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Note Verbale from D.H. to the
President of the Congo (draft)

24 March 1961
(40th meeting)

Draft Note Verbale dated 24 March from the Secretary-General
to the President of the Republic of the Congo

The Secretary-General presents his compliments to the Permanent Mission of the Republic of the Congo (Leopoldville), and wishes, through it, to bring the following observations to the attention of the President of the Republic.

As is well known, the United Nations Force in the Congo was sent in accordance with a request signed by the President of the Republic and by the Prime Minister of the Central Government. The principles governing the Force, its presence in the Congo, its activities and related matters were set out in the report to the Security Council of 18 July 1960 (S/4389) to which the Secretary-General wishes to refer. From this report the following two paragraphs may be quoted:

"Another principle which I consider as generally applicable and, therefore, as basic also to the present operation, is that, while, on its side, the host Government, when exercising its sovereign right with regard to the presence of the Force, should be guided by good faith in the interpretation of the purpose of the Force, the United Nations, on its side, should be understood to be determined by similar good faith in the interpretation of the purpose when it considers the question of the maintenance of the Force in the host country. This principle is reflected in the final phrase of the relevant paragraph of the resolution authorizing the Secretary-General to provide the Government of the Republic of the Congo with United Nations military assistance.

"From this basic understanding regarding the presence of a United Nations Force in the country it follows that the United Nations activity should have freedom of movement within its area of operations and all such facilities regarding access to that area and communications as are necessary for a successful accomplishment of the task. A further elaboration of this rule obviously requires an agreement with the Government, i.e. specifying what is to be considered the area of operations."

The principles referred to in the first paragraph of this quotation were embodied in a basic agreement between the United Nations and the Central Government of the Republic of the Congo concluded on 27 July 1960. This agreement continues in force and constitutes a binding undertaking on the part of both the United Nations and the Republic of the Congo. It has been contemplated, however, that these general undertakings would be given more specific legal forms in a "status" agreement that would deal in detail with such matters as entry, jurisdiction, facilities, privileges and such other subjects which call for appropriate legal specification. This has been done, for example, in the agreement between the United Nations and the United Arab Republic in regard to the United Nations Emergency Force in that country.

The President is aware that circumstances did not permit the negotiation and conclusion of the contemplated "status" agreement. This has not, of course, affected the rights of the United Nations under the Charter and the Security Council resolutions as well as the basic

agreement of 27 July 1960. However, the lack of a comprehensive legal agreement has been a factor in giving rise to the misunderstanding and difficulties which have arisen in the relations between the United Nations and the Republic. In the view of the Secretary-General, it is evident that if the United Nations Operation in the Congo is to continue there must be an agreement clarifying in detail the rights of the United Nations Force and the negotiation of this agreement must be undertaken as a matter of urgency.

The Secretary-General must note the public statements which have recently been made by the President of the Republic and leading personalities associated with him, to the effect that the presence of the United Nations Force is no longer necessary for the purpose envisaged by the Security Council resolutions. While no such statements have been officially addressed to the United Nations, there have been several actions against the United Nations Force which seem to be consistent only with an intention to bring about the withdrawal of the Force. Mention need only be made of the measures which have substantially restricted the freedom of movement of the Force and which have in various ways made the Force dependent on the will of authorities external to the United Nations. These acts directed against the Force give rise to the inference that it has been the intention of those responsible for them to make it impossible for the United Nations to succeed in its task. It may be that thereby they wished the United Nations itself to raise the question as to whether its operation should continue.

If it is in fact the intention of the President of the Republic and those associated with him to bring about the termination of the United Nations Operation in the Congo, that position should be brought directly to the attention of the Security Council and the General Assembly through the appropriate channels. It is obvious that a matter of this importance cannot be left to inferences from public statements or acts of harassment. In the circumstances, the Secretary-General is obliged to raise with the President the question as to whether it is his desire that the United Nations military and civilian operation continue. The civilian operation, it may be noted, cannot be expected to continue in the present situation of internal confusion and uncertainty without the protection of the United Nations military force and therefore both must be regarded as interrelated. The essential point is that the doubt and ambiguity regarding the intention of the Congolese Government must be eliminated; this is imperative and requires an immediate and unequivocal reply from the President of the Republic.

In the event the President were to express the view that the United Nations operation should be brought to an end and the Force withdrawn, the Secretary-General would immediately have to bring this before the Security Council for its consideration. The Security Council would then be required to consider this request in the light of its primary responsibility for the maintenance of international peace and security and with regard to the circumstances which gave

rise to the Security Council decisions on the Congo. For it has already been made clear that the relationship between the United Nations and the Republic of the Congo is not merely a contractual connection but one that is governed by the legally-binding decisions of the Security Council and that it is only the Security Council that can determine whether the measures adopted by it should be carried out or discontinued or curtailed.

It is, however, the assumption of the Secretary-General that the President of the Republic does not wish the United Nations Operation to be discontinued, in spite of the difficulties that have been encountered. If this assumption is now confirmed by the President, the Secretary-General would propose, as indicated above, that negotiations be begun without delay for the elaboration of an agreement which, as in the case of the United Nations Emergency Force in the United Arab Republic, would provide more specific rules governing the rights and activities of the United Nations operation in the Congo. This would not involve, on either side, a demand for new rights or a relinquishment of the rights already established but would entail clarifying and rendering more precise the general principles which have already been agreed upon. Certainly this negotiation must in no way interfere with the implementation of these established rights, and in particular it must not delay correcting the existing situation at Matadi. This situation, if continued,

would nullify the possibility of negotiating an agreement, both because it interferes physically with the current operations of the Force and because it challenges a basic principle of the Charter on which any status agreement would have to be founded. It would then, I believe, be possible for the negotiation and resulting agreement to remove the ambiguities that have been a source of difficulty and confusion. It would naturally follow that the agreement would have application to those areas under the effective authority of the President of the Republic.

In case such negotiations for a "status" agreement were now to be opened, it is the view of the Secretary-General that, as an additional matter, consideration should be given to arrangements for the joint investigation of incidents in which personnel of the ANC or the United Nations Force are involved. In this respect, the Secretary-General has reference to the recent exchange of letters with the President of the Republic in which the President has expressed his desire to see such arrangements for joint investigations.

Furthermore, parallel with the general "status" agreement, the Secretary-General believes that there should be an agreement which might be annexed to the "status" agreement that would provide rules for the role of the United Nations Force in relation to the organization of the ANC. Negotiation of such an agreement would be undertaken on the basis of the Security Council resolution of 21 February 1961,

and might take account of the informal agreement on this subject that had been reached in August 1960. An agreement on this subject could appropriately provide for specification of the principles and procedures applicable to United Nations assistance to the authorities of the Republic of the Congo in the reorganisation of the Congolese armed units and personnel in accordance with the objective contained in paragraph B (2) of the resolution of 21 February 1961. In the view of the Secretary-General, the negotiation of an agreement on the reorganisation of the armed units should, equally within the negotiation of a "status" agreement, be regarded as a matter of urgency to be undertaken without delay if it is the desire of the President of the Republic that the United Nations Operation be continued.

To all of you in the Congo -- men, women and children -- I send my hearty greetings.

As Secretary-General of the United Nations Organization -- this great family of nations of which the Republic of the Congo is a Member -- I have been responsible for the past eight months for the direction of the United Nations affairs in the Congo. The United Nations has, for many years, followed with interest developments in the Congo, formerly known as "the Belgian Congo", and in other parts of Africa, but the close association between the Organization and the peoples of the Congo began in July of last year.

Your country attained full independent status on 30 June 1960. On 20 September 1960 the new Republic joined the United Nations Organization. Since then three other countries have joined our world organization, namely, Mali and Senegal and Nigeria, bringing the total membership to 99.

Every young nation, especially the less developed ones, experiences its teething troubles, and it is a primary function of the United Nations to give every possible assistance to such new members in their effort to preserve and nourish their newly won independence. In the case of the Congo, the United Nations found itself confronted with a problem of special magnitude and complexity. After attaining independence, your new Government was beset with the problem of administering a territory over seventy times the size of Belgium, but with inadequate resources of professional, administrative and technical staff to ensure the smooth running of essential services and the machinery of government.

For reasons which I need not go into, relations between your government and the former administrative authority became very strained, and the disagreement reached a point where many Belgians in the military and public service of your country were requested by your government to leave the Congo. A serious situation then developed and there was the danger of a complete breakdown in administration and the maintenance of law and order. It was at this stage that an appeal for help was made to the United Nations by your Government. At the joint request of the President and the late Prime Minister of the Congo, I took prompt action to call upon Member Nations to come to the aid of the Congo and at the same time, important resources of this organization in manpower, money and equipment were diverted to assist your Government in maintaining law and order and in keeping essential services going at a very disturbed time. While your neighbors who had also gained political independence were free to grapple with the problem -- serious

enough in itself -- of expanding their economies and raising the living standard of their people, you were faced in addition with the most difficult task of laying a new foundation for the administration of the State.

The United Nations Operation in the Congo has imposed a severe strain on the resources of the organization and of the countries -- especially the Afro-Asian countries -- directly participating in it. Other countries have helped indirectly through their moral support and general contributions to the United Nations. In this effort, a number of these nations have made sacrifices which they can ill afford. Yet new contributions are still being received from Member Nations, who are all determined to assist your country to stand on her feet again and take her place on equal terms with the rest of the Community of Nations.

As one would naturally expect in any major operation of this kind, some mistakes have been made in an endeavour to handle novel situations which have arisen. It remains, however, a fact that but for the presence and work of the United Nations in the Congo, your country might have become involved in a war which might have set off another world war. It is in this knowledge of the United Nations achievements in the Congo that I now wish to appeal to you all, whatever may be your occupation or political allegiance, to join with me and my staff in your country in furthering their work in the interests of us all. Your cooperation is essential for the success of our common venture. Much has been achieved so far, but there is still more to be done. Your leaders are at the present time, examining the best form of Constitution that will satisfy the aspirations of the various groups and interests in the Congo. Your schools and hospitals and other essential services need further aid. Food is still short in many parts of the country and your agriculture and industry have not, as yet, recovered from the effects of the recent upheavals.

The most important element in every state is the maintenance of law and order, without which none of the other services and activities can function. The United Nations and your Government are presently engaged together in this difficult task of restoring peace and stability throughout the whole of the country. To do this the United Nations personnel must work in close cooperation with the Congolese in the military as well as the administrative sphere.

Yet there has lately been some misunderstanding regarding the intentions of the United Nations Organization in respect of the Armée nationale congolaise. The decision of the Organization through its Security Council to assist in

reorganising your national army appears to have been misunderstood in certain quarters. I intend to discuss this matter in detail in a subsequent broadcast; but in the meantime I should like once more to emphasize that the decision of the Security Council in this respect represents a desire on the part of the United Nations that you should have a National Army of which you can be truly proud -- an army that is united, efficient, well-trained, properly equipped and above all loyal, in all of its units and in all of its officers, non-commissioned officers and soldiers, to the Republic of the Congo, and pledged to serve only the interests of your nation as a whole. There are some among you, and some outside the Congo, who have thought or pretended to think, that the United Nations has a different intention: namely, to disarm the units of your army. I say again that this is not true. The United Nations has no intention and no desire to force your soldiers to lay down their arms. It wishes not to destroy but to help you to rebuild your army -- a strong, efficient, loyal army, dedicated to keeping the peace in every corner of your great country, and to defending the nation against every threat from beyond your frontiers.

As I have already said, I shall come back to this question in a later talk and also deal with other matters concerning our operations in the Congo. Meanwhile I extend to you all -- men, women and children -- every good wish.