

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

GENERAL ASSEMBLY

OFFICIAL RECORDS: FORTIETH SESSION

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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.

[29 November 1985]

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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-ninth session, the General Assembly decided, by its resolution 39/87 of 13 December 1984, that the Committee should continue its work, in conformity with Assembly resolution 2819 (XXVI), and decided to include in the provisional agenda of its fortieth 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 1985 was as follows:

| | |
|------------|---|
| Bulgaria | Ivory Coast (Côte d'Ivoire) |
| Canada | Mali |
| China | Senegal |
| Costa Rica | Spain |
| Cyprus | Union of Soviet Socialist Republics |
| France | United Kingdom of Great Britain and Northern Ireland |
| Honduras | United States of America |
| Iraq | |

3. Throughout 1985, 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 (Côte d'Ivoire) continued to serve as Vice-Chairmen.

4. The list of topics previously adopted by the Committee in May 1982 was retained in 1985 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 five meetings, as follows: the 109th meeting on 26 February 1985; the 110th meeting on 17 May; the 111th meeting on 19 June; the 112th meeting on 25 September; and the 113th meeting on 29 November 1985.

6. 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 1985. 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 five meetings.

III. TOPICS DEALT WITH BY THE COMMITTEE

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

1. Communications received

7. By a note verbale dated 20 February 1985 (A/AC.154/252, annex I), the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations lodged a protest with the Permanent Mission of the United States of America to the United Nations concerning the discovery of an explosive device on a motor vehicle belonging to the USSR Mission. The note demanded that measures be taken to prosecute and punish the guilty persons and to prevent such criminal acts in the future. In that connection, the note drew the attention of the United States Mission to the fact that the new system of licence plates for diplomatic cars introduced by the United States considerably facilitated the commission of such acts by making it easy to ascertain the ownership of such motor vehicles.

8. In a second note verbale of the same date (A/AC.154/252, annex II), the USSR Mission complained about an incident involving the wife of one diplomatic member of the Mission. The note stated that the wife of the diplomat had been subjected to illegal acts of provocation by the local authorities at a Manhattan department store. After having been falsely accused of making incorrect payment for merchandise, she was refused for several hours the right to communicate with her Mission. The note also complained about the intensive shadowing of both the diplomat and his wife.

9. In a note verbale dated 4 June 1985 (A/AC.154/255, annex), the United States Mission to the United Nations responded to the aforementioned complaint. It deplored the continuation of the discussion of the matter, which it considered to be of a potentially embarrassing nature for the individual concerned, referred to the oral statement given by the United States representative in a meeting of the Committee on 26 February 1985 and reiterated the facts resulting from the investigation made by the United States Mission after the incident had occurred. The investigation had shown that the wife of the diplomat had been observed by the security staff of the department store illegally changing price tags on merchandise. Store security officers detained her when she tried to purchase the merchandise. The United States Mission regretted that the diplomat's wife had been unable to telephone the Soviet Mission for approximately two hours. Allegations of a frame-up were firmly rejected by the United States Mission. The note added that the department store had been informed as to the proper procedure to be followed when a diplomat was involved in a criminal matter. With regard to the Soviet charge that "local authorities have been closely shadowing Mr. Bugrov and Mrs. Bugrova", the note reminded the USSR Mission of the commitment of the United States Government to provide security protection to all members of the Soviet diplomatic community in New York.

2. Consideration in the Committee of the question of security

10. At the 109th meeting of the Committee, the representative of the USSR drew the Committee's attention to terrorist attempts against the Soviet Mission, one of which involved the fixing of an explosive device to a vehicle of the Mission. He said that the United States authorities had not taken steps to put an end to

criminal acts that posed a threat to the Mission and its personnel. The United States should also take steps to prosecute and punish the persons who committed such crimes. The representative of the USSR also noted that hooligan acts near the Soviet Mission continued to threaten diplomats and their families and to prevent them from walking on the sidewalks or entering their automobiles.

11. The representative of Bulgaria stated that his Mission had always stressed the need for improvements concerning security measures for the protection of diplomats and for the punishment of perpetrators of criminal acts against diplomatic personnel.

12. The representative of the host country stated in reply that he had convened a meeting of local authorities for the purpose of instituting more vigorous measures to protect Soviet diplomats in the United States.

13. In a statement at the 11th meeting, the representative of the USSR referred to continuing acts of hooliganism and disruptive phone calls that constituted a campaign of insult against his Mission's staff.

14. The representative of the host country deplored instances of hooliganism but pointed out that demonstrations held in accordance with the applicable laws were allowed. He also stressed that the Soviet Mission had been given the largest detail of police security in the city.

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. Note verbale dated 15 February 1985 from the United States Mission to the United Nations addressed to the United Nations Secretariat, the permanent missions and permanent observer missions to the United Nations

15. The aforementioned note verbale drew the attention of the addressees to the regulations of foreign missions, issued under the Foreign Missions Amendments Act of 1983 (the Act, 22 United States Code 4304 a), which served notice, inter alia, that the reporting procedure regarding the vehicle insurance of Missions had been changed and that the minimum amount of automobile liability coverage for personal injuries for all involved and for property damage caused had been raised to \$300,000. During the discussion at the 109th meeting of the Committee, it was emphasized that the Committee had a genuine interest in seeking to obtain more information on the new insurance requirements. In response to a comment made by the representative of Costa Rica, the representative of the host country agreed that the deadline set forth in the note should be extended beyond 15 March 1985.

16. Regarding a question by the representative of France, the representative of the host country confirmed that it was not the intention to proceed with a single uniform insurance policy to be concluded with one insurance company for all diplomats. Therefore, diplomats could shop around for a policy that best suited them. The representative of the United States stated that the rise of the minimum liability coverage had been occasioned by the fact that there had been an unfortunately large number of cases where United States citizens had been struck

and injured by diplomats with no insurance. In response to a question, he said he did not have available the number of cases involved.

17. When asked by the representative of the United Kingdom of Great Britain and Northern Ireland whether the protective level of liability insurance would correspond to the minimum New York State requirement for United States citizens, the representative of the host country stated that the coverage must be \$300,000.

18. In this connection, the representative of Bulgaria observed that the required amount of \$300,000 minimum coverage was discriminatory. He also found that the arguments for the minimum level were not convincing. Taking into account the importance of the issues involved, he suggested that the Director of the United States Office of Foreign Missions be invited to clarify matters.

19. The representative of the USSR said that the new insurance requirements would not create privileges for diplomats but would place them in a position of being discriminated against and the implementation would create a burdensome task.

20. The representative of Iraq observed that the situation involved, on the one hand, the protection of the rights of United States citizens and, on the other, the protection of the rights and immunities of diplomats. While accepting a diplomat's responsibility to be insured, he expressed concern about the increase in the coverage.

21. In response to an inquiry by the representative of the Ivory Coast (Côte d'Ivoire), the representative of the host country stated that each mission could register five cars in the name of the mission. Any mission staff member could register a car in his or her name, but for the registration of more than five official cars justification had to be given.

22. At its 110th meeting, the Committee continued to examine the new regulations under the host country's Foreign Missions Amendments Act relating to the motor vehicle programme and automobile liability insurance. The Committee welcomed the presence of the Director of the United States Office of Foreign Missions, Mr. James Nolan, who addressed the meeting. Pursuant to the Committee's request for further explanations and clarifications on the topics under discussion, the Bureau had taken steps to collect questions from the diplomatic community on the subject-matter. When the pertinent questions had been established and compiled, the Secretariat, through the United States Mission, arranged for their submission to Mr. Nolan's office. Having examined the 16 questions presented to him, Mr. Nolan provided answers during the Committee meeting. Subsequent to this meeting, the United States Mission, in a note verbale dated 22 May 1985 (A/AC.154/254), arranged for the publication of the questions and answers as a host country Committee document. Since that document gave an account of the problems involved and the arrangements currently in existence relating to liability insurance coverage for the diplomatic community, the Committee considered it useful to have the aforementioned document annexed to the report (see annex I).

2. Note verbale dated 29 August 1985 from the Acting Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General

Note verbale dated 9 September 1985 from the Secretary-General addressed to the Permanent Representative of the United States of America to the United Nations*

23. The above-mentioned note from the United States set forth new regulations imposing travel restrictions on United Nations staff members who were nationals of the Soviet Union, the Byelorussian Soviet Socialist Republic, the Ukrainian Soviet Socialist Republic, Afghanistan, Cuba, Iran (Islamic Republic of), the Libyan Arab Jamahiriya and Viet Nam. Such staff members were required by the regulations to arrange their official and personal travel outside a 25-mile radius of Columbus Circle, New York City (in the case of Libyan nationals, beyond the five boroughs of New York City), through the United States Department of State, Foreign Missions Service Bureau, indicating itinerary, time, carrier for transportation and use of public accommodation. The note also indicated that the processing of travel requests, with the exception of emergency cases, required two working days and set forth that a detailed itinerary showing routes and times for all official and personal travel had to be submitted two days in advance. Prior approval from the United States Mission had to be obtained for all personal travel. The note also set forth that the United States Government reserved the right to review whether proposed travel by affected staff members was bona fide official travel or not.

24. In his response, the Secretary-General expressed the view that the new measures were not compatible with the international obligations of the United States vis-à-vis the Organization under the latter's Charter, under the Headquarters Agreement and under the Convention on the Privileges and Immunities of the United Nations. He stated that the proposed measures seemed to constitute discrimination among members of the Secretariat solely on the basis of their nationality, in violation of the principle that they were all international civil servants whose primary loyalty and responsibility were to the Organization; that the measures would improperly constrain the Secretary-General's choice of which staff members were to be assigned to carry out certain official functions within the United States and that the restrictions applied to private travel were unduly onerous. The Secretary-General requested the United States Government to reconsider proceeding with the implementation of the proposed measures.

25. The 112th meeting of the Committee was almost exclusively devoted to a discussion of the contents of the two notes verbales. Before this discussion commenced, at the outset of the meeting, the newly appointed representative of the host country made a statement in which he said that the United States would continue its work in a spirit of understanding and would continue to honour its obligations as host country. He felt that a debate of a solely political nature had a tendency to be destructive and that propagandizing with little substance would be unproductive and would go against the best interests of the Committee's work. He hoped, therefore, that a balanced spirit of mutual co-operation would prevail throughout the agenda.

* The text of both notes was issued in information circular ST/IC/85/48 of 12 September 1985 on the subject: host country travel regulations.

26. The representative of the USSR expressed serious concern about the new American law on which the recent practical measures against the United Nations Secretariat were based and which directly affected the principles of the Charter of the United Nations and of the Headquarters Agreement. Although in earlier meetings of the Committee voices had been raised about the inadmissibility of such a law, the United States had found it necessary to take such arbitrary, illegal and discriminatory action against the Secretariat. The United States tried to justify these actions by references to difficulties and abuses that, in his view, were unsubstantiated allegations, using the principle of "reciprocity" as a pretext. The representative of the USSR further said that the Secretary-General had pointed out that the measures in question were not compatible with the international obligations of the United States vis-à-vis the Organization under the latter's Charter, the Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations and that they, therefore, undermined the essential character and work of the United Nations Secretariat. They also constituted interference in the prerogatives of the Secretary-General as regards the assignment of functions among staff members and in the work of employees of the Secretariat. The Secretary-General's position was fully shared by the Soviet Union. In his country's view, the measures taken by the United States were contrary to Article 100, paragraph 2, of the Charter, which provided that each Member of the Organization should respect the exclusively international character of the responsibilities of the Secretary-General and the staff of the Secretariat. The unlawful action by the United States was cause for profound concern among the delegations of various countries. The Soviet Union condemned the United States measures and supported the Secretary-General's request that the United States discontinue such action and comply strictly with its international obligations.

27. The representative of Bulgaria expressed his gratitude to the Secretary-General for publishing the exchange of notes. He shared and supported the legal argumentation of the Secretary-General, which declared the restrictive measures incompatible with the host country's international obligations. These measures were unlawful since they discriminated solely on the basis of nationality against certain members of the Secretariat and violated the principle of the independence of the Secretary-General and the international civil servants. The introduction of those measures limited the Secretary-General in the performance of his functions as well as the staff in the performance of their duties, contrary to the stipulation contained in Article 100, paragraph 2, of the Charter. The representative of Bulgaria noted with concern that additional provisions of the Amendment to the State Department Basic Authorities Act of 1956 contained in the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, empowered the Secretary of State to impose upon international civil servants "all terms, limitations, restrictions and conditions which were applicable pursuant to this title to members of that country's mission to the United Nations". This provision was at variance with the objectives set forth in Article 105 of the Charter which accorded to the Organization and its officials as well as representatives of Member States all privileges and immunities necessary for the independent exercise of their functions. Consequently, privileges and immunities should be granted unconditionally and on an equal basis. He recognized each host country's right to enact legislation deemed necessary for its national interests but stated that such legislation should not violate international agreements. The representative of Bulgaria, while reiterating the unlawfulness of the restrictive measures, called for their cancellation and observed that consultations between the Secretary-General and the competent United States authorities should continue with a view to solving the problem.

28. The representative of France said that the measures taken were acceptable as a whole since they did not appear incompatible with the host country's international commitments, and more particularly those under the Headquarters Agreement, which contained no provision conferring upon international civil servants a right to unrestricted movement in United States territory. He stressed the need to respect the provisions of Article 100 of the Charter and associated himself with other delegations in taking the view that if that Article were quoted, it should be quoted in its entirety. He also asked for clarifications that would remove all ambiguity from the note's provisions concerning the right to review whether proposed travel was bona fide official travel or not.

29. The observer of the Byelorussian SSR shared the serious concern already expressed with regard to the imposition of unjustified and illegal restrictions on the travel of certain staff members by the United States. The new provisions of the Department of State Basic Act seriously affected the status of certain staff members and were contrary both to the letter and spirit of the Charter and other legal instruments. In violation of Article 100, paragraph 2, of the Charter, the provisions undermined the very concept of the unity and integrity of the United Nations civil service. The new provisions also reflected an act of discrimination. The legal status of staff members of the United Nations was governed by internationally recognized legal instruments and not by domestic legislation. The United States was not fulfilling its obligations to create normal conditions for the work of the United Nations staff.

30. The observer of Cuba complained about the increasing difficulties that certain delegations were experiencing. Measures of a hostile and repressive character were implemented by the United States, rendering the present situation impossible. The latest measures confirmed Cuba's fear that political considerations, which departed from the letter and spirit of the Headquarters Agreement, prevailed. These measures disrupted the work of the Secretariat and undermined the autonomy of the Secretary-General, whose critical views Cuba supported. The observer of Cuba drew attention to recommendations made by an American organization critical of the United Nations, which proposed, inter alia, to define the rank and size of any mission by taking into account population, wealth and contribution to the United Nations budget. Proposals of such a kind, if adopted, would violate the principle of sovereign equality. She stressed that it was inadmissible to make a distinction among States according to size, wealth or military power. Political and ideological considerations could only undermine the international institutions and the ability of the United States to continue as their host. Regarding other United Nations bodies, the United Nations Educational, Scientific and Cultural Organization was another example where discriminatory measures were tried by the United States as an attempt to put pressure on an organization. The observer of Cuba requested that an end be put to these illegal measures. She said one should consider requesting an advisory opinion from the International Court of Justice.

31. The observer of the German Democratic Republic said that his delegation had noted with deep concern the recent United States decision to apply restrictive measures against some staff members of the Secretariat. The German Democratic Republic shared the view of the Secretary-General who had pointed out that the steps taken by the United States were incompatible with its international obligations set forth in the Charter, the Headquarters Agreement and the Convention on Privileges and Immunities. The United States measures discriminated against certain staff members and constrained the Secretary-General in the independent exercise of his responsibilities under the Charter. The observer of the German Democratic Republic strongly opposed those measures, which he regarded as an

attempt to discredit the United Nations. He said that it was necessary to safeguard the international status of all staff members and requested the Secretary-General to take all steps to bring about a revocation of the discriminatory United States measures.

32. The observer of Czechoslovakia stated that the aforementioned restrictive measures constituted a substantial encroachment on the living and working conditions of certain staff members. The underlying reasons were purely political. He agreed with the conclusions reached by the Secretary-General in his note and pointed out that the principle of reciprocity was not applicable vis-à-vis the staff members of an international organization since they were not representing their Governments. Secondly, if certain States were to apply restrictive measures out of national security concern or out of fear for the personal security of diplomats, the reasons for such measures would have to be based on factual evidence and not on political reasons. The restriction of movement of staff members would not only hamper the discharge of their duties but also affect the living conditions of staff members. Since the host country had an obligation to create normal working conditions for those serving the Organization, the observer of Czechoslovakia called upon the host Government to reconsider its decision.

33. The observer of Poland stated that the restrictive measures under discussion discriminated against certain staff members and were incompatible with Article 100 of the Charter and did not correspond to the relevant provisions of the existing international legal instruments. The arbitrary measures inspired by political considerations were totally unacceptable. In the opinion of the Polish delegation, the measures were also detrimental to the efficiency of the work of the United Nations. The observer of Poland hoped that the measures could be reconsidered and would not be implemented.

34. The observer of the Ukrainian SSR stated that the restrictive measures under discussion were in violation of international law and, especially, of Article 100, paragraph 2, of the Charter. They were discriminatory and undermined the international status of the United Nations staff members. The Ukrainian SSR fully supported the position adopted by the Secretary-General on this matter, including his call upon the United States Government to revoke these unlawful measures. He felt that the United States action did not contribute to efforts for strengthening the effectiveness and prestige of the United Nations as an instrument for the maintenance of peace and security. He hoped that normal conditions for the work of the United Nations could be created.

35. The observer of Viet Nam reiterated that the travel restrictions were discriminatory and unlawful. The accusation made by the host country about espionage activities were groundless since no charges had been brought to the attention of the Secretary-General. In addition, these restrictive measures were inappropriate remedies for what had been advanced in the American legislation as requirements to counter espionage activities. In the view of Viet Nam, those measures gave the United States Government the authority to judge the attitude of the Secretariat and to interfere with the Secretary-General's independent exercise of his functions. Overall, those measures could seriously jeopardize the Organization, taking into account that reciprocal action could be taken by other States against American staff members. He proposed the reconsideration of the implementation of those measures.

36. The representative of Iraq identified with the Secretary-General's opinion and said that the United States action should not constitute a precedent. He felt that, in view of the consultations that had taken place, the measures must be considered in a spirit of co-operation and friendliness and not in a political way. Informal consultations should be continued to reconcile the different viewpoints of Member States.

37. The representative of Mali said that the role of the Committee centred on finding solutions to whatever problems arose and not so much on discussing legal arguments. The present problem was complex and he felt that the assertions made by the United States were too general; therefore, the measures should be reconsidered and talks should take place between the United Nations and the United States.

38. The representative of the Ivory Coast (Côte d'Ivoire) observed that the United States decision concerning the restrictions on movement had been interpreted in a different way in the Committee. He felt that the exchange of arguments concerning international agreements might not be the best way to deal with the current situation. Further clarifications from the United States and the continuation of a dialogue between the Secretary-General and the United States would be useful to bring about a solution of the problem.

39. The representative of Spain said that he attached the utmost importance to upholding the principle concerning the recognition of the independence of the Secretary-General and of United Nations staff members working under him. Although, in his view, the legislation under consideration did not violate rules of general international law, he reserved his position on the matter pending clarification of the criteria used to define official travel.

40. Replying to the aforementioned speakers, the representative of the host country rejected the implication that the host country was not fulfilling its obligations. However, he did not wish to engage in a debate since the United States was available for a continuing dialogue on the measures and would supply further information and clarifications as requested and needed. He mentioned that some statements he had heard contained factual errors and stressed that there were no restrictions on the official travel of any United Nations staff member. Official travel did not require prior approval.

41. The representative of the USSR said that he would study further the United States statement, but he remained of the view expressed earlier that the United States action violated norms of international law. In this respect several representatives having expressed a different point of view were not right. He invited the other representatives to study closely the new American law. In his analysis of section 141 of the Amendment to the State Department Basic Authorities Act of 1956, parts of which he quoted, the representative of the USSR came to the conclusion that the United States refused to recognize the privileges and immunities of the Secretariat staff except for the right of transit, that the host country claimed the right to regulate any activities by staff members solely on the basis of its interests and that the principle of reciprocity was made the basis for practical actions. The new law was aimed at destroying the very principles governing the existence of the United Nations and its Secretariat. The Charter obligated the United States to respect the international nature of the Secretariat and not to interfere in its affairs, and the Headquarters Agreement (sects. 11 and 12) in particular was applicable to the members of the Secretariat irrespective of their nationality. The new legislation would place the United Nations and the Secretary-General under the control of the United States. In case of abuses, the

Headquarters Agreement contained machinery for solving possible cases of violation. That machinery was applicable in specific cases and did not permit any collective, selective and discriminatory measures or sanctions on the part of the host country. What was called for was the termination of such an illegal policy.

42. The representative of France, responding to the USSR representative, wished to make clear that in his view the United States measures had not been taken for reciprocity reasons but out of concerns for security.

43. The representative of Costa Rica indicated that after listening to different speakers and the clarifications of the representative of the host country over this important question, her delegation, as others that had spoken before her, recognized that it was the sovereign right of any country to take measures to protect its security and national interests. At the same time, she was also sensitive to the concerns of the Secretary-General regarding his responsibilities under the Charter. She considered the ongoing dialogue between the representatives of the host country and the Secretariat most timely and useful, and hoped it would lead to a satisfactory solution to the concerns of the host country consonant with the integrity and respect for the provisions of the Charter, as well as the Headquarters Agreement. Her delegation, as others, shared the view of the representative of France about Article 100 of the Charter, that it should not be limited to paragraph 2 but should be read in its entirety. Her delegation hoped that this delicate matter would be positively solved within a spirit of conciliation and understanding so necessary in the solution of differences arising from legal and security questions as well as national interests.

44. Disagreeing with the aforementioned view, the representative of the USSR asked that the situation be seriously considered in the light of relevant legal instruments.

45. The representative of Bulgaria wished to obtain the assurance by the United States that the principle of reciprocity was not involved.

46. The Chairman, summing up the deliberations of the 112th meeting, noted with satisfaction the requests that had been made to find a solution through an ongoing dialogue.

3. Entry visas issued by the host country

47. At the 111th meeting of the Committee, the representative of the USSR complained in general about time constraints regarding the issuance of visas. In response, the representative of the host country repeated that the processing of visas usually required 10 working days but that, however, the host country was always willing to work with any delegation that had problems in meeting the processing time requirements.

48. The observer of the Ukrainian SSR, at the 112th meeting, drew the attention of the Committee to cases where visas were delayed or denied. One such case involved a Polish expert who was prevented from attending a meeting on Namibia on time; in another incident, the representative of the Libyan Arab Jamahiriya was prevented from attending the commemorative activities at San Francisco. The observer of Cuba had also reported that the Cuban representative did not get permission to attend the fortieth anniversary of the signing of the Charter of the United Nations at San Francisco.

4. Exemption from taxes

49. At the 111th meeting of the Committee, the representative of the host country, in response to questions raised by the USSR, the United Kingdom, Iraq and Costa Rica, informed the Committee that, effective 15 August 1985, diplomatic staff would need new federal tax exemption cards that would be valid in all states. All stores in the New York area were required to honour the card. He asked delegates to inform the United States Mission of cases where stores did not accept the card.

50. At the 112th meeting, the observers of Iraq and Poland complained that the tax exemption cards had not been received. The representative of the host country apologized for the delay and said that matters would be expedited if the blue tax exempt forms that were sent out to missions would be completed in accordance with the instructions that accompanied the forms.

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

51. The Chairman informed the Committee, at its 111th meeting, that requests to study again the possibility of establishing a commissary had been received from certain members of the diplomatic community.

C. 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

52. The New York City Commissioner for the United Nations was invited to address the 109th meeting of the Committee. She drew its attention to the continuing problem of unpaid debts by diplomatic missions and their personnel, which included non-payment of rent, utilities, bills from stores and other items. Since payments were sometimes months in arrears, the situation became increasingly more difficult and she consequently asked that the situation be dealt with by the Committee. She further said that her office would serve as mediator to arrange conditions of payment to consolidate debts on real estate and to offer examples of how some missions had dealt with the high prices in New York.

53. Subsequent to this meeting, the Chairman of the Committee, with the approval of its members, addressed a letter to the diplomatic community in New York in which he drew attention to the aforementioned problem.

D. Other matters

54. At the Committee's 110th meeting, the representative of the United Kingdom suggested updating Committee document A/AC.154/212 containing laws and regulations in force in the host country and applicable to the diplomatic community.

55. At the 112th meeting of the Committee, the observer of Nicaragua announced that his country would send a document to the Committee relating to the credentials of members of missions. He complained that the United States objected to the inclusion of certain members of the Nicaraguan Mission in the diplomatic list.

IV. RECOMMENDATIONS

56. At its 113th meeting, on 29 November 1985, 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 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.

(5) The Committee considered recent legislation of the host country. The Committee takes note of the positions of the Secretary-General of the United Nations and of the host country regarding the application by the host country of measures pertaining to the travel of certain members of the Secretariat. The Committee urges the host country and the Secretary-General to seek a solution that is in accord with the Headquarters Agreement and takes into consideration the concerns expressed.

(6) The Committee takes note of the information provided by the host country to the contact group on immunities of members of missions to the United Nations and expresses its appreciation for its efforts, which will help to clarify procedures in the prosecution of law breakers committing illegal acts against diplomatic missions and their personnel.

(7) The Committee appeals to the host country to review the measures relating to diplomatic vehicles with a view to facilitating the needs of the diplomatic community and to consult with the Committee on matters relating to transportation.

(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.

ANNEX I

Note verbale dated 22 May 1985 from the Counsellor for Host Country Affairs of the United States Mission to the United Nations addressed to the Chairman of the Committee on Relations with the Host Country*

The Counsellor for Host Country Affairs of the United States Mission to the United Nations presents his compliments to the Chairman of the Committee on Relations with the Host Country and has the honour to refer to a compilation of questions received from the United Nations diplomatic community, through the United Nations Secretariat, pertaining to the new federal title, registration and insurance policies regarding motor vehicles owned and operated by the United Nations and its personnel and United Nations missions and personnel.

The United States Mission is pleased to enclose herewith these questions, together with their respective answers, as presented by James Nolan, Director of the Office of Foreign Missions, United States Department of State, on 17 May 1985, at the meeting of the Committee on Relations with the Host Country.

The United States Mission requests that this note with its attachment be circulated as a host country Committee document.

The questions and answers referred to above are as follows:

1. Question: Under the old system of registration, DPL vehicles were subject to a compulsory annual inspection in certain states of registration. Is this annual inspection still required, since the diplomatic registration does not mention the state of registration of the vehicle? If so, in which state must the inspection take place, particularly for persons who are not resident in New York State?

Answer: Annual inspection is not currently required. The Department of State is, however, exploring with New York and other states whether they desire to implement an annual safety inspection for diplomatic vehicles.

2. Question: The system of compulsory annual inspection as required by the State of New York has been suspended with the result that members of the police who are unaware of the new regulations have imposed fines on vehicles belonging to members of missions who do not have the corresponding certificate of inspection. What are the federal authorities going to do in bringing the change relating to the inspection system to the attention of the pertinent state authorities in order to avoid such situations?

Answer: Once the question of safety inspections has been resolved with New York State, a corresponding notice will be sent to all missions. The State Department has also co-ordinated with law enforcement authorities, motor vehicle administrators and other interested New York State and metropolitan area authorities to inform them of these new procedures. Inspection stickers and window decals that were placed in the vehicle when registered with New York State should

* Previously issued as document A/AC.154/254.

be removed. In the mean time, any missions wishing to have their vehicles inspected may do so. Any questions regarding these procedures should be directed to the Foreign Missions Service Bureau.

3. Question: Do the regulations on insurance apply to the spouse of the diplomat who owns a separate vehicle? Does the minimum risk coverage of \$300,000 apply to the spouse's vehicle?

Answer: The insurance regulations do apply to a spouse of a diplomat who owns a separate vehicle. The required level of \$300,000 is the same.

4. Question: Are there any statistics on accidents involving diplomatic vehicles and American vehicles covered for less than \$300,000? If so, how has the damage to diplomats been settled?

Answer: There are no statistics on accidents involving diplomats and United States citizens. The United States insurance industry could not produce any statistics as it was unable to tell from its records who was and who was not a diplomat. We are aware of a number of accidents in which both diplomats and United States citizens have been involved. In the vast majority of these cases the party at fault has been insured and the matter has been settled. There are cases in which a diplomat has been injured by a United States citizen and there has been either no insurance or insurance inadequate to compensate for damages incurred. There are also cases where the diplomat has been at fault and has had no insurance. There are two such cases involving United Nations mission diplomats at the moment. We expect the United Nations Mission to compensate the injured party if its diplomat is unable or unwilling to do so.

5. Question: Why are foreign missions obligated to report annually by 1 February the status of their automobile insurance policies to the United States Mission to the United Nations?

Answer: The Congress by Statute (22 USC 4304) requires the annual reporting on 1 February each year. The Department of State has already approached the Congress about repealing this provision, because we believe our new insurance-tracking system makes such reporting no longer necessary. Until the Congress acts, however, the requirement will remain in effect.

6. Question: Why is it required for the insurance information certificates attached to the above-mentioned reports to be signed? Does not this requirement violate the immunity of diplomatic representatives since this requirement is pursuant to Title 1845 Code, which carries no obligations for the foreign missions? The completion of similar certificate forms is required also by insurance companies without having to sign those forms.

Answer: The requirement to sign the insurance information data sheet is simply a procedure wherein the insured verifies to the accuracy of the information recorded on the form and in no way signifies the waiving of diplomatic immunity on the part of the insured. The Office of Foreign Missions, as part of its responsibility to implement the Foreign Missions Act, has developed an efficient and prudent procedure that accomplishes the tracking of adequate liability insurance coverage in the least intrusive manner.

7. Question: Why is it necessary that the certificates of titles of the foreign missions and their staff members should be kept at the New York Office for Foreign Missions?

Answer: Certificates of title are not kept for mission and personally owned vehicles, but rather are returned to the issuing state or the District of Columbia except in those instances where a certificate of origin or a title from a foreign jurisdiction is involved. In these cases and upon request for exportation of a vehicle, the certificate of origin or the foreign title is returned to the registrant together with an authorization to export the vehicle. Please note that the Office of Foreign Missions operates its titling system as a "paperless" system, i.e. all information needed for a title is maintained on the computerized data system and can be immediately accessed when required. This in no way limits ownership of a vehicle. The State of Wisconsin, for example, has moved to a similar "paperless" title system since it is the most efficient means of administering a motor vehicle office.

8. Question: According to the new legislation, the original automobile registration documents have to be surrendered to the United States Mission where they will be destroyed and are to be replaced by a provisional certificate of registration.

(a) Does not this certificate lack the necessary legal validity for the purposes of any transaction?

(b) What will happen if a diplomat loses his status?

Answer: Whenever a vehicle is transferred from one state to another, the former registration is no longer valid. The present registration forms issued by the State Department will be replaced with permanent forms similar to those issued by most states; however, the present registration forms held by the missions and mission personnel are indeed valid and fulfil all legal requirements. If a diplomat loses his/her status, a certificate of title will be issued so that the vehicle may be disposed of, if the diplomat so wishes, prior to his/her departure from the United States or, if so desired, an authorization to export the vehicle will be issued.

9. Question: When will the temporary registrations in the form of a simple letter be replaced by regular, permanent ones?

Answer: As stated above, permanent registration forms will be issued to all vehicles registered with the Department of State, Office of Foreign Missions. It is estimated that such registration forms will be available within 90 days.

10. Question: Is the United States Government going to issue a title of ownership and will the title be handed over to the owner of the car?

Answer: The State Department, as every state, issues a document that permits the sale or export of a vehicle. This document performs the same function as a title. In a "paperless title system", a title is not necessary. Upon request and immediately prior to the disposal of the vehicle by sale, transfer or export, such a document will be issued to the legal owner.

11. Question: Why is the system of selling the cars belonging to the foreign missions and their personnel being complicated by introducing a requirement for acquiring the prior consent of the United States Mission for that and for filling in applications for that purpose?

Answer: There is no requirement for prior United States Mission approval for sale of a vehicle. The request for title is routinely forwarded to the Foreign Missions Service Bureau for production of a certificate of authority to sell a vehicle or an authorization to export a vehicle. The request for a title may be made directly to the Service Bureau if anyone so desires. Vehicles that do not conform to the Department of Transportation and the Environmental Protection Agency Safety and Emission Control Standards have been permitted entry into the United States for exclusive use of the owner. Such vehicles may not be sold but must be exported from the United States.

12. Question: Why is a combined single liability (CSL) minimum of \$300,000 required since the insurance companies of the New York area cannot underwrite such a liability limit and offer, instead, a higher limit of at least \$450,000? Is not such a requirement a discriminatory one vis-à-vis the foreign missions in so far as such a requirement is not demanded of United States citizens?

Answer: Insurance companies licensed to sell insurance in New York State can and do issue liability insurance at levels even greater than those required by the Office of Foreign Missions. The Office of Foreign Missions requires a minimum level of \$300,000 combined single limit (i.e. the total amount payable by the insurance company for one accident) or when an insurance company does not issue such insurance the Department will allow \$100,000 per person/\$300,000 per accident/\$100,000 for property damage (i.e. split limit insurance). It is our understanding that, although few New York area diplomatic missions were able to receive \$300,000 combined single limit coverage, insurance carriers posed no serious problems to insuring these vehicles with "split-limit" coverage (i.e. \$100,000/per person, \$300,000/per accident, \$100,000/property damage). This requirement is significantly higher than any state's requirements and must be viewed within the parameters of diplomatic immunity. An accredited diplomat/mission is not normally required to submit to United States judicial proceedings. Nor can the diplomat's property normally be attached to satisfy a judgement. For these reasons and acting upon the counsel of competent insurance authorities, the above-described minimum requirements or limits are considered to be minimum prudent levels of liability insurance coverage.

13. Question: Why is a combined single liability (CSL) minimum (\$300,000) higher than the insurance liability minimum established under New York State law for United States and non-United States citizens? Is such an additional charge imposed on diplomats due to their diplomatic status? Is not it in essence a tax (direct or indirect) on diplomats?

Answer: The Office of Foreign Missions established a board of consultants to advise it with regard to automotive liability insurance. The Board recommended the \$300,000 limit. The limit is higher than New York or any other state limit because state limits were designed for United States citizens whose salaries and property could be attached in any settlement of claim. Such is not generally the case with a diplomat and, therefore, his/her insurance must be greater.

14. Question: Are the dependants of staff members of missions receiving an "S" plate required to become part of the United States federal licence plate programme?

Answer: The Foreign Missions Amendments Act of 22 November 1983 specifically includes "the family members of such members (of a mission)". All members of a foreign mission, to include staff members as well as family members, are encompassed by the Act and must adhere to Department's policy regarding vehicle registration, titling and disposition. Dependents of staff members of missions receiving "S" plates must also become part of the State Department's registration system in order to ensure compliance with the mandatory insurance requirements. It is reasonable to expect that a member of a mission would be driving the vehicle of his/her dependant from time to time.

15. Question: To date, how many new licence plate numbers have been issued (percentage figure)?

Answer: Ninety per cent of all licence plates in the New York metropolitan area have been issued. There are approximately 120 plates still outstanding in the metropolitan area. All other diplomatic, consular and administrative and technical staff registrations throughout the United States have been completed.

16. Question: Since the introduction of the new licence plates, various incidents have occurred in which vehicles belonging to members of missions have been broken into.

(a) Can it be assumed that one of the reasons for the increase in this type of incident is the fact that the new licence plates are highly distinctive?

(b) Does the public have access to the code presently used for each mission?

Answer: Diplomats have traditionally received specially designated registrations/plates. In the past these were issued by the respective states. There is no information available that would indicate a connection between acts of vandalism and the State Department's distinctive licence plates, and it cannot be assumed that acts of vandalism are directly linked to the new State Department registrations. The public does not have access to the country codes presently used for each mission.

Questions regarding the State Department's vehicle registration process and requests for issuance of federal vehicle documents should be addressed to either the Office of Foreign Missions, Foreign Missions Service Bureau, 41 East 42nd Street, Suite 716, New York, New York, 10017, (tel: (212) 661-2654) or the Host Country Affairs Section of the United States Mission.

ANNEX II

List of documents

(22 February 1985-17 October 1985)

- A/AC.154/252 Letter dated 22 February 1985 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General
- A/AC.154/253 Letter dated 1 March 1985 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
- A/AC.154/254 Note verbale dated 22 May 1985 from the Counsellor for Host Country Affairs of the United States Mission to the United Nations addressed to the Chairman of the Committee
- A/AC.154/255 Letter dated 4 June 1985 from the Ambassador and Alternate United States Representative for Special Political Affairs of the United States Mission to the United Nations addressed to the Chairman of the Committee
- A/AC.154/256 Letter dated 24 June 1985 from the Minister Plenipotentiary, Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General
- A/AC.154/257 Letter dated 9 July 1985 from the Ambassador and Alternate United States Representative for Special Political Affairs of the United States Mission to the United Nations addressed to the Chairman of the Committee
- A/AC.154/258 Letter dated 13 August 1985 from the Permanent Representative of Seychelles to the United Nations addressed to the Chairman of the Committee
- A/AC.154/259 Letter dated 16 October 1985 from the Permanent Representative of Nicaragua to the United Nations addressed to the Chairman of the Committee

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