



Chairman: Mr. Zenon ROSSIDES (Cyprus).

In the absence of the Chairman, Mr. Pollard (Guyana),
Vice-Chairman, took the Chair.

AGENDA ITEMS 99 AND 86

**Security of missions accredited to the United Nations and
safety of their personnel (continued) (A/8479, A/8493,
A/8505, A/8522, A/C.6/409, A/C.6/L.832)**

**Status of the work of the Informal Joint Committee on
Host Country Relations: report of the Secretary-General
(continued) (A/8474)**

1. Mr. ARANGIO-RUIZ (Italy), after expressing his sympathy with those missions which had been victims of criminal acts, recalled that his delegation had already made known its views on the subject at the 1980th meeting of the General Assembly on 8 November 1971. Two aspects of the question merited close attention: the state of international law with regard to the protection of missions and their personnel, and the work of the Informal Joint Committee on Host Country Relations.

2. With regard to the state of international law, written and unwritten, he endorsed in particular the remarks made by the Belgian delegation at the 1290th meeting. His delegation shared the hopes of the Belgian delegation that the relevant rules of international law, which left something to be desired, could be improved through the work of the International Law Commission. However, those rules ought to remain sufficiently general in their terms to leave a margin of discretion for the host country to choose the practical means of fulfilling its obligations. It was, of course, to be regretted that the Vienna Convention on Diplomatic Relations¹ was less exigent with regard to the protection of the person of the diplomatic agent (art. 29) than with regard to the protection of the premises of the mission (art. 22, para. 2). Even though the difference was reduced to some extent by the provisions relating to the private residence of a diplomatic agent (art. 30, para. 1) that was still a deficiency which the International Law Commission might try to remedy.

3. At the same time his delegation considered that the generality and elasticity of the law were not necessarily a negative element. The provisions of the Vienna Convention

¹ See United Nations Conference on Diplomatic Intercourse and Immunities, 1961, *Official Records*, vol. II (United Nations publication, Sales No.: 62.X.1), document A/CONF.20/13 and Corr.1, p. 82.

and the relevant customary rules had the merit, thanks to their very generality, of leaving intact the over-all responsibility of the host State concerning the protection of missions and their personnel. It might be true, as the representative of Belgium had stated, that those rules set forth an *obligation de comportement* rather than an *obligation de résultat*. That distinction, however, should not be over-estimated and the fact that the host State was bound by an *obligation de comportement* did not mean that it could limit itself to measures which were adequate only in theory and in normal circumstances. It was precisely in the light of the special conditions obtaining in the city of New York that the United States Government should adopt the practical measures necessary to make the work environment secure for missions accredited to the United Nations. Excessively specific rules might, paradoxically, cause the host State to reduce its diligence, since it might think it was fulfilling its obligations by applying those provisions, whereas in fact local conditions varied so much that no "international legislator" could devise all the measures which might be necessary in each particular country and at a particular time. Provided, of course, that the sending countries could draw the host country's attention to any special situation, responsibility for the protection of missions must remain primarily the task of the host country. An excess of zeal on the part of the sending State, or of the international legislator, might in case of an incident work against the desired objective by giving the host country a pretext for limiting its responsibility before an international tribunal from which reparations were sought. In that connexion, the representative of Belgium had done well to remind members of the regrettable fact that the provisions regarding the settlement of disputes arising from the interpretation and application of the Vienna Convention took the form of an optional protocol only.

4. His delegation felt that the question of the status of the work of the Informal Joint Committee on Host Country Relations should be considered in the same spirit. That Committee had proved to be useful, not only for the protection of missions and their personnel but also in other spheres. It would therefore be a good thing if the Committee were put to greater use. But the way in which that Committee should be put to use must be consonant with the nature of the problem, which was to ensure that the host State complied with the obligations incumbent upon it under international law or as a matter of courtesy between States. If the Joint Committee were transformed into a formal body, not only would it be awkward for it to deal with questions relating to courtesy between States, but the strictly legal obligations of the host State would also suffer. As several delegations had said, there were indeed grounds for fearing that such a metamorphosis would bring about a

politization of the Committee. But, what was even worse, it would introduce a regrettable confusion into the legal relations between the host State, Member States and the United Nations. More particularly, the existence of a formal body could be interpreted as relieving the host State of its obligations, and that would benefit no one. His delegation, convinced that the missions of Member States were better protected by obligations imposed on the host State under international law as it stood or as it might be further determined by international agreements, was therefore opposed to changing the Joint Committee into a formal body, although it supported the idea that it should be used more frequently and effectively.

5. Mr. SAID (Pakistan) stressed the increasing gravity of acts of violence directed against foreign missions and their personnel, particularly against missions of Arab States and socialist States. His delegation therefore hoped that all appropriate steps would be taken by the authorities of the host country, which he was sure would join in condemning all acts contrary to the inviolability of missions, whether by organized groups or by individuals. Condemnation alone was not enough, however, and his delegation would support the establishment of a special committee to deal with the question of the security of missions and members of their personnel. The question of security was an extremely important one, for, as the United Nations consisted of States with various political systems, it was inevitable that the position taken by certain States might not be palatable to some local extremist groups. A special committee could assist the host State in the implementation of the Convention on the Privileges and Immunities of the United Nations and the Agreement between the United Nations and the United States of America concerning the Headquarters of the United Nations by indicating, for example, what measures of protection were required. It could also report on incidents in any given year and indicate what action had been taken by the competent authorities in each case.

6. His delegation also wished to remind the Committee that, apart from the duty of ensuring the inviolability of missions and their personnel, the host State also had certain obligations in respect of territorial asylum, in particular the duty, set down in article 4 of the Declaration on Territorial Asylum contained in resolution 2312 (XXII) adopted by the General Assembly in 1967, not to permit persons who had received asylum to engage in activities contrary to the purposes and principles of the United Nations. The host State was therefore bound to forbid the persons in question to indulge in any acts hostile to the missions accredited to the United Nations and any activities contrary to the sovereignty or territorial integrity of Member States. His delegation was pleased to learn that the United States administration had proposed to Congress the enactment of legislation to amend the United States Code, which would, *inter alia*, make it unlawful to congregate within 100 feet of the premises of buildings used by foreign missions.

7. Mr. MAIGA (Mali) said that the question of the security of missions and their personnel was both a political question, considering the aggression and the discriminatory acts committed against foreign missions, and a legal one, having regard to the obligations incumbent on the host country under the provisions of the Headquarters Agree-

ment. Those two aspects of the problem could not be separated.

8. His delegation was deeply concerned by the criminal acts and the psychological terrorism which were continually compromising the inviolability of missions and the security of their personnel. It was even more concerned by the unjustifiable inability of the local authorities to do anything about it. The present situation was a far cry from the promises made by the city of New York to the General Assembly in 1946. The continuing passivity of the local authorities constituted a serious dereliction of duty on the part of the United States Government, and demonstrated its disregard of the sacrosanct nature of the protection which any host country owed to the representatives of a third State, irrespective of the relations between them. From the time of Cicero, all authors had recognized the inviolability of an individual representative of any State, the basic principle on which all other diplomatic immunities rested. It was regrettable that the United States of America did not share that concept, as had been demonstrated once again by the Government at Washington in its negative reaction to, and the hostile and venomous campaign it had waged following the vote on the restoration of the legitimate rights of the People's Republic of China in the United Nations. In that connexion, he cited an incident of which two representatives of his country had been the victims in a New York shop on the day following the vote.

9. His delegation considered that the United States authorities should become aware of the gravity of the situation and should enlighten public opinion in their country. They had the means to conduct such a campaign and on those authorities depended, not the honour of Member States, which could not be violated, but the maintenance of the Headquarters of the United Nations in the United States.

10. Mr. HASSOUNA (Egypt) said that his delegation had unreservedly supported the initiative of those States which had requested the inclusion of the item on the agenda. The positive and unanimous decision taken by the General Assembly showed the deep concern felt by all Member States, including the Arab, African and socialist States whose missions or representatives had been attacked and those countries which had so far been spared. Consideration of the item by the Sixth Committee was useful in several ways: it enabled those missions which had been the victims of hostile acts to express their indignation publicly; it provided an opportunity to evaluate the role played by the authorities of the host State and the role which it should play; and, lastly, it focused attention on a problem which had been neglected for too long and on the necessary solutions.

11. In his delegation's view, the problem had legal, political and social connotations and called for legal, political and social solutions. It had been said in that regard that the problem of insecurity was common to all big cities; while that might be true, the authorities of cities where international organizations had their headquarters bore a special responsibility. It had been stated also that the problem affected not only diplomatic personnel but all the inhabitants of the city of New York; nevertheless, the obligation imposed on the host State by international law was undeniably stricter in the case of the protection of

diplomats than in the case of the protection of other aliens. Again, it had been said that the problem involved all categories of crime. However, crimes motivated by political or racial considerations, such as those perpetrated by certain New York Zionist organizations, merited particularly strong condemnation. At a time when the international community prohibited the use of violence for political or racist ends, it was inadmissible that the freedom of expression granted to some should be exercised at the expense of the most elementary freedom of others.

12. There was no lack of legal texts setting forth the obligations of the United States Government, and he cited in that connexion Article 105 of the Charter, section 11 of the Convention on the Privileges and Immunities of the United Nations, sections 11, 15 and 16 of the Headquarters Agreement³ and article 22, paragraph 2, and article 29 of the Vienna Convention on Diplomatic Relations.⁴ The United States authorities were familiar with those texts and had on a number of occasions acknowledged the seriousness of the situation. However, when human lives were at stake, mere assurances were not enough. Drastic measures were required, and his delegation agreed with those delegations which had recommended that the General Assembly should take all necessary steps to ensure the safety of missions. Acts of political terrorism must be condemned and the widest possible publicity given to such condemnation. The various information media in the United States ought to play an important role in educating public opinion. The Government of the host State should take forthwith all the administrative, judicial and legislative measures necessary. The General Assembly should establish a special standing committee with clearly defined terms of reference and convened on a regular basis. The purpose of such measures was not to satisfy the personal interests of representatives but to enable them to perform their functions.

13. Mr. CHAMMAS (Lebanon) said that, since the General Assembly was a political body, all the Main Committees, whatever their principal areas of competence, were obliged to consider items having political aspects. The Sixth Committee was thus fully competent to deal with the item under consideration. It was, moreover, rare for a problem to be purely legal or purely political, and some items which seemed to be essentially legal in nature, such as outer space or the sea-bed, had been allocated to the First Committee, undoubtedly because verbatim records were made of its discussions.

14. His delegation nevertheless regretted that items 99 and 86 were being considered together by the Sixth Committee, for, although they were closely related, that meant that diverse questions which were not all of the same order of magnitude were dealt with on the same level.

15. His delegation seemed to be in a privileged situation with regard to security, because it could only express gratification at the marks of courtesy it had received from the authorities of the host country and those of New York City and had no complaints to make.

16. While recognizing the principle of freedom of expression, his delegation was not insensitive to the atmosphere of hostility aroused in New York by the abuses perpetrated by organizations seeking to promote their political objectives. The problem would have remained entirely within the sphere of the internal affairs of the host country if diplomatic agents and members of their families had not been involved, as in the recent attack on the Soviet Mission. Fortunately, there had been no casualties, but in such instances Member States unquestionably had a right to make suggestions to the host country.

17. His delegation considered that the work of the Informal Joint Committee had been useful, except in the specific area of the security of missions, as was shown in the Secretary-General's report (A/8474).

18. His delegation was therefore not in favour of retaining that Committee but would support any proposal for the establishment of a body to make a thorough study of the question of the security of missions, identify the causes of the problems involved and draw conclusions in an atmosphere of calm. His delegation was, moreover, convinced that the United States Government, which had never denied the obligations placed on it by the various instruments of international law applying in the matter, was determined to find a solution to the present state of affairs; it should be assisted, if necessary, by suggestions concerning the measures to be taken, should the existing legal provisions prove inadequate.

Mr. Rossides (Cyprus) took the Chair.

19. Mr. KOLESNIK (Union of Soviet Socialist Republics) said that it was clear from the report of the Secretary-General and from the present debate that the Informal Joint Committee had not been able to fulfil its main function with regard to the security of missions or to deal with the other matters within its competence; the only positive thing resulting from it was that the United States Government had proposed to the Congress the enactment of legislation to amend the United States Code.

20. With regard to the question of parking, which several members of the Committee had touched upon, he drew attention to the difficult situation of his country's Mission, which was situated near a fire-station and a police-station, which latter monopolized the parking space; on Lexington Avenue, the 10 parking spaces theoretically reserved for the Mission were regularly occupied by other vehicles, because they were not properly marked. Generally speaking, however, diplomatic vehicles represented only a small percentage of the total number of cars, and it was therefore outrageous that a solution to that aspect of the problem had not yet been found.

21. Mention should also be made of the numerous difficulties faced by mission staff members, such as the steadily rising rents or the various manifestations of racial discrimination in everyday life. There again no preventive measures had been taken.

22. With regard to the security of missions, it was not the Informal Joint Committee but the host State itself which was responsible for the present situation. The United States

² See General Assembly resolution 22 A (I).

³ See General Assembly resolution 169 (II).

⁴ See foot-note 1.

representative had been unable in the General Assembly to prove that his Government was entirely blameless. While he realized the difficulties which the city of New York had to face, he noted that the local authorities, instead of firmly opposing the activities of certain extremist groups, closed their eyes to them and used the Informal Joint Committee as a screen.

23. Some speakers had suggested purportedly objective reasons, drawing attention, on the one hand, to the general increase of crime in all big cities and, on the other, invoking the principle of freedom of expression. The exercise of that freedom in the host State resulted, however, in the paradoxical situation where criminals could use the press, radio and television to express their views, while sovereign States could only bring their complaints, without any publicity, before an informal committee where they got only assurances and promises. The Legal Counsel of the United Nations in his recent statement (1290th meeting) had, nevertheless, declared himself in favour of retaining the informal character of that Committee, out of concern, no doubt, to avoid difficulties for the host country and not to disassociate the Secretary-General from those problems.

24. His delegation believed, on the contrary, that the body in question should be given formal status, with a view, *inter alia*, to increasing its influence on the authorities of the host country and enabling it to prepare draft resolutions for submission to the General Assembly. Any violation of the security of missions concerned all Member States. It should, moreover, be noted that an official body would be able to have recourse to informal consultations and request the participation of the Secretary-General, while the participation of the New York authorities in an official committee with permanent observer status was a further possibility. It had been with those considerations in mind that a number of countries, including the Soviet Union, had submitted draft resolution A/C.6/L.832.

25. His delegation was concerned by the attitude of the United States delegation and asked that it should give a clear answer to the question of what practical measures it intended to take in the immediate future to remedy the present situation. *The New York Times* of 21 November had published a long interview with the head of the criminal organization known as the "Jewish Defense League", in the course of which that person had made direct threats of terrorism against Soviet statesmen. The United States authorities, however, remained silent. With the authorization of the Permanent Representative of the Soviet Union to the United Nations, he wished to make an official protest to the United States Mission about the inadmissibility of publishing such threats in the press.

26. The article in question also furnished a reply to the recent statement by the Israeli delegation (1287th meeting). The head of the "Jewish Defense League" showed in it that his objective was to arouse international tension and provoke a conflict between the United States and the Soviet Union.

27. Regarding the plea of the complexity of police investigations, he pointed out that many attacks which remained unpunished had nevertheless been committed in full daylight before a host of witnesses and even in the presence of policemen.

28. He stressed that it was essential to guarantee missions normal working conditions and to ensure the safety of the members of their staff. That would depend, basically, on what steps were taken by the host country. When the United States respected its obligations, the problem would be resolved.

29. Mr. BENNETT (United States of America) said that his Government condemned without reservation any attack against a mission to the United Nations or any representative of a State, whether he was an Ambassador or a minor employee. He deplored all such acts and had, on several occasions, indicated that he was deeply concerned about them. Although he did not consider the Sixth Committee competent to criticize the municipal administration, he wished to state that the authorities of the city of New York were equally concerned about the well-being of the diplomatic community and tried to take all necessary measures whenever an incident threatening a mission or a member of its staff was brought to their attention.

30. His delegation wished to express its gratitude to the many representatives who, during the debate, had stressed the complexity of the problem under consideration and had paid a tribute to the principles of the United States concerning the rights and obligations of individuals and groups in a free and open society. It regretted, however, that other members of the Committee had not resisted the temptation to indulge in exaggeration and polemics.

31. The invasions of diplomatic premises and the sackings and burnings of embassies that had occurred in many capitals in recent years, the kidnappings, assassinations and other acts of violence committed against diplomats in many countries, and the hijackings of aircraft showed that the profession of the diplomat was no longer—if indeed it ever had been—a career of calmness and tranquillity. Some representatives seemed to have forgotten that the United States was not the only country in which violence was committed against members of the diplomatic corps, and that the situation in their own countries was not always ideal in that respect. As a Power which had widespread interests throughout the world, and was therefore compelled to take forthright positions on many controversial subjects, his country had on many occasions suffered from acts of violence, including kidnapping and assassination of its diplomatic personnel in various areas of the world. He cited examples of such incidents and noted that the perpetrators had not, so far as he knew, been apprehended or brought to justice. He did not wish to level charges but simply to show that in most countries it was essential to make the people, who in general tended to view diplomats as a privileged class, aware of the special needs of diplomats abroad in the service of their Governments.

32. His delegation welcomed the comparative studies currently being made on privileges and immunities in various diplomatic centres. Whatever the virtues and faults of New York, his Government would spare no effort to improve the living and working conditions of those whom it considered as its guests.

33. It was, perhaps, specifically because of its unique character that New York had originally been chosen as the site of United Nations Headquarters. When that decision

was taken, at San Francisco in 1945, various other alternatives, in the United States and elsewhere, had been envisaged. New York had been chosen because of its invigorating atmosphere, which encouraged the free play of ideas and a wide exchange of opinions, and also because of the wide range of intellectual, cultural, commercial and other facilities available there. The choice of New York as the site of United Nations Headquarters had been deliberate, and he believed that the great majority of delegations still preferred to put up with the city's disadvantages in order to enjoy its advantages.

34. Some members of the Committee had stated that the United States Government connived in, or at least ignored, acts of violence against foreign missions. His delegation considered such allegations unfounded; those who made them might have allowed themselves to be influenced by their own experience. When the only demonstrations held in a country were those organized or supported by the Government, it was natural for the representatives of such countries to conclude that all demonstrations everywhere were organized by Governments. In order to realize that that was far from being the case in the United States, it was enough to observe the almost daily demonstrations organized there in favour of political and other causes.

35. It had been asserted that individuals must be prevented from making derogatory or threatening statements to diplomats. However, free assembly and free speech were fundamental tenets of the United States constitutional system. Moreover, freedom of speech was one of the principles enshrined in the Universal Declaration of Human Rights; if all States Members of the United Nations applied those principles, the world would be a better place. His Government realized, however, that the application of those principles implied limitations, and was sparing no effort to prevent criminal acts. Nevertheless, in the United States no one was empowered to impose a general prior restraint on an individual's right to express his opinion freely. His Government did not wish to change that situation, or to see established in the United States the practice of certain countries which imprisoned or committed to insane asylums those whose views were unacceptable to their Governments.

36. It was untrue to say that the United States authorities did not punish offenders when they were caught. If the judicial process was slow in the United States, it was essentially to ensure the accused a fair trial. The judicial procedures were meant to guarantee that any person accused of a serious crime would have all the protection consistent with the strictest reading of the Universal Declaration of Human Rights. He cited examples of judicial procedures in progress and convictions already handed down. In particular, he observed that, following a remarkably quick and efficient investigation, the purchaser of the weapon used in a recent incident involving the Mission of the Soviet Union had been arrested, indicted by a federal grand jury and paroled on bond; a date was being set for his trial. Unfortunately it had not yet been possible to identify with certainty the person who had fired on the Soviet Mission, and he appealed to any member of the Committee who could obtain firm information as to the identity of the perpetrator to inform the United States delegation or the local authorities. No member of the

official or religious community of the city supported the activities of the fanatical group known as the "Jewish Defense League"; the competent federal and local authorities were currently taking steps to bring the problem under control.

37. Moreover, a bill currently before the United States Congress would give the federal authorities the necessary power to protect diplomats more effectively.

38. Replying to certain representatives who had said that in some cases the sentences had been too light, he stressed that the personality, record and family status of the accused sometimes justified the judicial authorities giving him the benefit of extenuating circumstances.

39. The United States did not claim to be perfect; it was an evolving society and some elements of that evolution were more attractive than others. That was probably true of most countries, except those which claimed dogmatically to have ideal societies. In that case, it might be wondered why so many citizens of those societies wished to go to live elsewhere. One of those so-called new societies was situated near the United States, which had already admitted 650,000 refugees from that country. There were many who had fled poverty and oppression to take refuge in the United States, but whose feelings and memories were still intense. It was perhaps such people whose behaviour sometimes caused problems within the United Nations community. Their activities, no matter how unjustifiable and inexcusable, were neither surprising nor incomprehensible.

40. Concerning the decision which the General Assembly might take on the question before the Committee, his delegation deemed it entirely appropriate that the Assembly should urge the host country to give urgent consideration to steps which could be taken to improve the situation. That was, indeed, what the host country intended to do, whether the General Assembly requested it to do so or not. However, his delegation doubted the usefulness of setting up a new General Assembly committee to consider the problem. It believed that the Informal Joint Committee fulfilled an important function for both Member States and the Secretariat, and helped the United States Government to fulfil its responsibilities. In particular, it considered that the participation of the Secretariat in the Committee's work was crucial and that the informal nature of the Committee, which made it possible for the local authorities to take part in the discussion, allowed quicker solution of a variety of problems. He feared that the institutionalization of that body would lead to confrontation rather than increased co-operation with the federal and local authorities, a development which would benefit no one. Of course, the Informal Joint Committee was not perfect, but in his Government's view it offered the best possible means of ensuring that all concerned participated in the discussion of complex problems and the search for appropriate solutions.

41. The presence in the United States of the United Nations and all the delegations accredited to it had been a very enriching experience for his country and its citizens; his Government would spare no effort to make life equally rich and satisfying for its guests.

42. Mr. NALL (Israel), exercising the right of reply, explained that in his statement of 23 November in the Sixth Committee (1287th meeting) he had deplored the acts committed against Israeli diplomats in the United States and elsewhere. The Minister for Foreign Affairs of Israel and the Permanent Representative of Israel to the United Nations had expressly dissociated themselves from

acts of violence such as that committed against the Mission of the Soviet Union on 20 October 1971. In that connexion he recalled the statement of the representative of Israel made on 21 October in the General Assembly (1972nd plenary meeting).

The meeting rose at 6 p.m.