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ADDENDUM TO REPORT DATED 18 FEBRUARY 1961 FROM
THE SPECIAL REPRESENTATIVE OF THE SECRETARY GENERAL
ON RECENT DEVELOPMENTS IN LEOPOLDVILLE INVOLVING
ARBITRARY ARRESTS AND DEPORTATION OF A NUMBER
OF POLITICAL PERSONALITIES

1. In continuation of my report of 18 February 1961 on arbitrary arrests and deportations of a number of political personalities which have recently been carried out in Leopoldville by the Central authorities, I regret to report that definite information has now been received of the liquidation in Bakwanga of six of the deported persons. The following message has been received by me on the morning of February 20, in reply to my message of 16 February to Mr. Kalonji, from a Mr. André Kaboya, who describes himself as Minister for Justice in the so-called "Etat Minier" of South Kasai:

"Monsieur le Représentant, j'ai l'honneur de vous accuser réception de votre message du 16 février 1961. J'apprécie le souci de justice et d'humanité qui vous anime. Néanmoins, il ne nous appartient pas de juger de l'attitude des populations du Katanga quant à la fin de l'ex-Premier Ministre Lumumba. Notre seul propos est de nous occuper du sort des populations Baluba. Nous aimerions voir votre Organisation s'intéresser:

1. Aux dizaines de milliers de Baluba, femmes et enfants compris, massacrés à Bakwanga;
2. A nos concitoyens Baluba récemment arrêtés et martyrisés à Stanleyville et à Bukavu;
3. A la trentaine de Baluba enlevés dans un train dans la région de Luena par les rebelles Balubakat.

Messieurs Finant, Fataki, Yangara, Muzungu, Elengeza, Nzuzi et Kamanga, ont été effectivement transférés à Bakwanga par les autorités de Léopoldville. Un tribunal composé de tous les chefs coutumiers Baluba, Apendo, Tshickwe, Bakets, Bakuba, Bashille, réunis à Bakwanga, a régulièrement condamné à mort six détenus pour crimes contre le peuple Baluba. Le septième

prévenu, Monsieur Kamanga Grégoire, ex-Ministre de la Santé du Gouvernement Lumumba, a été condamné à une peine de cinq ans de prison. La sentence a été exécutée. Les criminels de guerre ne sont justifiables que de la peine de mort. Le tribunal des chefs coutumiers de notre peuple n'a fait que suivre l'exemple des Nations alliées qui, tant au Japon qu'en Allemagne, ont condamné et exécuté les chefs politiques et militaires, coupables de crimes de guerre.

Nous vous prions d'agréer, Monsieur le Représentant, l'assurance de notre haute considération. Le MINISTRE DE LA JUSTICE, André Kabeya".

2. The above admissions of the South Kasai authorities raise issues of extreme gravity involving the flagrant violation of human rights and of all canons of law and civilized behaviour. No information has been given regarding the law under which the supposed "trial" took place, the powers of the trial "court" or the evidence on the basis of which the sentences were passed. Several of the executed persons were prominent political personalities of Orientale province who were arrested several months ago and it has not been explained as to how they can be even remotely considered to have been responsible for the happenings mentioned in the above communication. We are taking immediate action, both in Leopoldville and in Bakwanga, to ascertain all the relevant facts and circumstances regarding these deplorable executions, as well as information regarding the other arrests that have taken place together with a full list of the deportees. A further report will follow.

REPORT DATED 18 FEBRUARY 1961 FROM
THE SPECIAL REPRESENTATIVE OF THE
SECRETARY GENERAL ON RECENT DEVELOPMENTS
IN LEOPOLDVILLE INVOLVING ARBITRARY
ARREST AND DEPORTATION OF A NUMBER OF
POLITICAL PERSONALITIES

1. I wish to report on a serious situation which has developed in Leopoldville involving the arbitrary arrest and deportation of a number of political personalities by the local authorities in violation of fundamental Human Rights thus creating an atmosphere of fear and apprehension which may give rise to serious consequences.

2. It will be recalled that in Leopoldville and elsewhere in the Congo there was a wave of arbitrary arrests of political personalities and others during the months of October and November 1960; many, but not all, of the arrested persons were subsequently released. During the last week or so, arrests of political personalities without cause assigned have been resumed in Leopoldville, and a particularly disturbing feature is that deportations are taking place to Bakwanga, capital of the so-called "Etat Minier" of South Kasai, an area which does not consider itself to be under the jurisdiction of the Leopoldville authorities. Although the arrests and deportations have been carried out in conditions of secrecy, they have come to the knowledge of ONUC as a result of numerous complaints and enquiries from anxious friends and relatives, and have been followed up by detailed investigations. This report deals with cases about which definite information has been gathered and it cannot be regarded as complete or exhaustive.

3. It will be recalled that on 7th October 1960, Mr. Finant, President of the Government of the Province of Orientale, was suddenly arrested by elements of the ANC, who, on 10th October, similarly arrested Major Fataki, Commanding Officer of the Stanleyville Gendarmerie. A few days later, they were brought to Leopoldville and confined in the Luzumu prison. It has now been established beyond reasonable doubt that on 9 February 1961 a group of prisoners was transferred by air from Leopoldville

to Bakwanga. The party which included Messrs. Finant, Elengesa, Nzuzi, Lumbala, Yangara and Major Fataki was accompanied by a Mr. Kazadi, then Commissioner for National Defence, who is himself a resident of South Kasai and an associate of Mr. Kalonji, the President of the so-called Etat Minier. On 16 February 1961, Mr. Kamenga, Minister of Health in the first Central Government of the Republic of the Congo who had been arrested on an unknown charge, was similarly deported to Bakwanga, presumably on orders of Mr. Kazadi.

4. In spite of repeated attempts, it has not been possible to ascertain from the Ministry of the Interior either the names of the arrested persons, the charges against them or the reasons for their deportation, but it is clear that they subscribe to a political persuasion other than that of the Leopoldville authorities. Mr. Nzuzi was President of the MNC (L) Youth Movement, Mr. Lumbala was Secretary of State in the first Central Congolese Government. It may be added that as far as we have been able to ascertain, the cases of the arrested persons have not been submitted to the office of the Procureur General which, according to Congolese Criminal Law and Procedure, is responsible for the preparation of criminal charges. It also appears that the ethnic affiliations of many of the deported persons are antagonistic to those of the population of South Kasai and of Mr. Kalonji himself, which constitutes an added danger to their safety.

5. There have been persistent rumours of the physical liquidation of many of the deported persons on their arrival in Bakwanga. Messrs. Finant and Fataki are rumoured to have been killed there on a date unknown, while Mr. Lumbala is reported to have been assassinated on 14th February together with some other persons.

6. While it has not been possible, because of the evident difficulties including the failure to obtain any information from the Leopoldville or Bakwanga authorities, to obtain verification of these rumours, the known deportations are a matter for grave concern, considering the fate of Messrs. Lumumba, Okito and Mpolo, who had been similarly held as political prisoners by the Leopoldville authorities and were killed in Katanga following their transfer there on January 17, 1961.

7. It will be recalled that the Conciliation Commission had made repeated requests for an interview with Mr. Finant who had, before his deportation on February 9, been incarcerated in the nearby prison of Luzumu. Despite promises by the Chief of State, the Commission was unable to interview Mr. Finant. Representatives of the International Committee of the Red Cross have also recently been attempting again to interview Mr. Finant and others, equally without success. It may be added that the Chief of the Sûreté, Mr. Nendaka, when contacted by ONUC representatives on 16th February, categorically denied the existence of any political prisoners in Leopoldville, although it has been conclusively established that not only were there numerous political prisoners on that date, but that political arrests were continuing and deportations had just taken place.

8. In view of the seriousness of the situation caused by these arbitrary acts, prejudicial to the efforts of the Conciliation Commission and to the restoration of normal life in the country, the Special Representative addressed a § letter on the subject to Mr. Ileo on 16th February drawing these facts to his attention and urgently requesting information regarding the arrests and the fate of the arrested persons, drawing attention to the responsibility of the Leopoldville authorities, and offering United Nations cooperation in the re-establishment of a sense of security among the population. Measures were further taken to set up a UN protected area in Leopoldville where threatened persons could seek temporary asylum. A letter was also addressed on the same date by the § Special Representative to Mr. Kalonji seeking information from him regarding the deported persons and asking that they be given humane treatment and accorded due process of law. No replies have as yet been received to these communications. In view of the grave anxiety which prevails in Leopoldville concerning the violations of human rights which have been taking place and the perils to which the deported persons are exposed, the Special Representative deems it his duty to call the attention of the Secretary-General to the matter.

§ Copy attached.

TEXT OF LETTER ADDRESSED
BY THE SPECIAL REPRESENTATIVE
OF THE SECRETARY-GENERAL TO
MR. JOSEPH ILEO ON 16 FEBRUARY 1961

Le quartier général de l'ONUC a appris non sans surprise que six détenus politiques, à savoir MM. Finant, Fataki, Yangara, Muzungu, Elangesa et Nzuzi, auraient été transférés de Léopoldville à Bakwanga. Cette nouvelle m'a causé une grande inquiétude, et je vous saurais gré de bien vouloir me faire savoir si elle doit être considérée comme avérée. Vous vous rendrez certainement compte que, comme dans le cas des détenus qui ont été massacrés récemment au Katanga, les autorités de Léopoldville, ayant procédé à l'arrestation des personnes en cause et ayant manifesté l'intention d'engager à leur égard des poursuites judiciaires, ont assumé de ce fait même l'entière responsabilité du traitement et du sort subi par ces détenus, et ne sauraient nullement se soustraire à cette responsabilité sous le prétexte que leur garde a été confiée à quelqu'un d'autre.

Je tiens donc à vous adresser un appel pressant et solennel pour que M. Finant et ses co-détenus soient l'objet d'un traitement humain et décent, que toute indignité ou brutalité leur soit épargnée, et que les règles générales du principe du respect de la légalité leur soient appliquées. Vous conviendrez sans nul doute qu'un tel appel est non seulement justifié, mais s'impose même, à la suite de la tragédie qui vient de choquer si profondément l'opinion mondiale et qui fait actuellement l'objet d'un débat au sein du Conseil de Sécurité.

Je tiens d'autre part à attirer votre attention sur l'atmosphère de crainte et d'insécurité qui règne actuellement à Léopoldville, telle qu'elle se reflète dans les demandes de protection ou d'asile que reçoit l'ONUC de la part de nombreuses personnes, et dans les renseignements qui nous parviennent concernant des arrestations arbitraires et la perpétration d'actes de violence. Vous savez comme moi que le monde entier a en ce moment les yeux tournés vers le Congo, et que la perpétuation

d'un régime d'arbitraire et de violence politique ne peut que sérieusement nuire, à la longue, aux intérêts même de la République du Congo et à son prestige au sein de la communauté internationale.

L'ONUC, quant à elle, a pour mandat d'aider au maintien de l'ordre public, et elle est prête à prendre les mesures qui, dans le cadre de ce mandat, s'imposent pour contribuer à la tranquillité de la population. Dans cet ordre d'idées, je rappellerai que vous aviez demandé il y a quelques semaines la collaboration de l'ONUC pour le maintien de l'ordre public pendant la Conférence de la Table Ronde, et je vous avais fait part de notre désir de collaborer pleinement avec vous à cet effet. Je tiens à renouveler aujourd'hui cette offre de collaboration, et mes services restent prêts à s'entretenir avec les autorités congolaises de toute mesure qui pourrait être prise en commun pour assurer le calme et la tranquillité à Léopoldville.

Il est de mon devoir de renseigner le Secrétaire général sur l'attitude des autorités congolaises en ce qui concerne tant le sort des détenus politiques que le maintien à Léopoldville d'une atmosphère calme et libre d'arbitraire et de violence. Je vous saurai en conséquence gré de bien vouloir me faire tenir votre réponse à la présente lettre dans le plus bref délai qui vous conviendra.

TEXT OF LETTER DATED 16 FEBRUARY 1961 FROM THE SPECIAL
REPRESENTATIVE OF THE SECRETARY-GENERAL TO MR. KALONJI

Selon des renseignements qui sont parvenus au quartier général de l'ONUC, six détenus politiques, à savoir MM. FINANT, FATAKI, YANGARA, MUZUNGU, ELENGESA et NZUZI, auraient été transférés récemment de Léopoldville à Bakwanga. Cette nouvelle, si elle doit être considérée comme avérée, est de nature à causer une profonde inquiétude, car elle indiquerait que ces détenus ont été soustraits à la ~~jurisdiction~~ devant laquelle les autorités compétentes avaient déclaré qu'elles avaient l'intention d'engager des poursuites à leur égard. Le transfert de ces détenus ne peut que prolonger arbitrairement une détention dont la durée jusqu'ici, sans qu'intervienne de procès et de jugement, viole les principes élémentaires de l'administration de la justice.

En tout état de cause, je considère comme mon devoir de vous adresser un appel pressant et solennel pour que M. FINANT et ses co-détenus soient l'objet d'un traitement humain et décent, que toute indignité ou brutalité leur soit épargnée, et que les règles générales du principe du respect de la légalité leur soient appliquées. Vous conviendrez sans nul doute qu'un tel appel est non seulement justifié, mais s'impose même, à la suite du massacre de détenus qui a eu lieu récemment au Katanga, et qui a choqué profondément l'opinion mondiale.

TEXT OF LETTER OF 20 FEBRUARY, 1961 FROM THE
SECRETARY-GENERAL TO MR. JOSEPH KASA-VUBU,
PRESIDENT OF THE REPUBLIC OF THE CONGO

We have been informed by Ambassador Dayal on 18 February, in a report which I am circulating to the Security Council, that during the last week there has been a series of secret arrests in Leopoldville and elsewhere of persons of prominence in the political life of the country, followed by the deportation of these persons to Bakwanga, an area which through certain spokesmen has proclaimed that it does not consider itself to be under the jurisdiction of the Leopoldville authorities. The individuals deported include Messrs. Finant, Etengensa, Nzuzi, Lumbala, Yangara, Major Fataki and possibly others. Those known to have been arrested are alleged to be political opponents of the Leopoldville authorities. Moreover, it has been rumoured -- although verification has not been possible -- that several of the deported persons have been killed after their arrival in Bakwanga.

In the light of the recent murder of Mr. Lumumba and his colleagues in Katanga, these arrests and deportations of political personalities cannot but give rise to the gravest concern. The situation is one of the utmost seriousness and it is imperative that you as the Chief of State take immediate action to bring about the return of these individuals and to permit them with the co-operation of United Nations forces to obtain due protection as to their persons and their rights. It is obvious that even if there should be criminal charges against some of the individuals -- I note, however, that to my knowledge no such charges have been presented, at least not in legally acceptable form -- their secret and arbitrary arrests and transfers to South Kasai constitute a flagrant violation of the minimum rights guaranteed to the accused under the commonly accepted principles of law and human rights.

I am compelled to address this appeal to you in the strongest possible terms, particularly in view of the fact that my

Special Representative has received no reply from Mr. Ileo and Mr. Katonji to his communications urgently requesting information regarding the fate of the arrested persons and offering United Nations co-operation in providing for their security. I need hardly emphasize that acts of lawless violence as those taken or feared in the case of those mentioned are acts violating basic principles for which the United Nations stands and shocking the conscience of the world. Those principles must be observed by any member nation. I also must emphasize that clearly such acts make it impossible to carry on the task of political conciliation and stabilization to which you are committed.

Please accept, Mr. President, the assurances of my highest consideration.

TEXTE D'UNE LETTRE EN DATE DU 20 FEVRIER 1961 ADRESSEE
PAR LE SECRETAIRE GENERAL A M. JOSEPH KASA-VUBU

L'Ambassadeur Dayal, dans un rapport en date du 18 février que je fais distribuer aux membres du Conseil de Sécurité, nous a informé qu'au cours de la semaine dernière un certain nombre de personnes jouant un rôle important dans la vie politique du pays ont été arrêtées en secret à Léopoldville et ailleurs, puis déportées à Bakwanga, région qui a déclaré par l'intermédiaire de certains porte-parole qu'elle ne se considère pas comme relevant des autorités de Léopoldville. Parmi les personnes déportées figurent MM. Finant, Elengensa, Nzuzi, Lumbala et Yangara, ainsi que le Major Fataki et peut-être d'autres encore. Les personnes dont on sait qu'elles ont été arrêtées seraient des adversaires politiques des autorités de Léopoldville. En outre, selon certaines rumeurs - dont il n'a pas été possible de vérifier l'exactitude - plusieurs des personnes déportées auraient été exécutées à leur arrivée à Bakwanga.

Etant donné le meurtre récent de M. Lumumba et de ses collègues au Katanga, ces arrestations et déportations de personnalités politiques ne peuvent qu'être un sujet de très grave inquiétude. La situation est de la plus grande gravité et il est indispensable qu'en votre qualité de Chef de l'Etat vous preniez immédiatement des mesures pour assurer le retour de ces personnes pour leur permettre, avec le concours des forces des Nations Unies, de bénéficier de la protection qui leur est due en ce qui concerne leur personne et leurs droits. Il est évident que même si certaines des personnes en question font l'objet d'inculpations pénales - je dois constater cependant qu'à ma connaissance aucune inculpation de ce genre n'a été formulée du moins sous une forme juridiquement acceptable - leur arrestation et leur transfert secrets et arbitraires dans le Kasai du Sud constituent une violation flagrante des droits minimums que les principes juridiques et les principes relatifs aux droits de l'homme généralement admis reconnaissent aux accusés.

Je me vois contraint de vous adresser cet appel dans les termes les plus énergiques étant donné surtout que M. Iléo et M. Kalonji n'ont pas répondu aux communications que leur a adressées mon Représentant spécial pour leur demander de lui fournir d'urgence des renseignements concernant le sort des personnes arrêtées et leur offrir le concours des Nations Unies pour assurer la sécurité de ces personnes. Je n'ai guère besoin de souligner que des actes de violence illégale comme ceux qui ont été commis ou dont on craint qu'ils aient été commis contre les personnes que j'ai mentionnées violent les principes fondamentaux que défendent les Nations Unies et que de tels actes choquent la conscience du monde. Tous les Etats Membres doivent respecter ces principes. Je dois aussi souligner sans ambiguïté que de tels actes empêchent de mener à bien l'oeuvre de conciliation et de stabilisation politiques que vous vous êtes engagé à poursuivre.

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ARBITRARY ARRESTS AND DEPORTATION OF A NUMBER
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1. In continuation of my report of 18 February 1961 on arbitrary arrests and deportations of a number of political personalities which have recently been carried out in Leopoldville by the Central authorities, I regret to report that definite information has now been received of the liquidation in Bakwanga of six of the deported persons. The following message has been received by me on the morning of February 20, in reply to my message of 16 February to Mr. Kalonji, from a Mr. André Kaboya, who describes himself as Minister for Justice in the so-called "Etat Minier" of South Kasai:

"Monsieur le Représentant, j'ai l'honneur de vous accuser réception de votre message du 16 février 1961. J'apprécie le souci de justice et d'humanité qui vous anime. Néanmoins, il ne nous appartient pas de juger de l'attitude des populations du Katanga quant à la fin de l'ex-Premier Ministre Lumumba. Notre seul propos est de nous occuper du sort des populations Baluba. Nous aimerions voir votre Organisation s'intéresser:

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prévenu, Monsieur Kamanga Grégoire, ex-Ministre de la Santé du Gouvernement Lumumba, a été condamné à une peine de cinq ans de prison. La sentence a été exécutée. Les criminels de guerre ne sont justifiables que de la peine de mort. Le tribunal des chefs coutumiers de notre peuple n'a fait que suivre l'exemple des Nations alliées qui, tant au Japon qu'en Allemagne, ont condamné et exécuté les chefs politiques et militaires, coupables de crimes de guerre.

Nous vous prions d'agréer, Monsieur le Représentant, l'assurance de notre haute considération. Le MINISTRE DE LA JUSTICE, André Kabeya".

2. The above admissions of the South Kasai authorities raise issues of extreme gravity involving the flagrant violation of human rights and of all canons of law and civilized behaviour. No information has been given regarding the law under which the supposed "trial" took place, the powers of the trial "court" or the evidence on the basis of which the sentences were passed. Several of the executed persons were prominent political personalities of Orientale province who were arrested several months ago and it has not been explained as to how they can be even remotely considered to have been responsible for the happenings mentioned in the above communication. We are taking immediate action, both in Leopoldville and in Bakwanga, to ascertain all the relevant facts and circumstances regarding these deplorable executions, as well as information regarding the other arrests that have taken place together with a full list of the deportees. A further report will follow.

REPORT ON RECENT DEVELOPMENTS IN NORTHERN KATANGA
FROM THE SPECIAL REPRESENTATIVE OF THE SECRETARY GENERAL
ON 13 FEBRUARY 1961

I wish to report a serious civil war situation which has already developed in the Katanga Province with evidence of similar impending developments in other parts of the country as well.

(2) The authorities in Katanga have for some months past been engaged in building up their forces; they have been purchasing planes capable of small aerial raids, obtaining arms and ammunition as well as military trucks and vehicles. As a result of internal and external recruiting campaigns, the Katanga authorities have now at their disposal a force estimated at some 5,000 men, which is well equipped and strengthened by non-Congolese officers and sub-officers now estimated to be some 400 strong.

(3) In recent weeks, and in particular on 11 February 1961, Mr. Tshombe has made statements in which he has referred to the United Nations as the greatest enemy. These threats have been accompanied by demands for the withdrawal of United Nations Moroccan troops stationed in Katanga Province.

(4) Although the United Nations established in the middle of October, in agreement with the Katanga authorities, a neutral zone in Northern Katanga with a view to its pacification, this agreement has been unilaterally abrogated by them on the grounds that ANC units owing allegiance to non-Katanga authorities had penetrated into Northern Katanga, north of the neutralized zone, although this was through areas held by the Katanga gendarmerie. The United Nations has not accepted this abrogation. It should be noted also that since October the United Nations has continued its effort to pacify Northern Katanga with the assistance of local leaders and has persistently tried to bring about political pacts between the Baluba leaders and the Katanga authorities. In spite of these continued negotiations, the Katanga authorities have now embarked on an offensive military action against the population of Northern Katanga. On the morning of 11 February, a force of 300 to 400 Katangese gendarmerie with automatic

weapons, in 60 trucks under command of Colonel Crèvecoeur, attacked the village of Mukulakulu, between Lubudi and Luena. The number of casualties is still unknown. The village has been completely burnt and the inhabitants have fled. After the operation, the gendarmerie continued towards Luena, burning all villages en route. Another column of some 300 gendarmerie are proceeding from Kabondo Dianda to the same area. There are reported to be at least 2,000 gendarmerie in the area of Lupudibukama and they have declared an area of ten kilometers on each side of the railway to be a military zone under gendarmerie occupation. The majority of the Baluba in the area have been forced to flee into the bush.

(5) The Katangese authorities issued a statement on the military operations on 11 February, which is annexed hereto.

"Facing the incapacity more and more flagrant of the UN forces to establish order and to stop the continuous incursions of Baluba rebels in the region of Mukula-Kulu and Luena, the Katanga Government decided to take over again the initiative and its freedom of action. The latest attempts made by UNO to obtain an agreement with the Baluba leaders to re-establish the railroad traffic having failed, the Government has given the order to the Katanga forces to start moving. The armed forces of Katanga consequently have started a vast operation of disconnecting main routes and railroad from Lubudi to Luena. In this last locality, as we know, our troops are encircled and subjected to fire by arms having become most accurate since several months. A task group of Katanga forces composed of elements of 4 battalions comprising troops of mobile infantry, mobile groups with armoured jeeps, a detachment of combat specialists of communications troops, logistic units and transport and a rear base have been positioned in Lubudi. A great concentrated action has started on February 10th in the evening by the occupation of the bridge situated on the north Kalulu. The Katanga forces have then attacked the rebel concentration in the morning of 11th February 1961, liberating the route of Mukula-Kulu and dispersing the enemy elements which took flight in disorder leaving several wounded behind. Numerous arms and ammunition have been recovered, notably grenades. Finding only but a weak resistance the Katanga troops took over Mukula-Kulu by the end of morning. Now, the occupation and the cleaning up of the surroundings of Mukula-Kulu is continuing with success. The operation has been led with a maximum of efficiency and speed. This conveys the exemplary discipline shown by all the Katanga troops during the action. The morale of all the participants is excellent and has contributed greatly to the success. The Katanga forces have received extremely efficient aerial assistance by helicopters and light observation planes. In spite of unfavourable wheather their efficiency has been remarkably revealed

for the aerial observation as for the evacuation of the wounded. The rear base assured in a perfect way the supply of troops of food and ammunitions. No doubt that final success will crown the efforts of the valiant soldiers of the Katanga forces."

~~CONFIDENTIAL~~
C/ORG 130/1/6 (Provisional text)

REPORT ON RECENT DEVELOPMENTS IN NORTHERN KATANGA
FROM THE SPECIAL REPRESENTATIVE OF THE SECRETARY GENERAL
ON 13 FEBRUARY 1961

2

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weapons, in 60 trucks under command of Colonel Crèvecoeur, attacked the village of Mukulakulu, between Lubudi and Luena. The number of casualties is still unknown. The village has been completely burnt and the inhabitants have fled. After the operation, the gendarmerie continued towards Luena, burning all villages en route. Another column of some 300 gendarmerie are proceeding from Kabondo Dianda to the same area. There are reported to be at least 2,000 gendarmerie in the area of Lupudibukama and they have declared an area of ten kilometers on each side of the railway to be a military zone under gendarmerie occupation. The majority of the Baluba in the area have been forced to flee into the bush.

(5) The Katangese authorities issued a statement on the military operations on 11 February, which is annexed hereto.

"Facing the incapacity more and more flagrant of the UN forces to establish order and to stop the continuous incursions of Baluba rebels in the region of Mukula-Kulu and Luena, the Katanga Government decided to take over again the initiative and its freedom of action. The latest attempts made by UNO to obtain an agreement with the Baluba leaders to re-establish the railroad traffic having failed, the Government has given the order to the Katanga forces to start moving. The armed forces of Katanga consequently have started a vast operation of disconnecting main routes and railroad from Lubudi to Luena. In this last locality, as we know, our troops are encircled and subjected to fire by arms having become most accurate since several months. A task group of Katanga forces composed of elements of 4 battalions comprising troops of mobile infantry, mobile groups with armoured jeeps, a detachment of combat specialists of communications troops, logistic units and transport and a rear base have been positioned in Lubudi. A great concentrated action has started on February 10th in the evening by the occupation of the bridge situated on the north Kalulu. The Katanga forces have then attacked the rebel concentration in the morning of 11th February 1961, liberating the route of Mukula-Kulu and dispersing the enemy elements which took flight in disorder leaving several wounded behind. Numerous arms and ammunition have been recovered, notably grenades. Finding only but a weak resistance the Katanga troops took over Mukula-Kulu by the end of morning. Now, the occupation and the cleaning up of the surroundings of Mukula-Kulu is continuing with success. The operation has been led with a maximum of efficiency and speed. This conveys the exemplary discipline shown by all the Katanga troops during the action. The morale of all the participants is excellent and has contributed greatly to the success. The Katanga forces have received extremely efficient aerial assistance by helicopters and light observation planes. In spite of unfavourable wheather their efficiency has been remarkably revealed

for the aerial observation as for the evacuation of the wounded. The rear base assured in a perfect way the supply of troops of food and ammunitions. No doubt that final success will crown the efforts of the valiant soldiers of the Katanga forces."

REPORT ON UN PROTECTED AREAS

1. I wish to report on the deteriorating situation of civil liberties in the Congo, and on the efforts made by ONUC to protect individuals from arbitrary arrest and violation of fundamental human rights.
2. In the Orientale Province, the harsh treatment meted out to Europeans by the Stanleyville authorities led ONUC to set up a protected area at the end of November. After Mr. Lumumba's arrest, over 100 persons found asylum in that area. The deportation of Mr. Lumumba to Katanga on 17 January 1961 prompted the Secretary-General and the Special Representative to warn the Stanleyville authorities against further acts of violence (see Annexes I and II). The fluctuating number of refugees in Stanleyville went up to 165 after the announcement of the death of the Elisabethville prisoners; it has now decreased to a small handful. In Bunia all Europeans, numbering 18, sought and were granted UN protection on 16 February 1961.
3. In Kivu protected areas were set up in Bukavu, Goma and Kindu after the arrest of the Provincial President, Mr. Miruhu, and several ministers by ANC from Stanleyville on 25 December. In Bukavu, numerous Europeans and Congolese were granted protection in the UN camp and in its immediate vicinity. In Goma and Kindu, the refugees were accommodated in the UN military quarters. After the failure of the attempted invasion of Kivu on 1 January 1961 from Ruanda Urundi, an increased flow of European and Congolese refugees came through the UN protected areas in Bukavu and Goma, en route for asylum elsewhere. Up to the deportation to Katanga of Mr. Lumumba, some 600 persons passed through these UN protected areas, a flow which later subsided to a rough average of 30 persons a day. In Kindu, 23 Europeans are under joint UN/ANC guards at the Hotel du Relais and a further 4 are in the UN military compound.
4. In Katanga, large numbers of Baluba have been protected by the UN forces in various parts of the Province from time to time, particularly at Luena. In addition individuals have on various occasions been granted protection by the UN military forces in Elisabethville and Jadotville, as well as in places in the neutral zone, including Europeans and Gendarmerie.

5. In Equateur, a former Minister of Justice of the Provincial Government has been under UN protection in Coquilhatville since 25 February.

6. In Luluabourg, the situation was quiet until the penetration to the outskirts of town of ANC troops from Stanleyville. The reaction to this incursion deepened and activated the political and tribal differences existing both within the local ANC and among the population at large. Local ANC officers fled or were arrested and the officerless garrison engaged in rampaging, which resulted in over 40 deaths and some 1200 persons seeking and obtaining protection from ONUC. The latter number has decreased to 200, following UN efforts at pacification and the return to Luluabourg of the Provincial President.

7. In Leopoldville, since September 1960, there have been persistent requests for UN protection, which have been granted to the Chief of State, Mr. Lumumba, the Chief of Staff of the ANC, Colonel (now General) Mobutu, the Provincial President, the President of the Chamber of Representatives, the President of the Senate, etc., by the provision of UN guards at their residences, and to others, by instituting mobile UN patrols. The supply of UN guards has been discontinued since early December 1960 but the pressure for UN protection has continued to grow. ONUC refrained from setting up any protected area until mid-February. By then, however, the pressure of requests from people fearing arrest and deportation became so great, following the news of the Bakwanga executions, that facilities were improvised to shelter bona-fide political refugees under military protection. The first persons to avail themselves of these facilities included Mr. Joseph Kasongo, President of the Chamber of Representatives and his family. Access to the camp is subject to strict screening by UN military and civilian personnel with long-standing police experience. Notwithstanding this screening, and the fact that standards of accommodation are maintained at the bare minimum in the camp, the number of refugees had reached 280 by the end of February. This number includes eight members of the Chamber of Representatives, three senators, several high officials of the former Lumumba government, two provincial ministers, and several senior prominent officials, many with their families. Mr. Jean Bolikango, the Vice Prime Minister of the Ileo Government, recently visited President Joseph Kasongo to ask him to return to his residence, giving him assurances that his security would be guaranteed by the Government;

recently visited President Joseph Kasongo to ask him to return to his residence, giving him assurances that his security would be guaranteed by the Government; Mr. Kasongo, however, decided to remain under UN protection.

8. Protection to civilians in danger of arbitrary arrest or ill-treatment is given on the basis of ONUC's general responsibilities towards the maintenance of law and order, and because of the inability of the UN forces, in view of their limited strength and wide responsibilities, to cope with all lawless elements throughout the country. It will be noted that the assumption of these responsibilities has been fully supported by the three-power draft resolution condemning unlawful arrests and calling on the UN to prevent the occurrence of such outrages (S/4733/Rev.1), and by the consensus of opinion expressed in the Security Council in the course of the debate thereon.

9. In giving protection or asylum, the following principles are being observed:

a) Asylum is granted only to persons who can show that they are in real danger of assassination, arbitrary arrest, ill-treatment or other persecution on account of their race, tribal origin, nationality, religion, political convictions or associations;

b) UN protection is not granted to avoid lawful prosecution on charges of common law crimes, but the benefit of the doubt is given to applicants for asylum where the charges appear to be politically motivated, or where there appears to be jeopardy to life;

c) Once granted UN asylum, the protected persons are prohibited from conducting any outside political activities, or from sending out communications other than of a strictly humanitarian nature, e.g. information to close relatives as to their personal safety.

d) Protected persons are free to leave UN asylum at any time at their own discretion, but once they leave the protected area, UN cannot assume any further responsibility for their safety.

10. ONUC is also confronted with a mounting number of requests from persons who are without means of livelihood in Leopoldville, and are prevented by the Sûreté from rejoining their families in Stanleyville or elsewhere, where, on the other hand, numerous Congolese as well as Europeans are not allowed to leave.

The Special Representative has addressed formal communications to the Leopoldville, Stanleyville and Kivu authorities on the subject. (See Annexes III and IV). ONUC is attempting to convince them that, as a first priority on strictly humanitarian grounds, they should allow and help wives and children to rejoin their husbands and fathers.

Annex I

Message addressed by the Secretary-General
to the Stanleyville authorities on 24 January 1961

Au cours des dernières semaines j'ai reçu plusieurs rapports confirmés émanant des Représentants des Nations Unies dans la Province Orientale indiquant qu'un très grand nombre de violations des droits de l'homme les plus élémentaires avaient eu lieu à l'encontre des éléments tant congolais que non-congolais de la population. Mon Représentant spécial par sa note en date du 19 janvier 1961, que j'approuve entièrement, a déjà attiré votre attention sur les nombreux actes arbitraires commis par les membres du régime provincial.

Je n'ignore pas que vous avez informé mon Représentant à Stanleyville de votre intention de lancer des appels à la population proscrivant tout acte de violence. Je fais confiance très sincèrement à ces appels pour éliminer les graves injustices qui ont été commises et par là même pour faire disparaître les occasions de frictions et la tension dont le résultat ne peut qu'être contraire au bien-être de l'ensemble des habitants de la Province.

Je voudrais en particulier vous demander de prendre d'urgence les mesures les plus vigoureuses pour que les unités de l'ANC opérant dans la région de Stanleyville assument cette fonction même qu'elles devraient en fait assumer, puisqu'elle leur est dévolue par essence; je veux parler du maintien de la sécurité intérieure. Ceci revient à dire qu'elles devraient s'efforcer d'assurer la protection des personnes innocentes contre tous mauvais traitements, au lieu d'être un agent fomentateur de troubles et d'agitation.

Je voudrais, en outre, vous rappeler qu'il est évidemment inacceptable que les unités de l'ANC puissent se permettre de s'ingérer directement dans les fonctions de protection de la Force des Nations Unies, comme c'est arrivé en de nombreuses occasions, et plus particulièrement le 21 janvier 1961.

J'espère vivement que vous voudrez bien user de toute l'influence dont vous pouvez disposer pour parvenir à ce que l'ordre local soit entièrement respecté dans la région qui se trouve à présent sous votre contrôle avec les graves responsabilités pour vous, tant nationales qu'internationales, qui en découlent.

Annex II

Message addressed by the Secretary-General
to the Stanleyville authorities on 20 January 1961

1. Je dois attirer votre attention de la manière la plus pressante sur les renseignements alarmants que j'ai reçus selon lesquels certains Européens ont, dans certaines parties de la Province du Kivu, été maltraités, battus et victimes d'arrestations arbitraires de la part de l'ANC, quand est parvenue la nouvelle tragique de la mort de M. Lumumba et de ses deux collègues. De tels actes de violence contre des personnes innocentes et sans défense sont une offense aux sentiments les plus élémentaires de justice et de décence, et l'opinion publique mondiale jugera les autorités qui doivent sous leur responsabilité assurer aux citoyens de toute nationalité se trouvant sur leurs territoires respectifs le bien-être et un traitement convenable.

2. Tout en notant avec satisfaction que les autorités de la Province Orientale, conscientes de leurs devoirs, ont réussi à prévenir jusqu'à ce jour toute explosion de violence, je dois souligner qu'il est nécessaire de continuer à faire preuve de vigilance à cet égard et qu'il est absolument indispensable d'accorder pleine et entière protection aux gens de toute nationalité quelle que soit leur conviction politique, et en particulier aux étrangers qui doivent être traités en hôtes dans le pays, à moins qu'ils ne désirent partir auquel cas ils doivent être autorisés à le faire sans délai et sans difficulté.

3. Il ressortit également à la responsabilité des autorités de faire en sorte qu'il ne soit pas procédé à des arrestations arbitraires et que les personnes qui sont arrêtées ou détenues bénéficient des principes du respect de la légalité et soient traitées avec humanité et justice; elles ne doivent pour quelque motif que ce soit être appelées à souffrir de mesures de représailles pour des événements dont elles ne sont en aucune manière responsables. En vous adressant cet appel, je tiens à vous rappeler que les yeux du monde entier sont à l'heure actuelle fixés sur le Congo et sur les autorités responsables de ce pays dont les actions seront jugées selon les règles de conduite normales et appliquées dans tout le monde civilisé.

Annex III

Message addressed by the Special Representative
to the Stanleyville authorities on 19 January 1961

En ma qualité de Représentant spécial au Congo du Secrétaire général de l'Organisation des Nations Unies, je crois de mon devoir d'attirer de la manière la plus sérieuse votre attention sur la situation qui résulte des entraves apportées par les autorités de la Province Orientale au libre mouvement des ressortissants étrangers qui désirent se déplacer à l'intérieur du Congo ou quitter le territoire de la République. Depuis de nombreuses semaines, ces autorités ont systématiquement refusé de délivrer des permis de sortie aux ressortissants étrangers qui en faisaient la demande, instituant ainsi à leur égard un véritable régime de résidence forcée.

Une telle mesure, appliquée d'une manière générale et sans discrimination à l'ensemble de la population étrangère résidant dans la Province, sans que des griefs soient retenus individuellement à l'encontre des personnes qui en sont les victimes, ne peut être qualifiée que d'acte de gouvernement arbitraire, contraire aux principes généraux du droit, à la législation en vigueur et à la pratique généralement suivie par les nations civilisées, telle qu'elle est reflétée dans la Déclaration universelle des droits de l'homme. A cet égard, je me permets d'attirer tout spécialement votre attention sur l'Article 13 de ladite Déclaration, qui dispose que "Toute personne a le droit de circuler librement et de choisir sa résidence à l'intérieur d'un Etat", et que "Toute personne a le droit de quitter tout pays, y compris le sien, et de revenir dans son pays".

Je me vois donc obligé d'élever une protestation formelle auprès des autorités qui, dans la Province Orientale, ont ordonné les mesures restrictives du mouvement des ressortissants étrangers qui sont actuellement en vigueur, et de leur adresser un appel solennel pour que ces mesures soient rapportées immédiatement. Leur maintien ne peut que nuire au bon renom et au prestige de ces autorités aux yeux de l'opinion mondiale, et je veux croire qu'elles comprendront qu'il est dans leur intérêt bien compris d'y mettre fin sans délai.

Il est également de mon devoir de rappeler qu'aux termes d'autres principes de la Déclaration universelle des droits de l'homme dont l'application en toute circonstance représente un devoir imprescriptible pour les autorités constituées dans chaque pays, "Tout individu a droit à la vie, à la liberté et à la sûreté de sa personne" (Article 3), "Nul ne sera soumis à la torture, ni à des peines ou traitements cruels, inhumains ou dégradants" (Article 5), et "Nul ne peut être arbitrairement arrêté, détenu ou exilé" (Article 9). Ces principes doivent être appliqués sans distinction "de race, de couleur, de sexe, de langue, de religion, d'opinion politique ou de toute autre opinion, d'origine nationale ou sociale, de fortune, de naissance ou de toute autre situation" (Article 2). L'arrestation arbitraire et l'infliction de violences physiques et de traitements dégradants, dirigés contre toute personne ou contre un groupe quelconque de la population par des éléments civils ou militaires, représentent des actes que la conscience mondiale ne peut que vivement réprouver, et les autorités ne peuvent se soustraire au devoir de prendre toutes les mesures nécessaires pour les empêcher.

Je vous saurai gré de l'attention que vous voudrez bien porter à ma démarche, et j'ose exprimer le ferme espoir que mon appel sera entendu.

Annex IV

Message addressed by the Special Representative
to the Leopoldville authorities on 22 February 1961

Depuis plusieurs jours nous recevons des visites de personnes originaires de Stanleyville sollicitant l'aide de l'ONU pour regagner cette ville avec leurs familles. Ces personnes, qui comprennent notamment des parlementaires de la Province Orientale, font état de ce que nous avons fait pour Madame Lumumba et son entourage en demandant à bénéficier d'une pareille assistance.

A chacun nous expliquons laborieusement que la mise d'un avion de l'ONU à la disposition de Madame Lumumba a été une mesure spéciale motivée par la compassion que nous a inspiré sa détresse, comme le Représentant spécial a eu l'honneur d'en informer le Chef de l'Etat par lettre en date du 18 février 1961. Nous soulignons qu'il appartient au premier chef aux autorités congolaises d'assurer la liberté de mouvement des biens et des personnes dans le territoire de la République. Nous sommes d'autant plus soucieux de ménager notre aide que le Chef de l'Etat s'est amèrement plaint de celle que nous avons donnée à Madame Lumumba en disant que notre compassion agissante l'avait empêché de manifester la sienne.

Cependant, nos interlocuteurs nous représentent qu'ils viennent à nous après avoir épuisé tout autre recours et ils font état de demandes répétées par eux adressées aux autorités sans résultat. Du dossier qui a été constitué, je voudrais seulement citer, à titre d'exemple, le cas de personnes dont nous ne pouvons pas a priori mettre en doute la sincérité et l'honorabilité et qui nous ont communiqué copie de lettres adressées aux mois de novembre et décembre au Chef de la Sûreté et au Chef de l'Etat, lettres qui à ce jour encore demeurent sans réponse; certaines de ces personnes nous ont fait des rapports circonstanciés sur la manière dont leurs épouses ont été traitées alors qu'elles voulaient prendre le bateau avec leurs enfants. D'après ces rapports, les familles auraient été brutalement chassées du bateau et molestées par des soldats et agents de la Sûreté qui auraient saisi billets, pièces d'identité et certificats de scolarité des enfants. Les mères seraient ensuite allées demander

la restitution de ces pièces au Chef de la Sûreté et se seraient vues alors opposer un refus catégorique par M. Nendaka en personne, lequel a solennellement assuré l'un de mes adjoints que les autorités de Léopoldville ne mettaient et n'avaient jamais mis aucun obstacle au déplacement des nationaux d'un point quelconque du territoire à un autre.

Je suis ainsi amené à vous demander quelles sont les mesures que vous comptez prendre non seulement pour que lumière et justice soient faites à propos des agissements passés des fonctionnaires du Ministère de l'Intérieur mais aussi pour permettre aux familles de donner suite à leurs projets de voyage. Nous serions heureux de pouvoir renvoyer les personnes qui viennent nous demander du transport aux guichets des compagnies de navigation aérienne ou fluviale, avec la certitude que les requérants ne se verront pas opposer de refus ad personam - sauf évidemment s'ils tombent sous le coup d'un mandat d'arrêt en bonne et due forme - et ne risqueront pas d'être maltraités du fait de leur requête. C'est le défaut de cette certitude qui nous oblige à présent à nous intéresser aux demandes qui nous sont faites, préoccupés que nous sommes de tout ce qui touche au respect des droits de l'homme et des libertés fondamentales.

Statement by the Secretary-
General to the Security Council
on 13 February 1961

After the circulation of the report regarding Mr. Lumumba, document S/4688, the Secretariat has this morning received information from Elisabethville of a most serious and tragic nature, the substance of which is already well known to the members. In view of this new information, I would propose that the aforementioned report, documents S/4688, be added to the agenda.

Limiting myself to one immediate observation regarding the steps now called for from the United Nations, I would express the view that the matter is of such a character and significance as to render necessary a full and impartial investigation. The representatives of the United Nations, in the first place, General Iyassu, have still not been received by Mr. Tshombe. I have instructed the General to stay until either he is received and can proceed with his task, with the necessary assistance from the authorities, or until he receives new instructions in the light of the position of this council. I feel that an international investigation in an appropriate form is indicated.

The importance of recent tragic events is such that I shall for a moment leave aside the so-called offensive of the Katanga gendarmerie against civilian population of the Baluba tribes, covered in another report this morning. However, I wish to reserve my right to revert later in an appropriate context to this question, which merits the most urgent attention of the Council, as well as to the question of measures that may have to be taken by the United Nations in order to counter to the limits of its possibilities the various serious developments which may be released by yesterday's events.

REPORT TO THE SECRETARY-GENERAL FROM HIS SPECIAL
REPRESENTATIVE IN THE CONGO REGARDING Mr. PATRICE LUMUMBA .

1. The circumstances of the departure from Leopoldville on 27 November 1960, and of the subsequent arrest and transfer to Thysville, of Mr. Patrice Lumumba, have been described in a report which has been transmitted to the members of the Security Council on 5 December 1960 (document 4571). Annexes to this report contained the text of the communications sent on this subject by the Secretary-General to Mr. Kasa-Vubu, President of the Republic of the Congo (Leopoldville), as well as Mr. Kasa-Vubu's reply.
2. It will be recalled that as an immediate consequence of the arrest of Mr. Lumumba, the law and order situation seriously deteriorated in the Orientale Province, where the European, and in particular the Belgian, population was subjected to arbitrary interference and harassment. This movement culminated in an ultimatum, issued on 8 December by the District Commissioner of Stanleyville, to the effect that if Mr. Lumumba were not liberated within forty-eight hours, all Belgians in Orientale Province would be arrested, and some of them executed. It was only through the persistent and determined efforts of the United Nations civil and military representatives in Stanleyville that the ultimatum was withdrawn, and that the situation of the European population throughout the Province returned to relative normality.
3. It is known that on 27 December 1960, a representative of the International Committee of the Red Cross visited Mr. Lumumba and nine other detainees in Thysville. It was subsequently learned that this representative had found the state of health and the conditions of detention of all prisoners visited to be satisfactory, their only complaint having been about the fact that they were being detained without due process plan and without recourse to legal advice or redress.

4. On the morning of 13 January 1961, United Nations troops stationed in Thysville reported that the Armée nationale congolaise (ANC) garrison in that city had mutinied. Contradictory rumours spread during the day, first to the effect that Mr. Lumumba had been killed by his jailors, and later that he had been liberated by the mutinous soldiers. President Kasa-Vubu, the Chief of Staff of the ANC Colonel (now Major General) Mobutu, and the President of the College of Commissioners, Mr. Bomboko, all went to Thysville, on the morning of 13 January. Late that day, it was officially announced in Leopoldville that the mutiny had been caused by bad food and inadequate pay, and was not related in any way with the presence in Thysville of Mr. Lumumba.

. News that Mr. Lumumba and two of his co-detainees, Mr. Mpolo, Minister for Youth and Sports in the Lumumba Government, and Mr. Okito, Vice-President of the Senate, had been transferred by air from Thysville to Elisabethville, spread on 17 January. A Swedish warrant officer and five soldiers of the United Nations Force on duty at Elisabethville airport reported the arrival that day, under extraordinary precautions, of an Air Congo DC-4 aircraft transporting three prisoners whose identity could not be immediately established. Upon arrival, the aircraft taxied directly to the hangar of the Katangese military air force, which is not included in the area patrolled by the United Nations troops stationed at the airport. The aircraft was surrounded by an armoured vehicle, trucks and jeeps. Approximately 130 Katangese gendarmes were present. A number of them formed a cordon around the aircraft, while others formed a gauntlet from the plane to the jeep. The armoured car directed its canon towards the door of the plane. The Swedish warrant officer and soldiers, the former through binoculars, observed from a distance varying from 50 to 100 meters that the first to leave the aircraft was a smartly-dressed African. He was followed by three other Africans, blindfolded and with their hands tied behind their back. The first of the prisoners to alight had a small beard. As they came down the stairs, some of the gendarmes ran to them, pushed them, kicked them and brutally struck them with rifle butts. One of the prisoners was struck to the ground. After about one minute, the three prisoners were placed in a jeep which drove off, followed by a convoy of vehicles with gendarmes, along the runway towards the far end of the airfield, whence the

convoy proceeded through a cut in the fence. Those are the circumstances under which Mr. Lumumba - who, as it was later ascertained, was one of the prisoners - was seen for the last time by any United Nations personnel.

6. The transfer of Mr. Lumumba from Thysville to Katanga was officially confirmed by Mr. Tshombe to the ONUC representative in Elisabethville on 18 January. Mr. Tshombe indicated that this transfer had been requested by President Kasa-Vubu since November 1960 and had been repeatedly refused by the Katangese authorities. The matter had been taken up again recently by Mr. Delvaux, a member of both the Lumumba and the first Ileo Government because of the mutiny which had taken place in Thysville. The Katangese authorities had not definitely agreed, however, when the prisoners suddenly arrived unannounced at Elisabethville airport by an Air Congo aircraft, President Tshombe added that he had personally seen the prisoners and that they had arrived in a sad state, with swollen faces and tied hands. The ONUC representative immediately called Mr. Tshombe's attention to the serious consequences if any maltreatment of the prisoners took place, and he expressed the view that the Katangese authorities would be well advised to return them, and meanwhile to have them visited by a neutral organization such as the International Committee of the Red Cross. It may be noted that it is hardly possible to reconcile Mr. Tshombe's first version of an unannounced arrival of Mr. Lumumba and his co-detainees with the precautionary measures which had been taken at Elisabethville airport prior to the arrival of the aircraft carrying them.

7. The Ministry of Information of Katanga on 19 January issued the following communiqué: "At the request of President Kasa-Vubu and with the agreement of the Katangan Government, the traitor Patrice Lumumba has been transferred to Katanga, as the prison of Thysville no longer offers sufficient guarantees."

8. On 20 January, the Secretary-General addressed a letter to President Kasa-Vubu, in which he recalled his previous correspondence with him on the subject of Mr. Lumumba (see paragraph 1 above), and made a pressing request for the return of Mr. Lumumba from Katanga and for proper respect in his regard of guarantees of due

process of law. A message of a similar nature was addressed by the Secretary-General to Mr. Tshombe the same day. The Secretary-General on 21 January addressed a further letter to President Kasa-Vubu, in which he conveyed the grave concern of the Advisory Committee on the Congo at the treatment meted out to Mr. Lumumba, and renewed his insistent appeal that the prisoners be treated in a humane manner and in conformity with generally accepted principles. The texts of those three communications have been submitted to the Security Council in S/4637, A, B, and C. Up to this date, President Kasa-Vubu has not sent any reply to the letters addressed to him by the Secretary-General on 20 and 21 January with regard to Mr. Lumumba. Mr. Tshombe replied to the Secretary-General's message in a communication of 1 February, in which he expressed his great surprise at the interest taken by the United Nations in the fate of Mr. Lumumba, and declared that he considered it necessary completely to insulate Mr. Lumumba for the time being from any contact with the outside world. Mr. Tshombe's message has been transmitted to the Security Council in document S/4637, Add. 1.

9. At a press conference given in Leopoldville on 20 January, Mr. Bomboko declared that the application of due process to Mr. Lumumba had been delayed because the Congolese authorities were still awaiting the judges which the United Nations had promised to send them. In reply to questions about this statement, a spokesman for the Secretary-General the following day in New York explained that the United Nations had never undertaken to recruit judges for a court intended to try a case put before it against Mr. Lumumba. Mr. Bomboko's statement could only refer to the completely unrelated general question of United Nations technical assistance for the recruitment of personnel for the judiciary in the Congo.

10. As had been the case at the time of Mr. Lumumba's arrest in December 1960 (see paragraph 2 above), his transfer to Katanga immediately gave rise to very serious tension in Orientale Province, as well as, this time, also in Kivu. Europeans, and in particular Belgians, were the object of arbitrary interference and arrests, sometimes accompanied by acts of brutality, and for a time all Europeans were barred from leaving either Province. Strong protests were sent in this respect to the authorities concerned by both the Secretary-General and the Special Representative, and the United Nations once more made ceaseless and strenuous efforts in order to impress upon the local authorities the necessity for restraint and moderation.

11. The United Nations Conciliation Commission had sought since its arrival in the Congo, early in January, to meet with the main political leaders of the Republic, including a number of detainees. However, it has not so far been enabled to see Mr. Lumumba, either in Thysville or in Elisabethville where the Commission went after Mr. Lumumba's transfer to Katanga. In connexion with the refusal by Mr. Tshombe to allow the Commission to see Mr. Lumumba, on the ground that a decision to that effect could be taken only by those in Leopoldville responsible for his incarceration, the Secretary-General on 23 January addressed a letter to President Kasa-Vubu strongly endorsing the Conciliation Commission's request. No reply has been received to this letter.

12. During the period of the detention of Mr. Lumumba in Katanga, the International Committee of the Red Cross approached the Katangese authorities and asked that one of its representatives be allowed again to visit Mr. Lumumba, as had been the case at Thysville on 27 December 1960. This request was denied by Mr. Tshombe.

13. According to reliable information gathered by ONUC, up to the beginning of February 1961, the office of the Procureur général, which according to Congolese criminal procedure is entrusted with the preparation of criminal charges, had no file concerning Mr. Lumumba, and had not taken cognizance of his case.

14. Ever since the transfer to Katanga of Messrs. Lumumba, Mpolo and Okito, rumours of the death of one or all of them have repeatedly spread both in Katanga and in other parts of the Congo. Such rumours were denied by spokesmen for the Katangese authorities or by Mr. Tshombe himself. The last such denial was made on 9 February, at a time when rumours concerning the death of Mr. Lumumba had suddenly become more insistent.

15. In a broadcast over Radio Katanga on the morning of 10 February, Mr. Munongo, Minister of the Interior of Katanga, announced that Mr. Lumumba, as well as his two co-detainees Messrs. Mpolo and Okito, had escaped during the night from Kolatay farm, near the Kasaji-Mutshatsha road, where they had been detained. It was said that the three prisoners had overpowered their two guards, tied them up, taken their rifles and fled in a vehicle which was waiting for them. This vehicle, which was described alternatively as a jeep and as a black Ford passenger car, was stated to have contained enough gasoline to run approximately 100 kilometers. The Minister of the Interior indicated that an extensive air and ground search had been organized, and road blocks erected throughout the area. He added that an award of 300,000 Congolese francs

and 50,000 Congolese francs would be given to anyone who could furnish information leading to the capture of Mr. Lumumba and his colleagues. On 11 February, it was announced that the black car which had been used by the three fugitives had been found abandoned, overturned in a ditch, one kilometer from Mukonko, approximately fifty kilometers from Mutshatsha. The two rifles were reported found near the car. The same day, it was announced that a committee of investigation was being dispatched to Mutshatsha by the Katangese authorities, to make an on-the-spot enquiry into the circumstances of the alleged escape of Mr. Lumumba and his co-detainees.

16. Immediately on learning of the Katanga radio announcement on 10 February 1961, the Secretary-General instructed the ONUC representative in Elisabethville to use all his resources in order to track down the stories concerning the event of his reported escape for the purpose of reporting to the Security Council. The ONUC representative was requested to take all possible steps for the protection of Mr. Lumumba in case his escape from detention should prove correct and also to advise the Secretary-General what efforts had been made by UN personnel to see Mr. Lumumba. Before receipt of these instructions the ONUC representative in Elisabethville presented to Mr. Tshombe a note verbale in which he emphasized the importance of according humane treatment to the fugitives if they should be recaptured. Upon instructions from the Special Representative, and later in the day from the Secretary-General himself, the ONUC representative on 11 February made repeated efforts to obtain an appointment with Mr. Tshombe, in order to convey to him the grave concern of the United Nations with regard to the circumstances surrounding the announcement of Mr. Lumumba's escape. He was told that because of the visit to Elisabethville the President of the Republic of the Congo (Brazzaville), he could not secure such an appointment that day; the earliest the ONUC representative could see Mr. Tshombe would be on the morning of 12 February.

17. Early on 12 February, General Iyassu, Chief of Staff of the United Nations Force, accompanied by two high ONUC officials, left Leopoldville for Elisabethville in order to contact Mr. Tshombe and the Katangese authorities and, with their cooperation, to elicit all the facts relating to Mr. Lumumba's alleged escape. Meanwhile, the ONUC representative in Elisabethville, in pursuance of the instructions he had received from the Secretary-General, delivered to Mr. Tshombe a note verbale demanding detailed information regarding the matter. The text of this note is reproduced as annex II to the present report. The ONUC representative also renewed his efforts to obtain an appointment with Mr. Tshombe, first for himself, and later also for General Iyassu,

who arrived in Elisabethville at about midday. An interview was first arranged in principle for the afternoon, but Mr. Tshombe later in the day declined to see General Iyassu or the ONUC representative on the subject of Mr. Lumumba. At a press conference held early in the afternoon, Mr. Tshombe was asked by a newspaperman about the degree of cooperation he intended to lend to the United Nations in an investigation concerning Mr. Lumumba. Mr. Tshombe replied that the matter was of an internal nature. General Iyassu has accordingly been unable to meet Mr. Tshombe or to obtain an appointment for a meeting.

FULL TEXT OF STATEMENT RELEASED ON 10 FEBRUARY BY Mr. MUNONGO

Messieurs,

Nous avons reçu ce matin de Kasaji le message radiophonique suivant.

"Les trois détenus venant de Léo et gardés entre Mutshatsha et Kasaji se sont évadés cette nuit après avoir assommé et ligoté les deux sentinelles. Une des voitures de l'escorte a disparu probablement volée par les évadés. Il s'agit d'une voiture Ford noire quatre portières No. 99142. Le réservoir contenait de l'essence pour 100 kilomètres les fusils Mauser et Fal ont disparu. Evadés feront usage de ces armes en cas de découverte. Nos effectifs font des recherches dans les alentours, particulièrement sur la route Mutshatsha-Kasaji nous demandons avec insistance l'envoi immédiat d'une reconnaissance aérienne en vue de localiser et repérer la voiture. Nous suggérons de couper les accès de Kolwezi-Kamina-Jadotville et Elisabethville.

Ainsi que vous le savez, Lumumba, Okito et Mpolo sont arrivés à Elisabethville le 17 janvier.

Nous avons préféré ne pas les détenir dans un des établissements pénitentiaires du Katanga, ni en général dans un grand centre, de crainte d'un mouvement possible parmi les co-détenus ou dans les populations assez mélangées d'Elisabethville, de Jadotville ou de Kolwezi.

Nous les avons par conséquent placés dans des maisons d'habitation réquisitionnées pour la circonstance. Je parle de maisons au pluriel parce que, toujours un but de sécurité, les détenus ont été changés de place à plusieurs reprises. C'est ainsi que leur lieu de détention a été situé successivement près d'Elisabethville, près de Tumbwe, près de Shinkolobwe et en dernier lieu près de Mutshatsha.

C'est de ce dernier lieu de détention qu'ils viennent de s'évader, en profitant sans doute d'un adoucissement du régime dû au fait que les détenus étaient isolés de tout centre et qu'ils ignoraient eux-mêmes où ils se trouvaient.

J'ignore pour l'instant dans quelles circonstances exactes s'est produite l'évasion. Je ne connais en effet que la teneur du message téléphoné, dont je viens de vous donner lecture.

Le fait que le réservoir du véhicule ne contient que pour 100 kilomètres d'essence limite nos premières recherches. Une action policière a été prescrite. L'accès aux centres importants a été bloqué et des barrages ont été établis sur les routes. L'état du Sud-Kasai a été alerté afin qu'il agisse de même à la frontière.

D'autre part, le Conseil des Ministres vient de se réunir et de décider que des primes respectivement de 300.000 francs, 50.000 francs et 50.000 francs seront allouées à quiconque permettra de capturer Lumumba, Okito et Mpolo.

Le Conseil des Ministres s'est parfaitement rendu compte de ce que peut-être ceux qui captureront les trois évadés tiennent à conserver l'anonymat par crainte de représailles éventuelles de la part de Lumumbistes. En conséquence, l'anonymat le plus strict leur est garanti, et des mesures sont prises dans ce sens. On pourra me contacter personnellement au téléphone 3399, où une permanence sera assurée.

D'autres nouvelles vous seront communiquées ultérieurement, au fur et à mesure qu'elles parviendront au Ministère de l'Intérieur.

Hier dans la journée, l'avion Heron de l'aviation militaire katangaise, est parti en patrouille dans la région de Kolwezi, et a repéré une voiture noire se trouvant à 10 degrés 25 sud et 23 degrés 50 est.

Etant donné que l'avion se trouvait dans l'impossibilité d'identifier formellement la voiture, il a été donné immédiatement ordre aux hélicoptères d'aller sur place, pour plus amples renseignements."

NOTE VERBALE OF 12 FEBRUARY FROM ONUC REPRESENTATIVE IN
ELISABETHVILLE ADDRESSED TO MR. TSHOMBE

Le représentant de l'ONUC à Elisabethville présente ses compliments au Président Tshombe et a l'honneur de se référer à sa note verbale du 10 février par laquelle il déclare avoir pris connaissance des communiqués de presse publiés par les autorités katangaises au sujet de l'évasion de M. Lumumba et de ses deux co-détenus.

Conformément aux instructions qu'il a reçues du Secrétaire général, le représentant de l'ONUC désire faire savoir au Président Tshombe que les communiqués de presse publiés par les autorités katangaises, ainsi que les rumeurs qui circulent d'une façon assez générale, suscitent de graves inquiétudes sur le sort de ces personnes. Ces inquiétudes sont d'autant plus répandues qu'il y a certaines divergences entre le communiqué publié le 10 février par Monsieur le Ministre Munongo et le bulletin d'information diffusé par radio Katanga le lendemain. Le Secrétaire général espère vivement que les détenus n'ont pas été victimes d'un incident dont les conséquences seraient les plus graves. Soucieux de faire la lumière sur les circonstances de cette affaire qui intéresse au premier chef le Katanga, le Congo et la communauté internationale toute entière, le Secrétaire général insiste pour que les autorités katangaises collaborent sans réserve avec les services de l'ONU pour leur permettre de mener une enquête approfondie. Cette enquête devra porter sur tous les aspects de la détention de M. Lumumba ainsi que de ses compagnons, sur les lieux où ils ont été emprisonnés, sur les personnes qui ont été chargées de leur surveillance, etc. Les fonctionnaires de l'ONU devront aussi être autorisés sans délai à se rendre au dernier lieu de détention et à inspecter le véhicule qui aurait servi à la fuite des prisonniers et qui aurait été retrouvé dans un fossé à un kilomètre de Mukonko. Les autorités katangaises se doivent d'accepter pareille enquête, sinon l'opinion internationale ne pourrait en tirer que des conclusions extrêmement défavorables pour leur réputation.

Le représentant de l'ONUC a d'ailleurs manifesté le désir d'avoir une entrevue avec le Président Tshombe ainsi qu'avec Monsieur le Ministre de l'Intérieur au sujet de cette affaire. Il désire se faire accompagner du Général Iyassu, Chef d'Etat Major des Forces des Nations Unies au Congo, qui arrivera demain matin à Elisabethville pour se documenter lui-même sur le sort des détenus.

LETTER DATED 7 JANUARY 1961 FROM THE PRESIDENT
OF THE REPUBLIC OF THE CONGO ADDRESSED TO THE
SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL

Leopoldville, 7 January 1961

Sir,

I have the honour to forward herewith a memorandum concerning the United Nations action in the Congo. I would like you to let me know, as soon as possible, the stand of the United Nations especially as regards points 9 to 12 of this memorandum.

I take this opportunity to renew, Sir, the assurance of my high consideration.

J. Kasa-Vubu
President of the Republic of the Congo

J. Bomboko
Commissioner-General,
Ministry for Foreign Affairs

Memorandum

1. The Republic of the Congo has followed with great attention the debates in the General Assembly on the situation in the Congo. It wishes to find guidance in the views which these debates have brought to light since it cannot follow concrete proposals, which have never obtained the required majority. The Republic of the Congo is indifferent neither to the United Nations Secretariat interpretations of resolutions previously adopted, nor to the conclusions the Secretariat draws from more recent debates.
2. United Nations action in the Congo is in no way different from the main objective of the Organization, i.e. the maintenance of international peace and security. In July 1960 the Republic of the Congo appealed to the United Nations to insure the withdrawal of Belgian forces. It welcomes the Organization's help in preventing the recurrence of a situation which may threaten the maintenance of international peace and security. The United Nations could also play a useful role in co-operating in the maintenance of order, in political consolidation and in the economic resurgence of the Congo.
3. At no time did the Republic of the Congo intend to entrust to the United Nations the exercise of responsibilities which are part and parcel of the national competence. The legal authorities of the Congo specifically claim exclusive competence in establishing political institutions and adopting them to the needs of the Congolese people. The authorities nevertheless appreciate the co-operation which is provided by the United Nations in fields where no direct responsibility has been conferred on the Organization.

It is by co-operation of this nature that the United Nations can offer its Good Offices in promoting the conciliation of the various political tendencies liable to divide the country. The intervention of United Nations Forces in the maintenance of order is another example of such co-operation. In both cases, the intervention of the United Nations can take place only with the agreement of the Republic of the Congo and in close contact with Congolese Authorities.
4. It is useful to recall these principles at a time when the Republic of the Congo is uncertain about the methods on which United Nations' action in the Congo is based, on the principles which guide it and on some of the consequences of this action.

5. The Congolese authorities feel that the methods applied by the United Nations do not take sufficient account of local conditions, that they suffer from a serious lack of co-ordination with the country's authorities. United Nations action seems to be guided by the purpose of assuming on its own, responsibilities which cannot and should not belong to it.

6. The principles prompting the action or the abstention from taking action on the part of the Secretary-General's representatives seem to derive from an interpretation of the Organization's work which, relayed by remote control from United Nations Headquarters, seems singularly inappropriate for solving problems of local urgency.

Indeed it can be conceded that the resolutions adopted or rejected by the General Assembly and the Security Council elicit certain guiding principles. However, the scope of their application is still dictated by the Charter itself.

For example, it appears that a majority in the General Assembly would welcome with satisfaction an early convening of the Parliament of the Republic. However, nothing authorizes the Organization to act directly or indirectly to bring about such a meeting.

The Organization wisely recommended to the Member States to abstain from all military intervention in the Congo. This in no way prevents the legal authorities of the Republic from soliciting and obtaining the foreign co-operation they deem indispensable for the improvement of the equipment and training of the Congolese National Army.

The United Nations is providing extremely valuable financial and technical assistance to the Congo and the Member States are invited to contribute to it. The Republic of the Congo heartily welcomes and appreciates this aid and has expressed its thanks to the Organization and to the contributing Member States. This intervention on the part of the United Nations does not, however, imply in any way that the Republic of the Congo is prohibited from receiving bilateral or multilateral assistance offered to it by States or communities whose aid is outside that conferred with the intervention of the United Nations. Such a prohibition would be incompatible with the respect due the sovereignty of the Republic of the Congo and of the States with which it maintains bilateral relations and would be all the less realistic in view of the fact that the bilateral aid received by the Congo is appreciably greater than that which the Organization is able to provide.

7. The Republic of the Congo believes that the action of the United Nations in the Congo, when it goes beyond the exercise of responsibilities assumed by virtue of the Charter, is of a supplementary nature and can easily be guided by simple principles. One essential principle is that of non-intervention in the internal political affairs of the Congo. Any doubt regarding its application may be resolved in the light of the provisions of the Fundamental Law and of the decisions of the Head of State and the authorities empowered to act in his name.

x

x x

8. The preceding considerations clarify the protests which the Republic of the Congo is prompted to formulate and the explanations it requests regarding the attitude adopted by the representatives of the Secretary-General in various circumstances.

9. The President of the Provincial Government of Kivu, Mr. Jean Mihuro and other official personalities of the Province have been arrested and kidnapped in Bukavu. These kidnappings as well as numerous other illegal acts are the work of Messrs. Gizenga, ex-Vice-President of the Cabinet, and Lundula, ex-Commander-in-Chief of the Congolese National Army, both legally dismissed by the Head of State. Their illegal activity originates in Orientale Province. Nothing in the Fundamental Law provides for the authorities of one province to be subordinated to those of another.

Nevertheless, the United Nations Forces did not withstand these kidnappings which, carried out as they were by virtue of usurped power, can in no way be condoned by the Forces of the United Nations whose mission it is to prevent infractions of public order and insure its maintenance in collaboration with the authorities legally representing the Head of State. The authorities of the Republic of the Congo have no knowledge of any action on the part of the United Nations Forces nor of any steps taken by the Special Representative of the Secretary-General with a view to securing the release of these officials.

10. The authorities of the Republic of the Congo were informed through another source of the landing of an Ilyushin aircraft marked "Subak" in Lisala on 31 December at 10.18 a.m. No flight or landing authorization had been obtained or even requested for this aircraft. Its seizure and detention for inquiry would therefore have been routine and instructions to this effect were given to air service personnel. However, it seems that forces belonging to the United Nations United Arab Republic Contingent prevented all contact between representatives of the legal authorities and the crew of the aircraft. This interference by United Nations Forces on the occasion of an incident having the makings of a foreign military intervention assumes unusual importance. Indeed, everything seems to indicate that the United Arab Republic Forces were informed of the secret landing in Lisala of an aircraft whose registration mark appears to associate it with the United Arab Republic which would thus be supporting the rebel agitators operating in Orientale and Kivu Provinces.

11. The Republic of the Congo emphatically draws the attention of the Special Representative of the Secretary-General of the United Nations to the fact that any aid given to usurpers such as Messrs. Gizenga and Lundula or to the Orientale Province gendarmerie - dissolved by the Head of State - is incompatible with the role of the United Nations and its mission in the Congo.

12. In their public statements the representatives of the Secretary-General in the Congo have interpreted the sending of Congolese National Army forces to Bukavu as an act of aggression. The passage of regular troops acting under orders of legal authorities from one point to another of national territory cannot in any respect be considered an act of aggression. This interpretation, as all action which tends to oppose the relief of the Bukavu garrison by Congolese Army Forces, constitutes an encouragement to secession. It is incompatible with the General Assembly resolution by which all States should abstain from any action tending to impede the exercise of the Government of the Republic of the Congo's authority and from any action which would undermine the unity, territorial integrity and political independence of the Republic of the Congo.

13. The Republic of the Congo attaches to the points raised above the greatest importance. It desires that explanations be supplied within the shortest possible time, specifically on the questions raised in points 9 through 12 in the present memorandum.

x

x x

14. The Republic of the Congo could not remain indifferent to an attitude of the United Nations' representatives inspired by an interpretation of their mission to which it cannot subscribe. It reserves the choice of the attitude it will adopt regarding the mission of the United Nations Organization in the Congo. This choice will be contingent upon the answer given to the present memorandum and upon the attitude of the United Nations Forces towards the dealings of the rebels operating in Orientale and Kivu Provinces.

Joseph Kasa-Vubu
President of the Republic
of the Congo

LETTER DATED 14 JANUARY 1961 FROM THE SPECIAL REPRESENTATIVE
OF THE SECRETARY GENERAL ADDRESSED TO THE PRESIDENT OF THE
REPUBLIC OF THE CONGO

Sir,

I have the honour to acknowledge the receipt of your letter of 7 January 1961 and of the attached memorandum raising various questions in relation to the mandate and activities of the UN in the Congo.

Your memorandum has been carefully studied and, after consultation with the Secretary-General, I desire to reply as follows to the various questions raised therein.

First of all, I have noted with pleasure the wish of the Republic of the Congo, expressed in the first paragraph of the memorandum, to find guidance in the views which were brought to light through the General Assembly debates concerning the situation in the Congo, lacking the adoption by the required majority of any of the concrete proposals which were considered by the Assembly. This approach fully corresponds to the one adopted by the Secretary-General in his letter to your Excellency of 21 December.

I should like to underline the full identity of my views with those of your Excellency with regard to several of the points made in the introductory paragraphs of the memorandum. As stated in paragraph two, there can be no doubt that the action of the UN in the Congo is in no way different from the main objective of the organization, namely the maintenance of international peace and security. Furthermore, not only do I agree with the statement in paragraph three that at no time did the Republic of the Congo intend to entrust the UN with the exercise of responsibilities which fall essentially within its domestic jurisdiction, but I would add that any request to that effect by the Government of the Congo would have to be rejected by the UN as inconsistent with the Charter which governs its activities. The Charter is indeed the primary framework of reference for the actions of the organization, and I fully subscribe to the statement in paragraph six of the memorandum, to the effect that guiding principles elicited from resolutions adopted by the General Assembly and the Security Council must find the limit of their application in the provisions of the Charter itself.

The above is such an important principle that I must even give to it a more strict application than does your memorandum, when it refers in paragraph seven, to those actions of the UN in the Congo which "go beyond the exercise of responsibilities assumed by virtue of the Charter". No action of the UN can ever be allowed to go beyond such responsibilities under any circumstances, and, in point of fact, none has been so taken. The principle of non-intervention in the internal political affairs of the Congo is to all effects part and parcel of the framework in which the responsibilities of the UN are being exercised.

It is stated in paragraph six of the memorandum that while a majority of the General Assembly welcome with satisfaction an early convening of the Parliament of the Republic, nothing authorizes the organization to act to bring about such a meeting; that while the organization wisely recommended to the member states to abstain from all military intervention in the Congo, this in no way prevents the legal authorities of the Republic from soliciting and obtaining the foreign military cooperation they deem indispensable; and that the financial and technical assistance given by the UN to the Congo does not imply in any way that the Republic of the Congo is prohibited from receiving bilateral or multilateral assistance outside the UN. The question of the sovereign rights of the Republic of the Congo, as seen in the light of the legal nature of the resolutions of the General Assembly, is in no way the object of a difference of approach between the authorities of the Republic and the UN. I should only like to point in this regard to the text of the basic agreement signed on 29 July between the Government of the Congo and the UN, according to which "the Government of the Republic of the Congo states that, in the exercise of its sovereign rights with respect to any question concerning the presence and functioning of the UN force in the Congo, it will be guided, in good faith, by the fact that it has requested military assistance from the UN" and "the foregoing provisions shall likewise be applicable, as appropriate, to the non-military aspects of the UN operation in the Congo".

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The memorandum submitted by your Excellency raises, in paragraphs 9 to 12 four specific points to which the Republic of the Congo attaches the greatest importance, and requests that explanations be supplied. This will be done below, against the background of the large area of agreement on basic principles which I have taken pleasure in recording in the foregoing paragraphs.

The first specific point raised concerns the arrest on 25 December in Bukavu, and subsequent transfer to Stanleyville, of Mr. Jean Mihuru and other official personalities of Kivu Province. I have since reported to the Secretary General the conditions under which this arrest took place and my report has been published as a Security Council document, a copy of which is attached. After some sixty ANC troops had arrived in Bukavu from Stanleyville that day in 2 jeeps and 2 trucks, a conference took place between their officers, the ANC Commander at Bukavu, the Provincial President, Mr. Mihuru, and other members of the Cabinet. The ONUC Commander made an approach to the ANC Commander, but departed on learning that ONUC protection or assistance was not desired. It was apparently shortly thereafter that the President, the ANC Commander and other officials were arrested and carried off towards Stanleyville. Meanwhile UN protection was extended to 2 ministers of the Provincial Government who did so request. After the President had departed, voluntarily or not, but while not being under UN protection, ONUC could not pursue and join battle with an ANC unit. That would have constituted a military initiative and an act of intervention, both of which are forbidden by the Mandate of the Force as laid down by the Security Council. The position of ONUC on this matter was fully consistent with the position it had taken a few weeks earlier on the occasion of the arrest outside its protection of another political leader. It was also consistent with the attitude of ONUC at the time, earlier in the year, of the arrest and carrying off from the Orientale Province of the Provincial President. The position of ONUC has been in all these cases both consistent and strictly consonant with the Mandate given to it by the Security Council and the General Assembly.

The statement at the end of paragraph 9 of the memorandum, to the effect that the authorities of the Republic of the Congo have no knowledge of any action on the part of the UN Force nor of any steps taken by the Special Representative of the Secretary-General with a view to securing the release of the officials concerned could only have been drafted before receipt by these authorities of my report to the Security Council referred to above. This report expressly states

that upon learning of the incident, "ONUC Headquarters immediately instructed the Ethiopian Brigade in Stanleyville to use their good offices with the authorities there to negotiate the release of the Bukavu personalities".

I should like to add, with regard to this incident, that while it is legally correct to state, as does the memorandum, that nothing in the Fundamental Law provides for the authorities of one province being subordinated to those of another, it also follows from a correct interpretation of the mandate of the Security Council to ONUC that the prevention of such a subordination, and a fortiori its forcible prevention, does not fall within this mandate. It has been frequently explained that the law and order mandate of ONUC does not entrust it with asserting rights under the constitution. In point of fact, this is only the expression of one of the basic principles on which I have been able to record our agreement above, namely the principle of nonintervention by the United Nations in the internal affairs of a Member State.

With regard to the point raised in paragraph 10 of the memorandum, it is correct that a United Arab Republic Ilyushin 14 aircraft did land at Lisala on 31 December 1960. As ONUC had not been advised of this flight by the United Arab Republic contingent, ONUC Headquarters immediately made enquiries. It was learnt that the Delegation of the United Arab Republic to the United Nations had asked the Secretary-General for permission to be given for the despatch to Lisala of a repair crew to attend to an Ilyushin 14 aircraft wrecked earlier at Lisala airfield on the occasion of a United Nations flight, and for the purpose of transporting New Year gifts to the United Arab Republic contingent. This permission was given in principle. It was subject, however, to the normal clearance procedure for the flying of foreign aircraft into the territory of the Republic of the Congo. Such procedure was not followed, and ONUC had no previous information about the arrival of this aircraft. Consequently, necessary clearance could not be obtained from Congolese central authorities.

A senior United Nations air force officer was immediately despatched from ONUC Headquarters in a United Nations aircraft to Lisala to make a first-hand enquiry into the circumstances which led to the failure of the United Arab Republic authorities to comply with ONUC orders and instructions in regard to contingent aircraft on flights into the territory of the Republic of the Congo. Furthermore, as the United Arab Republic had already requested through United Nations Headquarters assistance for the repair of the wrecked Ilyushin 14 at Lisala, the

senior United Nations air force officer was advised to remain at Lisala to render all assistance to expedite the work being undertaken and to arrange the departure of the two United Arab Republic aircraft .

The failure of the United Arab Republic authorities to obtain the necessary clearance for a flight into the territory of the Republic of the Congo in support of their contingent has been brought to their attention with a request that the proper procedure be adhered to in the future. It will continue to be ONUC's endeavour to enforce the mutually agreed arrangements in respect of flights in support of various national contingents serving in ONUC. As of this date, the senior United Nations air force officer is still at Lisala.

The third specific point raised in the memorandum (paragraph 11) refers to the situation in the Orientale Province and is to the effect that any aid given "to usurpers such as Messrs. Gizonga and Lundula or to the Orientale Province Gendarmerie - dissolved by the Head of State - is incompatible with the role of the UN and its mission in the Congo". In this regard I should like to give to your Excellency the formal assurance that the attitude of ONUC towards the authorities of the Orientale Province is and will remain in all respects in strict conformity with the mandate in the field of the maintenance of law and order which it has received from the Security Council and the General Assembly. As you are aware the question of the interpretation of this mandate in the case of a serious political divergence between a Provincial Government and a central authority has been considered by the UN. In this connection I may be permitted to refer to the second report (copy enclosed for ready reference) by the Secretary-General to the Security Council of 6 August 1960 on the implementation of the Council's resolutions on the Congo (Document S/4417) as well as specifically to Addendum No. 6 to that report (copies enclosed) which contains a "memorandum on implementation of Security Council resolution of 9 August 1960, operative paragraph 4" relating to the Province of Katanga. It offers to ONUC a clear line of action for the implementation of its mandate, a line of action to which it is legally bound to adhere as long as its mandate remains unaltered by the Security Council.

As far as concerns technical assistance in the field of civilian operations, it is a basic principle universally applied by the United Nations that such assistance is always the object of arrangements between the Organization and the Central Government of the recipient country, as the authority responsible for its

foreign relations; this even if the ultimate beneficiary of the assistance should be a federated State, a Province or a local authority. This principle has been strictly observed at all stages in the lending of technical assistance by the United Nations to the Republic of the Congo, and it will continue to be followed. The question of direct aid by the United Nations in the form of technical assistance to the provincial authorities of the Orientale Province thus does not arise.

Finally, the memorandum in paragraph 12 requests an explanation about public declarations attributed to representatives of the Secretary-General in the Congo, to the effect that the sending of ANC troops to Bukavu was presented as an act of aggression. The plain fact is that no such declarations have been made. Beyond that point, I shall only note that the description made in the memorandum of the "relief of the Bukavu garrison" omits the all important fact, in the situation which gave rise to the incident under reference, that the ANC troops used for this purpose a foreign territory, thus lending to the "passage" of these troops a nature wholly different from that of a simple movement of troops within the territory of the Republic of the Congo. I also note that this matter has been the object of a letter addressed to your Excellency by the Secretary-General on 2 January 1961 and that it is being presently considered by the Security Council in New York.

I trust that the foregoing remarks will have clarified the various points raised in your Excellency's memorandum of 7 January 1961. Needless to say I remain at your disposal for the further examination of any point on which you would wish to receive additional explanations.

Please accept, etc.

Rajeshwar Dayal
Special Representative
of the Secretary-General