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THE SITUATION IN THE REPUBLIC OF THE CONGO

Report by the Advisory Committee
on the Congo

1. The General Assembly in its resolution 1474 (ES-IV), adopted on 20 September 1960, appealed, inter alia, "to all Congolese within the Republic of the Congo to seek a speedy solution by peaceful means of all their internal conflicts for the unity and integrity of the Congo, with the assistance, as appropriate, of Asian and African representatives appointed by the Advisory Committee on the Congo, in consultation with the Secretary-General, for the purpose of conciliation".
2. The Advisory Committee, under this formal mandate from the General Assembly, at its ninth meeting on 5 November 1960, agreed to establish a Conciliation Commission, composed of representatives of Ethiopia, the Federation of Malaya, Ghana, Guinea, India, Indonesia, Liberia, Mali, Morocco, Nigeria, Pakistan, Senegal, Sudan, Tunisia and the United Arab Republic, for the purpose of the above-quoted paragraph. The Advisory Committee laid down the following terms of reference for this Conciliation Commission:

"The Commission should study the situation, such study to cover the entire territory of the Congo, and should direct its 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 and of the resolution of the emergency special session of the General Assembly.

"In particular, the Commission will endeavour to assist in decisions being reached with a view to the speedy restoration of parliamentary institutions in the Republic of the Congo. The Commission is requested to proceed to the Congo and to submit a report to the Advisory Committee on the Congo as early as possible."

3. The majority of the members of the Conciliation Commission appointed by their governments assembled in New York to discuss their assignment prior to departure for the Republic of the Congo. At its first meeting, on 17 November 1960, the Commission elected Mr. Jaja Wachuku, Minister of Economic Development of Nigeria and Chairman of the Delegation of Nigeria to the fifteenth session of the General Assembly, as Chairman; Mr. Sopiée, Special Representative of the Prime Minister of the Federation of Malaya, as Vice-Chairman; and Ato Andom Mellese, Ambassador of Ethiopia to the Sudan, as Rapporteur. The Commission also decided that it would assemble in Leopoldville on the morning of Saturday, 26 November.
4. The action in implementation of General Assembly resolution 1474 (ES-IV) of 20 September 1960 has been the subject of an exchange of correspondence between Mr. Joseph Kasa-Vubu, the President of the Republic of the Congo, and Ambassador Rajeshwar Dayal, Special Representative of the Secretary-General in the Congo, and latterly the Secretary-General himself, acting on behalf of the Advisory Committee. This correspondence is annexed to the present report.
5. At a meeting of the Advisory Committee on 23 November, the Committee consulted with President Kasa-Vubu as Chairman of the delegation of the Republic of the Congo (Leopoldville) to the General Assembly. The President wished to regard the Conciliation Commission as part of the assistance rendered to the Congo by the United Nations and considered, in the light of this, that the usefulness of the operation would be dependent on the preparation of the people for the acceptance of such assistance. In order to give time for preparations in the Congo, thus considered desirable in order to facilitate the work of the Commission, the Advisory Committee decided to postpone the first meeting in Leopoldville. After further contacts with President Kasa-Vubu it was considered that a final decision on the time of departure of the Commission would be taken on receipt, at the end of next week, of a communication which President Kasa-Vubu has promised to send at that time regarding the state reached in the preparation of the Commission's work. Provisionally, it was envisaged by the Advisory Committee that a first meeting in Leopoldville of the Commission would be held in the week beginning on 5 December 1960.

ANNEX

1. Letter dated 13 November 1960 from the Special Representative of the Secretary-General in the Congo addressed to the President of the Republic of the Congo.

On behalf of the Secretary-General and of the Advisory Committee on the Congo and at their request, I have the honour to inform you that in accordance with the terms of resolution 1474 (ES-IV) of the General Assembly and in consultation with the Secretary-General, the Advisory Committee on the Congo has charged the representatives of Ethiopia, the Federation of Malaya, Ghana, Guinea, India, Indonesia, Liberia, Mali, Morocco, Nigeria, Pakistan, Senegal, Sudan, Tunisia and the United Arab Republic to assist in reaching the objectives set forth in paragraph 3 of the resolution adopted by the General Assembly at its emergency special session, the terms of reference being as follows:

"The Commission should study the situation, such study to cover the entire territory of the Congo, and should direct its 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 and of the resolution of the emergency special session of the General Assembly.

"In particular, the Commission will endeavour to assist in decisions being reached with a view to the speedy restoration of parliamentary institutions in the Republic of the Congo. The Commission is requested to proceed to the Congo and to submit a report to the Advisory Committee on the Congo as early as possible."

I attach, for information, the text of resolution 1474 (ES-IV) of the General Assembly.

(Signed) Rajeshwar DAYAL
Special Representative of the
Secretary-General in the Congo

2. Letter dated 15 November 1960 from the President of the Republic of the Congo addressed to the Special Representative of the Secretary-General in the Congo

I have the honour to acknowledge receipt of your letter of 13 November on behalf of the Secretary-General and the Advisory Committee on the Congo.

As you point out, the Advisory Committee operates within the framework of resolution 1474 (ES-IV) of the General Assembly. This resolution appeals to all Congolese within the Republic of the Congo to seek a speedy solution of their internal conflicts with the assistance, as appropriate, of Asian and African representatives. The expression "as appropriate" and the request to the Secretary-General to assist the Central Government of the Congo clearly show that the mandate of the Advisory Committee and of any commission which it might be called upon to set up, as far as the internal conflict in the Congo is concerned, is to lend its good offices while at the same time respecting the political independence of the Congo.

Moreover, I am not aware of any provision in the Charter of the United Nations which would permit the dispatch by the General Assembly of a conciliation commission with such a mandate, save in consultation with, and with the agreement of, the Member State concerned.

The dispatch of a commission to the territory of a Member State without its prior agreement would constitute a precedent the scope and danger of which cannot escape the Secretary-General.

The conditions which would allow a conciliation commission to devote itself to enabling the Congolese to arrive at solutions to the present difficulties would not seem to be present, according to the information which you have brought to my attention. The Republic of the Congo has not had the occasion or the opportunity to express its views so far, either on the question of principle or on the conditions in which a conciliation commission could play a useful part.

Congolese public opinion would find it difficult to accept the intervention of a conciliation commission if any doubt subsisted as to the exclusive competence of the Congolese authorities to take themselves the final decisions demanded by the internal political situation in the Congo or as to the full participation of the Congo in the work of the United Nations. Moreover, it would have difficulty

in understanding how any effective conciliatory role could be played by the representatives of Governments which have publicly taken a stand on problems of Congolese internal policy.

On the other hand, the Republic of the Congo is ready to support any proposal emanating from the Advisory Committee or elsewhere designed to promote national understanding through the good offices of African chiefs of State or their representatives, with a view to preserving the unity, territorial integrity and political independence of the Congo and to assisting its Government to restore and maintain public order throughout the territory in the interest of international peace. The Republic of the Congo is ready to participate in consultations on the study and implementation of any proposals of this nature.

(Signed) Joseph KASA-VUBU
President of the Republic
of the Congo

3. Letter dated 17 November 1960 from the Special Representative of the Secretary-General in the Congo addressed to the President of the Republic of the Congo

I have the honour to acknowledge receipt of your letter dated 15 November 1960, the contents of which have been reported to the Secretary-General and the Advisory Committee on the Congo. In thanking Your Excellency for your letter, I am directed to inform you that the Advisory Committee, after giving careful consideration to its contents, wishes to assure you that the Conciliation Commission, set up under paragraph 3 of General Assembly resolution 1474 (ES-IV) of 20 September, is neither intended to effect, nor does it involve, any kind of intervention in the internal affairs of the Republic of the Congo. This has been made amply clear in the terms of reference of the Commission which were communicated to you in my letter of 13 November 1960.

Furthermore, the Conciliation Commission is to work within the framework of the legal and constitutional structure of the Republic of the Congo, and in consequence, its efforts will be directed towards conciliation within the letter and spirit of this provision.

The Commission would also, as observed by Your Excellency, respect the territorial integrity and political independence of the Congo.

The Commission has been constituted under the General Assembly's resolution referred to above in view of the heavy responsibilities which the United Nations has undertaken at the request of the Government of the Republic of the Congo. Commissions of this nature have been appointed in the past by the United Nations on various occasions.

It is the intention of the Commission to undertake its task in close collaboration with, and without any derogation of, the authority of the lawful institutions of the Congo. There is no intention whatsoever to impose any solution; the Commission will only help as far as possible.

The members of the Commission will function in their individual capacity as members of a United Nations body and will not be subject to any directions from their Governments in respect of their responsibilities as members of the Commission.

The Advisory Committee has asked me to assure you that the formation of the Conciliation Commission is not intended to impede any processes, nor does it preclude any methods such as those referred to by Your Excellency, for bringing about order and harmony in the Congo. Indeed the Advisory Committee and the Conciliation Commission would heartily welcome the initiation of any process of conciliation.

(Signed) Rajeshwar DAYAL
Special Representative of the Secretary-General
in the Congo

4. Letter dated 22 November 1960 from the President of the Republic of the Congo addressed to the Secretary-General of the United Nations

I have had the honour to receive the letter of Mr. Rajeshwar Dayal, your Special Representative, of 17 November, informing me of the state of the work of the Advisory Committee on the Congo and the Conciliation Commission.

I had already informed Mr. Dayal, in a letter of 15 November, that the dispatch of a commission to the territory of a Member State, without its prior consent, would constitute a precedent the extent and danger of which you can not overlook. I added that Congolese public opinion would find it difficult to accept the intervention of a conciliation commission in present conditions. I was surprised to learn that without any formal decision by the United Nations General Assembly or the Security Council, upon the initiative simply of an Advisory Committee consisting of eighteen members and responsible primarily for providing information to the Secretary-General, the Conciliation Commission, on whose terms of reference and composition I have still not been consulted, would be coming this week to Leopoldville.

Owing to the tension existing in the Congo, which is due mainly to the ill-timed interventions of the Ghanaian Government in the internal politics of the Congo, it seems to me inopportune and dangerous to convene a conciliation commission at Leopoldville at the present time.

Such a decision, not emanating from any of the organs of the United Nations upon which the Charter might confer competence in the matter, can be covered solely by the authority of the Secretary-General himself.

I am compelled to notify you formally that the Republic of the Congo cannot give its agreement to an initiative of which it disapproves. I consider that the responsibility for this initiative and for the very serious consequences it might have falls upon you personally.

(Signed) Joseph KASA-VUBU
President of the Republic of the Congo

5. Letter dated 22 November 1960 from the President of the Republic of the Congo addressed to the Secretary-General of the United Nations

I have had the honour to notify you of my concern regarding the very serious consequences which the dispatch of a conciliation commission to Leopoldville might have in the present circumstances.

I am surprised to learn that, without any prior consultation with the authorities of the Republic of the Congo, the Advisory Committee contemplates sending to Leopoldville this week a conciliation commission of whose membership I am unaware.

I hope that, following a decision which will permit participation of the Republic of the Congo in the United Nations, an opportunity may be given as soon as possible to the Congolese Delegation to discuss with you or with the Advisory Committee measures which might facilitate progress towards conciliation between the various tendencies which have arisen in the Congo.

I would be obliged if you would kindly bring this letter to the attention of the members of the Advisory Committee.

(Signed) Joseph KASA-VUBU
President of the Republic of the Congo
