

**REPORT
OF THE
COMMITTEE ON RELATIONS
WITH THE
HOST COUNTRY**

GENERAL ASSEMBLY

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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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I. INTRODUCTION

1. By its resolution 2819 (XXVI) of 15 December 1971, the General Assembly established the Committee on Relations with the Host Country. At its thirty-eighth session, the General Assembly decided, by its resolution 38/140 of 19 December 1983, that the Committee should continue its work, in conformity with resolution 2819 (XXVI), and decided to include in the provisional agenda of its thirty-ninth session the item entitled "Report of the Committee on Relations with the Host Country". The Committee's recommendations are contained in section IV below.

II. MEMBERSHIP, TERMS OF REFERENCE AND ORGANIZATION
OF THE WORK OF THE COMMITTEE

2. The Committee's membership in 1984 was as follows:

Bulgaria	Ivory Coast
Canada	Mali
China	Senegal
Costa Rica	Spain
Cyprus	Union of Soviet Socialist Republics
France	United Kingdom of Great Britain and
Honduras	Northern Ireland
Iraq	United States of America

3. Throughout 1984, Mr. Constantine Moushoutas (Cyprus) continued to serve as Chairman, Mrs. E. Castro de Barish (Costa Rica) continued to serve as Rapporteur and the representatives of Bulgaria, Canada and the Ivory Coast continued to serve as Vice-Chairmen.

4. The list of topics previously adopted by the Committee in May 1982 was retained in 1984 and is as follows:

1. Question of the security of missions and the safety of their personnel.
2. Consideration of, and recommendations on, issues arising in connection with the implementation of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, including:
 - (a) Entry visas issued by the host country;
 - (b) Acceleration of immigration and customs procedures;
 - (c) Exemption from taxes;
 - (d) Possibility of establishing a commissary at United Nations Headquarters to assist diplomatic personnel and staff.
3. Responsibilities of permanent missions to the United Nations and their personnel, in particular the problem of claims of financial indebtedness and procedures to be followed with a view to resolving the issues relating thereto.
4. Housing for diplomatic personnel and for Secretariat staff.
5. Question of privileges and immunities:
 - (a) Comparative study of privileges and immunities;
 - (b) Convention on the Privileges and Immunities of the United Nations and other relevant instruments.
6. Host country activities: activities to assist members of the United Nations community.

7. Transportation: use of motor vehicles, parking and related matters.
8. Insurance, education and health.
9. Public relations of the United Nations community in the host city and the question of encouraging the mass media to publicize the functions and status of permanent missions to the United Nations.
10. Consideration and adoption of the Committee's report to the General Assembly.

5. During the period under review, the Committee held seven meetings, as follows: the 102nd meeting on 29 February 1984; the 103rd meeting on 30 April; the 104th meeting on 7 June; the 105th meeting on 28 June; the 106th meeting on 30 August; the 107th meeting on 30 October; and the 108th meeting on 16 November.

6. The representative of Iraq stated his concern about the effectiveness of the work of the Committee and stressed strongly the need for greater participation in its work. He also stated that the report should reflect the consideration by the Committee of the substantive issues on its mandate which should be taken with the due importance they deserve, in order to enable the delegations in the General Assembly to express their points of view thereon.

7. The Committee, in co-operation with the Secretariat and the United States Mission to the United Nations, organized two talks: one on the question of immunities of diplomats in United States court proceedings (see para. 50 below) and one concerning the parking situation in New York City (see para. 53 below). The Committee also established a contact group with a mandate to seek practical solutions to some of the substantive and procedural problems concerning diplomatic immunity in legal proceedings in the courts.

8. The Bureau, which is charged with the consideration of all the topics before the Committee - with the exception of the question of the security of missions and the safety of their personnel, which is kept under permanent review by the Committee as a whole - continued its work in 1984. The Bureau consists of the Chairman, the Rapporteur, the three Vice-Chairmen and a representative of the host country, who attends Bureau meetings ex officio. Proposals or recommendations made by the Bureau are transmitted by the Chairman to the Committee for its adoption and consequently reflected in the Committee's report. During the period under review, the Bureau held three meetings.

III. TOPICS DEALT WITH BY THE COMMITTEE

A. Question of the security of missions and the safety of their personnel

1. Communications received

9. In a note verbale dated 23 February 1984 (A/AC.154/250), the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations complained about a terrorist attack directed at the Riverdale residential complex of the Soviet Union. The note stated that on 23 February 1984, at 3.30 a.m., three explosive devices were thrown into the residential complex. The explosions caused material damage, destroying one automobile and seriously damaging two others. The American terrorist organization called "Jewish Direct Action" had openly declared its participation in this terrorist act and had threatened new encroachments on the lives of Soviet diplomats. The USSR Mission lodged a vigorous protest with the Permanent Mission of the United States of America and called on the United States to punish those who had taken part in the terrorist act and to prevent in the future such acts which are contrary to international law and the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations. 1/

10. In a note verbale dated 28 February 1984 (A/AC.154/251), the United States Mission replied that the United States Government had publicly condemned this terrorist act as a disgraceful, cowardly attack that brought disrepute upon the United States. The note stressed that an intensive investigation into the fire-bombing was being carried out by the Federal Bureau of Investigation and the New York City Police Department under the auspices of the Joint Terrorist Task Force in an ongoing effort to locate and apprehend the guilty parties. While thanking the Soviet Mission for its co-operation in allowing law enforcement personnel access to Soviet nationals, the note recalled that security coverage at Soviet diplomatic locations had been increased by four additional 24-hour, seven-day a week posts at the specific request of the United States Mission.

2. Consideration in the Committee of the question of security

11. At the 102nd meeting of the Committee, the representative of the USSR drew the Committee's attention to the explosion which had taken place on 23 February in the Soviet Riverdale residential complex. He stressed in particular that this terrorist act constituted a new and dangerous provocation which was part of a continuous hostile campaign and was a consequence of the continuing inaction and scandalous connivance of the United States authorities. Despite a warning, the United States services had taken no action to prevent the incident. Under international law the United States had an obligation to ensure the security and tranquillity of diplomatic missions. The Soviet representative said that, contrary to the assurances about its commitment to meet its obligations to ensure the security of Soviet premises, the United States did not punish the criminals, who were known to the authorities and in specific instances had openly declared their criminal intentions. The representative of the USSR warned that any connivance in hostile acts against Soviet establishments and their staff and the failure of the United States side to fulfil the international obligations might have the most serious consequences.

12. The representative of the United States refused to accept the statements made by the of the USSR, since they were unsupportable allegations. There had been no evidence to suggest that an attack against the Riverdale complex had been planned. The United States Government had formally deplored the fire-bombing incident, even to go as far as to state that it had brought disrepute to the United States. He pointed out that the law enforcement authorities were making strenuous efforts to investigate all terrorist acts. However, investigations were not always successful and sometimes proceeded very slowly due to the requirements and protections of the law. As proof of thorough investigative work, he was pleased to report that an arrest had been made of those responsible for the attempted assassination in 1980 of the Permanent Representative of Cuba to the United Nations.

13. The representative of Bulgaria regretted that the host country authorities had not done everything to prevent the aforementioned incident. He recalled General Assembly resolution 38/140 which urged the host country:

"... to take all necessary measures to ensure effectively the protection, security and safety of the missions accredited to the United Nations and their personnel, including practicable measures to prohibit illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts and activities against the security and safety of such missions and representatives".

He felt that practical measures had to be found to prohibit in the future the illegal activities of persons who openly engaged in criminal and dangerous acts.

14. The representative of Iraq deplored the terrorist act against the Soviet Union, but also expressed appreciation for the success of the United States authorities in apprehending the perpetrators in the Cuban case.

15. The representative of Costa Rica expressed the regrets of her delegation over the terrorist act.

16. The USSR representative, in his final remarks, observed that the long and arduous process of American justice could not be used as an argument to justify non-compliance with obligations undertaken under international law.

17. In his response, the representative of the host country stated that the United States had fulfilled its international obligations and would continue to do so without changing existing laws. He added that the United States must continue to work within the framework of its constitutional guarantees and restrictions.

18. The security situation was raised again, during the 105th meeting of the Committee, when the representative of the USSR in particular complained about the continuing damaging political demonstrations which were taking place in front of his Mission. Although during the summer period the situation was quieter in this regard, the Mission was harmed by the continued campaign of obscene demonstrations and harassing telephone calls.

B. Consideration of, and recommendations on, issues arising in connection with the implementation of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations

1. New United States legislation

19. At its 102nd and 103rd meetings, the Committee considered questions relating to the most recent United States legislation pertinent to the United Nations. The application of the Foreign Missions Amendments Act, enacted on 12 November 1983, was brought to the attention of permanent missions and the offices of the permanent observers and the United Nations Secretariat by a note verbale, dated 18 January 1984, from the United States Mission. This note set forth new reporting requirements for all foreign missions in the United States, its territories, or possessions and reads, in part, as follows:

"In accordance with the Foreign Missions Amendments Act of 1983 (the Act) (Public Law 98-166) which amends the Diplomatic Relations Act of 1978 (Public Law 95-393), beginning on 1 February 1984 the head of a foreign mission is required to notify promptly the US Department of State, Director of the Office of Foreign Missions of the lapse or termination of any liability insurance coverage held on motor vehicles, vessels, and aircraft owned by a mission, by a member of a mission, and by members of the family of such members."

In the event that certain conditions were not met, the Act provided for the following legal consequences outlined in the note:

"The Act also requires that whenever the Director (or the Office of Foreign Missions) finds that a member of a foreign mission, or a member of the family of such member--

"is at fault for personal injury, death, or property damage arising out of the operation of a motor vehicle, vessel, or aircraft in the United States; and

"is not covered by liability insurance; and

"has not satisfied a court-rendered judgment against him or is legally liable, the Director shall impose a surcharge or fee on the foreign mission of which such a member or individual is a part, amounting to the unsatisfied portion of the judgment rendered against such member or individual or, if there is no court-rendered judgment, an estimated amount of damages incurred by the victim."

20. At the 102nd meeting of the Committee, the representative of the USSR stated that the new United States legislation was a departure from the Headquarters Agreement and the 1961 Vienna Convention on Diplomatic Relations. He said that some of the provisions of this new legislation were based on a discriminatory approach and were directed at limiting and undermining the rights and privileges of diplomatic missions. The requirements set forth in the new Act imposed on foreign missions measures which went beyond those permitted by international law. He therefore asked the Committee to give serious consideration to the issue.

21. The representative of Bulgaria, at the same meeting, also expressed serious concern with regard to the new legislation, the application of which was contrary

to international law. He found, in particular, that the regulations giving effect to the imposition of a surcharge by an administrative body were at variance with international law since foreign missions enjoyed immunity from the criminal, administrative and civil jurisdiction of the receiving State.

22. Responding to those comments, the representative of the United States rejected the notion that the United States had passed an act which was in violation of his country's international obligations. The purpose of the Act was to ensure that missions had proper liability insurance in order to fulfil obligations under New York state rules. Possible application of charges to cover liability claims would only be made if missions were at fault in their obligations.

23. The representative of the USSR noted that a more detailed study of the note verbale was needed.

24. The representatives of Honduras and of France felt that prior consultations between representatives of the host country and Member States could have contributed to better mutual understanding before the legislative measures had been taken.

25. The 103rd meeting of the Committee was entirely devoted to discussions on the note verbale. The Committee welcomed the presence of the Director of the United States Office of Foreign Missions who was prepared to answer questions concerning the issue.

26. The representative of France inquired whether the recent legislation was in response to particular incidents in which lapse or termination of insurance coverage had occurred and wanted to know why the Committee had not been informed about such problems.

27. The representatives of the host country regretted that the Foreign Missions Amendments Act appeared to have caused concern and controversy. The Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations, 2/ along with the 1961 Vienna Convention on Diplomatic Relations, as embodied in the Diplomatic Relations Act of 1978, still governed privileges and immunities accorded to United Nations missions. The amendment contained provisions to safeguard mandatory insurance requirements. Since the Act only clarified details for executing a diplomat's obligations to maintain valid liability insurance it had no punitive character. The promulgation of the regulations in question based on the Act resulted from accidents involving uninsured motorists. The host country was well aware of its legal responsibilities and would observe all legal obligations when implementing the new regulations. The Director of the Office of Foreign Missions added that, since 20,000 diplomatic vehicles in the United States fell under different state-mandated laws, a unified approach would facilitate matters.

28. The representative of the USSR said that, despite the assurances of the representative of the host country and contrary to the impression at first sight, the note did not only contain technical information but had far-reaching legal effects. He underlined the legal aspects inherent in the fact that a surcharge or fee could be imposed on diplomatic missions which would make them subject to the administrative and fiscal jurisdiction of the host country. In his view, the problem of insurance could be dealt with adequately without jeopardizing the diplomatic status of missions and their diplomatic rights and privileges.

29. The representative of the United Kingdom of Great Britain and Northern Ireland referred to the practical aspect of the matter and wondered whether the host country authorities could provide the number of motor vehicles operated by diplomatic personnel in New York. He also wanted to know whether the problem of abuse of diplomatic privileges and immunities was a serious one in New York and whether the present measures were introduced as a matter of adopting preventive measures to avoid serious problems in the future. With regard to the enforcement capabilities of the Director of the Office of Foreign Missions, the representative of the United Kingdom inquired further whether the United States had considered other methods for assuring that compulsory insurance was carried by missions. He also wanted to know more about the situation with regard to non-immune personnel of diplomatic missions and the situation concerning high officials of the United Nations enjoying diplomatic privileges and immunities.

30. The representative of France also raised the question of the privileges and immunities of high-ranking officials of the United Nations. He inquired if and how the United States intended to enforce decisions of the Director of the Office of Foreign Missions imposing payment of compensation on persons or missions enjoying diplomatic immunity.

31. The representative of the USSR pointed out that the legal aspects of the note were the most important. In this respect, the representative of Iraq also pressed the question of the legality of the note. The representative of Bulgaria felt that the Foreign Missions Amendments Act had introduced changes in contravention of the Vienna Convention. The representative of Honduras reiterated that the Committee should have been consulted about existing problems which would have made it easier to reconcile them.

32. In response to the aforementioned questions, the representative of the host country said that it had been the position of his mission not to bring specific cases involving non-insured vehicles before the Committee. The problem was, however, serious in New York. The Director of the Office of Foreign Missions informed the Committee that his Office was examining new ways of registering diplomatic vehicles which would require missions to carry a central or fleet insurance. He said that a panel of insurance experts was being convened to consider the minimum amount of liability coverage. Figures ranged between \$300,000 and \$500,000. He hoped that an insurance package could be presented to the diplomatic community by autumn. The new procedures would not need to be tested if adequate insurance were maintained. If high-ranking Secretariat officials with diplomatic status were not covered by insurance, the Organization would be responsible for their wrongdoing. No determination had yet been made as to the collection procedure in connection with judgements. In reply to a comment by the representative of the USSR, the Director of the Office of Foreign Missions confirmed that the note was mandatory on missions if they desired to operate motor vehicles within the United States.

33. An issue discussed both under this and under the agenda item "Other matters" was the general question of the registration, licensing and insurance of motor vehicles.

34. The representative of the USSR, at the 105th meeting of the Committee, expressed concern about articles in the press informing the public about impending changes with regard to the registration and insurance of motor vehicles. In this connection, disturbing announcements about invoking the principle of reciprocity had been made. Intentions of that kind would contravene international law. He

also said that, although the Committee had criticized the provisions of the new law, the host country was trying to implement them.

35. The representative of the host country said that all delegations would soon receive a diplomatic note explaining the policy changes envisaged with regard to car registration and liability insurance, a subject the Director of the Office of Foreign Missions had already referred to at the 103rd meeting. He recalled that the federal authorities were assuming functions previously exercised by states: the new insurance programme would be a federal one. Instead of taking out an insurance policy individually a group insurance would be provided for premiums which could be lower than those available for individual insurance. The federal licence plates would be issued country by country over a period of 10 months. He said delegates should not believe everything they read in newspapers concerning this issue, but should be guided by official diplomatic notes received from the United States Mission.

36. Subsequently, the United States Mission circulated notes verbales containing specific information on the implementation of the new motor vehicle programme. A note verbale dated 5 July 1984, circulated to all missions, stated that the federal Government, instead of the present state authorities, would be the issuing authority for all diplomatic motor vehicle registrations and licence plates and that the new programme had been developed to meet the liability insurance needs of the international community. The note also contained the information that the conversion programme for the new policy would be put into practice on a staggered basis. By a note dated 25 July 1984, the United States Mission informed 22 missions that they would be the first to be issued the new plates. It also contained the information that the Office of Host Country Affairs in the United States Mission would make the determination as to the level of accreditation which was relevant to the type of federal plate which would be issued. Special justification was required when missions wanted to use more than five official cars. Proof of ownership of vehicles would be kept on record by the Office of Foreign Missions. In the event of sale, transfer and export of a vehicle, proof of ownership should be obtained from the aforementioned Office of Foreign Missions.

37. The 106th meeting of the Committee was exclusively devoted to discussions on the new motor vehicle programme.

38. The representative of France asked for additional information on the changes in registration of motor vehicles and on the proposed insurance programme changes as well as on details concerning the practical handling of the change of plates. The representative of the United Kingdom inquired about the duration of validity of the new licence plates.

39. The representative of the United States announced that a leaflet, which would be distributed to missions shortly, would contain all the information the Committee members had asked for. The licence plates would be issued free of charge and would be valid for three years. The conversion itself would make it necessary that one person from a mission would have to submit the old plates and documentation to the pertinent United States office, whereupon the new plates would be handed over. He also pointed out that the situation in New York was not comparable to that in Washington, D.C., as there were elements of reciprocity there which would not apply in New York. The representative of the host country also said that the new insurance policy, which would require a higher amount of liability coverage, would be implemented at a later stage. Missions would be notified of the next steps to be taken.

40. The representative of Iraq expressed serious concern about the forthcoming changes about which rumours had been spread and press articles had been written. He, in particular, complained about the lack of information on the matter from the United States authorities which had caused a feeling of apprehension and led foreign missions to fear that certain privileges and immunities embodied in the 1961 Vienna Convention were being abrogated. He believed that informal contacts between interested missions, the host country representative, the Chairman of the Committee and the United Nations Legal Counsel, in order to exchange information, would minimize misunderstandings and clarify misconceptions that might have arisen.

2. Complaint by the Libyan Arab Jamahiriya

41. In a note verbale dated 25 October 1984, addressed to the Committee, the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations requested permission to participate in the 107th meeting of the Committee.

42. At that meeting, the representative of the Libyan Arab Jamahiriya, speaking in an observer capacity, protested against the restrictions imposed by the host State on the use of the Libyan residential property in Englewood, New Jersey, and against recently imposed restrictions on members of the Libyan Mission confining them to the area covered by the five boroughs of New York City.

43. The representative of the Libyan Arab Jamahiriya recalled that the problem the Libyan Mission was facing in Englewood had been brought to the attention of the diplomatic community in documents A/AC.154/244 and A/AC.154/249, which had been circulated as Committee documents on 21 June 1983 and 25 January 1984. At the request of the Libyan Arab Jamahiriya, negotiations had taken place between representatives of the Libyan Mission and of the host country, under the auspices of the Legal Counsel, regarding the Libyan property in Englewood, but they had not yielded satisfactory results. He stated that, since further actions had been taken by the host country against the Libyan Arab Jamahiriya, in a discriminatory manner and in violation of the Headquarters Agreement and the Vienna Convention, the Libyan Mission had no alternative but to raise all the issues in a Committee meeting. The representative of Libya gave a brief presentation of the case relating to the problems in Englewood, as previously outlined in document A/AC.154/249 circulated pursuant to the request by the Libyan Mission. That document had set forth exchanges of notes between the Libyan Mission and the host country relating to the Englewood property, which may be summarized as follows:

(a) In a note verbale dated 6 December 1982, the Libyan Mission informed the host country about the purchase, on 26 November 1982, of a country residence in Englewood, New Jersey, for occasional use by the head of the Mission. Subsequently, the United States Mission, by a note verbale dated 2 February 1983, after having informed the entire diplomatic community in New York about the applicability to them, as of 19 January 1983, of the new Foreign Missions Act which set forth certain requirements concerning real property use and related transactions, requested the Libyan Mission to provide additional information concerning the nature of the property in Englewood and its intended use. In the same note, the United States Mission further informed the Libyan Mission that the use of the Englewood property was not authorized until notification by the United States Government of the results of their review or the expiry of a certain time period from submission of the requested information. In a note verbale of 14 February 1983, the Libyan Mission rejected the note of the United States on legal grounds, stressing that the restrictions were in violation of international

law and that the purchase was made prior to the entry into force of the Foreign Missions Act.

(b) By a note verbale dated 28 February 1983, the Libyan Mission, while reserving all diplomatic rights, privileges and immunities, provided information on its real property holdings and related information to the United States Mission. In a note verbale dated 10 June 1983, the United States Mission indicated, inter alia, that the Englewood property was to be used solely for recreational purposes for the Permanent Representative and his immediate family. The Libyan Mission lodged a strong protest against the aforementioned restrictions in a note verbale dated 21 June 1983 and advised the United States that the Permanent Representative intended to utilize the residence in Englewood in conformity with principles and practices of international law. In a further note dated 29 June 1983, the Libyan Mission, for reasons of clarification, stated that the property in Englewood would be used as primary and official residence of the Ambassador and Permanent Representative of the Libyan Arab Jamahiriya. By a note verbale dated 28 July 1983, the United States Mission informed the Libyan Mission that it could not approve a change of use of the property in question referring to the previously requested limited use by the Libyan Mission.

(c) After having received a firm protest dated 6 September 1983 from the Libyan Mission, the United States Mission responded, in a note verbale dated September 1983, by reaffirming the conditions specified for the use of the property but also stated that the United States Mission remained available to discuss conditions for the use of the property according to the terms specified in the 10 June 1983 note verbale.

(d) Finally, the United States Mission, in a note verbale dated 22 December 1983, which was again strongly rejected by the Libyan Mission, set forth detailed requirements concerning the use of the Englewood property. That note established the following conditions applicable to the use of the property:

- (i) The residence may be used only when the Libyan Permanent Representative and/or his wife are physically present;
- (ii) No more than two weekend visits per month from 5 p.m. Fridays to 10 a.m. Mondays are authorized;
- (iii) An advance request of 48 hours is required for the visit of the Permanent Representative as well as for the Libyan Mission personnel accompanying or visiting him;
- (iv) A resident maintenance man is authorized but such person may not be a member of the Libyan Mission.

44. In his intervention in the Committee, the representative of the Libyan Arab Jamahiriya stated that the above restrictions were still in force and that the Libyan Arab Jamahiriya was the only member of the United Nations to be restricted in such a way. The same was true concerning travel restrictions. He said that the actions taken by the host country were a serious breach of its obligations and were based on a federal law making applicable the principle of reciprocity to delegations to international organizations. The representative called upon the Committee to make a thorough study of the problem, to negotiate a satisfactory solution which would eliminate the harassment of missions of Member States based on political factors and to request the Secretary-General to arbitrate the growing

problems with the host country. If everything failed, Libya would submit the problem to the General Assembly with a view to requesting an advisory opinion of the International Court of Justice.

45. In his response, the representative of the United States said that, in order to answer the serious charges made against the United States, more time was needed. He confirmed that restrictions existed and said that the United States Mission was in the process of replying to a letter from the Legal Counsel on that matter. Regarding the travel restrictions, he questioned whether they interfered with the rights provided for in the Headquarters Agreement which were limited to unimpeded transit to and from the Headquarters district. No delegate had the right to reside anywhere in the United States; a residence in the proximity of the United Nations seemed to be appropriate and for this purpose the five boroughs of New York City were more than adequate. He stated that the host country's actions had not been based on reciprocity or taken for political reasons but because of certain events which were breaches of diplomatic norms. In an additional observation, the representative of the host country added that no country waives its rights to maintain public order or diminish its capability to protect its citizens; indeed, the protection of American citizens was a primary obligation of his Government.

46. The representative of the USSR said that it was a fact that the Libyan Mission was the object of discriminatory measures which gave rise to great concern. He regretted not to have heard any legal argument and said that the host country was not entitled to take such measures which were means of political pressure and were discriminatory. Such a policy would not improve the conditions of work of missions but would hamper them.

47. The representative of Bulgaria said that he shared the concerns of the Libyan Arab Jamahiriya and stated that the restrictions imposed on the Libyan Mission were contrary to the Charter of the United Nations and to international law.

3. Acceleration of immigration and customs procedures

48. At the Committee's 102nd meeting, the representative of France noted that the services accorded to diplomats at New York airports by establishing a so-called crew line did not always function adequately. The representative of Costa Rica reported that, at present, services at the Miami airport were excellent. She felt, however, that a better flow of information to the various airports regarding the use by diplomats of crew lines would improve the existing situation. The Chairman, in his report to the Committee on bureau meetings, regretted having received more complaints stating that the procedures outlined in a Committee document 3/ on the use of crew lines were not being followed. The United States Mission had been asked to look into the matter. The representative of the host country replied that the competent United States authorities would seek to ensure that the expediting procedures at New York airports would be maintained.

4. Possibility of establishing a commissary at United Nations Headquarters to assist diplomatic personnel and staff

49. In response to an inquiry by the representative of Iraq, the Chairman, at the 104th meeting of the Committee, reported that according to information received from the Secretariat neither the space nor the personnel could be provided for commissary facilities. Maintenance costs for such facilities would at the present

time substantially increase the prices of tax-free goods otherwise available to those who enjoyed tax-exempt status.

C. Question of privileges and immunities

50. From time to time a particular problem which has been brought to the attention of the Committee by some members arises from the fact that, in cases of attacks against missions and their diplomatic staff, prosecution of the law-breakers has been made difficult when a requirement of the case mandated that a diplomat give evidence in court as a witness, which may mean the waiver of diplomatic privileges and immunities in certain instances. It was noted that, in accordance with American jurisprudence, the direct giving of evidence may be connected with a waiver of diplomatic immunity because of the constitutional rights guaranteed to the accused to confront witnesses against him. The representative of the USSR had expressed a particular concern about that matter on numerous occasions. He had stressed several times that, in accordance with obligations under international law, effective punishment of law-breakers involved in crimes against diplomatic missions and their personnel should be assured without making such punishment dependent on the waiver of diplomatic privileges and immunities. The Committee felt that the subject required careful examination and that, for that purpose, more information had to be obtained. Consequently, with the help of the United States Mission and in co-operation with the Secretariat of the United Nations, the Committee arranged a talk on the theme: "Protection of Foreign Officials" (Immunities of diplomats in United States court proceedings) which was given by the United States Attorney for the Southern District of New York, Mr. Rudolph W. Giuliani, on 9 February 1984. At the end of Mr. Giuliani's speech, to which the diplomatic community listened with great attention, it was agreed that it would be desirable to follow up through a smaller contact group of interested missions, competent United States authorities and Secretariat members. The Committee, at its 102nd meeting, endorsed the move and also decided to continue to study the question.

51. The Contact Group, under the chairmanship of Ambassador Moushoutas, met twice on 25 June and 13 September of 1984 and, with the assistance of the Legal Counsel, formulated a series of questions, the thrust of which was to explore the possibility of having recourse to the gathering of admissible evidence from a diplomat outside formal court proceedings. These questions were forwarded to the United States Mission with the request that the competent authorities provide answers to them.

D. Transportation: use of motor vehicles, parking and related matters

52. The problem of the parking situation was brought to the attention of the Committee at its 102nd, 104th and 105th meetings by the representative of Iraq and by the representative of the USSR. Both representatives were of the view that more designated parking areas were needed for diplomatic cars and that the City of New York needed to inform its officials that the United Nations was an important body and that diplomats should be given the respect due to their status.

53. The United States Mission offered assistance in arranging a talk in order to further familiarize the diplomatic community about the parking problems which the City of New York encounters. The talk, on the theme "Status of designated parking areas for the New York City diplomatic community", was given on 3 May 1984 by the

Deputy Commissioner of the New York City Department of Transportation, Mr. Samuel J. Schwartz. Mr. Schwartz expressed his willingness to assist missions whenever parking problems were unsolved. The New York City Commissioner for the United Nations and the Consular Corps also offered her good offices.

54. At the 105th meeting of the Committee, the representatives of the USSR and of Iraq expressed concern once more about the parking situation. They felt that a better understanding of the role of diplomats in New York must be generated.

55. The representative of the host country assured the Committee members that the competent authorities would continue to do what was necessary so that diplomats could carry out their tasks without hindrance. However a "special class" treatment for diplomats could not be expected.

E. Insurance, education and health

56. The representative of Iraq expressed interest in the possibility of establishing a general voluntary medical insurance plan for the diplomatic community to alleviate the high costs of medical services. He had reason to believe that 90 per cent of delegations had no health insurance coverage. The Committee was informed by the Secretariat that a study on the question of health insurance had been prepared in 1975 by a working group of the Committee and that, at that time, missions had not expressed enough interest to pursue the matter further. The representative of Iraq stated that 10 years had passed since the last study had been prepared. In the meantime, medical expenses had increased; therefore, a new study was necessary.

F. Public relations of the United Nations community in the host city and the question of encouraging the mass media to publicize the functions and status of permanent missions to the United Nations

57. The representative of the USSR, at the 102nd meeting of the Committee, recalled that the Committee should ensure that the press was given more information on the work of the permanent missions to the United Nations. He stressed the importance of seeing a more balanced picture of the diplomatic community in the media. In that connection, the representative of Iraq, at the Committee's 105th meeting, expressed concern about the way people in the host country viewed diplomats. He pointed out that diplomats should be given the treatment that was necessary for them to carry out their work effectively. The representative of the United States agreed that that was necessary and stated that, in the view of his Government, that was indeed the case at the current time.

IV. RECOMMENDATIONS

58. At its 108th meeting, on 18 November 1984, the Committee approved the following recommendations:

(1) Considering that the security of the missions accredited to the United Nations and the safety of their personnel are indispensable to their effective functioning, the Committee expresses its concern at the criminal acts committed against some missions to the United Nations and takes note of the assurances given by the competent authorities of the host country stressing the constant need for effective preventive actions.

(2) The Committee once again urges the host country to take all necessary measures in order to prevent any terrorist, criminal and other acts and activities violating the security of missions and safety of their personnel, or inviolability of their property, for the existence and functioning of all missions.

(3) The Committee urges the host country to continue to take measures to apprehend, bring to justice and punish all those responsible for committing or conspiring to commit criminal acts against missions accredited to the United Nations as provided for in the 1972 Federal Act for the Protection of Foreign Officials and Official Guests of the United States.

(4) The Committee expresses regrets over the fact that some of those responsible for certain terrorist, criminal acts committed against diplomatic missions have not to date been apprehended for prosecution; however, it takes note of the recent arrest, prosecution, conviction and sentencing to life imprisonment of a terrorist who was responsible for numerous bombing attacks, murder and conspiracy to commit murder against a segment of the diplomatic community in New York.

(5) The Committee draws the attention to the establishment of a contact group on immunities of members of missions to the United Nations and expresses hope that the work of the group will help to establish procedures which would assist in the prosecution of law-breakers committing such above-mentioned acts against diplomatic missions and their personnel.

(6) The Committee reiterates that adherence of all Member States to the Headquarters Agreement and other relevant agreements is an indispensable condition for the normal functioning of the United Nations and permanent missions in New York and underlines the necessity to avoid any action not consistent with obligations in accordance with the Headquarters Agreement and international law.

(7) Admitting the growing difficulty the diplomats have in parking their vehicles, the Committee appeals to the host country to review the measures relating to the parking of diplomatic vehicles with a view to facilitating the needs of the diplomatic community and to consult with the Committee on matters relating to parking.

(8) The Committee expresses the hope that efforts will be continued to build up public awareness by explaining, through all available means, the importance played by the United Nations and the missions accredited to it for the strengthening of international peace and security. The Committee believes that this effort should be continued and intensified with a view to acquainting the

population of the City of New York and its boroughs with the importance of the functions performed by the missions accredited to the United Nations.

(9) The Committee wishes to express its appreciation to the New York City Commission for the United Nations and the Consular Corps and those bodies, particularly the New York City Police Department, which contribute to its efforts to help to accommodate the needs, interests and requirements of the diplomatic community, to provide hospitality and to promote mutual understanding between the diplomatic community and the people of the City of New York.

(10) The Committee welcomes the participation of the members of the United Nations in its work and feels that it is of great importance that ways and means of strengthening its work should be considered.

Notes

- 1/ General Assembly resolution 169 (II) of 31 October 1947.
- 2/ See General Assembly resolution 22 A (I) of 13 February 1946.
- 3/ See A/AC.154/227.

ANNEX

List of documents

(18 November 1983-16 November 1984)

- A/AC.154/249 Letter dated 13 January 1984 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General
- A/AC.154/250 Letter dated 23 February 1984 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General
- A/AC.154/251 Letter dated 28 February 1984 from the Ambassador and Alternate Representative for Special Political Affairs of the United States Mission to the United Nations addressed to the Chairman of the Committee on Relations with the Host Country