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Secretariat

ST/IC/85/48
12 September 1985

INFORMATION CIRCULAR

To: All Staff Members

From: Patricio Ruedas
Under-Secretary-General for Administration and Management

Subject: Host country travel regulations

1. Attached for your information is a copy of a note verbale of 29 August 1985 addressed to the Secretary-General by the Acting Permanent Representative of the United States (Annex I).
2. The reply of the Secretary-General is contained in his note of 9 September 1985, a copy of which is also attached (Annex II).
3. Notwithstanding the views expressed by the Secretary-General in his reply, the Secretariat understands that the implementation of the regulations referred to in the note verbale of 29 August will not be delayed by the United States Government.
4. The staff will be kept informed of any further developments in this matter.

Annex I

Note verbale dated 29 August 1985 addressed to
the Secretary-General by the Acting Permanent
Representative of the United States of America

The Acting Permanent Representative of the United States of America presents his compliments to the Secretary-General of the United Nations and has the honor to transmit the following note from the Department of State of the United States concerning certain measures to be applied to travel undertaken by employees of the United Nations.

"The United States Government is increasingly concerned by reports of espionage and other clandestine activities by certain members of the United Nations Secretariat. As is known, the United States Government already regulates travel by some U.N. Mission personnel for reasons of national security. The United States Government has concluded that circumstances now make it necessary to apply the same kinds of requirements to employees of the U.N. Secretariats who are nationals of the countries represented by those missions.

"The Secretariat is accordingly requested to ensure that the following measures are implemented as of September 15, 1985, and to ensure that all other U.N. agencies - including the UNDP, UNICEF, UNFPA, and UNITAR - with staff located in New York City are aware of and comply with these measures by that date.

"All employees of the United Nations, including persons who are temporarily assigned, who are nationals of the USSR (including Byelorussia and the Ukraine), Afghanistan, Cuba, Iran, Libya, and Vietnam wishing to use common carriers for transportation (including rental vehicles) within the territory of the United States, or to use public accommodations within the territory of the United States, outside a 25-mile radius of Columbus Circle, New York City, are required to obtain such services through the Department of State's Foreign Missions Service Bureau, 41 East 42nd Street, Suite 719, New York City. With respect to Libyan nationals, this requirement shall apply to travel beyond the five boroughs of New York City.

"The Foreign Missions Service Bureau requires two working days to process travel requests. Emergency requests will be handled on a case-by-case basis. For all travel within the territory of the United States outside the 25-mile radius (or, in the case of Libyan nationals, outside the five boroughs defined above) and requiring use of common carriers or public accommodations, a request must be made in writing and should include the following information:

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- full name
- date of birth
- title/position
- United Nations identification card number
- telephone number for contact
- accompanying family member
- desired itinerary
- dates of travel
- class of travel desired
- type of hotel accommodations desired (number of rooms, single or double, any special requirements)

"Official travel will be billed to the U.N. For all personal travel, payment in full is required at the same time tickets are picked up at the Service Bureau. Payment may be made by personal check, cashier's check or money order made payable to the Foreign Missions Service Bureau.

"For all travel, official and personal, by the above-cited individuals outside the 25-mile radius of Columbus Circle (or, in the case of Libyans, the five-borough limit) by whatever conveyance or means, a detailed itinerary showing routes and times must be filed two days in advance with the United States Mission to the United Nations.

"The above-named individuals are further required to obtain prior approval from the United States Mission to the United Nations for all personal travel within the United States beyond the 25-mile radius (or beyond the five-borough limit, in the case of Libyans).

"The United States Government shall reserve the right to review whether proposed travel by affected employees of the Secretariats is bona fide official travel of the United Nations, or unofficial travel for purposes of meeting the requirements in the above paragraph."

The United States Mission to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

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Annex II

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

The Secretary-General of the United Nations presents his compliments to the Permanent Representative of the United States of America and has the honour to refer to the note of 29 August concerning certain measures that the United States Government wishes to apply to travel undertaken by members of the Secretariat of the United Nations.

I

The Secretary-General has noted with concern the suggestion in the communication that certain members of the United Nations Secretariat have engaged in espionage or other clandestine activities. At no time during his term of office has the United States Administration brought to the attention of the Secretary-General any evidence or charges against any member of the Secretariat. In the absence of any specific evidence or charges, he cannot accept any blanket unsubstantiated accusation against members of the staff of the United Nations. The Secretary-General wishes to emphasize that, in his capacity as chief administrative officer of the United Nations, he would fully investigate information brought to his attention and would proceed to take quick and effective action against any staff member shown to have engaged in any improper activities against the security of the Host State.

II

The Secretary-General is aware that the proposed restrictive measures, which are set out in the above-mentioned note, are based on recently adopted legislation, namely certain provisions of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987. While this legislation may contain certain directives addressed to organs of the United States Government, and the measures in question are evidently proposed in implementation of these directives, the Secretary-General is of the view that these measures are 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.

In particular:

- (a) The proposed measures would seem to constitute discrimination among members of the Secretariat solely on the basis of their nationality, in violation of the principle that they are all international civil servants whose primary loyalty and responsibility are to the Organization. Any discrimination among them based on nationality runs counter to the essential character of the international civil service, as envisaged in the United Nations Charter. The unity of the international civil service

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is absolutely essential if the Organization is to carry out its world-wide obligations with staff members whose individual nationalities might otherwise not be acceptable to the governments with whom they have to deal or within whose jurisdiction they must operate. This principle of non-discrimination, indeed non-differentiation, is designed to protect both the Organization and its staff members, including American staff members serving in various countries.

- (b) As applied to official travel, the proposed measures would improperly constrain the Secretary-General's choice of what staff members are to be assigned to carry out certain functions within the United States. The final provision of the note, whereby the United States Government reserves the right to review whether travel designated as official by the Secretary-General is "bona fide official travel of the United Nations", raises a particular problem with regard to the Secretary-General's independent exercise of his responsibilities under the Charter, free from national interference.
- (c) As applied to private travel, in respect of which the proposed measures are even more restrictive, the question may be raised whether limiting staff members, who may spend years or even their entire working career assigned to Headquarters, to a distance of 25 miles from Columbus Circle, or just to the five boroughs of New York City, is, apart from being discriminatory, unduly onerous.

III

The note requests the Secretariat to ensure that the indicated measures are implemented. However, that would seem to be outside of both the legal and the practical capacity of the Organization. Furthermore, the Secretary-General does not see how he could instruct the Secretariat to implement measures that appear to him incompatible with the responsibilities entrusted to him by the Charter.

In view of the above, the Secretary-General would appreciate it if the United States Government could reconsider proceeding with the implementation of the proposed measures. In this connection he would like to note that the Secretary of State is given authority to waive implementation, inter alia when foreign policy circumstances - which would certainly encompass relations between the United Nations and the United States - so require.
