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REPORT OF THE OFFICER-IN-CHARGE OF THE UNITED NATIONS OPERATION IN
THE CONGO TO THE SECRETARY-GENERAL ON DEVELOPMENTS RELATING TO THE
APPLICATION OF THE SECURITY COUNCIL RESOLUTIONS OF 21 FEBRUARY AND
24 NOVEMBER 1961

Note by the Secretary-General

Mr. Tshombe has requested certain security guarantees from the Officer-in-Charge of ONUC in connexion with his prospective visit to Leopoldville, at the invitation of Mr. Adoula (S/5053/Add.8, para. 14 and Annex III). The communications exchanged on this subject between the Officer-in-Charge and Mr. Tshombe are reproduced below.

1. Note verbale dated 20 February 1962 from the Officer-in-Charge of the United Nations Operation in the Congo addressed to the President of Katanga Province

The Officer-in-Charge of the United Nations Mission to the Congo presents his compliments to the President of Katanga and has the honour to refer to the conversation he had today with Mr. Stavropoulos. In accordance with the wish expressed by the President during that conversation, the Officer-in-Charge has the honour to inform him that he is authorized by the Secretary-General to give President Tshombe and his party all necessary guarantees for their security during his stay in Leopoldville.

The Officer-in-Charge has the honour to be, etc.

2. Note verbale dated 21 February 1962 from the Officer-in-Charge of the United Nations Operation in the Congo addressed to the President of Katanga Province

The Officer-in-Charge of the United Nations Mission to the Congo presents his compliments to the President of Katanga and has the honour to refer to his note verbale of 20 February 1962, in which he assured Mr. Tshombe that the United Nations was ready to give him and his party all necessary guarantees for their security. In answer to Mr. Tshombe's verbal request, the Officer-in-Charge confirms that these guarantees are valid for the whole period of the visit and for the journey of the President and his party to and from Leopoldville.

The Officer-in-Charge has the honour to be, etc.

3. Note verbale dated 21 February 1962 from the President of Katanga Province addressed to the Officer-in-Charge of the United Nations Operation in the Congo

The President of the State of Katanga presents his compliments to the Officer-in-Charge of the United Nations Mission to the Congo and has the honour to acknowledge receipt of his note verbale of 20 February 1962.

The President of the State of Katanga thanks the Officer-in-Charge of the United Nations Mission for the security guarantees offered by the United Nations and would be glad to receive confirmation that these guarantees apply not only to the period of the visit by the President and his party to Leopoldville, but also to his freedom to decide the time of his return to Katanga and to his return itself.

The President has the honour to be, etc.

4. Note verbale dated 22 February 1962 from the President of Katanga Province addressed to the Officer-in-Charge of the United Nations Operation in the Congo

The President of the State of Katanga presents his compliments to the Officer-in-Charge of the United Nations Mission to the Congo and has the honour to refer to his note verbale of 21 February 1962, in which he confirmed that the guarantees given to the President would be valid for the whole period of his visit and for his journey to and from Leopoldville.

The President of Katanga would like to know whether these guarantees include a guarantee that he will have complete freedom to decide the time of his return to Elisabethville, or, in other words, whether the United Nations will guarantee him that freedom, at any time and for the destination of his choice, even in the event of capture, on any grounds whatever, by the Leopoldville Government. The President of the State of Katanga considers that in the absence of such a guarantee he would be in the position of negotiating under constraint, which might prejudice the results achieved in these discussions.

The President has the honour to be, etc.

5. Note verbale dated 23 February 1962 from the Officer-in-Charge of the United Nations Operation in the Congo addressed to the President of Katanga Province

The Officer-in-Charge of the United Nations Mission to the Congo presents his compliments to the President of Katanga and has the honour to refer to the President's note verbale of 22 February 1962, and to his own note verbale of 21 February 1962, in which he confirmed that the guarantees given to Mr. Tshombe would be valid for the whole period of his visit to Leopoldville and for his journey to and from Leopoldville. In accordance with the wish expressed by Mr. Tshombe, the Officer-in-Charge specifies that these guarantees include a guarantee of complete freedom to decide the time of his return to Elisabethville, even in the event of opposition by the Central Government.

The Officer-in-Charge has the honour to be, etc.

6. First letter dated 23 February 1962 from the President of Katanga Province addressed to the Officer-in-Charge of the United Nations Operation in the Congo

I am very glad to acknowledge receipt of your note verbale of 23 February 1962. I would ask you, however, to inform me whether, as I believe, the guarantees given me by the United Nations would also be valid in the event of any decision being taken against me by the Congolese Parliament. I shall inform you very soon of the date fixed for my departure for Leopoldville.

I have the honour to be, etc.

7. Second letter dated 23 February 1962 from the President of Katanga Province addressed to the Officer-in-Charge of the United Nations Operation in the Congo

In order to remove any misunderstanding, and in order that the intentions of each side should be clear and well-defined, I should like to know what exactly is the position with regard to the warrant for my arrest issued by the Leopoldville Government and transmitted to the United Nations Representative in Elisabethville on 8 September 1961. I should be glad to receive your reply as soon as possible.

I have the honour to be, etc.

8. Letter dated 1 March 1962 from the Officer-in-Charge
of the United Nations Operation in the Congo addressed
to the President of Katanga Province

I have the honour to inform you that after receiving your two letters of 23 February concerning guarantees for your security during your proposed visit to Leopoldville, I wrote to the Prime Minister, who sent me the following reply:

"Sir,

I have the honour to acknowledge receipt of your letter GVT-184/62 of 26 February 1962.

As you know, I have on several occasions given Mr. Tshombe guarantees regarding his security. I gave a solemn undertaking on this matter during my last address over the Congolese National Radio.

I do not think it is necessary for me to return again to this question of the security of the President of Katanga Province.

I have the honour to be, etc."

In this connexion, I would remind you of my notes verbales of 20, 21 and 23 February, in which ONUC gave you all necessary guarantees for your journey to and from Leopoldville, for the whole period of your visit to Leopoldville and for your complete freedom to decide the time of your return to Elisabethville. ONUC has offered you these guarantees with the full agreement of the Central Government. I wish to state once more that they are fully adequate to ensure your security and that of your party.

I have the honour to be, etc.

9. Letter dated 2 March 1962 from the President of Katanga
Province to the Officer-in-Charge of the United Nations
Operation in the Congo

I have the honour to inform you of my surprise at not having yet received, as of today's date, the guarantees I requested through you from the Central Government and the Leopoldville Parliament in connexion with my proposed meeting with the Prime Minister, Mr. Adoula.

These guarantees were the subject of my three letters of 23 February, and during our meeting last Saturday you promised me a prompt reply regarding this matter.

I have the honour to be, etc.

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10. Letter dated 5 March 1962 from the Officer-in-Charge of the United Nations Operation in the Congo addressed to the President of Katanga Province

The United Nations Representative at Elisabethville has transmitted to us your letter of 2 March concerning the guarantees for your security on the occasion of your proposed meeting with the Prime Minister of the Central Government. I have the honour to inform you that I had already replied through our Representative, on 1 March 1962, to your two letters of 23 February, but that he was unable to deliver our reply to you before receiving your letter of 2 March because of your absence from Elisabethville. You will, no doubt, understand that our delay in replying to your two letters of 23 February (we have no knowledge of a third letter of that date) was due to the need for us to consult first with the Prime Minister of the Central Government.

I have the honour to be, etc.

11. Note verbale dated 5 March 1962 from the President of Katanga Province addressed to the Officer-in-Charge of the United Nations Operation in the Congo

The President of the State of Katanga presents his compliments to the Officer-in-Charge of the United Nations Mission to the Congo and has the honour to acknowledge receipt of his note verbale of 2 March 1962. He notes with regret, however, that it does not contain a definite reply to his letter No. 190 of 23 February 1962 and that, in addition, it completely ignores his letter No. 191 of the same date.

In order to avoid any further misunderstanding about his intentions, the President wishes to state formally once more that it is his intention to go to Leopoldville as soon as possible to meet Prime Minister Adoula, in accordance with the mandate given him by the Katangese National Assembly.

Nevertheless, being touched by the signs of affection given him by his people, who show some apprehension regarding his visit, he feels obliged to obtain definite and effective guarantees regarding that visit. He was glad to learn, by a note verbale of 20 February 1962, that the Secretary-General of the United Nations had agreed that he should be given all the necessary guarantees. Further

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information on the extent of those guarantees was requested in various notes verbales and letters, dated 21, 22 and 23 February 1962, and on some points the United Nations replied without delay, on the same day or on the following day, for which the President is grateful. That was the case with his questions regarding the journey to and from Leopoldville, the visit itself and the possibility of leaving Leopoldville at any time.

The President, however, considers these guarantees insufficient. In his note ver of 23 February 1962, the Officer-in-Charge of the United Nations Mission to the Congo stated that the guarantees would be valid even in the event of opposition by the Central Government. But the President's security may be threatened by persons who do not belong to the United Nations or to Mr. Adoula's Central Government. There are also the Leopoldville Parliament, the judicial authorities and the Head of State to be considered. These matters were raised in two letters from the President dated 23 February 1962, in which he said, inter alia, "I would ask you, however, to inform me whether, as I believe, the guarantees given me by the United Nations would also be valid in the event of any decision being taken against me by the Congolese Parliament", and "I should like to know what exactly is the position with regard to the warrant for my arrest issued by the Leopoldville Government and transmitted to the United Nations Representative in Elisabethville on 8 September 1961".

Whereas previously the United Nations had replied within twenty-four hours, on this occasion a reminder had to be sent, on 2 March 1962. In its reply, which has just been received, the United Nations passes over the second point in silence, and on the first it confines itself to reproducing, together with a few comments which will be discussed later, the text of a letter from Prime Minister Adoula, which reads, "I have on several occasions given Mr. Tshombe guarantees regarding his security. I gave a solemn undertaking on this matter during my last address over the Congolese National Radio. I do not think it is necessary for me to return again to this question". The note verbale from the Officer-in-Charge of the United Nations Mission to the Congo adds the following, "ONUC has offered /President Tshombe/ these guarantees /for the journey to and from Leopoldville and for the visit itself/ with the full agreement of the Central Government".

It is evident that the only guarantees which the President has are those given him by the Leopoldville Government and by the United Nations with the Government's agreement. President Tshombe, being faced with such an ambiguous attitude, finds himself obliged to ask for definite answers and to make it a condition for his journey that he should be given the guarantees stipulated in the various notes verbales with the agreement of the Secretary-General, in case the Government of Mr. Adoula were to change its attitude; the Leopoldville Parliament were to take a decision which would prejudice his security; the Head of State, exercising his powers under article 187 (2) of the Fundamental Law, were to take measures against him; the judicial authorities were to institute proceedings; hostilities were to be resumed in any part of the Congo, and particularly in Katanga; any event were to occur, or any person were to take action, for any reason whatever, which would endanger his person.

President Tshombe has now fixed his departure for 15 March 1962, having no doubt that the United Nations will indicate its agreement in good time.

12. Letter dated 6 March 1962 from the Officer-in-Charge of the United Nations Operation in the Congo addressed to the President of Katanga Province

Further to the interview which you kindly gave me yesterday, I have the honour to confirm the additional assurances which I gave you orally.

The United Nations places a very wide interpretation on the assurances given by Mr. Cyrille Adoula, Prime Minister of the Central Government of the Republic of the Congo, in his letter of 28 February 1962 to the Officer-in-Charge of the United Nations Mission to the Congo, the text of which was communicated to you in a note verbale of 1 March 1962.

The matter of a parliamentary warrant for your arrest, moreover, did not in any way threaten your security during the talks at Kitona. The United Nations had given you a guarantee that if the question of the warrant was raised, the United Nations would oppose its execution, because any such action would nullify the assurances regarding your security given you by the United Nations with the agreement of the Central Government. If at the present time, against all expectations, such a situation were to arise, however, the United Nations would

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of course adopt the same attitude in connexion with your forthcoming journey to Leopoldville, where, according to your note verbale, you intend to arrive by 15 March 1962 at the latest.

I have the honour to be, etc.
