

**ORGANIZATION OF
AFRICAN UNITY
SECRETARIAT
P. O. Box 3243**

ADDIS ABABA

**ORGANISATION DE L'UNITE
AFRICAINNE
SECRETARIAT
B. P. 3243**

COUNCIL OF MINISTERS
Eleventh Ordinary Session
Algiers - September 1968

CM/216

REPORT ON THE FINANCING OF THE SOUTH WEST AFRICA

CASE



REPORT ON THE FINANCING OF THE SOUTH WEST AFRICA CASE

It will be recalled that the Council of Ministers in the Tenth Ordinary Session held in February, 1968 at Addis Ababa accepted the recommendation of the Advisory Committee on Budgetary and Financial Matters that the Secretariat should pursue the matter with the Government of Liberia concerning the overpayment of US.\$93,000.00 made to the Law Firm which was handling the South West Africa Case and report to the next Council of Ministers. This has been communicated to the Department of State of the Government of Liberia who explained in their note verbal of 1st May, 1968, attached as Annex 1 that from the information they have obtained, the amount in question was made while the Financial Matters in the case were being handled by the Secretariat of the O.A.U. in New York.

While the Secretariat is not in position to argue on this point, we would like also to bring to the attention of the Council of Ministers the fact that the following payments were made through H.E. the Ambassador Extraordinary and Plenipotentiary Permanent Representative of Liberia to the U.N. as could be seen from the attached copies of letters. (Annexes 2 to 4).

<u>Cheque No.</u>	<u>Date</u>	<u>Amount</u>
101	30/4/65	\$23,000.00
102	17/5/65	12,000.00
108	14/5/65	10,000.00
Amount directly paid by the Government of Liberia		25,000.00
Total		<u>70,000.00</u>

In the light of the above, the Administrative Secretary-General asked the Internal Auditor of the O.A.U. who was going to New York to check the accounts of our office there for 1967/68 to contact the Law Firm which was handling the case, discuss the matter with them and submit a fresh report.

The Internal Auditor submitted his report which is attached as Document CM/216/Add.1

The General Secretariat now recommends that the amount of US.\$93,000.00 be written off in order to avoid further greater expenditure in pursuing the case.

DEPARTMENT OF STATE,
Monrovia, Liberia.

8577/DF

1st May, 1968

The Department of State presents its compliments to the General Secretariat of the Organization of African Unity and has the honour to refer to communications which have been exchanged between the Department of State and the General Secretariat on the Internal Auditors report that the Lawyers in the South West Africa Case have been over paid in the amount of \$93,000.00.

The Department of State notes the observation of the General Secretariat that all payments in the South West Africa Cases were made either by Liberia and Ethiopia or upon their instructions and the reply of the Ethiopian Government circulated by the General Secretariat that it was Liberia, not Ethiopia, which was in charge of the payments made in the South West Africa Cases.

The Government of Liberia wishes to state that, prior to the establishment of the Office of the African Group at the United Nations, the Government of Liberia, in co-operation with the Government of Ethiopia, made all payments to the Law Firm in the South West Africa Cases.

After the establishment of the Secretariat of the African Group at the United Nations, all financial transactions, including receipts and disbursements of funds, were handled by the Secretariat.

The Government of Liberia has given careful consideration to the view of the Auditors that the Law Firm in the South West Africa Cases, Curties, Mallet, Colt, Prevost & Mosle, was over paid \$93,000.00 and has attempted to make a determination of this.

From information which the Department of State has been able to obtain, the \$93,000.00 which is reported as over payments were made while the financial matters in the Cases were being handled by the Secretariat and represents out-of-pocket expenses of the Lawyers during the oral hearings for which no billings were made.

It is to be recalled that the African States were seriously behind in their payments to the Law Firm for its handling of the Cases which resulted in a demand by the Law Firm

that out-of-pocket expenses for the day-to-day handling of the oral arguments be provided in advance. It is also to be recalled that these expenses had to be met in order to avoid the unfavourable impression that the Lawyers for the African States were subsidizing the Cases.

The Department of State recalls that, during the hearings on the Case, the Law Firm requested funds to use for out-of-pocket expenses. As the Government of Liberia was informed that there was no money in the account of the Cases being kept by the Secretariat and as no member of the O.A.U. accepted to advance the needed funds, the Government of Liberia advanced an amount of \$25,000.00 to be used for this purpose which was in addition to the \$65,000.00 it had already contributed. The Department of State notes that this \$25,000.00 is now included in the amounts which total \$93,000.00.

In view of these facts, the Department of State thinks that the responsibility for obtaining any further information about the \$93,000.00 rests with the General Secretariat and not the Government of Liberia.

The Department of State takes this opportunity to renew to the General Secretariat of the Organization of African Unity the assurance of its high consideration and esteem

MISSION OF THE REPUBLIC OF LIBERIA
TO THE UNITED NATIONS
235 EAST 42ND STREET, NEW YORK, N.Y. 10017

20-65/UN-GEN

25 March 1965

Mr. Minister:

I have the honour to acknowledge receipt of your letter dated March 15th, 1965 No.31/OAU and wish to confirm, as indicated in your conversation with Ambassador Nathan Barnes, that the Liberian Government has made an advance of \$25,000.00 to the Law Firm handling the South West Africa Cases in connection with the Oral Hearings of the case.

Please accept, Mr. Minister, the assurances of my highest consideration.

(Sgd) Martinus L. Johnson
Charge d'Affaires, a.i.

Minister Francois Sengat-Kuo
Permanent Secretary of the O.A.U.
to the United Nations
211 East 43rd Street
New York, New York.

18 May, 1965

No. 106/OAU

Mr. Ambassador,

In accordance with your request, I have the honour of enclosing for transmittal to the Law Firm Curtis Mallet-Prevost Colt & Mosle, two cheques to the amount of \$35,000.00, as against bill 253 dated November 5, 1964 of the said Firm.

Please accept, Mr. Ambassador, the assurances of my highest consideration.

François SENGAT-KUO
Minister Plenipotentiary
Permanent Secretary of the OAU
to the United Nations

H.E. Mr. Nathan BARNES
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Liberia
to the United Nations
235 East 42nd Street
New York, N.Y.

No.262/OUA/65

New York October 14, 1965

Excellency,

In accordance with your request, I have the honour to enclosing for transmittal to the Law Firm Curtis Mallet-Prevost Colt & Mosle, one check to the amount of \$10,000.00, as against bill 253 dated June 1, 1965 of the said Firm.

Please accept, Excellency, the assurances of my highest consideration.

Térance NSANZE
Ambassador Extraordinary and Plenipotentiary
Provisional Administrative Secretary of OAU
to the United Nations

H.E; Nathan BARNES
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Liberia
to the United Nations
New York, N.Y.

/PSL

TO : THE ADMINISTRATIVE SECRETARY GENERAL
FROM : K.M. KHOGALI (INTERNAL AUDITOR)

FINANCING OF THE SOUTH WEST AFRICA CASE :

According to your instructions that I discuss with the Lawyers of the firm which was handling the South West Africa Case the question of the \$ 93,000.00 which was over paid to them, I have contacted Mr. Keith Highet, the representative of the firm who gave me the explanations contained in the two letters dated 21st June, 1968 and 14th August, 1968 attached as annexes I and 2.

The summary of these explanations is :-

- (1) The amount of \$ 25,000 paid by the Liberian Embassy at the Hague was used for disbursements which were certified and approved by the Embassy and the records for this are kept with them at the Hague.
- (2) The amount of \$ 56,000 was paid for hotel accommodation and special legal services as shown in the lists attached to their letter of 21st June, 1968.
- (3) The amount of \$ 12,000 was applied for disbursements which we were not billed for.

From my own point of view, as an Auditor, none of the above explanations is acceptable for the following reasons :

- (a) The Firm has failed to give me any details or supporting vouchers for the disbursement of the \$ 25,000 saying that the records for this were kept in the Embassy of Liberia at the Hague and that we could check them from there.
- (b) It will be recalled that a total amount of \$ 82,139.43 was paid for disbursements through the period June, 1960 and December, 1966. This in fact included hotel accommodation and other expenses for which no details or supporting vouchers were submitted and it will be very difficult to say whether the bills submitted now are part of the previous bills or not.
- (c) The claim by the firm that the cheque for \$12,000 was applied for disbursements which we were not billed for, reflects very badly on the system of accounts of a reputable Law Firm which should count for every cent they charge their client with.

I think that if we want to make an extensive examination and investigations about the whole case, this will require a team of auditors for a longer period. Even if we are able to carry this kind of examination, I do not think that we can reach any solution with a Firm of LAWYERS.

Therefore, I am of the opinion that we recommend to the Council of Ministers that the amount of \$93,000 be written off. This is a far less loss to the Organization than the loss it would sustain by involving itself in litigation with the legal firm. In which case it would have to hire another legal firm to handle the case.



June 21, 1968

Organization of African Unity
Post Office Box 3243
Addis Ababa, Ethiopia

Attention: Mr. G. Pognon

Gentlemen:

We enclose herewith, photostatic copies of bank statements, cancelled checks, withdrawal and deposit slips received from the Algemene Bank, Nederland, N.V., as requested in your letter of 16, May 1968.

By means of the recapitulation sheets we have attempted to collate this data for your convenience. These are in the form of "Exhibit A" (for the dollar account) and "Exhibit B" (for the guilder account).

It will be noted that the check dated March 25, 1965, in the amount of \$ 25,000.00 was drawn by the Liberian Embassy at The Hague. Disbursements made from this amount were certified to the Liberian Embassy and approved by them. The balance, totalling \$ 56,000.00 was deposited and disbursed as shown by the enclosed documents for the purposes of the litigation. For your information we enclose a copy of a letter from the Hotel Wittebrug recapitulating hotel expenses billed and paid by check for the members of the Delegation to the Court, (Exhibit C). Additional amounts for "operating hotel expenses" were disbursed in cash for hotel, transportation and out-of-pocket expenses of the members of the Delegation and other miscellaneous cash expenditure.

Very truly yours,

CURTIS, MALLET-PREVOST, COLT
& MOSLE

By (Sgd) Raymond J. Corriss,
Accountant

June 21, 1968

Organization of African Unity
Post Office Box 3243
Addis Ababa, Ethiopia

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Very truly yours,

CURTIS, MALLET-PREVOST, COLT
& MOSLE

By (Sgd) Raymond J. Corriss,
Accountant

U. S. \$ A/C - 42016

<u>1965</u>	<u>Details</u>	<u>Deposits</u>	
May 28	CK. O. A. U.	\$ 23,000.00	
July 15	CK. O. A. U.	5,000.00	
Sept 27	CK. O.A.U. (\$3,000 to Guilders a/c)	15,000.00	
Oct 25	CK. O.A.U. (\$5,000 to Guilders a/c)	<u>5,000.00</u>	
	Total deposits:	\$ <u>48,000.00</u>	
			<u>Checks & Charges</u>
May 26	Ck. Keith Highet	\$ 500.00	
26	Ck. Nathan Barnes (Special Legal Services)	3,500.00	
June 21	A Transfer to Guilders a/c	1,500.00	
11	Ck. Embassy of Liberia	5,000.00	
18	Ck. Curtis, Mallet-Prevost, Colt & Mosle (for disbursements at \$ 3,995.)	4,003.05	
July 2	Ck. Richard A. Falk (special legal services)	1,080.00	
2	Ck. Hotel and Operating Expenses	1,200.00	
7	B Transfer to Guilders a/c	2,000.00	
9	C Transfer to Guilders a/c	1,500.00	
15	D Transfer to Guilders a/c	2,500.00	
27	Ck. Richard A. Falk (special legal services)	2,100.00	
Sept 30	Ck. Neville Rubin (special legal Services)	1,500.00	
Oct 13	Ck. Hotel and Operating Expenses	3,000.00	
14	E Transfer to Guilders a/c	5,000.00	
20	Ck. Ambassador Rosenne (special Legal services)	3,200.00	
Nov 26	F Transfer to Guilders a/c	2,136.60	
25	Ck. Neville Rubin (special legal services)	250.00	
Dec 3	Ck. Curtis, Mallet-Prevost, Colt & Mosle (for disbursements at \$ 8,026.06)	<u>8,030.35</u>	
	Total withdrawals :	\$ <u>48,000.00</u>	

GUILDERS A/C - 41883

(\$ = Guilders)

<u>1965</u>	<u>Details</u>	<u>Deposits</u>
Mar 17	Ck. The Hague Amsterdam - Rotterdam Bank	\$ 18,000.00
Apr 1		4,150.00
14		3,850.00
June 21	A From US \$ A/c 42015	5,405.63
July 7	B From US \$ A/c 42016	7,206.25
9	C From US \$ A/c 42016	5,400.00
15	D From US \$ A/c 42016	9,000.00
Sept 27	Ck. O.A.U.) (US \$ 3,000 part of check totalling US \$ 18,000)	10,751.69
Oct 15	E From US \$ A/c 42016	17,996.88
27	Ck. O.A.U. (US \$ 5,000 part of check totalling US \$ 10,000).	17,976.55
Nov 26	F From US \$ A/c 42016	7,693.09
	Total deposits :	<u>\$ 107,430.09</u>

		<u>Checks & Charges</u>
Mar 16	Hotel and Operating Expenses	\$ 500.00
19	Hotel and Operating Expenses	1,087.50
24	Ck. Lorna Richmond (special Administrative services)	594.00
25	Ck. Hotel Wittebrug	738.70
25	Ck. Hotel Wittebrug	500.00
26	Hotel and Operating expenses	1,447.81
26	Ck. Hotel Wittebrug	82.70
Apr 1	Hotel and Operating expenses	725.00
2	Ck. Jacques Mahien (transportation)	895.00
2	Hotel and Operating expenses	906.25
4	Ck. Hotel Wittebrug	500.00
Mar 24	Ck. Vivian Downing (special Administrative Services)	651.00
Apr 8	Hotel and Operating expenses	1,810.00
10	Ck. Hotel Wittebrug	300.00
12	Hotel and Operating expenses	750.00
20	Ck. G.K.M. Highet	600.00
23	Ck. Hotel Wittebrug	400.00
May 1	Ck. Hotel Wittebrug	400.00
Apr 29	Ck. G.K.M. Highet	400.00
May 12	Hotel and Operating expenses	500.00
17	Ck. Hotel Wittebrug	400.00
19	Hotel and Operating Expenses	1,000.00
25	Hotel and Operating Expenses	500.00
26	Hotel and Operating Expenses	1,000.00
28	Bank charges	42.88
26	Bank charge	15.55
June 9	Hotel and Operating Expenses	800.00
16	Ck. Hotel Wittebrug	6,506.80
18	Hotel and Operating Expenses	500.00
25	Bank charge	11.00
24	Ck. Hotel Wittebrug	3,248.75

Forwarded :

Exhibit B

		Forwarded:	27,812.94
June	24	Ck. Hotel Wittebrug	500.00
	28	Ck. Hotel Wittebrug	500.00
July	1	Hotel and Operating Expenses	500.00
	2	Ck. Hotel Wittebrug	3,549.60
	2	Bank Charge	6.41
	8	Ck. Hotel Wittebrug	3,759.75
	8	Hotel and Operating Expenses	500.00
	13	Ck. Hotel Wittebrug	500.00
	13	Ck. Jos. Dhooche (transportation)	1,800.00
	13	Ck. Hotel Wittebrug	2,795.25
	14	Ck. Atax Santhorst (transportation)	1,291.75
	14	Hotel and Operating Expenses	1,500.00
	15	Hotel and Operating Expenses	1,810.00
	15	Ck. Hotel Wittebrug	2,033.65
	15	Ck. Hotel Wittebrug	1,155.46
	15	Bank Charge	11.50
Aug	17	Bank Charge	12.00
Sept	21	Hotel and Operating Expenses	1,800.00
	24	Hotel and Operating Expenses	500.00
	27	Ck. Hotel Wittebrug	2,874.55
	27	Bank Charge	1.50
	28	Hotel and Operating Expenses	1,000.00
	30	Ck. Fredericus C.M. Wills (special Administrative service)	1,000.00
Oct	5	Ck. Hotel Wittebrug	3,017.90
	6	Hotel and Operating Expenses	700.00
	8	Hotel and Operating Expenses	500.00
	12	Hotel and Operating Expenses	500.00
	13	Bank Charge	11.00
	14	Ck. Hotel Wittebrug	9,120.50
	19	Hotel and Operating Expenses	500.00
	20	Bank Charge	11.00
	22	Hotel and Operating Expenses	700.00
	20	Ck. Hotel Wittebrug	4,943.90
	25	Ck. Hotel Wittebrug	1,910.25
	26	Hotel and Operating Expenses	700.00
	27	Bank Charge	11.50
	27	Ck. Hotel Wittebrug	2,839.65
	29	Hotel and Operating Expenses	600.00
Nov	3	Hotel and Operating Expenses	700.00
	4	Ck. Hotel Wittebrug	6,212.16
	11	Hotel and Operating Expenses	800.00
	11	Ck. Hotel Wittebrug	4,852.05
	17	Hotel and Operating Expenses	700.00
	18	Hotel and Operating Expenses	1,812.50
	16	Ck. Hotel Wittebrug	2,587.40
	18	Ck. Hotel Wittebrug	6,485.92

Total Withdrawals

\$107,430.09

HOTEL WITTEBRUG

DEN HAAG - SCHEVENINGEN

October 20th, 1967

Mr. Keith Highet
63 Wall Street
New York.

Dear Sir ,

We herewith confirm our cable informing you of the total charges of fl. 116.829,25 for all the persons you asked us in your telegrams.

We repeat the amounts as follows :

Mr. E.A. Gross	total amount paid	fl. 46875,38
Mr. K. Highet	" " " "	29140,28
Mr. F- Dawson	" " " "	13977,31
Mr. Rubin N.	" " " "	892,30
Mr. A. Rovine	" " " "	13391,85
Miss. N. Allen	" " " "	6739,16
Mr. N. Barnes	" " " "	3238,22
Mr. E. Moore	" " " "	821,40
Misses V. Downing and L. Richmond	" " " "	<u>1753,35</u>
Total amount		fl. <u><u>116829,25</u></u>

Always with pleasure at your service, we are,

Yours truly,

(Sgd) J.W.F. Reichardt, Manager

CURTIS, MALLET-PREVOST, COLT & NOSLE
Attorneys and Counsellors at Law
63 Wall Street, New York, N.Y. 10005

August 14, 1968

BY HAND

Mr. Mohamed Khogali
Organization of African Unity
211 East 43rd Street
New York, New York 10017

Dear Mr. Khogali :

In compliance with the request made at Monday's conference, at which you, Ambassador Thiam, Mr. Keith Highet and I attended to the misunderstanding which had arisen as a result of the Statement of Account schedule dated August 21, 1967, this letter is in confirmation of the explanation given with respect to the \$12,000.00 check of the O.A.U. which had not been included in the data handed to you.

On the schedule of August 21, 1967, I listed our disbursements as being \$82,139.43 through the period to December 1, 1966. What I neglected to specify was that these disbursements consisted of only those billed from New York and that the total of \$82,139.43 was the net amount unpaid in New York at the dates stated on the schedule.

I am enclosing a photostatic copy of the schedule of August 21, 1967. You will note that there are no disbursements listed for the period November 1, 1964 through June 1, 1965. This was because on May 28, 1965 we received at this office a check drawn by the Executive Secretariat of the O.A.U. in the amount of \$12,000.00; this check was applied directly to reduce the open (unbilled) disbursements on our books. At that time we had incurred open disbursements of \$14,014.25; after applying the check of \$12,000.00, in reduction thereof, the decision was taken that the small balance of \$2,014.25 would not then be billed (see below).

On the page marked "Exhibit A" (Expenses in the Hague by the Delegation headed by Mr. Gross), you will find that a check was drawn on June 18, 1965 to the order of this firm for \$4,003.05 which, after deduction for bank collection charges, we credited to your unbilled disbursements as \$3,995.00. This credit then reduced to zero the disbursements of \$2,014.25 referred to in the preceding paragraph as having remained outstanding on the books as with respect to which no bill had ever been rendered, as well as subsequent disbursements in the amount of \$1,980.75 which had also been incurred by us.

Mr. Mohamed Khogali

August 14, 1968

I hope that this explanation is clear. If you have any questions with regard to the matter contained in this letter or in the photostatic copies of the account sheets given to you at our meeting (which I had mailed to Mr. G. Pognon in Addis Ababa on June 21, 1968), please do not hesitate to telephone me. Inasmuch as Mr. Hight said, he is leaving on vacation on Thursday the 15th of August, if you have any questions about any of this, we would appreciate hearing from you before then.

I apologize for any inconvenience this may have caused you, and wish to thank you for your patience.

Very truly yours,

(Sgd) Raymond J. Corriss

CURTIS, MALLET-PREVOST, COLT & MOSLE

SOUTH WEST AFRICA CASES

STATEMENT OF ACCOUNT

1. Fees and Disbursements

<u>From</u>	<u>Through</u>	<u>Fees</u>	<u>Disbursements</u>
	6/14/60 (initial period)	\$ 8,000.00	\$17,557.38
6/15/60	11/28/60	20,000.00	930.88
12/1/60	6/30/61	40,000.00	6,573.02
7/1/61	3/31/62	27,000.00	3,359.83
4/1/62	10/31/62	25,000.00	7,788.01
11/1/62	10/31/63	---	6,828.33
11/1/62	10/31/63	32,500.00	---
11/1/63	3/31/64	36,000.00	9,600.00
4/1/64	10/31/64	63,125.00	23,973.73
11/1/64	6/1/65	100,000.00	---
6/1/65	12/1/66	<u>140,160.16</u>	<u>5,528.25</u>
TOTAL (through 12/1/66)		\$491,785.16	\$82,139.43

2. Statements Rendered

<u>Date</u>	<u>Amount</u>
7/14/60	\$ 25,557.38
12/1/60	20,930.88
6/8/61	46,573.02
3/26/62	30,359.83
11/14/62	32,788.01
11/4/63	6,828.33
11/4/63	32,500.00
4/10/64	45,600.00
11/5/64	87,098.73
6/1/65	100,000.00
3/1/66 (as adjusted through 12/1/66)	<u>145,688.41</u>
TOTAL through 12/1/66	\$ 573,924.59

3. Payments MadeCM/216/Add.1
Annex 2.Date

10/19/60	\$	25,557.38
1/19/61		20,930.88
10/17/61		46,573.02
8/14/62		30,359.83
12/26/62 on a/c		20,000.00
2/19/63 in full		12,788.01
12/31/63		6,828.33
12/31/63		32,500.00
8/19/64 on a/c		30,000.00
2/5/65 in full		15,600.00
2/5/65 on a/c		20,000.00
3/4/65 on a/c		3,973.73
5/25/65 on a/c		50,000.00
7/12/65 in full		13,125.00
7/12/65 on a/c		11,688.41
7/20/65 on a/c		6,000.00
1/17/65 on a/c		8,000.00
5/10/66 on a/c		70,000.00
12/1/66 in full		<u>150,000.00</u>

TOTAL (through 12/1/66) \$573,924.59Reconciliation

a. Total Statements rendered (through 12/1/66)		\$573,924.59
b. Less payments made (through 12/1/66) (-)		<u>573,924.59</u>
c. Paid in full to 8/21/67		<u>-0-</u>

August 21, 1967

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1968-09

Report of the financing of the South West Africa case

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