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Release the Records on Dag Hammarskjold's Death

By STEPHEN SEDLEY SEPT. 6, 2016

LONDON — Last month, the outgoing secretary general of the United Nations, Ban Ki-moon, published a memo following up the inquiry he instigated last year into the death, nearly 55 years ago, of one of his predecessors in the role, the Swedish diplomat Dag Hammarskjold. Hammarskjold perished, along with his entourage, just after midnight on Sept. 18, 1961, when his chartered airliner crashed near Ndola, in what was then Northern Rhodesia, now Zambia.

More than half a century on, the cause of the crash remains unknown. Two recent commissions — the first of which I led, the second set up by the United Nations General Assembly in response to my commission's findings — appear to have been stalled by a United States agency that may hold critical evidence pointing to the cause of the disaster.

"I would again urge all member states to continue their search for relevant documents and information, and to review for potential disclosure information which remains classified or undisclosed for other reasons," Mr. Ban said in his statement.

Mr. Ban also released a new denial from the United States mission to the United Nations that any record exists of United States Air Force aircraft being present at Ndola on the night of the crash. Given that, as my commission reported, two American planes were visibly parked on the airport tarmac, and since Don Gaylor, then the United States air attaché in Pretoria, wrote in his memoirs that he had been ordered by the Pentagon to go meet Hammarskjold at Ndola, this new denial appears to signal a retreat from an initial acknowledgment to my commission by the National Security Agency that it held relevant intercept records.

While pilot error remains the default explanation of the crash, the evidence, though diffuse, suggests an alternative possibility: that the United Nations airliner was attacked from the air as it came in to land at the airfield where Hammarskjold was to meet with Moise Tshombe, the president of the mineral-rich breakaway Congolese province of Katanga. The meeting was an attempt to reunify the country and end its civil war.

The United Nations policy of promoting decolonization was supported, each for its own reasons, by both America and the Soviet Union. The C.I.A., however, in contravention of American policy, was supplying arms to the Katangan rebels who were bankrolled by the Belgian conglomerate Union Minière. The British colonial administration of the Rhodesian Federation was oscillating between loyalty to Britain's policy of backing the United States and support for the white settler population to whom the United Nations was anathema. In this situation, there was no shortage of ill-wishers who would have welcomed Hammarskjold's death.

Motive does not equal guilt. But in 2013, my commission of international jurists reported that the available evidence was sufficient to justify the United Nations' reopening the inquiry that, in 1962, had been unable to determine the disaster's cause.

The theory about an aerial attack — if it did occur, probably by a Katangan training jet piloted by a Belgian or South African mercenary — was supported by evidence from a striking variety of sources, though no single element was conclusive. What could have been decisive either way was a recording or transcription of the cockpit radio traffic over Ndola in the hours leading up to the crash.

Although civilians using radio equipment heard signs of an aircraft in distress, none of the three inquiries could locate an audio record from the control tower at Ndola. The most instructive recollection was that of a United States naval pilot, Cmdr. Charles Southall, who was called to the N.S.A.'s listening station in Cyprus to hear what he remembered as the cockpit transmission of a fighter pilot firing at an airliner.

There was also evidence that the N.S.A. was monitoring the airwaves in the Ndola region, almost certainly from one of two American aircraft parked on the tarmac. Our inquiry therefore asked the agency for any relevant records it held of local radio traffic before the crash. The agency replied that it had three records "responsive" to our request but that two of those were classified top secret and would not be disclosed.

At its close, my commission recommended that the United Nations follow up this lead. The General Assembly appointed a three-person panel, which repeated our request to the N.S.A. This time, the agency replied that the two documents were not transcripts of radio messages as Southall had described and offered to let one of the panel members, the Australian aviation expert Kerryn Macaulay, see them. This she did, reporting that the documents contained nothing relevant to the cause of the crash.

This makes it difficult to understand how those two documents were initially described as "responsive" to a request explicitly for records of radio intercepts, or why they were classified top secret. It raises doubts about whether the documents shown to Ms. Macaulay were, in fact, the documents originally identified by the N.S.A. The recent denial that there is any record of United States Air Force planes' being present at Ndola increases the impression of evasiveness.

The United States may not be the only government holding records of the last radio transmissions involving Dag Hammarskjold's plane, whether they are consistent with pilot error or something more sinister. The General Assembly should not let this matter rest. As the United Nations appoints a new leader, it needs to continue to press all its member states to disclose and declassify whatever records they hold that might help to resolve the mystery of the violent death of the organization's second secretary general.

Sir Stephen Sedley chaired the Hammarskjöld Commission. He served as a judge of the Court of Appeal of England and Wales from 1999 to 2011 and a visiting professor of law at Oxford University from 2011 to 2014.