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LETTER DATED 6 AUGUST 1965 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE ACTING PERMANENT REPRESENTATIVE OF
THE UNION OF SOVIET SOCIALIST REPUBLICS

I have the honour to acknowledge receipt of your letter of 2 August 1965 concerning the question of the settlement by the United Nations Secretariat of claims by Belgian citizens for damage to persons and property in the Congo caused by United Nations personnel.

The arrangement to which your letter refers was brought about in the following circumstances. In the course of the United Nations activities in the Congo, the Secretariat received a number of claims from Belgian citizens as well as from individuals of various other nationalities alleging that they had suffered injury or damage to property by acts of United Nations personnel which gave rise to liability on the part of the Organization.

It has always been the policy of the United Nations, acting through the Secretary-General, to compensate individuals who have suffered damages for which the Organization was legally liable. This policy is in keeping with generally recognized legal principles and with the Convention on Privileges and Immunities of the United Nations. In addition, in regard to the United Nations activities in the Congo, it is reinforced by the principles set forth in the international conventions concerning the protection of the life and property of civilian population during hostilities as well as by considerations of equity and humanity which the United Nations cannot ignore.

Accordingly, the claims submitted were investigated by the competent services of ONUC and at United Nations Headquarters in order to collect all of the data relevant to determining the responsibility of the Organization. Claims of damage which were found to be solely due to military operations or military necessity were excluded. Also expressly excluded were claims for damage found to have been caused by persons other than United Nations personnel.

On this basis, all individual claims submitted by Belgian nationals, as well as those submitted by nationals of other countries, were carefully scrutinized and a list of cases was established by the Secretariat with regard to which it was concluded that compensation should be paid. Of approximately 1,400 claims submitted by Belgian nationals, the United Nations accepted 581 as entitled to compensation.

As regards the role of the Belgian Government, it was considered that there was an advantage for the Organization both on practical and legal grounds that payment to the Belgian claimants whose claim has been examined by the United Nations should be effected through the intermediary of their Government. This procedure obviously avoided the costly and protracted proceedings that might have been necessary to deal with the 1,400 cases submitted and to settle those in which United Nations responsibility was found.

Following consultations, the Belgian Government agreed to act as an intermediary and also agreed that the payment of a lump sum amounting to \$1.5 million would constitute a final and definite settlement of the matter. At the same time, a number of financial questions which were outstanding between the United Nations and Belgium were settled. Payment was effected by offsetting the amount of \$1.5 million against unpaid ONUC assessments amounting approximately to \$3.2 million.

Similar arrangements are being discussed with the Governments of other countries, the nationals of which have similarly suffered damage giving rise to United Nations liability. About 300 unsettled claims fall within this category.

In making these arrangements, the Secretary-General has acted in his capacity of chief administrative officer of the Organization, consistently with the established practice of the United Nations under which claims addressed to the Organization by private individuals are considered and settled under the authority of the Secretary-General.

As requested by you, I have arranged for your letter to be circulated as an official Security Council document (S/6589). I am also communicating to the Security Council the text of this reply together with the relevant letters exchanged with the Belgian Government.

11 March 1965

TEXT OF THE EXCHANGE OF LETTERS DATED 20 FEBRUARY 1965
BETWEEN THE SECRETARY-GENERAL OF THE UNITED NATIONS AND
THE MINISTER FOR FOREIGN AFFAIRS OF BELGIUM CONCERNING
THE SETTLEMENT OF CLAIMS LODGED AGAINST ONUC BY BELGIAN
NATIONALS

1. Letter from the Secretary-General

20 February 1965

Sir,

A number of Belgian nationals have lodged with the United Nations claims for damage to persons and property arising from the operations of the United Nations Force in the Congo, particularly those which took place in Katanga. The claims in question have been examined by United Nations officials assigned to assemble all the information necessary for establishing the facts submitted by the claimants or their beneficiaries and any other available information.

The United Nations has agreed that the claims of Belgian nationals who may have suffered damage as a result of harmful acts committed by ONUC personnel, not arising from military necessity, should be dealt with in an equitable manner.

It has stated that it would not evade responsibility where it was established that United Nations agents had in fact caused unjustifiable damage to innocent parties.

It is pointed out that, under these principles, the Organization does not assume liability for damage to persons or property, which resulted solely from military operations or which, although caused by third parties, gave rise to claims against the United Nations; such cases are therefore excluded from the proposed compensation.

Consultations have taken place with the Belgian Government. The examination of the claims having now been completed, the Secretary-General shall, without prejudice to the privileges and immunities enjoyed by the United Nations, pay to the Belgian Government one million five hundred thousand United States dollars in lump-sum and final settlement of all claims arising from the causes mentioned in the first paragraph of this letter.

/...

The distribution to be made of the sum referred to in the preceding paragraph shall be the responsibility of the Belgian Government. Upon the entry into force of this exchange of letters, the Secretary-General shall supply to the Belgian Government all information at his disposal which might be useful in carrying out the distribution of the amount in question, including the list of individual cases in respect of which the United Nations has considered that it must bear financial responsibility, and any other information relevant to the determination of such responsibility.

Acceptance of the above-mentioned payment shall constitute lump-sum and final settlement between Belgium and the United Nations of all the matters referred to in this letter. It is understood that this settlement does not affect any claims arising from contractual relationships between the claimants and the Organization or those which are at present still handled by United Nations administrative departments, such as ordinary requisitions.

Accept, Sir, the assurances of my highest consideration.

(Signed) U Thant
Secretary-General

His Excellency Mr. Paul-Henri Spaak
Vice-President of the Council of Ministers
of Belgium,
Minister for Foreign Affairs

Annex II

2. Letter from the Minister for Foreign Affairs of Belgium

Permanent Mission of Belgium
to the United Nations
50 Rockefeller Plaza, New York 20, N.Y.
Columbus 5-2377

S.529

New York, 20 February 1965

Sir,

I have the honour to acknowledge receipt of your letter of 20 February concerning the settlement of the problem of claims lodged with the United Nations by Belgian nationals who incurred damage in the Congo.

I accept the proposals which you make in that letter.

The agreement resulting from this exchange of letters shall enter into force upon notification to you by the Belgian Government of the assent of the Belgian Legislative Chambers to the terms of the exchange of letters.

Accept, Sir, the assurances of my highest consideration.

(Signed) P.-H. SPAAK
Vice-President of the Council
Minister for Foreign Affairs
of Belgium

The Secretary-General
of the United Nations
New York

ANNEX III

Letter dated 17 May 1965 from the Permanent Representative of
Belgium addressed to the Secretary-General

I have the honour to refer to the agreement concluded by the exchange of letters dated 20 February 1965 between yourself and the Minister for Foreign Affairs of Belgium concerning the settlement of claims lodged with the United Nations by Belgian nationals who incurred damage in the Congo.

I am instructed by my Government to notify you of the assent of the Belgian Legislative Chambers to the terms of the above-mentioned exchange of letters.

In accordance with the terms of the agreement of 20 February 1965 between the United Nations and Belgium, this agreement therefore enters into force today, 17 May 1965.

Accept, Sir, etc.

W. LORIDAN
Permanent Representative of Belgium
