

Congo. U.N. Advisory Committee on the Congo - correspondence, statements, p...

HS L 179:152



Dag Hammarskjöld's samd.

Congo - 1961

23 Feb.

a) Wachuku (Chairman of the Conciliation
Commission)

- 1 cable to D.H.

b) - 1 draft text of reply from D.H.

- 2 cables from D.H.

ACTION

FEB 23 1961

TO

SG

FILE NO.

ACTION COMPLETED

INITIALS.....

Return to Records Control Team 2074

CY 23 SSS LEO 259 23 1458Z =
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M O S T I M M E D I A T E

ONUC 943

SEC GEN FROM WACHUKU STOP I NOTICE THAT IN PASSING THE
THREE-POWER RESOLUTION THE SECURITY COUNCIL HAS SAID
NOTHING ABOUT THE CONCLUSIONS OF THE CONCILIATION COMMISSION
PARTICULARLY WITH REFERENCE TO CONCLUSION (A)
THAT THE LOI FONDAMENTALE BE UPHELD STOP I NOTICE ALSO
FROM REPORTS THAT THE ADVISORY =

P2 =

COMMITTEE IS UNDECIDED AND CERTAIN REPRESENTATIVES DISPUTE
SOME OF OUR CONCLUSIONS STOP AS I AM LEAVING ON SATURDAY
MORNING 25 FOR GENEVA FOR PREPARATION OF FINAL
REPORT I WOULD REQUEST A CLEAR ANSWER TO THIS QUESTION NAMELY
IN THE COMMISSIONS TERMS OF REFERENCE THE COMMISSION IS
ASKED TO QUOTE DIRECT =

P3 =

P3 =

THEIR EFFORTS WITHOUT INTERFERENCE IN THE INTERNAL AFFAIRS OF THE CONGO
TOWARDS THE ATTAINMENT BY THE CONGOLESE OF SOLUTIONS
OF PRESENT DIFFICULTIES IN THE CONGO WHICH WILL BE CONDUCIVE
TO THE MAINTENANCE AND STRENGTHENING OF THE UNITY TERRITORIAL
INTEGRITY AND POLITICAL INDEPENDENCE OF THE REPUBLIC OF
THE CONGO CMA WITHIN =

P4 =

THE FRAMEWORK OF THE CONSTITUTIONAL AND LEGAL STRUCTURE
OF THE REPUBLIC OF THE CONGO UNQUOTE STOP WHAT CONSTITUTIONAL
FRAMEWORK OR LEGAL STRUCTURE OF THE REPUBLIC OF THE
CONGO DID THE ADVISORY COMMITTEE HAVE IN MIND WITHIN WHICH
THE COMMISSION SHOULD WORK STOP IMMEDIATE ANSWER IS REQUIRED
TO ENABLE ME AND =

P5 =

THE COMMISSION TO BE BETTER PLACED TO DEAL WITH CERTAIN
QUESTIONS THAT WE HAVE COME ACROSS DURING OUR STUDY
OF THE CONGOLESE SITUATION AND OUR EFFORTS AT RECONCILIATION
STOP FAILURE TO OBTAIN CATEGORICAL ANSWER WILL OF NECESSITY
BE GREAT IMPZDIMENT IN THE PATH OF THE COMMISSION IN CLARIFYING
CERTAIN QUESTIONS =

P6/9 =

AND ARRIVING AT DEFINITE CONCLUSIONS
FOLLOWING THEIR STUDY STOP ++

COL 943 25 ++

PSE ZAP

1961 FEB 23 AM 10: 24
TELEGRAPH UNIT
UNITED NATIONS

The following is the text of a cable received on 23 February 1961 from Mr. Wachuku, Chairman of the Conciliation Commission, which the Secretary-General wishes called to the attention of members of the Advisory Committee:

23 February 1961

"To The Secretary-General from Wachuku:

I notice that in passing the three-Power resolution, the Security Council has said nothing about the conclusions of the Conciliation Commission, particularly with reference to conclusion (A) that the Loi Fondamentale be upheld. I notice also from reports that the Advisory Committee is undecided and certain representatives dispute some of our conclusions. As I am leaving on Saturday morning, 25 February, for Geneva for preparation of final report, I would request a clear answer to this question, namely: In the Commission's terms of reference, the Commission is asked to "direct their efforts, without interference in the internal affairs of the Congo, towards the attainment by the Congolese of solutions of present difficulties in the Congo which will be conducive to the maintenance and strengthening of the unity, territorial integrity and political independence of the Republic of the Congo, within the framework of the constitutional and legal structure of the Republic of the Congo." What constitutional framework or legal structure of the Republic of the Congo did the Advisory Committee have in mind within which the Commission should work. Immediate answer is required to enable me and the Commission to be better placed to deal with certain questions that we have come across during our study of the Congolese situation and our efforts at reconciliation. Failure to obtain categorical answer will of necessity be great impediment in the path of the Commission in clarifying certain questions and arriving at definite conclusions following their study."

French translation of the above cable:

"Wachuku au Secrétaire général

Je constate qu'en adoptant la résolution des trois puissances, le Conseil de Sécurité n'a rien dit des conclusions de la Commission de Conciliation, particulièrement en ce qui concerne la conclusion (A) selon laquelle la Loi Fondamentale doit être maintenue. Je constate aussi d'après informations reçues que le Comité Consultatif hésite à se prononcer et que

certains représentants contestent plusieurs de nos conclusions. Comme je pars samedi matin, 25 février, pour Genève pour préparation du rapport final, je voudrais une réponse claire à la question suivante: Aux termes de son mandat, la Commission doit s'attacher, sans ingérence dans les affaires intérieures du Congo, à permettre aux Congolais de parvenir à des solutions aux difficultés présentes au Congo qui favorisent le maintien et le renforcement de l'unité, de l'intégrité territoriale et de l'indépendance politique de la République du Congo, dans le cadre de la structure constitutionnelle et légale de la République du Congo". Dans quel cadre constitutionnel ou légal de la République du Congo le Comité Consultatif pensait-il que la Commission devait déployer ses efforts. Ai besoin réponse immédiate pour que la Commission et moi-même soyons mieux à même de traiter certaines questions que nous avons rencontrées au cours de notre étude de la situation Congolaise et de nos efforts de conciliation. Absence d'une réponse catégorique ne peut que gêner grandement la Commission dans son effort pour élucider certaines questions et arriver à des conclusions précises après son étude."

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YC15 S NY 78/77 24 0325Z P1/51/50 =

ETATPRIORITE

ONUC

LEO =

1290 MOST IMMEDIATE WACHUKU FROM SECRETARY-GENERAL REFERENCE
YOUR CABLE OF 23RD, ONUC-943 STOP YOUR MESSAGE WAS CIRCULATED
TO ADVISORY COMMITTEE IMMEDIATELY AND DISCUSSED BY IT ON
AFTERNOON OF 23RD STOP SINCE IT IS ADVISABLE COMA IN VIEW OF
QUESTIONS RAISED COMA THAT REPLY IS FULLY REPRESENTATIVE
OF =

P2/27 =

VIEWS OF MEMBERS OF THE ADVISORY COMMITTEE COMAW THAT REPLY
WILL BE FURTHER DISCUSSED ON 24TH AND WILL BE SENT TO GENEVA
TO AWAIT YOUR ARRIVAL THERE +

PAGE 2 8TH TEXT COMA

COL 1290 23RD, ONUC-943 23RD +

24TH +

UNITED NATIONS
1081 FEB 23 PM 11:29
TELEGRAPH UNIT

1
INFO. COPY

YZ38 S NY 310/303 25 0156Z P1/53/50 =

ETAT PRIORITE

CONGO CONCILIATION COMMISSION

UNATIONS

GENEVA =

493 WACHUKU FROM SECRETARYGENERAL STOP FOLLOWING IS REPLY OF
ADVISORY COMMITTEE ON QUESTIONS RAISED IN YOUR MESSAGE OF 23RD
CMA ONUC-943 STOP QUOTE ONE STOP WITH REGARD TO LACK OF ANY
REFERENCE IN THREE-POWER RESOLUTION OF SECURITY COUNCIL TO
CONCLUSIONS OF THE CONCILIATION =

P2 =

COMMISSION CMA IT MAY BE OBSERVED THAT (A) THE INTERIM CONCLUSIONS
OF THE CONCILIATION COMMISSION ARRIVED TOO LATE TO BE CONSIDERED
IN CONNEXION WITH THE RESOLUTION UNDER DISCUSSION IN THE SECURITY
COUNCIL SEMI COLON (B) THEY WERE CONSIDERED BY THE ADVISORY
COMMIYNLY AS TO FO

P2 =

COMMISSION CMA IT MAY BE OBSERVED THAT (A) THE INTERIM CONCLUSIONS
OF THE CONCILIATION COMMISSION ARRIVED TOO LATE TO BE CONSIDERED
IN CONNEXION WITH THE RESOLUTION UNDER DISCUSSION IN THE SECURITY
COUNCIL SEMI COLON (B) THEY WERE CONSIDERED BY THE ADVISORY
COMMITTEE ONLY AS TO FORM AND NOT =

P3/52/50 =

P3/52/50 =

SUBSTANCE SEMI COLON AND (C) IT WAS THE GENERAL VIEW CMA
IN ANY CASE CMA THAT THERE SHOULD BE NO APPRAISAL OF THE CONCLUSIONS
PRIOR TO RECEIPT OF THE COMMISSION'S FINAL REPORT CMA WHICH
WILL NO DOUBT BE DISCUSSED IN THE GENERAL ASSEMBLY STOP IT IS
ASSUMED BY THE =

P4 =

COMMITTEE THAT THIS REPORT WILL TAKE FULLY INTO ACCOUNT THE
SITUATION PREVAILING SINCE THE ANNOUNCEMENT OF THE DEATH OF MR
LUMUMBA STOP PARA TWO STOP AS TO THE LOI FONDAMENTALE AND THE
RELATION OF THE MANDATE OF THE COMMISSION TO IT CMA THE VIEW OF
THE ADVISORY COMMITTEE IS THAT =

P5/52/50 =

THERE IS NO QUESTION FOR THE PRESENT ABOUT APPLICABILITY OF
THE LOI FONDAMENTALE AND THE MANDATE OF THE ADVISORY COMMITTEE
IS EXACTLY THE SAME NOW AS IT WAS WHEN ORIGINALLY FORMULATED IN
CONSULTATION WITH THE COMMISSION'S CHAIRMAN STOP NOR IS IT
QUESTIONED THAT THE CONSTITUTIONAL AND LEGAL STRUCTURE OF THE =

P6/53 =

REPUBLIC OF THE CONGO CONTINUES TO BE BASED ON THE LOI FONDAMENTALE
UNTIL SUCH TIME AS A NEW CONSTITUTIONAL BASIS MAY BE ADOPTED
IN CONSTITUTIONAL FORM BY THE CONGOLESE STOP IT WAS POINTED OUT
THAT REFERENCES TO THIS POSITION WERE MADE IN THE SECURITY
COUNCIL PRIOR TO ADOPTION OF THE RESOLUTION STOP UNQUOTE +

COL 493 23RD ONUC-943 +

UNITED NATIONS
FEB 26 PM 9:27
TELETYPE UNIT

23 February 1961

Draft text of proposed reply to Mr. Wachuku based on discussion of his message in meeting of 23rd February.

To Wachuku, Geneva, from Secretary-General

Following is reply of Advisory Committee on questions raised in your message of 23rd, ONUC-943.

- "(1) With regard to lack of any reference in three-power resolution of Security Council to conclusions of the Conciliation Commission, it may be observed that
- (a) the interim conclusions of the Conciliation Commission arrived too late to be considered in connection with the resolution under discussion in the Security Council;
 - (b) they were considered by the Advisory Committee only as to form and not substance; and
 - (c) it was the general view, in any case, that there should be no appraisal of the conclusions prior to receipt of

the Commission's final report, which will no doubt be discussed in the General Assembly.

- (2) As to the loi fondamentale and the relation of the mandate of the Commission to it, the view of the Advisory Committee is that there is no question for the present about applicability of the loi fondamentale and the mandate of the Advisory Committee is exactly the same now as it was when originally formulated in consultation with the Commission's Chairman. Nor is it questioned that the constitutional and legal structure of the Republic of the Congo continues to be based on the loi fondamentale until such time as a new constitutional basis may be adopted in constitutional form by the Congolese. It was pointed out that references to this position were made in the Security Council prior to adoption of the resolution."