

No. 08/175

The Embassy of the United States of America in Kinshasa presents its compliments to the Ministry of Foreign Affairs and International Cooperation of the Democratic Republic of the Congo and has the honor to refer to recent discussions between representatives of our two governments regarding issues related to United States military and civilian personnel (defined as members of the United States Armed Forces and civilian employees of the United States Department of Defense, respectively, hereafter referred to collectively as United States personnel) and United States contractors (defined as non-Congolese companies and firms, and their employees who are not nationals of the Democratic Republic of Congo, under contract to the United States Department of Defense) who may be temporarily present in the Democratic Republic of Congo in connection with mutually agreed ship visits, training, exercises, humanitarian activities, and other mutually agreed activities. As a result of these discussions, the Embassy proposes that United States personnel be accorded the privileges, exemptions, and immunities equivalent to those accorded to the administrative and technical staff of a diplomatic mission under the Vienna convention on diplomatic relations of April 18, 1961; that

United States personnel may enter and exit the Democratic Republic of Congo with United States identification and with collective movement or individual travel orders; that the Democratic Republic of Congo shall accept as valid all professional licenses issued by the United States, its political subdivisions or states thereof to United States personnel for the provision of services to authorized personnel; and that Congolese authorities shall accept as valid, without a driving test or fee, driving licenses or permits issued by the appropriate United States authorities to United States personnel for the operation of vehicles.

The Embassy further proposes that United States personnel be authorized to wear uniforms while performing official duties and to carry arms while on duty if authorized to do so by their orders.

The Government of the Democratic Republic of Congo recognizes the particular importance of disciplinary control by United States Armed Forces authorities over United States personnel and, therefore, authorizes the Government of the United States to exercise criminal jurisdiction over United States personnel while in the Democratic Republic of Congo.

The Embassy further proposes that the United States Department of Defense and United States personnel shall not be liable to pay any tax or similar

charge assessed within the Democratic Republic of Congo and that the United States Department of Defense and United States personnel may import into, export out of, and use in the DRC any personal property, equipment, supplies, materiel, technology, training, or services in connection with activities under this agreement. Such importation, exportation, and use shall be exempt from any inspection, license, other restrictions, customs duties, taxes, or any other charges assessed within the Democratic Republic of Congo. The Governments of the United States of America and the Democratic Republic of Congo shall cooperate to take such measures as may be necessary to ensure the security and protection of United States personnel, property, equipment, records, and official information in the Democratic Republic of Congo.

The Embassy proposes that vessels and vehicles operated by or, at the time, exclusively for the United States Department of Defense may enter, exit, and move freely within the territory of the Democratic Republic of Congo, and that such vehicles (whether self-propelled or towed) shall not be subject to the payment of overland transit tolls. Vessels and aircraft owned or operated by or, at the time, exclusively for the United States Department of Defense shall not be subject to the payment of landing, parking, or port fees, pilotage charges, lighterage, and harbor dues at facilities owned and operated by the Government

of the Democratic Republic of Congo. Aircraft owned and operated by or, at the time, exclusively for the United States Department of Defense shall not be subject to payment of navigation, overflight, terminal or similar charges when in the territory of the Democratic Republic of Congo. The United States Department of Defense shall pay reasonable charges for services requested and received at rates no less favorable than those paid by the Armed Forces of the Democratic Republic of Congo. Aircraft and vessels of the United States Government shall be free from boarding and inspection.

The Embassy also proposes that the United States Department of Defense may contract for any materiel, supplies, equipment, and services (including construction) to be furnished or undertaken in the DRC without restriction as to choice of contractor, supplier, or person who provides such materiel, supplies, equipment or services. Such contracts shall be solicited, awarded and administered in accordance with the laws and regulations of the Government of the United States of America.

Acquisition of articles and services in the Democratic Republic of Congo by or on behalf of the United States Department of Defense in connection with activities under this agreement shall not be subject to any taxes or similar charges in the Democratic Republic of Congo.

The Embassy further proposes that United States contractors shall not be liable to pay any tax or similar charge assessed within the Democratic Republic of Congo in connection with activities under this agreement and that such contractors may import into, export out of, and use in the Democratic Republic of Congo any personal property, equipment, supplies, materiel, technology, training, or services in fulfillment of contracts with the United States Department of Defense in connection with activities under this agreement. Such importation, exportation, and use shall be exempt from any license, other restrictions, customs duties, taxes, or any other charges assessed within the Democratic Republic of Congo.

The Embassy proposes that United States contractors shall be granted the same treatment as United States personnel with respect to professional and drivers' Licenses.

The Embassy proposes that United States personnel shall have freedom of movement and access to and use of mutually agreed transportation, storage, training, and other facilities required in connection with activities under this agreement.

The government of the Democratic Republic of Congo recognizes that it may be necessary for the United States Armed Forces to use the radio spectrum.

The United States Department of Defense shall be allowed to operate its own telecommunication systems (as telecommunication is defined in the 1992 constitution and convention of the international telecommunication union). This shall include the right to utilize such means and services as required to ensure full ability to operate telecommunication systems, and the right to use all necessary radio spectrum for this purpose. Use of the radio spectrum shall be free of cost to the United States Government.

Further, The Embassy proposes that the parties waive any and all claims (other than contractual claims) against each other for damage to, loss, or destruction of the other's property or injury or death to personnel of either party's armed forces or their civilian personnel arising out of the performance of their official duties in connection with activities under this agreement.

Claims by third parties for damages or loss caused by United States personnel shall be resolved by the United States Government in accordance with United States laws and regulations.

Finally, The Embassy proposes further that our two governments, or their ~~designated representatives may enter into implementing arrangements to carry~~ out the provisions of this agreement.

If the foregoing is acceptable to the Government of the Democratic Republic of Congo, The Embassy proposes that this note, together with the ministry's reply to that effect, shall constitute an agreement between the two governments, which shall enter into force on the date of the ministry's reply.

The Embassy of the United States of America in Kinshasa avails itself of this opportunity to renew to the Ministry of Foreign Affairs and International Cooperation of the Democratic Republic of the Congo the assurances of its highest consideration.

Embassy of the United States of America,

Kinshasa, August 28, 2008.





Translation

DEMOCRATIC REPUBLIC OF THE CONGO
MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION
Office of the Minister

No. 130/05/NKL/0722/2008

The Ministry of Foreign Affairs and International Cooperation of the Democratic Republic of the Congo presents its compliments to the Embassy of the United States of America at Kinshasa and has the honor to acknowledge receipt of the Embassy's note verbale No.08/175 of August 28, 2008, which includes the amended text and English version of the Status of Forces Agreement (SOFA), in response to note verbale No. 130/05/NKL/0707/2008 of August 27, 2008.

The Government of the Democratic Republic of the Congo agrees to all the provisions set forth in [the Embassy's] note verbale, which shall henceforth constitute an agreement between it and the Government of the United States of America. The two parties shall be invited to sign implementing agreements to ensure the implementation of the provisions of the Agreement, which shall enter into force upon the signature date of this note verbale.

[Complimentary close]

[Initialed]

Kinshasa, August 30, 2008

Embassy of the United States of America,
Kinshasa.