

1512th meeting

Tuesday, 3 December 1974, at 11 a.m.

Chairman: Mr. Milan ŠAHOVIĆ (Yugoslavia).

A/C.6/SR.1512

AGENDA ITEM 94

Report of the Committee on Relations with the Host Country (*continued*) (A/9626, A/C.6/429, A/C.6/432)

1. Mr. SIAGE (Syrian Arab Republic) stressed the importance of the question, since the vexations suffered by the personnel of many delegations of Arab countries prevented the missions concerned from properly fulfilling their functions. Some Zionist organizations regularly made assassination threats and organized demonstrations near mission premises, in violation of diplomatic privileges and immunities. Such acts were infractions of common law which should be punished.

2. His delegation thought that the host country should pay particular attention to the substance of recommendations 6 and 9 of paragraph 88 of the report of the Committee on Relations with the Host Country (A/9626). Means must be found to inform the public of the basis and the scope of diplomatic privileges and immunities and to make people understand that missions must enjoy certain advantages in order to be able to carry out their work. For example, it was essential to increase the number of parking spaces made available to the diplomatic community.

3. Mr. BOJILOV (Bulgaria) said that his delegation attached considerable importance to the work of the Committee and was pleased to note the progress made in the past year on security of missions and safety of their personnel and on the parking difficulties of the diplomatic community.

4. The security of missions and the safety of their personnel was the first topic on the list of problems for discussion adopted by the Committee in 1972 because the spirit and letter of resolution 2819 (XXVI), which defined the Committee's terms of reference, gave it high priority. It was true that the host country had taken some measures to ensure the security of missions and the safety of their personnel, but those measures had proved to be insufficient and incomplete. During the past year, eight cases had been considered by the Committee and four others had been brought to its attention. The dangerous nature of the

criminal acts that had been perpetrated was revealed by several passages of the report, and it seemed essential for the host country to take further measures, both legal and practical, in order to protect the diplomatic community in New York.

5. The Committee had been supplied with notes A/AC.154/20 and A/AC.154/23, prepared by the Secretariat at its request, and documents A/AC.154/28 and A/AC.154/36, prepared by the delegation of the host country. The latter two documents dealt with the intricacies of the domestic legal system rather than measures planned or taken by the host country with a view to protecting the diplomatic community in New York. His delegation believed that it would have been better if the host country had contemplated measures to be taken so as to bring New York State law into line with federal law, and in particular with the federal Act for the Protection of Foreign Officials and Official Guests of the United States, which had been signed into law on 24 October 1972. It was difficult to see how the implementation of that federal Law could be impeded by a conflict between local and federal law, or by a conflict between the rights of citizens of the host country and the international obligations assumed by that country. In that connexion, he recalled that at the 34th meeting of the Committee, the Legal Counsel of the United Nations had referred to the principle of international law according to which a State might not invoke its national legislation and constitution as an excuse not to comply with its obligations under international law; the Legal Counsel had noted that that principle had been codified by the Vienna Convention on the Law of Treaties and had been referred to several times by the International Court of Justice. His delegation believed that the host country had not yet exhausted all possibilities, legal and practical, of ensuring the security of missions and the safety of their personnel.

6. In its discussions on parking difficulties, the Committee had considered complaints presented by the delegations of Senegal, Zaire, Morocco, and the Soviet Union; several delegations, including his own, had submitted working papers. Some members of the Committee had pointed out that the issuing of summonses to diplomats and the towing

away of diplomatic vehicles were contrary to the Vienna Convention on Diplomatic Relations,¹ article 22, paragraph 3, of which stated that "... the means of transport of the mission shall be immune from search, requisition, attachment or execution". His delegation shared that view; it also felt that the publicizing of those practices by the mass media might discredit diplomatic personnel accredited to the United Nations, which would not improve relations between the diplomatic community and the citizens of New York. Thus his delegation did not think that the host country had succeeded in implementing fully and effectively General Assembly resolution 3107 (XXVIII), which had asked it to review the recently adopted measures with regard to the parking of diplomatic vehicles. His delegation was not implying, however, that the host country had done nothing to ease the parking situation.

7. He stressed the importance of the recommendations adopted by the Committee, as set out in paragraph 88 of its report, particularly recommendations 1, 4, 6 and 9. He associated himself with the appreciation expressed by the Committee for the work of the New York City Commission for the United Nations and for the Consular Corps in accommodating the needs, interests and concerns of the diplomatic community and in promoting mutual understanding between the diplomatic community and the people of the city of New York.

8. It was obvious that the Committee provided a useful forum for the examination and settlement of several problems which the diplomatic corps was facing in New York. His delegation felt that the Committee should be authorized to continue its work, and commended its report for adoption.

9. Mr. MAKAREVICH (Ukrainian Soviet Socialist Republic) noted that in 1973 the Committee had concentrated on the question of security of missions and safety of their personnel. It was only natural to wonder whether the situation of the diplomatic community in New York had improved during the past year. The authorities of the host country had taken some measures, particularly the adoption of the federal Law of 1972, but it was clear that those measures were not effective enough and had not had the desired results. They did not ensure normal working conditions for diplomatic missions. Not only was the crime rate very high in the city of New York, but part of the diplomatic community there was the target of acts of hostility by Zionist and other groups, which sought to create intolerable conditions for the functioning of the missions of the Eastern countries, the Arab countries and others. The groups in question were trying to pressure the Governments of those States into changing their policies and to influence the decisions taken in the United Nations. Their activities were also designed to impede the process of international détente and to harm friendly relations between States, particularly between the Soviet Union and the United States of America. In the United Nations several appeals had already been made to the host country, but in vain, to outlaw those organizations.

10. As the Committee's report showed, several acts of violence had been perpetrated during the past year,

including burglaries of apartments, explosions, fire-bombing of cars, and picketing in the vicinity of missions. The federal Law of 1972 had raised great hopes, but it had done little to improve the situation. No adequate administrative or legal measures had been taken. The Government of the host country had pointed out that a number of offenders had been arrested, but the fact was that only a few of them had been convicted, despite the seriousness of their crimes. The number of demonstrations and hostile acts against diplomatic missions and their personnel had not decreased. The federal Law which he had mentioned prohibited demonstrations within 100 feet of diplomatic missions, and also parades and pickets, the display of any flag, banner, sign or placard, and the utterance of noise or music which undermined the dignity of a foreign official or hindered a diplomatic mission in the performance of its functions. However, the situation remained the same: the authorities of the host country did not intervene and merely cited the conflict between local and federal law.

11. Since its coming into force, the 1972 federal Law could have been applied on many occasions, but the United States claimed that it was difficult to apply because of certain conflicts between the international obligations of the federal Government and the rights of citizens. His delegation considered it unacceptable that the freedom of expression guaranteed by the United States Constitution should serve as an excuse for insults to diplomats. It was unacceptable that a diplomatic mission should become a fortress besieged by demonstrators. In accordance with articles 22 and 29 of the Vienna Convention on Diplomatic Relations, the receiving State should take all appropriate steps to protect the premises of the mission and to prevent any attack on the person, freedom or dignity of a diplomatic agent. Freedom of expression could not, therefore, be invoked as an excuse by the host country for not fulfilling its international obligations.

12. In August 1974, a demonstration had been organized in the immediate vicinity of the Mission of the Ukrainian SSR in defiance of the federal Law of 1972. His delegation had informed the Mission of the host country, as could be seen from document A/C.AC.154/47. In its reply (A/AC.154/49), the Mission of the host country had tried to justify the demonstration and to shift responsibility for it onto the staff of the Ukrainian Mission. He hoped that the Mission of the host country would show understanding so that the problems resulting from that affair could be resolved.

13. The need to establish an atmosphere conducive to the proper performance of the functions of diplomatic missions in New York had often been affirmed, both in the Committee on Relations with the Host Country and in the General Assembly. His delegation supported the Committee's recommendation that the host country, the United Nations Secretariat and the other organizations concerned should vigorously seek the promotion of mutual understanding between the diplomatic community and the local population. It also favoured the institution of a programme to inform the inhabitants of New York of the privileges and immunities accorded to diplomatic personnel and of the reasons for them. He hoped that the media would participate in that campaign.

¹ United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.

14. With regard to the parking of diplomatic vehicles, his delegation did not regard the creation of special parking zones as a matter of courtesy on the part of the host country, since that country had an obligation to ensure in every way the proper performance of the functions of diplomatic missions. In its resolution 3107 (XXVIII), the General Assembly had asked the host country to put an end to the campaign against diplomatic vehicles. Yet the local authorities continued to issue summonses to diplomats, although summonses were administrative measures in respect of which diplomats enjoyed immunity from jurisdiction—to which the host country merely retorted that the 1,300 vehicles of the diplomatic community were a threat to the purity of the air and contributed to traffic congestion. His delegation hoped that there would be an end to the practice of issuing summonses to diplomats and towing away their vehicles, which was contrary to international law and international custom.

15. His delegation endorsed the Committee's recommendations contained in paragraph 88 of its report, particularly recommendations 1, 4 and 9. It also appreciated the work of the New York City Commission.

16. With regard to the work of the Committee on Relations with the Host Country, he recalled that the General Assembly, in paragraph 11 of its resolution 3107 (XXVIII), had decided to continue the work of the Committee in 1974 "with the purpose of examining on a more regular basis all matters falling within its terms of reference". It should be noted that the meetings of the Committee had been devoted mainly to the consideration of complaints by missions; it would be advisable for it to meet at least 10 times a year, like other committees of the General Assembly. His delegation favoured the renewal of the Committee's mandate.

17. Mr. JEANNEL (France) observed that the agreements defining the privileges and immunities of international organizations and of representatives of States to such organizations were generally limited to the laying down of principles. However, since the host country had agreed to receive an international organization on its territory, it was obligated to make it possible for the organization to function in the best possible manner, which meant that representatives of States to the organization must be accorded and ensured the full enjoyment of the privileges and immunities necessary for the exercise of their functions, as defined in the applicable agreements. That obligation must take precedence over domestic law; moreover, special facilities might be necessary for representatives of States to enable them to perform their functions freely. Consequently, both in concluding and in implementing the agreements, a balance should be struck between the interests of the sending State and those of the organization and its members.

18. While expressing confidence in the actions of the United States authorities, he said that his delegation attached great value to respect for the inviolability of missions and the safety of their personnel, which was not always adequately ensured. When an incident occurred, irrespective of the provisions of federal or local law, the institution of proceedings should not be made contingent upon a complaint by mission personnel, and prosecution

should not require the testimony of the persons concerned. In France a public prosecution could be initiated without the lodging of a complaint and there was a special procedure for taking the testimony of diplomats who agreed to give evidence. His delegation was sure that the United States Government would find satisfactory solutions to whatever problems might result from the conflicting requirements of its domestic law and the international obligations of the United States.

19. The activities of the Committee on Relations with the Host Country were useful, in that the Committee provided a forum for consideration of the problems encountered by the United States and by Member States in implementing the existing agreements.

20. Mr. ELIAN (Romania) noted that the question of security of missions and safety of their personnel also emerged, albeit from a different angle, in connexion with other items on the agenda of the General Assembly. Examples included the role which a diplomatic mission should play in a foreign State, implementation by States of the provisions of the Vienna Convention on Diplomatic Relations, United Nations personnel questions, and even diplomatic asylum. Relations with the host country had not only an administrative dimension but also a legal one. By recognizing the obligations incumbent upon it, the Government of the host country contributed to the implementation of certain principles of international law. The jurists charged with the codification and progressive development of international law also attached some importance to the problem of protection of diplomatic missions and their personnel. Furthermore, the provisions of the Vienna Convention on Diplomatic Relations, the Convention on Special Missions and the Convention on the Privileges and Immunities of the United Nations, among other instruments, gave proof of the importance accorded in international law to diplomatic privileges and immunities and to the security and protection of missions.

21. The chief problem, however, did not derive from any lack of principles and rules of international law, the existence of which was beyond dispute, nor even from the need to write those principles and rules into domestic law. In that connexion, his delegation had welcomed the adoption by the United States Congress in 1972 of the Act for the Protection of Foreign Officials and Official Guests of the United States; what it wished to stress now, however, was the fact that the authorities of the host country and agencies must implement the provisions of that Law as a matter of urgency. His delegation believed that, if a spirit of co-operation existed, a solution satisfactory to all concerned could be found. His delegation supported any measure that the Committee on Relations with the Host Country could take to ensure the protection of missions.

AGENDA ITEM 95

Need to consider suggestions regarding the review of the Charter of the United Nations: report of the Secretary-General (*continued*) (A/9739, A/C.6/L.1001, L.1002)

22. Mr. ROMULO (Philippines) said that the problems besetting the contemporary world could only be solved at the world level, as was proved by the events of the current

year, when the United Nations had played an important role in such areas as the designing of a new world economic order, the mobilizing of world agriculture, population problems, the equitable distribution of world economic resources, disarmament and peace. Those questions required more efficiency on the part of the United Nations, whose value was not questioned but whose ability to adapt was doubted. The mechanisms of the United Nations prevented the Organization from assuming the planetary role it was called upon to play. Prescient as the drafters of the Charter had been, they had not anticipated the speed with which events would carry the world into an era of interdependence. He hastened to add, however, that the Organization had been able to adapt, grow and change over the years in a remarkable fashion, and that all it required now was adjustment and improvement.

23. The suggestion had been made that in advocating the consideration of suggestions regarding the review of the Charter of the United Nations he, one of the founders of the Organization, wished to injure it in some way. That suggestion was baseless and could come only from those who wished the United Nations to remain as it had been in 1945, at the risk of rendering it ineffective in a progressing world. The advocates of that position would condemn the United Nations to uselessness.

24. He would remind the members of the Committee that the atom bomb had been unknown when the Charter was written, that only 51 States had been present at the founding of the Organization, and that whole geographic regions had been unrepresented in San Francisco. In resisting any change in the Charter, certain founding Members were denying the right of the 87 Members which had joined the Organization since 1945 to have their say on suggestions for its improvement. His Government not only upheld that right, but affirmed the obligation to hear the suggestions and comments of those Members which had not participated in the establishment of the Organization.

25. Since the adoption of General Assembly resolution 2697 (XXV) on the need to consider suggestions regarding the review of the Charter of the United Nations, 38 States had responded to the request of the Secretary-General for their views. Some States had made interesting suggestions that they wished to see reviewed by an appropriate body of the United Nations so as to learn the attitudes of the other Members.

26. In 1972, the Philippines with other countries had put forward a proposal to establish a committee of 32 members to consider suggestions regarding the review of the Charter.² Its opponents had been unable to defeat the proposal outright and had thus been obliged to settle for a postponement of consideration of the issue until the present session. It was no exaggeration to say that interest in the subject had increased substantially in the interim. The fears of those who resisted discussion of the issue were unfounded. In the first place, all States without exception acknowledged the value of the Charter, and most of them believed that adjustments could be made, or at least contemplated, without undermining its strength. Secondly,

many needed improvements in the United Nations might not require changes in the Charter at all. Thirdly, no one had advocated or was advocating the convening of a General Conference for the purpose of reviewing the Charter of the United Nations under the provision of Article 109. None of the sponsors of draft resolution A/C.6/L.1002 was recommending such a step. What his delegation had consistently advocated and was still advocating was a step-by-step approach. The suggestions of Member States should be considered by an appropriate body, which would produce a report of its recommendations. The Assembly could do whatever it wished with the report. If certain suggestions commanded sufficient interest, they could be included as individual items in the agenda of the General Assembly. However, it was not essential to follow that procedure. In the case of recommendations which did not involve any changes in the Charter, the General Assembly could, of course, take direct action; on the other hand, recommendations such as those of his delegation, which did involve changes in the Charter, must be submitted to the Security Council.

27. The question of improving the United Nations was not new. The General Assembly had already adopted measures in that respect and, in collaboration with the Security Council, had already amended the Charter (resolution 1991 (XVIII)). He then proceeded to outline the main provisions of resolution A/C.6/L.1002.

28. His Government had submitted its views in document A/9739 and although it was aware that all Governments did not agree with those views, it considered that, together with the suggestions of many other States, they were worthy of consideration. He proposed that all references to "enemy States" should be deleted from the Charter; that machinery for the peaceful settlement of disputes should be provided; that the Charter should contain specific mention of peace-keeping operations; that the representative character of the Security Council should be improved; that the principle of unanimity should be reserved for vital security questions; that the effectiveness of the International Court of Justice should be increased; that the Economic and Social Council should be strengthened and that bodies dealing with human rights should be rationalized.

29. His delegation had never suggested that those improvements would automatically increase the effectiveness of the Organization. Effective use of the Organization was dependent on the will of States. However, improving the machinery would reduce the possibility of using its defects as an excuse for inaction.

30. The United Nations must lead, not follow. It represented the hopes of mankind for peace and security and the hopes of the world for social and economic justice. After 30 years of existence, the United Nations could not ignore the lessons of history and the needs of the future. As long as he lived, he would not cease to promote the sacred cause of the development of the United Nations. History, which was on the side of the United Nations, would vindicate his Government's position.

31. He requested that that draft resolution which he had submitted be given priority in the voting.

² See *Official Records of the General Assembly, Twenty-seventh Session, Annexes, agenda item 89, document A/8798, para. 4.*

32. Mr. KŁAFKOWSKI (Poland) said that his Government's basic position on the subject under consideration was set out in the report of the Secretary-General submitted at the twenty-seventh session.³ His delegation noted that according to the relevant documentation, only 38 States had replied to the Secretary-General's circular note dated 18 March 1971. That figure included all the States which were permanent members of the Security Council. At its twenty-ninth session, the General Assembly was composed of 138 Member States. That meant that 100 States had not defined their position in writing. Obviously, the time was not yet ripe for consideration of the question and, in such circumstances, the Committee should avoid any hasty decision, particularly on a matter of such importance.

33. From a strictly legal point of view, the Charter was like a treaty and could be revised or amended according to the procedure set out by those who had drafted the Charter in Chapter XVIII, whose provisions should be fully respected. Proposals which were not in conformity with the rules contained in the Charter could not be discussed by the Committee. His delegation drew attention to the role conferred on States which were permanent members of the Security Council under Article 109, paragraph 2, of the Charter with regard to alterations of the Charter. The position of the five Powers concerned could not be ignored, and not all of them were prepared to ratify substantive amendments. It would not be reasonable to advocate a debate on the review of the Charter without taking account of that situation. Such discussion might create tensions and give rise to undesirable controversy.

34. From the political point of view it should be noted that the role and effectiveness of the United Nations was not entirely dependent on the provisions of the Charter but rather on the manner in which those provisions were applied. United Nations practice showed that, in its existing form, the Charter could perfectly well serve its original objectives, provided that all Member States respected its provisions and applied them in good faith. It would be more realistic to use to the fullest extent the machinery provided under the Charter, instead of encouraging a review which would give rise to serious problems. Over the past 29 years, the Charter had been interpreted in a manner which took account of changes in the international community. The time had come for that new international community to adapt itself to the rules of the Charter.

35. His delegation shared the doubts concerning the advisability of continuing discussions on the item under consideration. For even more compelling reasons, it was opposed to the establishment of a special or auxiliary body to undertake a study of the matter.

36. Mr. NICOL (Sierra Leone) said that his delegation was one of the sponsors of draft resolution A/C.6/L.1002. Certain delegations felt that the Charter was a sacred document which required no revision; but it was sacred to them only because it satisfied their purposes. They reacted in a hostile manner to any suggestion to review the Charter. Might not that reaction be due to the power of veto which those States possessed? After 29 years' existence, and

bearing in mind the growing universality of the United Nations, it was reasonable to assume that the Charter was not now as satisfactory as it had originally been. Why, therefore, should the text not be adapted to the needs and aspirations of all the present Members of the United Nations?

37. Draft resolution A/C.6/L.1002 was concerned only with the establishment of an *ad hoc* committee of 32 members to study the proposals submitted by Governments and any other suggestions concerning the review of the Charter. Its operative part called for co-operation between the Secretary-General and the proposed *ad hoc* committee, which would be requested to submit a report on its work to the General Assembly at its thirtieth session. The draft resolution was a simple one and the mandate of the *ad hoc* committee was limited to consideration of the possibility of revising the Charter, without stipulating which sections of the Charter should be given particular attention. In other words, it dealt only with procedural questions and was non-committal. In such circumstances, his delegation hoped that it would receive the support of the majority of the members of the Committee.

38. Mr. ESCOBAR (Colombia) recalled that, since the first session of the General Assembly of the United Nations, his delegation had constantly emphasized the need to ensure that the provisions of the Charter were adapted to the changing conditions of the contemporary world. Many statements proved that that aspiration also existed in other countries, the sole aim being to improve the functioning of the Organization. Thus the idea was making headway, but prudence was needed, because the review of the Charter could only be undertaken in an atmosphere of concord.

39. While reaffirming the principles of the Charter, his delegation felt that self-criticism by the United Nations was in the interests of the international community. Such self-criticism must be done with sincerity and in the recognition that, in many respects, the Organization worked in a vacuum and its decisions frequently had no effect although they were adopted by consensus in the General Assembly. For example, the General Assembly was powerless to settle the problem raised by the attitude of South Africa. The triple veto which had recently occurred in the Security Council proved just how critical the situation was, since the position of Member States on that question was clear-cut. The United Nations should, of course, be given credit for its considerable successes, but thought should still be given to ways to ensure greater justice in relations between States. The debate was not in vain, because the cause was just and those who were opposed to any review would have to answer for their attitude sooner or later. Moreover, the proposal to examine the possibility of reviewing the Charter of the United Nations was not unexpected; it had been mentioned in several resolutions adopted at previous sessions of the General Assembly.

40. The representative of Poland had maintained that the proposed discussion would be pointless because any review must be ratified by the permanent members of the Security Council, which were not unanimously in favour of such an undertaking, and the cause was therefore already lost. He recalled, in that context, that when the group of Latin

³ A/8746 and Corr.1.

American countries had proposed that the General Assembly increase the number of members of the Economic and Social Council, the same countries which were now opposed to the study of a possible review of the Charter had then been opposed to that change. The countries of the Latin American group had, however, continued their struggle and had finally triumphed. Obviously, the Polish delegation was right to think that the discussion of such a fundamental question should not be undertaken in haste. Indeed, no one wished to impose his point of view and any decision must be the result of a dialogue between civilized nations whose intention was to improve the effectiveness of the United Nations in safeguarding international peace and security, in accordance with the Charter of the United Nations and, thereby, to facilitate friendly relations between States. The representative of Poland had also stressed that only 38 Member States had replied to the circular note issued by the Secretary-General. But that did not necessarily mean that only 38 States were interested in the question of a possible review of the Charter. The representative of Poland was well aware that the vast majority of States supported the project. At the current stage, all that was involved was the establishment of an *ad hoc* committee to analyse the replies of States, which would subsequently be studied by the Secretariat and then examined by the General Assembly. Doubtless those who were opposed to the review of the Charter feared that it might weaken the power conferred on them by the right of veto. However, everyone was well aware of the excesses and inequalities which could result from the right of veto. Those who supported a review of the Charter knew that powerful

political interests were in favour of maintaining the instrument unchanged. But, as the representative of the Philippines had urged, they should not allow themselves to be intimidated by the spectre of the veto.

41. The sponsors of draft resolution A/C.6/L.1002 merely wished to make the United Nations more dynamic and effective and his delegation warmly supported them. It also endorsed the Philippine representative's request that priority should be given to the draft when a vote was taken.

42. Mr. BOUAYAD-AGHA (Algeria) said that his delegation had become a sponsor of draft resolution A/C.6/L.1002. That decision was entirely logical, because Algeria and the non-aligned countries had always been very concerned about the need to consider suggestions regarding the review of the Charter, and the establishment of an *ad hoc* committee could only increase the effectiveness of the United Nations. Furthermore, if the Charter really belonged to everyone, there was no reason why States should not make observations which would subsequently be examined by a committee. The action of the sponsors of draft resolution A/C.6/L.1002 was simple and had no ulterior motives; it opened up promising prospects for the Organization.

43. The CHAIRMAN announced that Liberia, Rwanda and Trinidad and Tobago had joined the list of sponsors of draft resolution A/C.6/L.1002.

The meeting rose at 1.15 p.m.
