told him that he (the CAO) would have no objection to Miss Rondot's giving up her apartment if Mr. Destree were to find a suitable apartment elsewhere. From Mr. Destree's letter it would appear that an alternative has not been offered. May I suggest that you write to Mr. Destree reminding him of this?
3. As far as the proceedings for the tribunal are concerned, I would suggest that you discuss with Mr. Fabry and take his advice about appropriate action.

*S. Dharman*



Pierre-Yves DESTREE

Avocat près la Cour d'Appel

LEOPOLDVILLE, le 28 mars 1961.-

Building Forescom

Tél. 2068 - B. P. 713

Monsieur AHMED.  
Chef du service administratif  
des Nations Unies.

"Le ROYAL"  
Boulevard Albert I.  
LEOPOLDVILLE.

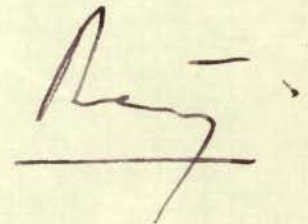
Cher Monsieur Ahmed,

J'ai l'honneur de me référer à l'entretien que j'ai eu le plaisir d'avoir avec vous au sujet de l'appartement occupé par une employée de l'O.N.U., Mademoiselle RONDOT, ainsi qu'à ma lettre du 17.3.1961.

L'intéressée n'ayant pas donné suite à ma correspondance, je me vois malheureusement d'autre solution que de l'assigner en expulsion des lieux.

J'ai tenu à vous tenir au courant de cette affaire et à cette fin je vous prie de trouver en annexe copie de ma requête au Président du Tribunal et copie de l'assignation.

Je vous prie de bien vouloir agréer cher Monsieur Ahmed, l'assurance de ma considération la plus distinguée.

A handwritten signature in dark ink, appearing to be 'Ruy', with a horizontal line underneath it.



REQUETE EN ABREVIATION DES DELAIS D'ASSIGNATION.

A Monsieur le Président du Tribunal de District à Léopoldville.

A l'honneur de vous exposer respectueusement:

La Société SOBOPLASCO R.L. dont le siège social est à N'KOLO BOLOBO et ayant un siège d'exploitation à Léopoldville, Building FORESCOM, inscrite au registre du commerce de Léopoldville no 3135, représentée par le Président de son Conseil d'administration le Baron Camille de JACQUIER de ROSEE, ayant pour conseil Maître P-Y. DESTREE avocat à Léopoldville et y résidant building FORESCOM.

Que par convention de bail du 23.12.1959 conclu avec la Société FLANDRIA représentée par la Société SICA, elle a pris en location pour une durée de trois années commençant le 1.1.1960, l'appartement 18 no 5.F. de l'immeuble dénommé "Résidence STANLEY" sis avenue ALLARD l'OLLIVIER à Léopoldville, aux fins d'y loger son personnel;

Que l'appartement se trouvant momentanément vacant elle le céda en sous-location à un tiers, le Sieur UMBRIGHT, lequel devant quitter le Congo, avertit l'exposante par sa lettre du 30.12.1960 qu'il quittait les lieux loués et cédait son contrat de location à la Demoiselle RONDOT;

Que l'exposante n'admit pas cette cession et avisa aussitôt son co-contractant le Sieur UMBRIGHT et la Demoiselle RONDOT de ce qu'elle entendait reprendre la libre disposition de son appartement pour y loger son propre personnel à partir du 28. 2.1961;

Qu'après avoir été en discussion au sujet de la durée du préavis avec son locataire qui se prévalait d'un préavis de trois mois, l'exposante admit amiablement ce délai;

Qu'à l'heure actuelle la Demoiselle RONDOT prétend conserver la disposition de l'appartement litigieux et qu'elle a fait part à l'exposante de son refus de quitter les lieux à la date indiquée, soit le 31 mars 1961;

Que par souci d'amabilité la requérante indiqua même par la lettre du 17.3.1961 adressée à la Demoiselle RONDOT par son conseil, un autre appartement qu'il lui était loisible de prendre en location ceci afin d'éviter à cette Dame les ennuis et les démarches diverses nécessitées par la recherche d'un appartement disponible;

Que toutefois la Demoiselle RONDOT ne donna pas suite à cette proposition, prétextant que l'appartement qui lui était ainsi renseigné et réservé à cet effet ne disposait pas du conditionnement d'air;

Que la Demoiselle RONDOT a ainsi manifesté à suffisance sa volonté de poursuivre sans droit ni titre l'occupation de l'appartement de ma requérante qui en a un très <sup>pressant</sup> besoin;

Qu'il en résulte que la cause est urgente;

Pour ces motifs, l'exposante vous prie, Monsieur le Président, de lui permettre de faire assigner à bref délai, pour l'une des prochaines audiences du Tribunal, la Demoiselle RONDOT



./..

Pour s'entendre condamner à déguerpir de l'appartement I<sup>8</sup> no 5.F  
du "Résidence STANLEY" sis avenue ALLARD L'OLLIVIER à Léopoldville,  
et s'y voir contrainte au besoin par la force, et s'entendre condam-  
ner aux frais et aux dépens.

Léopoldville, le 24 mars 1961.-

Pour la requérante, son conseil.



25. MAR. 1961

ASSIGNATION A BREF DELAI.

L'an mil neuf cent soixante et un, le  
Jour du mois de

A la requête de la Société SOBOPLA SRL. dont le siège social est à  
N'KOLO BOLOBO et ayant un siège d'exploitation à Léopoldville, buil-  
ding FORESCOM, inscrite au registre du commerce de Léopoldville no 313  
poursuites et diligences du président de son conseil d'administration  
le Baron Camille de JACQUIER de ROSEE, ayant pour conseil Maître P-Y.  
DESTREE avocat à Léopoldville y résidant building FORESCOM

En vertu de l'ordonnance rendue sur requête par Monsieur le Président  
du tribunal de District à Léopoldville, le , desquelles  
requête et ordonnance il est donné copie avec le présent exploit.

Je soussigné,  
Huissier à Léopoldville,  
Ai donné assignation à Mademoiselle RONDOT, employée résidant à l'ap-  
partement 18, résidence STANLEY, avenue ALLARD L'OLLIVIER à Léopoldville

A comparaître devant le Tribunal de District de Léopoldville siégeant  
au local ordinaire de ses audiences publiques avenue LE VAN à Léopold-  
ville / Kalina en son audience du  
à 8 heure du matin;

Pour répondre et procéder sur les motifs, fins et conclusions énoncés  
en la requête susvantee;

Et je lui ai

Etant à

Et parlant à

Laissé copie des dites requête et ordonnance et du présent exploit,  
dont le coût est de francs

L'huissier,



7 April

1

Mr. Dumontet, Chief ONUC Civilian Officer, B'ville  
V. Fabry, Legal Advisor  
Claims against ONUC troops

1. I have reviewed with Major Lindeblad the 10 claim files referred in your memorandum of 29 March 1961. They contain of course only one side of the story, as the charges made against ONUC personnel are based solely on statements obtained from Congolese and Belgian personnel, and do not take into account any evidence that may be obtained from UN sources.
2. I have asked Major Lindeblad to forward the investigation reports to the military authorities responsible for the conduct of the personnel involved, with a request for further investigation and reply what disciplinary action, if any, was taken against personnel found guilty of misconduct.
3. The whole question of the ONUC Status Agreement is now under review and I would therefore suggest that for the time being you avoid taking any position regarding Procureur general Janssens' proposal concerning the procedure to be followed in handling claims affecting UN military personnel. If you are hard pressed for a reply as to what action was taken on the 10 claims submitted to you, you may answer that they are under investigation. For your own information only, my proposal is to leave action on such claims, (except for ascertaining their validity by our own investigation) in abeyance until such time as we can negotiate an overall settlement which would include the satisfaction of our own claims for damages caused to the UN through illegal acts of Congolese soldiers or officials and through gross negligence in exercising their official duties.

c.c. Mr. Abbas  
Mr. Ahmed  
Lt. Col. Oki  
Mr. Pagnanelli



ORGANISATION DES NATIONS UNIES  
AU CONGO



UNITED NATIONS ORGANIZATION  
IN THE CONGO

BOITE POSTALE 307 B  
ELISABETHVILLE  
CABLE: ONUC, ELISABETHVILLE

From G. DUMONTET, Chief ONUC Civilian Officer, E'ville

To Mr. V. Fabry, Legal Adviser, ONUC HQ, Leopoldville

Subject File concerning Claims

Date 29 March 1961

*J. Tumaht*

1. For several weeks we have been receiving a number of claims which were shown to Major Lindeblad, Military Legal Adviser who spent some time in E'ville.

After a conversation on the matter and a rapid review of the claims we have decided with the Military Adviser, that this file could be usefully studied by you and himself. Consequently, Maj. Lindeblad is taking this file with him and will contact you upon his return to Leopoldville. Please let me know the outcome of it.

Here is the list of the claims :

- n° 419/BRA/RMP 14.786
- n° 1871/FAL/9638 Kol
- n° 961/Doo/RMP 55.232
- n° 835/Sam/63560
- n° 568/RMP/9421 Kolw
- n° 203/1464/D/3.30.914
- n° 203/1462/D/3.30.911
- n° 203/1458/D/3.30.936 with attachments
- n° 579/JD/RMP/9555 and copy of report on incident by Moroccans
- n° 203/1390/D/3.30.933
- n° 203/1499/D/3.30.925 sent to Mr. Brzak for follow-up, A'ville
- n° 203/L392/D/3.3P939 sent to Irish Liaison Officer, Leopoldville

2. On 31 January, I sent to Mr. Cox proposals made by Procureur Général Janssens concerning the procedure to follow in dealing with matters pertaining to UN Military Staff and my own interim reply. I would appreciate receiving your comments.

Copy to Maj. Lindeblad



ORGANISATION DES NATIONS  
UNIES AU CONGO



UNITED NATIONS ORGANIZATION  
IN THE CONGO

INTER-OFFICE MEMORANDUM

*See  
CIV. OPS.  
Ministry  
file*

Le 15 mars 1961

A: Mr. V. Fabre, <sup>21</sup>Conseiller juridique,  
DE: O. Angehrn; Expert principal, Commerce  
ORIENT Extérieur

Accord entre l'ONU et le Gouvernement de  
la République du Congo.

M. Balinski m'a demandé de vous soumet-  
tre le projet du texte d'un accord à conclure  
entre l'ONU et le Gouvernement du Congo;  
concernant le don de farine que les Etats-  
Unis font parvenir à ce pays.

Pourriez-vous me téléphoner demain  
jeudi aussi tôt que possible, si vous avez  
des objections du point de vue juridique.

*Spoke to Acting General  
Representative who handled  
the matter with Mr. Linder.*

*3*





INTER - OFFICE MEMORANDUM

26 March 1961

TO : Mr. Mekki Abbas, Acting Special Representative  
FROM : V. Fabry <sup>23</sup>  
SUBJECT : Relations with de facto authorities

1) Transmission of information

I believe that we should maintain the principle that the Field Representatives can accept from Congolese authorities for transmittal only information addressed to the Special Representative, but that they cannot serve as a post office for transmittal of information to addressees outside the UN. In particular, we want to avoid acting as post office in transmitting information relating to the formation of new "states", so as to avoid any implication of an involvement of the UN in any internal political developments.

2) Guidance on dealing with de facto authorities

*practical* From a strictly legal point of view, only President Kasavubu represents, in the absence of a constitutionally confirmed government, an unimpeachable channel of communications with the authorities of the Republic of the Congo. From a particular point of view, however, the UN cannot avoid it to deal with such local authorities as de facto handle the management of public affairs. This is a basically unsatisfactory situation, but can hardly be avoided as long as the constitutional crisis lasts and as long as a central and universally recognized authority does not exercise its power effectively in all points in the Congo.

Dealings with locally established de facto authorities should be restricted to matters which require their concurrence or cooperation from the point of view of implementing our mandate. The criterium is a purely factual one, namely the extent to which the authority concerned wields effective power.

.../



3) Declarations establishing new states

<sup>intern</sup>The local representatives should maintain strict neutrality in ~~local~~ affairs and should therefore avoid any acts which might imply a UN position with regard to newly established states. They should, in my opinion, enter into contact with the representatives of such entities only when it is unavoidable for the purposes of carrying out their tasks. On the other hand, they should try to obtain as much information as possible on political developments and communicate it to the Special Representative. If representatives of newly established entities try to contact the local UN Representative, he should accept such information as they might wish to communicate to him or the Special Representative, but should scrupulously avoid any commitments.

4) Transfers of population

Requests of transfers of population would seem to exceed the UN mandate and may involve indirectly an interference into internal affairs by a strengthening of one of the contending parties. Unless there is a present and acute danger of genocide, such requests should be rejected, <sup>possibly</sup> with a reference to the limited transportation at the UN's disposal. UN protection may, however, be offered within the available means if there is an actual danger of acts of terrorism or of arbitrary arrests against members of such minorities.



ONUC.

1961 17 09:34

ZC3 (UNEF) GAZA 40/39 17 0912 ;

ONUC LEO ;

GL 31 FABRY FROM TWIGT STOP REUR LG 32 FORWARDING ONE COPY  
OPS STANDING ORDERS POUCH EIGHTEENTH STOP REVISED MILPERS STANDING  
ORDERS NOT YET PRINTED WILL SEND TWO COPIES WHEN AVAILABLE STOP  
JACKSON AWAY STOP BEST REGARDS "

COL 31 32 "



OUTGOING CLEAR

LEOPOLDVILLE  
15 March 1961

UNEF  
GAZA

LG JACKSON from FABRY

Please send with next pouch two copies revised military personnel standing orders and one copy ops standing orders. Please give my best regards to Commander CAO Marcella and others until I get the chance to write to them.



5 March

1

Mr. M. Leckie, Chief, Finance

V. Fabry, Legal Adviser

Projet de convention de compte-courant

cc. : S.H. Ahmed, Chief Administrative Officer

I do not quite see why we should need to enter into this complicated agreement even if it were our intention to pay for transport charges in advance. In any event, the last part of Article 2 and Article 10 are completely unacceptable as they would mean a waiver of UN immunity from local jurisdiction. Article 5 is also unacceptable as it would mean that we could not compensate our claims against the Transport Companies, e.g. for articles lost in transport, against the charges billed by them.

V. Fabry



CTR/M.43

12 2 mars 1961

Monsieur M. Lackie, Chef du Service des Finances

N. Boskovic, Conseiller Principal, Transport & Communications

Projet de convention de compte-courant

cc.: M. R. Bernard

M. W.W. Cox ✓

Au début du mois de janvier, le Représentant du Comité des Transporteurs au Congo, M. Dejeneffe, nous a fait parvenir une liasse de factures de la Compagnie de Chemins de fer C.F.L., d'un montant global dépassant deux millions de francs, non encore liquidées, et dont certaines remontaient au mois d'août 1960. Ces factures ont été transmises au Service de l'Intendance pour règlement.

M. Dejeneffe a alors exposé que les compagnies de transport n'ont plus de fonds et, qu'en outre, la liquidation des factures pour les transports à effectuer pour le compte des Nations Unies prenait beaucoup de temps (ainsi, par exemple, les factures de la C.F.L. dans la Province du Kivu ont demandé environ 3 mois pour être liquidées).

Par suite, le Comité des Transporteurs a pris l'initiative de demander l'ouverture de compte courant des Nations Unies auprès de chacune de ces compagnies, afin que celles-ci puissent disposer des fonds nécessaires, avant de demander le règlement définitif des factures. Au cours d'un entretien préalable avec M. S.B. Shields, on a déjà envisagé une telle éventualité et trouvé qu'en principe cela était possible.

... Le Comité des Transporteurs soumet maintenant un projet de convention de compte courant, dont ci-joint un exemplaire. Il conviendrait d'examiner tout d'abord la possibilité d'ouverture de ces comptes et, ensuite, de considérer le projet de convention.

A cette fin, veuillez m'informer de la date à laquelle nous pourrions nous réunir, afin que je puisse en aviser MM. Bernard et Cox.

*J. Bruny*



Bruxelles, le 14 février 61

PROJET DE CONVENTION DE COMPTE-COURANT.  
-----

Entre les six organismes de transport désignés ci-après :  
OTRACO - Office d'Exploitation des Transports Congolais,  
VICICONGO - Société des Chemins de fer vicinaux du Congo,  
C.F.L. - Compagnie des Chemins de fer du Congo Supérieur aux Grands  
Lacs Africains,  
B.C.K. - Compagnie du Chemin de fer du Bas-Congo au Katanga

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représentés par Monsieur Hubert DEJENEFFE - Représentant du COMI-  
TRA à Léopoldville et ci-après dénommés "les Transporteurs" et  
l'O.N.U.C., représenté par Monsieur BOSKOVIC, Conseiller Principal  
aux Transports et Communications de l'Organisation des Nations-  
Unies au Congo (O.N.U.C.),

il a été convenu ce qui suit :

ARTICLE 1 - Les transporteurs accordent à l'O.N.U.C., le bénéfice  
de l'ouverture d'un compte-courant dans leurs livres.

Ce compte portera le n° 101 pour l'Otraco - 501 pour les  
Vicicongo - 601 pour les C.F.L. - 701 pour le B.C.K. - 801 pour  
l'Otraco-Kivu -

ARTICLE 2 - Le compte-courant est exclusivement affecté aux dépen-  
ses relatives aux transports confiés aux transporteurs.

Il prendra cours dès signature des deux parties contractan-  
tes ; il pourra y être mis fin à tout moment par chacune d'entre  
elles moyennant préavis d'un mois, signifié par lettre recommandée,  
sous réserve des dispositions légales ou contraintes judiciaires.

ARTICLE 3 - L'O.N.U.C. versera à chacun des réseaux un acompte  
provisionnel dont le montant sera fixé en fonction de l'importance  
des transports effectués pour son compte par chacun d'eux.



Les transporteurs pourront réclamer une augmentation de l'acompte provisionnel de manière à atteindre le total le plus élevé dont l'O.N.U.C. serait ou aurait été redevable, du chef de transports, d'une période maximum de deux mois consécutifs.

Cette augmentation sera obligatoire sur simple réquisition de la Compagnie (Office), qui fixera le délai ; ce délai ne sera pas inférieur à quinze jours.

En aucun cas, l'acompte provisionnel (ou le solde créditeur du compte) ne sera productif d'intérêts.

ARTICLE 4 - En ce qui concerne les transports O.N.U.C. les transporteurs sont justifiés à inscrire les taxes principales et accessoires au débit du compte-courant de l'O.N.U.C. à la date de la débitation des dites taxes, c'est-à-dire à la remise au transport des expéditions faites par lui dont il prend le port à sa charge et à la réception des envois lui expédiés en port à percevoir, les lettres de transport d'une part et les décharges pour réception d'autre part, étant signées par l'O.N.U.C. ou par le mandataire dont question à l'article 6 ci-après.

L'O.N.U.C. aura pour obligation de mentionner le numéro du compte-courant sur les réquisitoires, les lettres de chargement et les décharges.

ARTICLE 5 - Les parties reconnaissent expressément l'effet novatoire des opérations inscrites au compte-courant qui, dès lors, seront soustraites aux dispositions légales en matière de transports.

En conséquence, aucune créance de l'O.N.U.C., quelle que soit son origine, même celle afférente à un contrat de transport, ne pourra être opposée aux transporteurs pour être compensée.

Le compte provisionnel est définitivement acquis aux transporteurs, au fur et à mesure de la débitation de l'O.N.U.C. vis-à-vis des transporteurs.

ARTICLE 6 - L'O.N.U.C. fera parvenir à la Direction Générale des réseaux un spécimen de la signature des personnes habilitées à signer les réquisitoires.



ARTICLE 7 - Les factures des transporteurs émises sur base des documents de transport, seront adressées mensuellement à l'O.N.U.C.; elles pourront l'être prématurément dès que le compte-courant accusera un solde débiteur.

Elles seront payables dans la quinzaine de leur date ; après l'échéance de ce terme, la Compagnie (Office) a droit, sans mise en demeure, à un intérêt de 6% sur le montant des factures.

Le montant des factures devra être versé intégralement de manière à apurer le solde débiteur éventuel pour les transports effectués et réalimenter l'acompte provisionnel pour les transports subséquents.

ARTICLE 8 - Les paiements aux transporteurs seront inscrits au crédit du compte-courant le jour ouvrable qui suit la date des versements.

ARTICLE 9 - La balance du compte sera établie par trimestre - calendrier ainsi qu'à la date de clôture du compte-courant.

Cette balance trimestrielle sera communiquée à l'O.N.U.C. A défaut de réclamation endéans les quinze jours de la réception, cette balance sera considérée comme définitivement approuvée.

ARTICLE 10 - Toute contestation relative à la présente convention relèvera des tribunaux ayant compétence au siège de la Direction Générale des réseaux.

*Arbitrage*

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ORGANISATION DES NATIONS UNIES  
AU CONGO



UNITED NATIONS ORGANIZATION  
IN THE CONGO

INTER - OFFICE MEMORANDUM

19 November 1960

TO : Brig. Rikhye  
FROM : W. W. Cox  
SUBJECT : Ghana Embassy status

~~Mr.~~ Marothi, Technical Adviser at the Foreign Ministry, telephoned ~~me~~ at 1000 hrs. this morning to deny the implications in the press reports of the statements made yesterday by M. Nussbaumer, Commissioner-General of the Interior.

He emphasized that there had been no question of diplomatic relations being broken off between Ghana and the Congo. Only one step has been taken, and remains in force, and that is the declaration of 4 October 1960 by the Chief of State that the Chargé d'affaires, ~~Mr.~~ Welbeck, is (and remains) persona non grata. He added that neither the Acting President of the College of Commissioners, ~~Mr.~~ Ndele, nor ~~Mr.~~ Mobutu knew of the statements being made by ~~Mr.~~ Nussbaumer (including the prediction of armed resistance to the landing of the Conciliation Commission).

~~Mr.~~ Marothi <sup>further said</sup> informed ~~me~~ that the Foreign Ministry does not, however, recognize the formal diplomatic status of any other members of the Ghana Mission, since they had never properly accredited themselves or recorded their names in the diplomatic registry of the Ministry. <sup>Cox</sup> I suggested that the Government had recognized a certain de facto status, however, and he confirmed that the Mission itself had received the agrément.

<sup>Cox</sup> I briefed ~~Mr.~~ Marothi on our own position, namely, that a determination by the Chief of State that any diplomat was persona non grata was entirely a Congolese affair, and that no public statement that might be made should be interpreted as implying that ONUC's responsibility was engaged beyond its normal mandate to prevent acts of force being carried out against representatives of Governments. He acknowledged this principle. He knew nothing of the present status of the secretary, ~~Mr.~~ Mensah. I

<sup>however</sup> am continuing with my efforts to have him released.

WWC





INTER - OFFICE MEMORANDUM

19 November 1960

TO : Brig. Rikhye

FROM : W.W. Cox

SUBJECT : Ghana Embassy status

*asked to see him in connection  
with the Ghana Embassy episode.*

*Ndele*

~~At your request I called on the~~ Acting President of the College of Commissioners at noon today. Mr. Ndele wished to know the attitude of the United Nations toward the Ghana Mission. He repeated the explanation previously given me by the Foreign Ministry that diplomatic relations had not been broken with Ghana, and handed me a copy of the press communiqué formally denying the contrary implication which had arisen out of the press conference of Mr. Nussbaumer. He stated that Mr. Welbecq must leave the country but offered the assurance that the Government would use no act of violence to that end. His manner was correct and courteous throughout and indicated no suspicions as to our motives.

I explained our position very briefly, that we considered it within the authority of the Chief of State to pronounce upon the acceptability or not of any diplomat to <sup>whom</sup> ~~which~~ the Republic of the Congo was host, that we respectfully counselled against use of force against a diplomat in any circumstances, and indeed that our responsibilities in the domain of law and order would oblige us to protect the Ghanaian premises from incursion by force or from an act of violence against the person of the Ambassador. Other than that, I assured him that the presence in the Congo of any individual representing a Government was a matter between the two governments concerned, in which we could not concern ourselves. I welcomed his assurance that violence would not be used.

Mr. Ndele asked whether we could not advise Mr. Welbecq concerning his duty to depart. I repeated that this was a matter between the two governments, but acknowledged the possibility that if you had conversations with him you might possibly have occasion, on a purely unofficial basis, to pass along the observations of MR. Ndele.

*WTC*



1.) J. M. D. *mad*

2) Amb. DAYAL

re Kasa. vs. ANC:

This is very little,  
but it is all I find.  
Cables from RD to SG, do  
not mention a previous  
or recent meeting with  
the President.

*For  
N  
M/K*

*WTC*

*27 x 60*





INTER - OFFICE MEMORANDUM

26 October 1960

TO : Special Representative to the Secretary-General  
FROM : Legal Adviser  
SUBJECT : Attitude of President toward ANC

In the course of your meeting with him yesterday, President Kasa-Vubu denied having spoken to you recently of the need for neutralizing the ANC. The following items indicate his stated views on the subject of the ANC.

1. His radio Proclamation of 5 September 1960 revoking the Lumumba Government included this appeal:

"Je demande à l'Armée Nationale de ... déposer provisoirement leurs armes partout où ils sont, quelle que soit la région où ils se trouvent dans tout le Territoire de la République. Je leur promets qu'après une période d'entraînement et de formation adéquats, ils pourront se reconstituer en une force cohérente et fière, qui assurera seule le maintien de la paix et de l'ordre, pour le bénéfice de tout notre Peuple."

2. His letter of 5 September 1960 to the Special Representative:

"J'ai l'honneur de vous demander de bien vouloir prendre toutes vos dispositions, dès la réception de la présente lettre, pour assumer la responsabilité du maintien de la paix, de l'ordre et de la sécurité dans tout le Territoire de la République du Congo."

3. His cable dated 10 September 1960 to the Secretary-General:

"Je vous demande au nom du peuple congolais:

"3°) que les forces de l'ONU assurent la protection réelle des populations congolaises et notamment s'opposent à tout massacre."

4. His cable of 11 September 1960 to the Secretary-General:

"J'ai l'honneur de demander à l'Organisation des Nations Unies de bien vouloir:

../..



"Primo. Réorganiser et entraîner l'Armée nationale sous commandement Ministre Défense nationale et sous mon commandement suprême ainsi que polices provinciales en accord avec Gouvernement central et gouvernements provinciaux.

"Secundo. Plus particulièrement assurer formation accélérée cadres Armée et Polices."





INTER - OFFICE MEMORANDUM

25 October 1960

TO : Special Representative  
FROM : Legal Adviser  
SUBJECT : Legality of Collège des Commissaires

In the course of your visit today to the Chief of State the question of the legal standing of the Collège des Commissaires was raised and I understand that you asked under what article of the Fundamental Law the President had acted. The reply was that he had acted without specific reference to that Law but under his general authority as Chief of State, creating the Collège by ordonnance.

Under the Fundamental Law which created his office, the Chief of State has no "general" authority. The structure of the State is founded on the twin doctrines of the limitation of powers and the separation of powers. Article 21 states: "The Chief of State has no other powers than those which the present law formally attributes to him." Moreover, he has no authority to legislate in the absence of Parliament. Article 15 provides that the legislative power is exercised "collectively" by the Chief of State, the Chamber and the Senate, and that "with/ <sup>in</sup> the limits determined by the present law". By Article 27 he issues ordinances necessary for the execution of the laws, but he does not make the laws. Under Article 37 he may, in lieu of laws, issue an ordonnance-loi; but this is restricted to a specific subject-matter authorized by Parliament for the purpose, and subject to other safeguards.

The President's Decree-Law constituting the Collège is therefore contrary to the Fundamental Law and subject to the vice of being a decree-law authorizing government by decree-law.

Aut 51

WWT



## ROUTING SLIP

TO

Mr. W. W. Cox.

APPROVAL

SEE ME, PLEASE

YOUR SIGNATURE

NOTE AND FILE

NOTE AND RETURN

YOUR COMMENTS

YOUR INFORMATION

FOR ACTION

Please find  
 report from ag/Sgt.  
 Goldstein re: The  
 arrest of Camille Tumb  
 of the messenger  
 local staff

DATE

FROM

10/60

Lieut. J. Redman





INTER-OFFICE MEMORANDUM  
SECURITY UNIT

5 October 1960

TO: C.T.J. Redman, Chief Security Unit  
FROM: A.M. Goldstein, Security Investigator  
SUBJECT: Theft Case - Camille TUMBA. (Dinour)

On the 5th. October 1960, at 1830 hours in the office of the Canadian Provost Corps, (ONUC) located at 246 Avenue Major Ruwet, Leopoldville, Congo.

The suspect, Camille TUMBA an ONUC local recruit messenger attached to Air Operations Office, Headquarters Military Operations, room A-42 Royal building made the following statement with reference to Travelers checks reported stolen by Mr. David Dinour, an ONUC staff member and found in the possession of Mr. Camille TUMBA.

The statement was made verbally in French by Camille TUMBA and typed into a written statement in the presence of Sgt. E. Martin, Canadian Provost Corps, (ONUC) and Sgt. A.M. Goldstein, ONUC H.Q. Security Unit. The statement was signed voluntarily.

Prior consultation between the writer, Sgt. Martin, Mr. Cox and Mr. Berthoud (legal Advisers) with reference to Camille TUMBA produced an agreement that the suspect would be sent to a local jail pending trial for the theft of the checks after he made a statement for his actions.

Attached please find one (1) signed written statement made by Camille TUMBA and a Police Department receipt for the prisoner.





INTER - OFFICE MEMORANDUM

SECURITY UNIT

5 October 1960

TO: C.T.J. Redman, Chief Security Unit  
FROM: A.M. Goldstein, Security Investigator  
SUBJECT: Leo, Police Dept., Receipt for Camille TUMBA.

C O P Y

POLICE LEO  
lere DIVISION

LEO, 1e 5-10-60

Je soussigne NZOAMAZOA, Germain, commissaire de Police, Principal, declare par la present que le nomme TUMA, Camille, a ete laisse par la Police Militaire de l'ONU au Commissariat Central (lere Division) pour vol ou recel,

signe: NZOAMAZOA B. Germain  
Commissaire de Police Principal

TRANSLATION

I, the undersigned, NZOAMAZOA, Germain, principal Police Commissioner, hereby certify that the name TUMA, Camille, has been handed over to me by the ONU Military Police for theft or Receiving.

(sgd) NZOAMAZOA B. Germain  
Principal Police Commissioner





INTER-OFFICE MEMORANDUM

SECURITY UNIT

5 October

1960

TO: C.T.J. Redman, Chief Security Unit  
FROM: A.M. Goldstein, Security Investigator  
SUBJECT: Statement by Camille TUMBA

Statement by Mr. Camille TUMBA, residing at 164, Avenue Kikoma, Cité indigène, Leopoldville, S.D. 106102, employed as driver and attendant at ONUC, Hotel Royal, Leopoldville.

About a month and a half ago, at about 11 a.m., I left the Hotel Royal with my car in order to go into town. In front of the Sabena building, I saw several boys in the street, two of whom were quarrelling about some pieces of paper. I stopped and asked them to show me the papers. There were five of them, and I saw that they were English money. I gave the two boys 100 francs, and I kept the English money. The same day, I asked one of my friends what sort of money it was, and he told me it was English, and that it had to be changed at the bank. I went to the Banque du Congo Belge, where they told me that the notes had not been signed and that they couldn't give me Congolese money in exchange. About 3 or 4 days later, it was on a Saturday afternoon, I went to the Maurice Michaux & Co. General Foodstore, Rue du Port, to buy some cigarettes. I showed the money to a white lady, who told me that she would give me 60 francs. I am not quite sure whether it was for an English pound or an American dollar. For the five notes I had, she gave me 7,000 francs. She did not ask me to sign the cheques. There was also another African gentleman who told the lady that the money was good and that she could change it. I exchanged a few words with this gentleman and told him where I worked. I don't know what his nationality was. After changing the money, I left on my own. I am unable to recognise the boys from whom I bought the five English notes.

(Signed) TUMBA

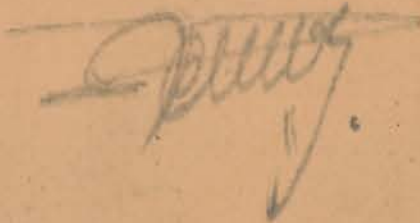


DÉCLARATION DE:

Mr TUMBA, Camille, res. 164 Ave KIGOMA, Cite Indigene, LEO, S.D.106102, employe comme chauffeur et planton a l'ONU, Hotel Royal, LEOPOLDVILLE.

Il y a a peu pres un mois et demi, vers 11 heures le matin, Je suis sorti avec ma voiture de l'hotel Royal pour aller en ville. En face de l'immeuble SABENA j'ai vu quelques gamins dans la rue. Deux de ces garcons etaient en train de se disputer a question de quelques bouts de papier. Je me suis arrete et j'ai demande a voir les papiers. Il y avait 5 bouts de papier, et j'ai vu que c'etait de l'argent anglais. J'ai donne Frs 100.00, a ces deux gosses, et j'ai garde l'argent anglais. Le meme jour, J'ai demande a un de mes amis ce qu c'etait comme argent. Il m'a dit que c'etait anglais et qu'il faut aller changer ca a la banque. Je suis alle a la Banque du Congo Belge. On m'a dit que les billets n'etaient pas signes et que l'on ne pouvait me donner de l'argent Congolais en echange. A peu pres 3 ou 4 jours plus tard, c'etait un Samedi apres-midi, je suis alle a l'alimentation Generale de Maurice Michaux et Cie, Rue du Port, pour acheter des cigarettes. J'ai montre l'argent a une dame blanche. Elle m'a dit qu'elle me donnait Frs 60.00. Je ne sais pas exactement si c'etait pour une livre anglaise ou dollar americain. Pour les 5 billets que j'avais, elle m'a donne Frs 7000.00. Elle ne m'a pas demande que je signe les cheques. Il y avait aussi un autre monsieur africain qui disait a la dame que l'argent etait bon et qu'elle pouvait le changer. J'ai parle quelques mots avec ce monsieur et je lui ai raconte ou je travaille. Je ne connais pas la nationalite de ce monsieur. Apres avoir change l'argent, je suis parti seul. Je ne sais pas reconnaitre les gamins dont j'ai achete les cinq billets de l'argent anglais.

LEOPOLDVILLE  
5 Octobre 1960





## A R R A N G E M E N T

The premises occupied by the United Nations are inviolable. They are subject to the exclusive authority of the United Nations. Such authority may also extend to the adjacent public way to the extent necessary to regulate access to the United Nations premises.

Local regulations concerning public order shall not be applied in the immediate vicinity of the United Nations premises in such manner as to prevent contact between the public and the United Nations as guaranteed by all governments.

As concerns the airport, the local authorities control all arrivals and departures of civil aircraft: Only the United Nations control the arrivals and departures of its own aircraft, materiel or personnel, whether military or civil: If, however, the local authorities should obtain evidence of any abuse of this right on the part of United Nations personnel, they should report to the United Nations commander at Elisabethville, who will carry out an immediate investigation and take the necessary measures.

The local authorities have full responsibility for the application of local law. The United Nations is an International Force with its own responsibilities in the domain of public order, peace and security. As a result the United Nations does not apply local procedures and prescriptions but acts in accordance with its own interpretation of the task assigned it by the Security Council:

The police and gendarmerie ~~may~~ have the authority under conditions determined by local law to have recourse to force: The United Nations is not entitled to use force except in self-defence, and then only after having exhausted all other peaceful means.

By reason of their differing regulations, the police and gendarmerie on the one hand and the United Nations on the other hand have a duty to co-ordinate their actions: The United Nations will establish a close liaison with the local authorities, as in the case of all provincial governments: In view of the impossibility of having two security systems functioning in competition, the two parties accept the principle of consultation: Whenever the actions of police or gendarmerie units might create a conflict of jurisdiction in the domain of public order, they will proceed to immediate consultations with the nearest units of the United Nations: Such a conflict will be ~~regulated~~ adjusted by a common understanding. In particular, if a situation arises in which it appears that the use of force could be required, the police or gendarmerie authorities ~~which~~ shall ~~enter into~~ first enter into immediate consultation with the nearest unit of the United Nations.

s/ Carl C'son von Horn  
General  
Supreme Commander of UN

Vu pour accord: The President  
s/ Tchombe

s/ Munongo  
Minister of the Interior

16 viii 60



## ARRANGEMENT

Les bâtiments et terrains occupés par les Nations Unies sont inviolables. Ils sont sous l'autorité exclusive des Nations Unies. Cette autorité peut aussi s'étendre aux voies publiques conduisant aux locaux occupés par les Nations Unies si cela est nécessaire pour régler l'accès auxdits locaux.

La réglementation locale relative à l'ordre public ne sera pas appliquée aux abords immédiats des Nations Unies d'une manière qui pourrait entraver les contacts, tels qu'ils ont été garantis par tous les gouvernements, entre le public et les Nations Unies.

En ce qui concerne l'aéroport, les autorités locales contrôlent tous les départs et arrivées des avions de transport civil. Seules les Nations Unies contrôlent les arrivées et départs de leurs avions transportant du personnel militaire ou civil, ou du matériel. Si toutefois les autorités locales venaient à avoir la preuve d'un abus de ce droit de la part du personnel des Nations Unies, elles devraient en aviser le commandant des Nations Unies à Elisabethville qui ouvrirait une enquête immédiate et prendrait les mesures qui s'imposeraient.

Les autorités locales ont l'entière responsabilité de l'application des règlements locaux. Les Nations Unies sont une Force Internationale et ont leur propre responsabilité dans le domaine de l'ordre public, de la paix et de la sécurité. De ce fait, les Nations Unies n'appliquent pas les méthodes et règlements locaux, mais agissent selon leur propre interprétation de la mission qui leur a été confiée par le Conseil de Sécurité.

La police et la gendarmerie, conformément à leur propre règlement, ont le droit d'avoir recours à la force. Les Nations Unies ne peuvent avoir recours à la force qu'en cas de légitime défense, <sup>et</sup> seulement après avoir épuisé toute autre méthode pacifique.

En raison de leurs différents règlements, la police et la gendarmerie d'une part et les Nations Unies d'autre part doivent coordonner leurs activités.

Les Nations Unies établissent une liaison étroite avec les autorités locales, comme c'est d'ailleurs le cas avec tous les gouvernements provinciaux. En raison de l'impossibilité d'avoir deux systèmes de sécurité qui agiraient en concurrence, les deux parties acceptent le principe des consultations. Lorsque les actes des forces de police ou de gendarmerie pourraient provoquer un conflit de compétence dans le domaine de l'ordre public, elles entameront immédiatement des consultations avec l'unité la plus proche de l'ONU. Ce conflit sera réglé par compréhension mutuelle. En particulier, si on en arrive à une situation dans laquelle il semble qu'il faudrait avoir recours à la force, les autorités de police ou de gendarmerie devront préalablement avoir des consultations avec l'Unité des Nations Unies la plus proche.



C/leg 000

31 December

2

Mr. H. Lanser, Chief Accommodation Officer  
Charles Taff, Special Legal Advisor  
Eviction of Mr. J. Desinor

*reviewed*  
I have ~~received~~ the papers dealing with the dispute with Mr. Desinor regarding his continued occupancy of the ONUC apartment at 171 B, Boulevard Albert, and wish to suggest the following for your consideration:

1. Mr. Desinor should not be requested to move from the premises for at least another three months, unless ONUC provides him with substitute accommodation, or the Congolese Government finds him other accommodation.
2. While Mr. Desinor remains in an ONUC accommodation, he should be requested to make every effort to find other living quarters. ONUC should also request the Congolese authorities to find him living quarters.
3. I base these suggestions on the consideration that in view of the assistance given by the Government to ONUC in the field of housing, it would be most inappropriate to evict one of their agents until he has suitable accommodation for himself and his family. The eviction of Mr. Desinor by ONUC might very well result in his inability to serve the Congolese Government in his new position. The predicament in which ONUC finds itself is unfortunate, but I think we should act in a manner that reflects our cooperative attitude to the Government, and a willingness to assist its agents and employees in the performance of their functions.

... 4. Your papers on the subject are returned herewith.

... Encl.

OT/ma

cc. Mr. Twigt