

Subject Files Regarding Political and Security Matters  
POLITICAL AND SECURITY MATTERS  
C/POL/110/1-UN Force in the Republic of the Congo:  
Agreement Between UN and the Republic of the Congo

01/11/1961-30/11/1961

PLEASE RETAIN  
ORIGINAL ORDER

UN ARCHIVES

SERIES 5-0735

BOX 6

FILE 12

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A G R E E M E N T

between

T H E   U N I T E D   N A T I O N S

and

T H E   R E P U B L I C   O F   T H E   C O N G O

THE UNITED NATIONS AND THE GOVERNMENT OF THE REPUBLIC OF THE CONGO (hereinafter referred to as the "Government"),

Desiring to conclude an agreement for the purpose of carrying out the resolutions of the Security Council concerning the Republic of the Congo and to determine the details of the application of their basic Agreement of 27 July 1960;

Recalling the request for military assistance presented by the Government of the Republic of the Congo to the United Nations and acceptance by the Government of the resolutions of the Security Council;

Having regard to the provisions of the United Nations Charter concerning mutual assistance in carrying out the measures decided on by the Security Council, and to the privileges and immunities necessary for the fulfilment of the objectives of the United Nations;

HAVE AGREED AS FOLLOWS :

Respect for local law and International Status

1. Members of the United Nations Force in the Congo and all officials in the service of the United Nations Organization in the Congo shall respect the laws and regulations of the Republic of the Congo. They shall refrain from any activity of a political nature in the Congo, as well as from any action incompatible with their international responsibilities. The Special Representative of the Secretary-General shall see to it that these obligations are observed.

2. The United Nations alone is entitled to decide the composition of the military elements sent to the Congo, it being understood, at the same time, that, in deciding on this composition, the United Nations must take into most serious consideration the opinion of the Government, as one of the most important factors that should be a guide to recruitment.



3. Insofar as compatible with the relevant provisions of the United Nations Charter and the independent exercise of his functions, the Secretary-General shall give all the necessary attention to relevant information that the Government may give him about the officials of the United Nations, who have been appointed for service with the United Nations in the Congo, as well as about the local personnel employed by the United Nations.

Entry, Exit and Identification.

4. Force members shall be exempt from passport and visa formalities, as well as from immigration inspection and restrictions. Officials in the service of the United Nations Organization in the Congo and members of their families dependent on them shall not be subject to immigration restrictions and alien registration.

5. The initial entry of Force members into the territory of the Republic may be based on an order for a military mission, a national military identity card and vaccination certificates required by international conventions. Thereafter, the personal identity card issued them under the authority of the Special Representative of the Secretary-General shall be recognized by all authorities as valid and sufficient identification. Members of the Force are required to present their identity card on demand but not to surrender it.

6. The laissez-passer of the United Nations is recognized and accepted as a valid travel document. These laissez-passer, as well as the personal identity cards issued to officials in the service of the United Nations in the Congo by the Special Representative of the Secretary-General, shall be recognized by all authorities as valid and sufficient identification.

7. (a) Applications for visas from the holders of United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible.

(b) The same facilities shall be accorded to experts and other persons who, though not holders of a United Nations laissez-passer, hold certificates proving that they are travelling on the business of the United Nations.

(c) Those who enjoy the facilities mentioned in this article shall obtain vaccination certificates required by international conventions.

(d) Whenever holders of a laissez-passer, experts or other persons travelling on the business of the United Nations come from a country where the Republic of the Congo is not represented, or if for any other reason they are unable to obtain a visa prior to their



arrival in the Congo, they will be permitted to enter without a visa, and the latter shall be delivered to them after their arrival by the Ministry of Foreign Affairs.

8. The Government shall be kept advised :

(a) of the arrival and departure of military units serving within the Force, as well as of their strength and their nationality;

(b) of the arrival and final departure of Force members whose travel period does not correspond with that of the rest of their national contingent;

(c) of the arrival and final departure of officials of the United Nations, or of the termination of their functions;

(d) of the arrival and final departure of a person belonging to the family of an official in the service of the United Nations or of a Force member;

(e) of the hiring or discharge of persons residing in the Congo as officials in the service of the United Nations.

9. Force members are subject to the exclusive jurisdiction of their respective national States in respect of any crime or offence that may be committed by them in the Congo. Officials in the service of the United Nations Organization in the Congo shall be immune from legal process in respect of all acts performed by them in the exercise of their functions. They cannot be subjected to any form of arrest or detention.

10. In respect of matters not covered by the provisions of article 9, the Government, in the exercise of its sovereign rights, undertakes to refrain from any act of arrest, detention, seizure of property or any form of exercise of jurisdiction with respect to a Force member or an official in the service of the United Nations Organization in the Congo, or of one of their dependants prior to completion of the following procedures :

(a) If the authorities of the Government have proof of an offence against the penal laws of the Republic of the Congo by such official or dependant, all the evidence available to them shall be communicated to the Special Representative of the Secretary-General, who shall conduct any supplementary enquiry necessary to obtain evidence. The Government and the United Nations shall agree as to whether the United Nations should institute disciplinary proceedings within the framework of its relevant regulations, or whether the Government shall institute criminal proceedings. If the two parties fail to agree, this question shall be submitted to arbitration at the request of either party.

(b) In the event of damage that could give rise to a civil action and alleged to have been caused to a citizen or resident of the Congo by an act attributable to a Force member or to an official of the United Nations Organization in the Congo in the exercise of his official



functions, the dispute shall be settled by the United Nations by negotiation or by any other mode of settlement agreed to by the parties; if this fails, the dispute shall be submitted to arbitration at the request of either party.

(c) If proof of civil liability on the part of or in favour of any Force member, official in the service of the United Nations Organization in the Congo or of one of their dependants, arising out of that person's presence in the Congo, but not related to his official duties, is presented, the United Nations shall use its good offices to assist the parties in arriving at a settlement. If the dispute cannot be settled in this manner or by any other mode of settlement agreed to by the persons involved, it shall be submitted to arbitration at the request of either party.

11. The foregoing provisions concerning jurisdiction are made with due regard to the special functions of the United Nations Organization in the Congo, and not for the personal benefit of Force members or of officials of the United Nations. The Special Representative of the Secretary-General and the Government shall institute the arbitration procedure necessary to hear and decide disputes that are to be submitted to arbitration in accordance with the provisions of article 10. They may, if they deem it necessary, establish a Claims Committee and assign to it the task of examining any or all of the types of claims listed in article 10.

12. The United Nations Force Commander in the Congo shall take all appropriate measures to ensure order and discipline among Force members. To this end, United Nations military police contingents may police the premises occupied by the United Nations, in the areas in which the Force is deployed, and, in liaison with local authorities, wherever their action is needed to maintain order and discipline among Force members. The military police shall have the right to arrest Force members.

13. The military or civilian personnel of one of the parties to this Agreement may not be apprehended by the authorities of the other, except if the authorities competent with respect to them are not in a position to act with all the speed necessary to apprehend a person who is in the act of committing or is attempting to commit an offence that could lead to serious damage to persons or property. The person so apprehended, however, must be immediately turned over, together with any article seized, to the nearest authority competent with respect to him. These provisions shall not affect the right of the United Nations Organization in the Congo, in conformity with its mandate to assist in maintaining law and order, to detain other persons in order to turn them over to the authorities, Congolese or other, competent with respect to them.



14. The United Nations and the Congolese authorities shall assist each other in the conduct of enquiries concerning violations that concern either or both parties, for the hearing of witnesses and for the collection and production of evidence.

Privileges and immunities

15. The United Nations, its property and assets, as well as the property and assets of the States contributing to the United Nations Force which are located in the Congo for the needs of the Force, enjoy immunity from every form of legal process and are exempt from search and requisition, as well as from any other form of governmental intervention. The documents of the United Nations and of the contributing States are inviolable wherever located.

16. The United Nations, its property and assets, as well as the property and assets of the States contributing to the Force, which are located in the Congo for the needs of the Force, are :-

(a) exempt from all taxes. It is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services.

(b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported by or on behalf of the United Nations or the contributing States in the execution of any portion of the United Nations programme in the Congo. The right of the United Nations to duty-free imports includes the right to import certain articles destined for sale exclusively to Force members and to officials in commissaries and canteens. It is understood, however, that the articles imported under such exemption will not be resold to third parties on Congolese territory, except under conditions agreed with the Government.

(c) exempt from customs duties and restrictions on imports and exports in respect of their publications.

17. Arrangements shall be made for the remission of or return to the United Nations of the amount of all duties and taxes included in the sales price of large purchases that the United Nations may make in the Congo.

18. (a) Force members and officials in the service of the United Nations Organization in the Congo are exempt from all direct taxation. They are exempt from all personal prestation. Their papers and documents are inviolable.

(b) Force members and officials in the service of the United Nations Organization in the Congo have the right to import free of duty their personal effects at the time of taking up their posts in the Congo, and, subsequently, any article that the



administrative offices of the United Nations shall certify as being necessary to these persons by virtue of their being in the Congo in the service of the United Nations, it being understood that the articles so imported shall not be sold to third parties on Congolese territory, except under conditions agreed with the Government.

(c) Force members and officials in the service of the United Nations are exempted from inspection of their personal baggage, unless there are serious grounds for belief that it contains undeclared articles not subject to exemptions mentioned in para (b) of this article, or the importation or exportation of which is prohibited by law, or subject to quarantine regulations of the Republic of the Congo. In such cases, inspection may be made only in the presence of the Force member or of the official involved, or of his representative.

19. As to matters of precedence in the Republic of the Congo, the Special Representative follows immediately after the President of the Republic; in particular, he has precedence over all chiefs of diplomatic missions.

20. The funds, currencies and accounts of the United Nations are not subject to any financial control.

21. The Government, at the request of the United Nations and against a refund in dollars of the United States of America, or in any other mutually agreed currency, shall place at the disposal of the United Nations cash funds in Congolese currency, at the most favourable rate of exchange, that the United Nations requires for its activities and for the execution of its programme in the Congo, in particular, for the pay of members of national contingents.

22. In matters of foreign currency and exchange, officials in the service of the United Nations in the Congo enjoy the same facilities as officials of comparable rank belonging to diplomatic missions accredited to the Government.

23. Despite the existence of exchange regulations, Force members may, when departing from the Congo, take away with them all moneys that officials of the Finance office of the United Nations, or the appropriate paymaster of the national contingent, has certified as having been paid by the United Nations or by the Government involved as pay and emoluments due for service in the Congo, and that shall constitute a reasonable unexpended balance thereof.

#### Premises and Lands

24. In agreement with the United Nations Procurement Office,



the Government shall provide such sites or premises for headquarters, camps and other installations as may be necessary to house the personnel and the offices of the United Nations and to permit it to carry out its functions. Without prejudice to the fact that all such premises remain Congolese territory, they shall be inviolable and subject to the exclusive control and authority of the United Nations.

This authority and this control may extend equally to the adjacent public ways to the extent necessary to regulate access to the said premises. Only the United Nations may authorize access to these premises of officials of the Government for the exercise of their official functions, or of any other person. Any person, if he so desires, for legitimate purposes, is entitled to free access to the enclosures of the premises placed under the authority of the United Nations.

25. When the United Nations occupies premises and lands previously occupied by private individuals and that, as such, represented sources of revenue, the Government shall facilitate their lease to the United Nations at a reasonable rental.

#### Flag

26. The Government recognizes the right of the United Nations to display the United Nations flag on its headquarters, its camps, its posts and other installations, as well as on its vehicles, its vessels and in any other manner in accordance with the provisions prescribed by the Special Representative of the Secretary-General. Other flags or pennants may be displayed only in exceptional cases, such as the national holiday of a contingent, and under conditions prescribed by the Special Representative.

#### Local Personnel

27. (a) The United Nations may recruit locally such personnel as it requires.

(b) Employment conditions for local personnel are established by the Special Representative of the Secretary-General; generally speaking, they shall be modelled, insofar as possible, after local practices.

(c) No Congolese authority, directly or indirectly, shall seek to influence the local personnel in the fulfilment of its task. Any decision concerning recruitment, continuation or cessation of employment of any member of the local personnel, is a matter within the exclusive authority of the Special Representative of the Secretary-General. The latter, prior to making his decision, shall examine all the relevant information that is submitted to him.



(d) Any dispute regarding conditions of service or of work for locally-recruited personnel shall be settled in accordance with an administrative procedure to be determined by the Special Representative.

28. The privileges and immunities granted under the terms of the preceding articles do not extend to Congolese nationals or to other local employees who were subject to Congolese jurisdiction at the time of their engagement by the United Nations Organization in the Congo. The members of the local personnel of the United Nations Organization in the Congo enjoy only immunity from legal process in respect of acts performed by them in the exercise of their functions. The Government shall exercise its jurisdiction over them in such a manner as not to hinder the conduct of the business of the United Nations.

29. (a) Subject to the provisions of paragraph (c) of this article, the officials and employees of the United Nations Organization in the Congo who are not Congolese nationals are exempted from the provisions of social security in force in the Congo, as regards services rendered to the United Nations.

(b) The exemption specified in paragraph (a) of this article applies equally to private house servants, in the exclusive employ of officials of the United Nations, on condition that they are not Congolese nationals or do not have their permanent residence in the Congo.

(c) Any United Nations official employing persons to whom the exemption specified in paragraph (b) of this article does not apply must meet the obligations imposed on an employer by Congolese legislation relative to social security in the Congo.

30. The Government shall guarantee to members of the Force and to officials serving the United Nations Organization in the Congo complete freedom of movement over the entirety of the Congolese territory, as well as to and from points of access to Congolese territory. This freedom applies to the use of all vehicles, aircraft, vessels and equipment in the service of the United Nations.

31. The United Nations has the right to utilize roads, bridges, navigable waterways, port installations and airports without payment of rights of passage, tolls or taxes, whether for purposes of registration or any other purpose, with the exception of taxes directly levied as remuneration for specified services.

32. United Nations vehicles, aircraft and vessels shall carry the distinctive identification of the United Nations. They are not subject to registration and licences specified by Congolese laws and regulations.



### Communications

33. In all matters relating to its official communications, the United Nations shall enjoy treatment at least as favourable as that accorded by the Government to any other government or diplomatic mission. Official correspondence and other official communications of the United Nations, as well as of the Force contingents, in their relations with their governments, may not be subject to censorship.

34. The United Nations and the contingents shall have the right to use coded or cipher messages, as well as to despatch and receive their correspondence by couriers or in bags which shall have the same privileges and immunities as diplomatic couriers and bags.

35. The Government recognizes the right of the United Nations to make all arrangements for the sorting and despatch, through its own facilities, of private correspondence addressed to Force members or to officials in the service of the United Nations Organization in the Congo, or sent by them. The Government shall be informed of these arrangements. The Government shall not interfere with or censor this correspondence in any way.

36. The United Nations is authorized to install and operate in the Congo radio sending and receiving stations that shall be connected at appropriate points with the radio-communications network of the United Nations, and may exchange traffic with that network. The United Nations shall duly advise the Government and the International Frequency Registration Board of the frequencies utilized in operating these stations.

37. Throughout the territory of the Congo, the United Nations shall enjoy the unrestricted right of communication by radio, telephone, telegraph or by any other means, and of establishing the facilities necessary for the maintenance of these communications within and between United Nations premises, including the laying of cables and ground wires and the establishment of mobile and fixed radio sending and receiving stations.

### Public Utilities

38. The United Nations has the right to use water, electricity and other public utilities at rates not less favourable than those charged to other comparable consumers. In the event of interruption or of threatened interruption of service, the United Nations shall be given the same priority as essential government services.

### Uniform

39. Members of the Force shall normally wear the uniform prescribed by the Commander; they may, however, wear civilian dress under conditions determined by him. While on duty, Force members may possess and carry arms, in accordance with applicable regulations.



Deceased Force members

40. The Commander shall have the right to take charge of and dispose of the body of a Force member who dies on Congolese territory. He may likewise take appropriate measures regarding the disposition of that Force member's personal effects.

Liaison

41. The Special Representative and the Government, as well as the United Nations Force Commander and the Commander of the Congolese National Army shall take appropriate measures to ensure close liaison between the United Nations and Congolese authorities at both national and local levels. Without prejudice to this principle, and subject to an agreement to the contrary, the official business for which the United Nations is responsible in the Congo shall be taken up with the Ministry of Foreign Affairs, or through the intermediary of that Ministry. Liaison officers shall be mutually exchanged between Headquarters, and, insofar as their presence may be useful, between the regional commands of the Congolese National Army and the United Nations Force.

42. At airports necessary for the effective functioning of the Force, only the United Nations shall control the arrival and departure of aircraft operating on behalf of the United Nations, whether they transport military or civilian personnel or goods. With the exception of cases covered by the resolutions of the Security Council and the General Assembly, the civilian personnel of the Government shall control all other departures and arrivals. In order to avoid any conflict of functions in the application of this provision, liaison shall be maintained between the United Nations and Congolese authorities at each of the airports.

43. In carrying out their liaison duties, both parties shall take fully into account the essential differences that characterize their respective functions :

(a) Congolese authorities shall have complete responsibility for the application of domestic legislation and regulations. The nature of the United Nations Force is international, and it has, as such, its own responsibility in the field of public order, of peace and security. It therefore will not apply domestic methods and regulations in carrying out this responsibility, but must act in accordance with its interpretation of the mission assigned to it by the Security Council.

(b) In the exercise of their functions Congolese law-enforcement authorities have the right of recourse to force, in accordance with the law. The United Nations Force may not have recourse to force except as a last resort and within the limits of the restrictions imposed by its mandate and by the resolutions of the Security Council and the General Assembly.



44. In view of the impossibility of having two competing Security systems, the two parties undertake to coordinate their action in the field of maintenance of public order, and proclaim their adoption of the principle of mutual consultation. Whenever the action of any unit of the Army, the Gendarmerie or the Police might bring about a conflict of competence in the field of public order, the authorities involved shall immediately enter into consultation with the nearest United Nations Force unit. Such conflict shall be settled by mutual agreement, in a spirit of understanding and collaboration. In particular, should a situation arise in which it appears necessary to have recourse to force, the authorities involved shall, as a matter of urgency, first enter into immediate consultation with the nearest United Nations Force unit.

#### Additional Provisions

45. All additional provisions that may be necessary for the carrying out of this Agreement shall be made by agreement between the Special Representative of the Secretary-General, or, depending upon the case, the United Nations Force Commander, and the appropriate Congolese authorities designated by the Government.

46. The United Nations and the Government shall, from time to time, at the request of either party, review the provisions of this Agreement, in the light of the progressive development of public administration in the Congo, and shall arrive at a common agreement regarding amendments that should be adopted. Any dispute that may arise between the United Nations and the Government relative to the interpretation or implementation of this Agreement, and that is not settled by another means of settlement agreed to by the parties, shall be submitted for arbitration to a three-member tribunal whose decisions shall be final. The Secretary-General of the United Nations and the Congolese Government shall each appoint one of the three arbitrators; the third shall be an umpire designated by agreement between the Secretary-General and the Congolese Government. If the two parties are not able to agree on the appointment of the umpire within a month from the time at which one of the parties has proposed arbitration, the President of the International Court of Justice shall be requested, by either party, to designate the umpire. If, for any reason, a vacancy arises, it shall be filled within thirty days in accordance with the method provided in this paragraph for initial appointment. The tribunal shall begin its functions as soon as the umpire and one of the other members have been appointed. Two members shall constitute a quorum for exercising the functions of the tribunal, and two votes in favour shall be sufficient for all deliberations and decisions.



47. The Central Government of the Republic of the Congo shall have the ultimate responsibility for the fulfillment by the competent Congolese authorities, whether central, provincial or local, of the obligations imposed by this Agreement on the Government or on the Congolese authorities.

Duration

48. As soon as this Agreement shall have been signed by the duly authorized representatives of the two parties, it shall be deemed to have taken effect on the date of the arrival in the Congo of the first elements of the United Nations Force. The provisions of the Agreement relating specifically to the Force or to its members shall remain in force until the departure from the territory of the Congo of the last elements of the Force and their equipment. The provisions generally relating to the United Nations, as well as to officials in the service of the United Nations Organization in the Congo, shall remain in force until such time as this Agreement shall have been replaced by another, or until such other date as shall have been agreed to by the parties.

IN FAITH WHEREOF, the undersigned have, on behalf of the parties, signed this Agreement at United Nations Headquarters on November 1961, in two original texts in French.