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THE SITUATION IN THE REPUBLIC OF THE CONGO

Draft resolution submitted by Ceylon, Ghana, Guinea, India, Indonesia, Mali, Morocco and United Arab Republic (A/L.319/Rev.2)

Exchange of messages between the President of the Republic of the Congo (Leopoldville) and the President of the General Assembly

1. Cable dated 14 October from the President of the Republic of the Congo (Leopoldville) addressed to the President of the General Assembly

We learn with indignation that Guinea, Ghana and Morocco have submitted to General Committee of General Assembly proposal to seat representatives of Mr. Lumumba. As our eight-point cable addressed to you 12 October^{1/} explains very clearly, authority in the Congo is at present held by Head of State and Council of Commissioners-General, with whom United Nations representative at Leopoldville has declared himself willing to treat. Mr. Lumumba is no longer a Minister but is now only a Deputy in Chamber of Representatives. It would be contrary to all principle for General Assembly to allow agents of a mere Deputy to take seat on behalf of Republic of Congo. Mr. Badibanga, Senator, is and remains our only representative at United Nations General Assembly. Protest vigorously against obstinate attitude of Ghana and Guinea in bringing anarchy to Congo through Lumumba. They are accessories to murders and massacres of civil population in Congo followed by epidemics which are decimating it.

^{1/} See annex attached hereto.

Proposal submitted by Guinea, Ghana and Morocco proves once more their desire and personal interest in seeing the sufferings, tortures and murders of our peoples continue.

(Signed) Joseph KASAVUEU
President of the Republic
of the Congo

(Signed) Justin BOMBOKO
President of the Council of
Commissioners-General and
Commissioner-General for
Foreign Affairs

2. Cable dated 19 October 1960 from the President of the General Assembly addressed to the President of the Republic of the Congo (Leopoldville)

I have the honour to acknowledge receipt of your cable of 14 October, to which I have given careful attention, and would inform you that it will be circulated to Member States as soon as this question comes before the General Assembly for discussion.

(Signed) Frederick H. BOLAND
President of the General Assembly

3. Letter dated 21 October 1960 from the President of the Republic of the Congo (Leopoldville) addressed to the President of the General Assembly

We have the honour to refer to our letter of 21 September 1960 in which we accredited Mr. Justin Bomboko as representative of the Republic of the Congo to the United Nations General Assembly.

As Mr. Bomboko, who is still Chairman of the delegation, is temporarily detained at Leopoldville, we have appointed Mr. Cyrille Adoula, Senator, to replace him during his absence. Mr. Adoula is being accompanied by

Mr. Mario Cardoso, who will replace Mr. Bomboko should Mr. Adoula also find himself obliged to be absent.

We request Your Excellency to give a favourable reception to Mr. Adoula and Mr. Cardoso.

(Signed) Joseph KASAVUBU

President of the Republic
of the Congo

4. Cable dated 26 October from the President of the General Assembly addressed to the President of the Republic of the Congo (Leopoldville)

I have the honour to acknowledge receipt of your letter of 21 October 1960, in which, referring to your letter of 21 September accrediting Mr. Justin Bomboko as Representative of the Republic of the Congo to the General Assembly, you informed me that during Mr. Bomboko's temporary absence from New York Mr. Cyrille Adoula, Senator, would replace him and that Mr. Cardoso would serve as Mr. Adoula's alternate. I wish to inform you that that letter will be brought to the attention of the General Assembly as soon as it takes up the draft resolution submitted jointly by Ghana, Guinea, India, Morocco and the United Arab Republic concerning the representation of the Central Government of the Republic of the Congo (Leopoldville) in the United Nations. Your communication will also, of course, be brought to the attention of the Credentials Committee.

(Signed) Frederick H. BOLAND

President of the General Assembly

ANNEX

Cable dated 13 October 1960 from the President of the Republic of the Congo (Leopoldville) addressed to the President of the General Assembly

1. Despite our cables dated 15 and 17 September to the Secretary-General of the United Nations, we note that the United Nations is again impeding the execution of judicial proceedings which are completely legal, although the discharge of a legal function is essentially and exclusively a domestic matter and the Charter prohibits the United Nations from intervening in matters within the domestic jurisdiction of an independent State.
2. Already on 15 September 1960 a Ghanaian military detachment prevented an arrest which was legally entirely in order. Your Representatives at Leopoldville then stated that the United Nations would not oppose the execution of a warrant for arrest duly issued by the competent judicial authority and would, on the contrary, facilitate its execution. The opposition offered yesterday by the United Nations to the execution of a warrant for the arrest of Mr. Lumumba issued by the Deputy Attorney-General and on the orders of the Attorney-General is therefore completely incomprehensible to us. Your Representative first demanded that the warrant for arrest should also be signed by the Chief of State, which is illegal for, under the laws of the Congo as of other countries, a warrant for arrest is issued solely by a magistrate of the Parquet. We complied with this illegal request. Your Representative then invoked Lumumba's parliamentary immunity as a deputy, whereas it is not for the United Nations to interpret our laws and, furthermore, under article 66 of the Basic Law, parliamentary immunity does not cover flagrant délit. Mr. Lumumba is liable to prosecution for a number of offences under the ordinary law, in particular, for the criminal and prolonged confinement without food or drink of a large number of Congolese in the cellars of his house, for example, Mr. Lois Bundebele, Director of the Leopoldville Airport, a confinement which resulted in death for a number of still unidentified individuals. Other offences are, for instance, the usurpation of the functions of Prime Minister after his dismissal (article 123 of the Penal Code), the issuing of orders for the arrest of Minister Delvaux on 7 September despite the fact that in no circumstances may proceedings be taken against a Minister of the Central Government without the authorization of one of the Chambers (article 40 of the Basic Law). He has also on many occasions and in particular on 9 October publicly

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incited the population against the legally constituted powers and the established civil and military authorities (articles 186 et seq. of the Penal Code). It does not take a lawyer to appreciate the flagrant nature of these crimes and offences. By offering forcible opposition, the United Nations is directly conniving at crimes under the ordinary law and is indirectly encouraging Lumumba's few supporters to continue acts of banditry and terrorism. By thus impeding the normal operation of the courts and contributing to the chaos in the Congo, the United Nations is discrediting itself in the eyes of Congolese and international public opinion.

3. The United Nations attitude astonishes us all the more in that your Special Representative at Leopoldville has acted to the contrary in many instances in which it was nevertheless a matter of protecting law and order. Among other examples, United Nations forces have looked on impassively at the slaughter of thousands of unarmed civilians, men, women and children, at Bakwanga, whereas this culpable inertia is liable to criminal penalties in many countries. On 7 September the United Nations refused protection to the Minister for Foreign Affairs, Bomboko, pursued despite ministerial immunity by soldiers sent by Lumumba. We also point out to you that upon arrest, Parliamentarians Bolikango, Fele and others, United Nations took no trouble to ascertain whether those arrests were legal whereas they aroused keen feelings among the population.

4. From all the foregoing it is plain that the attitude adopted yesterday by the United Nations indicates either marked bad faith, or no less marked ignorance of our laws, or unacknowledged motives of international policy which run counter to vital Congolese interests.

5. With regard to the second hypothesis (above), we wish to inform you that contrary to Anglo-Saxon principle it is the Chief-of-State who, in the Congo as in Belgium, effectively appoints Ministers, dismisses them or accepts their resignation. The role of the Chambers is thereafter to extend or refuse their confidence to the Government so appointed. The Government must present itself before the Chambers as soon as possible but sometimes circumstances prevent a new Government from presenting itself before some time has passed. For example, the existing Belgian Government did not present itself before the Chambers until three weeks after being formed. Immediately upon its formation, and even before presenting itself to Parliament, the Government is invested with all its powers

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and has as strict duty the maintenance and, if necessary, restoration of order. This principle is that of our basic law which was given to us by our delegates to the round-table conference and by Belgian Parliament. We point out to you here that the Congolese people possess an innate keen sense of legality and of written laws. We point out to you that aforesaid constitutional principle was fought by Mr. Lumumba, aided by foreign countries, and that the Chambers being by then in complete confusion it was found necessary on 14 September to adjourn the Chambers for a month. Since then, the Army has intervened and has imposed a Council of young university technicians as competent as they are devoted to the public service. This de facto situation became de jure through the Constitutional Legislative Decree of 11 October 1960 which, until the Council of General Commissioners completes its task, suspends the activity of the Chambers and of Mr. Ileo's lawful Government and confers on the aforesaid Council the legislative function of the former and the executive power of the latter, the powers of the Chief-of-State remaining unchanged. In other respects, the basic laws and the remainder of the legislation are maintained in force. As soon as possible, the Constitutional Legislative Decree will be repealed and the Chambers and the lawful Government reinstated in the exercise of their powers. This reinstatement will be fixed at the appropriate time by the Chief-of-State and the Council of General Commissioners independently of any interference or pressure from foreign Powers and, in particular, from the United Nations.

6. If the negative attitude of the United Nations is dictated by necessities of international policy, we should like to point out: (1) that retention of the post of a single Secretary-General cannot be set off against protection of an individual in the Congo in defiance of the aspirations and vital interests of the Congolese people and contrary to its laws and institutions; (2) that in Africa the countries which are anxious at all costs and in so self-interested a manner to protect one single individual here are a tiny minority in relation to the other independent States; (3) that among the Asian countries, the President of India fully understood the position of the Congolese people when he said just recently in the United Nations that the Congo could not be placed under the trusteeship of any foreign country nor of the United Nations; (4) that we are first and foremost Congolese and only secondarily Africans.

7. We feel we must inform you once again that our lawful act of authority of 5 September does not in any sense imply - in spite of the superficial and naive notion of many foreigners - rivalry between two men but is the reflection of the fundamental aspirations of the mass of the people to enjoy the public freedoms and provincial autonomy laid down in our two basic laws; to put an abrupt stop to the steady, gradual rise of dictatorship and methods of oppression and subjugation of the individual well-known to certain far-off countries but distasteful to the Bantu mentality: to see the Government cope with the real problems of unemployment, education, restarting of undertakings, etc. instead of merely taking long trips, making high-sounding, hollow speeches and even seeking military glory in civil war. You will have noticed that the Eastern Province, believed by some to be rotten to the core is on the way to recovery by its own efforts.

8. Consequently, (1) we raise one final, solemn protest against the unacceptable not to say ludicrous interference of the United Nations in the purely internal and largely judicial affairs of the independent State of the Congo, (2) more specifically, we do not admit the right of the United Nations to intervene by discussing the interpretation of our domestic laws, to hamper in an outrageous manner the regular functioning of justice or to hinder the orderly solution of the present difficulties in accordance with our aspirations and our institutions, (3) we request that a legal office of some ability be attached to the United Nations Representative at Leopoldville, (4) if the United Nations Representative at Leopoldville is no longer capable today or tomorrow of controlling the military contingents of certain countries, we denounce the aggression and invasion of the Congolese territory by these countries and urge the United Nations immediately to take the measures called for. On its side, the Congolese army will accept its responsibilities, (5) we wish to inform you that we are resolved to defend to the bitter end the independence obtained so dearly by our country, and to reject trusteeship in whatever form and from whatever Power it emanates.

Joseph Kasavubu
President of the Republic of the Congo

Justin Bomboko
President of the Council of Commissioners
General and Commissioner General for
Foreign Affairs