

No. 5975

**UNITED NATIONS
and
CONGO (LEOPOLDVILLE)**

**Agreement relating to the legal status, facilities, privileges
and immunities of the United Nations Organization
in the Congo. Signed at New York, on 27 November
1961**

Official text: French.

Registered ex officio on 27 November 1961.

**ORGANISATION DES NATIONS UNIES
et
CONGO (LÉOPOLDVILLE)**

**Accord concernant le statut juridique et les privilèges et
immunités de l'Organisation des Nations Unies au
Congo ainsi que les facilités qui lui seront accordées.
Signé à New-York, le 27 novembre 1961**

Texte officiel français.

Enregistré d'office le 27 novembre 1961.

[TRANSLATION — TRADUCTION]

No. 5975. AGREEMENT¹ BETWEEN THE UNITED NATIONS AND THE REPUBLIC OF THE CONGO (LEOPOLDVILLE) RELATING TO THE LEGAL STATUS, FACILITIES, PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS ORGANIZATION IN THE CONGO. SIGNED AT NEW YORK, ON 27 NOVEMBER 1961

The United Nations and the Government of the Republic of the Congo (hereinafter referred to as "the Government") :

Desiring to conclude an agreement for the purpose of carrying out the resolutions of the Security Council concerning the Republic of the Congo, and to determine the details of the application of their basic Agreement of 27 July 1960 ;

Recalling the request of the Government to the United Nations for military assistance and its acceptance of the resolutions of the Security Council ; and

Having regard to the provisions of the United Nations Charter for mutual assistance in carrying out the measures decided upon by the Security Council, and for the privileges and immunities necessary for the fulfilment of the purposes of the United Nations,

Have agreed as follows :

RESPECT FOR LOCAL LAW AND INTERNATIONAL STATUS

1. Members of the United Nations Force in the Congo and all officials serving under the United Nations in the Congo shall respect the laws and regulations of the Republic of the Congo. They shall refrain from any activity of a political character in the Congo and from any action incompatible with their international responsibilities. The Special Representative of the Secretary-General shall ensure the observance of these obligations.

2. The United Nations shall possess sole competence with respect to decisions concerning the composition of the military units sent to the Congo, it being understood at the same time that the United Nations shall, in determining their composition, give every consideration to the opinion of the Government as one of the most important factors to be borne in mind in connexion with recruitment:

¹ Deemed to have taken effect on 15 July 1961, as from the date of arrival of the first elements of the United Nations Force in the Congo, in accordance with paragraph 48.

3. In so far as consistent with the relative provisions of the United Nations Charter and the independent exercise of its functions, the Secretary-General shall pay all due attention to any pertinent information transmitted to him by the Government concerning United Nations officials who have been assigned to duty with the United Nations in the Congo, as well as concerning local personnel employed by the United Nations.

ENTRY, EXIT AND IDENTIFICATION

4. Members of the Force shall be exempt from passport and visa regulations and immigration inspection or restrictions. Officials serving under the United Nations in the Congo and members of their families living at their expense shall be exempt from immigration restrictions and alien registration.

5. The first entry of members of the Force into the territory of the Republic may be by military movement order, a national military identity card and the certificates of vaccination as provided in international conventions. Thereafter the personal identity card issued to them under the authority of the Special Representative of the Secretary-General shall be recognized by all authorities as valid and sufficient identification. Members of the Force shall be bound to present their identity cards, if requested, but not to surrender them.

6. The United Nations laissez-passers shall be recognized as a valid travel document. This laissez-passers, as well as the personal identity cards issued to United Nations officials in the Congo by the Special Representative of the Secretary-General, shall be recognized by all authorities as valid and sufficient identification.

7. (a) Requests for visas made by holders of a laissez-passers and accompanied by a certificate stating that these officials are travelling on United Nations business shall be given the speediest possible consideration.

(b) The same privileges shall be granted to experts and other persons who do not hold a United Nations laissez-passers but who carry a certificate stating that they are travelling on United Nations business.

(c) Persons granted the privileges referred to in this article shall obtain the certificates of vaccination as provided in international conventions.

(d) Persons holding a laissez-passers and also experts or other persons travelling on United Nations business who come from a country where the Republic of the Congo is not represented, or who are unable for any other reason to obtain a visa before their arrival in the Congo, shall be permitted to enter without a visa which shall be delivered to them after their arrival by the Ministry of Foreign Affairs.

8. The Government shall be kept informed of the following :

(a) The arrival and departure of military units serving in the Force, as well as their numbers and nationality ;

- (b) The arrival and final departure of members of the Force who are not transferred at the same time as the rest of their national contingent ;
- (c) The arrival and final departure of officials serving under the United Nations, or the termination of their services ;
- (d) The arrival or final departure of a member of the family of an official serving under the United Nations, or of a member of the Force ;
- (e) The appointment or discharge of persons residing in the Congo as officials employed in the service of the United Nations.

9. Members of the Force shall be subject to the exclusive jurisdiction of their respective national States in respect of any criminal offences which may be committed by them in the Congo. Officials serving under the United Nations in the Congo shall be immune from legal process in respect of all acts performed by them in their official capacity. They shall be immune from any form of arrest or detention.

10. In respect of matters not falling within paragraph 9, the Government in the exercise of its sovereignty undertakes to refrain from any act of arrest, detention, seizure of personal property, or other form of legal process against members of the Force or officials serving under the United Nations in the Congo or their dependants until after completion of the following procedures :

- (a) If the authorities of the Government possess evidence that an official or a dependant of such official has committed an offence against the penal laws of the Republic of the Congo all such evidence shall be communicated to the Special Representative of the Secretary-General, who shall conduct any supplementary inquiry necessary to obtain evidence. The Government and the United Nations will then arrive at an agreement as to whether the international Organization should institute disciplinary procedures within the terms of its appropriate regulations or whether the Government shall institute legal action. Failing an agreement, the matter shall be submitted to arbitration at the request of either Party.
- (b) If as a result of any act performed by a member of the Force or an official in the course of his official duties, it is alleged that loss or damage that may give rise to civil proceedings has been caused to a citizen or resident of the Congo, the United Nations shall settle the dispute by negotiation or any other method agreed between the Parties ; if it is not found possible to arrive at an agreement in this manner, the matter shall be submitted to arbitration at the request of either Party.
- (c) If evidence is submitted of the existence of an obligation at civil law binding upon or in favour of a member of the Force or an official serving under the United Nations in the Congo or a dependant of such member of the Force or official, and arising out of his presence in the Congo but not related to his official duties, the United Nations shall use its good offices to assist the parties

in arriving at a settlement. If the dispute cannot be settled in this manner, or by any other agreed mode of settlement, it shall be submitted to arbitration at the request of either Party.

11. The foregoing arrangements concerning jurisdiction are made having regard to the special functions of the United Nations in the Congo, and are not for the personal benefit of members of the Force or officials in the service of the United Nations. The Special Representative of the Secretary-General shall arrange for any arbitral procedure necessary to hear and decide such disputes as have to be submitted to arbitration under the provisions of paragraphe 10. They may, should they find it warranted, establish a Claims Commission and instruct it to consider all or any types of claims listed in paragraph 10.

12. The Supreme Commander of the United Nations Force in the Congo shall take all appropriate measures to ensure the discipline and good order of members of the Force. For this purpose United Nations military police may undertake the surveillance of the premises occupied by the United Nations, the areas in which the Force is deployed, and, in liaison with local authorities, wherever necessary to maintain such discipline and order. The military police shall have the power of arrest over members of the Force.

13. A member of the military personnel or an official serving under one of the Parties to the present Agreement may not be arrested by the authorities of the other Party unless the competent authorities to whom he is responsible are unable to act with the necessary speed to apprehend him at the time when he commits, or attempts to commit, an offence which may result in serious harm to persons or property; however, a person apprehended in this way, as well as any object seized in connexion with the offence, must be delivered immediately to the nearest authority to whom the person in question is responsible. These provisions shall be without prejudice to the right possessed by the ONUC, under its authority to assist in preserving order, to take into custody other persons in order to deliver them to the authorities, whether Congolese or not, to whom they are responsible.

14. The United Nations and the Congolese authorities shall assist each other in the carrying out of all necessary investigations into offences which are of concern to either or both Parties, in the hearing of witnesses, and in the collection and production of evidence.

PRIVILEGES AND IMMUNITIES

15. The United Nations, its property and assets, and the property and assets in the Congo of the States participating in the United Nations Force shall be immune from every form of legal process, from search and requisition and from any other form of governmental interference. The documents of the United Nations and of the participating States shall be inviolable, wherever they may be.

16. The United Nations, its property and assets, and the property and assets of the States participating in the Force situated in the Congo for the purposes of the Force shall be :

- (a) Exempt from taxes of every kind. It is understood, however, that the United Nations shall not request exemption from taxes that do not exceed the mere remuneration of services performed by public utilities.
- (b) Exempt from customs duties and from prohibitions or restrictions on imports and exports relating to articles imported by or on behalf of the United Nations or by the participating States in application of any part of the United Nations programme in the Congo. The right of the United Nations to import goods free of duty includes the right to import certain articles for sale exclusively to members of the Force and to officials of the United Nations, in service institutes and canteens. It is understood, however, that articles thus imported free of duty shall not be resold on Congolese territory to third parties, save at conditions approved by the Government.
- (c) Exempt from customs duties and from prohibitions and restrictions on imports and exports in respect of their publications.

17. Arrangements shall be made for the remission or return to the United Nations of the amount of any duties and taxes which are included in the price paid by the United Nations in any important purchases which it may make in the Congo.

18. (a) Members of the Force and officials serving under the United Nations in the Congo shall be exempt from direct taxes. They shall be exempt from personal contributions. Their papers and documents shall be inviolable.

(b) Members of the Force and officials serving under the United Nations in the Congo shall have the right to import free of duty their personal effects when taking up their posts in the Congo, and subsequently, such articles as the United Nations administrative services may certify as being required by these persons by reason of their presence in the Congo under the United Nations, it being understood that articles imported in this manner shall not be sold on Congolese territory to third parties, save at conditions approved by the Government.

(c) Members of the Force and officials serving under the United Nations are exempt from inspection of their personal baggage, unless there are good reasons for supposing that it contains undeclared articles not covered by the exemptions referred to in paragraph (b) of this article, or articles the import or export of which is prohibited by law or falls under the quarantine regulations of the Republic of the Congo. In such cases, the inspection shall be carried out only in the presence of the member of the Force or official concerned, or of his representative.

19. As regards the rules of precedent observed in the Republic of the Congo, the Special Representative shall immediately follow the President of the Republic ; in particular, he shall take precedence over all the heads of diplomatic missions.

20. The funds, currencies and accounts of the United Nations are free from financial controls.

21. The Government shall, if requested by the United Nations, make available to the United Nations against reimbursement in United States dollars or other currency mutually acceptable, Congolese currency required for the use of the United Nations activities and programme in the Congo, including the pay of the members of national contingents, at the most favourable official rate of exchange.

22. Officials serving under the United Nations in the Congo shall be accorded the same facilities in respect of currency or exchange restrictions as are accorded to officials of comparable rank forming part of diplomatic missions to the Government.

23. On their departure from the Congo members of the Force shall be entitled, notwithstanding any foreign exchange regulations, to take with them such sums as are certified by the competent United Nations finance officer or the paymaster of the contingents, as having been received in pay and emoluments from the United Nations or the national Government in questions for service in the Congo and are a reasonable residue thereof.

PREMISES

24. The Government shall provide, in agreement with the United Nations accommodation service, such buildings or areas for headquarters, camps or other premises as may be necessary for the accommodation of the personnel and services of the United Nations and enable them to carry out their functions. Without prejudice to the fact that all such premises remain Congolese territory, they shall be inviolable and subject to the exclusive control and authority of the United Nations.

This authority and control may extend to the adjacent public ways to the extent necessary to regulate access to the premises. The United Nations alone may consent to the entry of any government officials to perform duties on such premises or of any other person. Every person who so desires for a lawful purpose shall be allowed free access to the premises placed under the authority of the United Nations.

25. If the United Nations should take over premises previously occupied by private persons and thus represented a source of income, the Government shall assist the United Nations to lease them at a reasonable rental.

FLAG

26. The Government recognizes the right of the United Nations to display the United Nations flag on its headquarters, camps, posts or other premises, vehicles and vessels

and otherwise as determined by rules of the Special Representative of the Secretary-General. Other flags or pennants may be displayed only in exceptional cases, such as the national holiday of the contingent concerned, and in accordance with conditions prescribed by the Special Representative.

LOCAL PERSONNEL

27. (a) The United Nations may recruit locally such personnel as it requires.

(b) The terms and conditions of employment for locally recruited personnel shall be prescribed by the Special Representative of the Secretary-General and shall generally, to the extent practicable, follow the practice prevailing in the locality.

(c) No Congolese authority shall seek to influence local personnel directly or indirectly in the performance of their duties. All decisions as to their recruitment and the continuation or cessation of their employment shall lie within the sole authority of the Special Representative of the Secretary-General; the latter, however, shall decide only after due consideration of the evidence submitted to him.

(d) Any dispute concerning the terms and conditions of employment of locally recruited personnel shall be settled in accordance with administrative procedures to be established by the Special Representative.

28. The privileges and immunities granted in accordance with the provisions of the preceding articles shall not be extended to Congolese nationals or other local staff who were subject to Congolese jurisdiction at the time of their recruitment by the United Nations in the Congo. Locally recruited members of the staff of the United Nations in the Congo shall enjoy immunity only from legal process in respect of acts performed by them in the course of their official duties. The Government shall exercise its jurisdiction over them in such a manner as will not hamper the conduct of the affairs of the Organization.

29. (a) Subject to the provisions of paragraph (c) of this article, officials and employees of the United Nations in the Congo other than Congolese nationals shall be exempt from the social security provisions in force in the Congo in respect of services rendered to the Organization.

(b) The exemption provided in paragraph (a) of this article shall also apply to private domestic servants employed exclusively by officials of the Organization, provided that they are not Congolese nationals or do not reside permanently in the Congo.

(c) Any official of the Organization who employs in his service persons not covered by the exemption provided in paragraph (b) of this article shall be required to fulfil the obligations imposed on employers by Congolese legislation concerning social security in the Congo.

30. The Government shall afford the members of the Force and the officials serving under the United Nations in the Congo full freedom of movement throughout Congolese territory and to and from points of access to Congolese territory. This freedom shall extend to the operation of vehicles, aircraft, vessels and equipment in the service of the United Nations.

31. The United Nations shall have the right to the use of roads, bridges, waterways, port facilities and airfields without payment of dues, tolls or charges by way of registration or otherwise, except for charges collected directly or remuneration for specified services.

32. United Nations vehicles, aircraft and vessels shall carry a distinctive United Nations identification mark. They shall not be subject to the registration or licences prescribed by Congolese laws or regulations.

COMMUNICATIONS

33. In all matters of official communications the United Nations shall enjoy conditions not less favourable than those accorded by the Government to any other Government or diplomatic mission. No censorship shall be applied to the official correspondence or other official communications of the United Nations or of the contingents of the Force in communicating with their Governments.

34. The United Nations and the contingents shall have the right to use messages in code or cipher and to despatch and receive their correspondence by courier or valise, which shall have the same privileges and immunities as diplomatic couriers.

35. The Government recognizes the right of the United Nations to make arrangements through its own facilities for the sorting and transport of private mail addressed to or despatched by members of the Force or officials serving under the United Nations in the Congo. The Government shall be informed of such arrangements. The Government shall not interfere with or censor such mail in any way.

36. The United Nations shall be authorized to install and operate in the Congo radio sending and receiving stations which shall be connected at appropriate points with the United Nations radio network and be able to communicate therewith. The United Nations shall duly communicate to the Government and to the International Frequency Registration Board the frequencies used for the operation of these stations.

37. The United Nations shall enjoy throughout the Congo the right of unrestricted communication by radio, telephone, telegraph or any other means, and of establishing

the necessary facilities for maintaining such communications within and between premises of the United Nations, including the laying of cables and land-lines and the use of fixed and mobile radio sending and receiving stations.

PUBLIC SERVICES

38. The United Nations shall have the right to the use of water, electricity and other public services at rates not exceeding those enjoyed by other comparable consumers. The United Nations shall have the same priority as essential Government services in the event of the interruption or threatened interruption of the said service.

UNIFORM

39. Members of the Force shall normally wear the uniform prescribed by the Supreme Commander but may wear civilian dress under conditions determined by him. Members of the Force while on duty shall be entitled to possess and carry arms in accordance with the regulations applicable to them.

DEATH OF MEMBERS OF THE FORCE

40. The Supreme Commander shall have the right to take charge of and dispose of the body of a member of the Force who dies in Congolese territory and may take steps for the disposal of the personal property of such member.

LIAISON

41. The Special Representative and the Government, as well as the Supreme Commander of the United Nations Force and the Supreme Commander of the Congolese National Army shall take the measures necessary to ensure close liaison between the United Nations and the Congolese authorities at both national and local levels. Notwithstanding this principal and subject to any agreement providing otherwise, official matters for which the United Nations is responsible in the Congo shall be taken up with the Minister of Foreign Affairs or his intermediary. Liaison officers shall be appointed to the staff headquarters on a reciprocal basis and, to the extent that their presence may be useful, to the regional commands of the Congolese National Army and the United Nations Force.

42. At airports necessary for the effective functioning of the Force, the United Nations alone shall control arrivals and departures of aircraft operating on its behalf, whether these are transporting civilian or military personnel or supplies. Except in cases covered by resolutions of the Security Council or the General Assembly, civilian officials of the Government shall control all other arrivals and departures. Liaison shall be maintained at each airport in order to prevent any conflict of functions in the application of this provision.

43. In fulfilling their liaison duties, both parties shall take fully into account the essential differences in their mandates :

- (a) Full responsibility for the implementation of domestic legislation and regulations shall remain with the Congolese authorities. The United Nations shall be as an international Force and as such its responsibilities shall be exercised for the purposes of maintaining public order, peace and security ; in so doing it shall not apply domestic regulations and procedures, but shall act in accordance with its interpretation of the mission assigned to it by the Security Council.
- (b) In the performance of their duties, the Congolese authorities responsible for enforcing the law shall have the right to resort to force in conformity with the law. The United Nations shall not have recourse to the use of force except as a last resort and subject to the restrictions imposed by its mandate and by the resolutions of the Security Council and the General Assembly.

44. In view of the impossibility of having two security systems acting in competition, both Parties undertake to co-ordinate their actions in the maintenance of public order and shall adopt the principle of mutual consultation. Whenever the actions of any units of the Army, Gendarmerie or Police might create a conflict of competence in the maintenance of public order, the authorities concerned shall proceed to immediate consultations with the nearest unit of the United Nations Force. Such conflicts shall be adjusted by agreement, in a spirit of understanding and co-operation. In particular, if a situation arises in which it appears that the use of force is necessary, the authorities concerned shall first immediately enter into consultation with the nearest unit of the United Nations Force.

SUPPLEMENTARY PROVISIONS

45. Any supplementary provisions necessary for the carrying out of this Agreement shall be made by agreement between the Special Representative of the Secretary-General or as the case may be by the Supreme Commander of the United Nations Force, and the appropriate Congolese authorities designated by the Government.

46. The United Nations and the Government shall from time to time, at the request of either Party, review the provisions of this Agreement in the light of the progressive development of the Congolese Civil Service and shall agree on any necessary amendments thereto. Any dispute between the United Nations and the Government concerning the interpretation and application of this Agreement which is not settled by other means agreed between the Parties shall be referred for arbitration to a tribunal consisting of three arbitrators whose decision shall be final. The Secretary-General of the United Nations and the Congolese Government shall each appoint one of the three arbitrators. The third arbitrator shall be a chairman appointed by agreement between the Secretary-General and the Congolese Government. If, within one month

from the date on which either Party has requested arbitration, the two Parties have failed to agree on the appointment of a chairman, the President of the International Court of Justice shall be requested by either Party to appoint a chairman. Should a vacancy occur in the tribunal for any reason, it shall be filled within thirty days in accordance with the method provided in this paragraph for initial appointments. The tribunal shall commence to function as soon as its chairman and one of its other members have been appointed. Two members shall constitute a quorum of the tribunal and with respect to all of its deliberations and decisions a favourable vote of two members shall suffice.

47. The Central Government of the Republic of the Congo shall have the ultimate responsibility for the fulfilment of such obligations by the competent Congolese authorities, whether central, provincial or local.

DURATION

48. Upon the signature of this Agreement by the duly authorized representatives of both Parties, it shall be deemed to have taken effect as from the date of arrival of the first elements of the United Nations Force in the Congo. The provisions of the Agreement which relate specifically to the Force or its members shall remain in effect until the departure from the territory of the Congo of the last elements of the Force and its equipment. Those provisions which relate generally to the United Nations or officials serving under the United Nations in the Congo shall remain in effect until this Agreement has been superseded or until such other date as shall be agreed between the Parties.

IN WITNESS WHEREOF the undersigned, on behalf of the Parties, have signed this Agreement at New York, on 27 November 1961, in duplicate in French.

For the United Nations :

Maung THANT
Acting Secretary-General

For the Government
of the Republic of the Congo :

Justin BOMBOKO
Minister for Foreign Affairs