

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

**GENERAL ASSEMBLY**

**OFFICIAL RECORDS: FORTY-FIRST SESSION**

**SUPPLEMENT No. 26 (A/41/26)**



**UNITED NATIONS**

#### **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.**

[20 November 1986]

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## I. INTRODUCTION

1. The Committee on Relations with the Host Country was established pursuant to General Assembly resolution 2819 (XXVI) of 15 December 1971. At its fortieth session, by resolution 40/77 of 11 December 1985, the Assembly requested that the Committee "continue its work, in conformity with General Assembly resolution 2819 (XXVI)", and decided to include in the provisional agenda of its forty-first session the item entitled "Report of the Committee on Relations with the Host Country". The Committee's recommendations and conclusions are contained in chapter IV of the present report.

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

2. In 1986 the Committee was composed of the following Member States:

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

3. Throughout 1986, Mr. Constantine Moushoutas (Cyprus) continued to serve as Chairman, the representatives of Bulgaria, Canada and Côte d'Ivoire as Vice-Chairmen and, as Rapporteur, Mrs. E. Castro de Barish (Costa Rica).

4. The list of topics adopted by the Committee in May 1982 was retained in 1986 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. In addition, the Committee considered at a number of meetings an agenda item entitled "Notes verbales dated 11 March 1986 from the Permanent Missions of the Union of Soviet Socialist Republics, and the Byelorussian Soviet Socialist Republic, and letter dated 11 March 1986 from the Permanent Representative of the Ukrainian Soviet Socialist Republic, respectively, addressed to the Secretary-General" (A/41/207, A/41/208 and A/41/209), and an agenda item entitled "Letter dated 24 October 1986 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Chairman of the Committee on Relations with the Host Country" (A/AC.154/267).

6. During the period under review, the Committee held nine meetings, as follows: the 114th meeting on 22 January 1986; the 115th meeting on 13 March 1986; the 116th meeting on 18 March 1986; the 117th meeting on 21 March 1986; the 118th meeting on 4 June 1986; the 119th and 120th meetings on 30 October 1986; the 121st meeting on 31 October 1986; and the 122nd meeting on 18 November 1986.

7. 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, held one meeting during the period covered by the present report.

### III. TOPICS DEALT WITH BY THE COMMITTEE

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

##### 1. Communication received

8. By a note verbale dated 11 February 1986 (A/AC.154/262, annex), the Permanent Mission of Viet Nam to the United Nations lodged a protest with the Permanent Mission of the host country concerning acts of violence carried out against the Permanent Mission of Viet Nam and its staff by what was characterized as a group of hooligans and anti-Viet Nam elements. The note requested that those guilty of such acts be brought to account and punished by the American authorities.

##### 2. Consideration in the Committee of the question of security

9. At its 114th meeting, on 22 January 1986, the Committee resumed consideration of the question of the security of missions and safety of their personnel. The representative of the United States reiterated his Government's pride in being the host to the United Nations community. He stressed the role of the relevant United States authorities, and in particular the New York City Police Department, in securing the safety of delegations during the fortieth session of the General Assembly. The implementation of new United States legislation relating to the United Nations had encountered some rough spots, but he expressed the hope that they would be overcome with the necessary patience and co-operation.

10. The representative of the Soviet Union commended the work of the New York City Police Department and Mrs. Sorensen, New York City Commissioner for the United Nations, for having taken appropriate measures to protect diplomats during the fortieth session of the General Assembly. There were difficulties in the relations between the United Nations and the host country, but he shared the hope that it would be possible to eliminate the "rough spots" referred to by the representative of the United States.

11. At the 117th meeting, on 21 March 1986, the observer for Viet Nam drew the Committee's attention to a violent attack carried out against his Permanent Mission and its staff on 8 February 1986 by a group of hooligans and anti-Viet Nam elements. A complaint had been lodged with the Permanent Mission of the host country requesting that those guilty of such acts be brought to justice and punished.

12. In reply, the representative of the United States expressed his distress about the incident and said that the matter would receive his prompt personal attention.

13. The representative of the Soviet Union supported the demand of Viet Nam that the criminals involved in that incident should be punished.

14. The representative of Bulgaria shared the view expressed by the Soviet representative. He pointed out that the Committee had yet to see the host country take effective action to ensure the proper functioning of permanent missions.



15. The Chairman of the Committee referred to a recent meeting held between the United States authorities and members of the Permanent Mission of Viet Nam, in which he had participated, and said that it had been one of the most constructive meetings in which he had participated.

16. The representative of the United Kingdom of Great Britain and Northern Ireland expressed his gratitude to the authorities of the host country for the assistance that his Mission has received from them.

17. At the 118th meeting, on 4 June 1986, the representative of the United States reported to the Committee on a regrettable incident concerning the wife of the Ambassador of Viet Nam whose purse had been snatched. The victim's willing testimony before a grand jury led to the conviction of the delinquent. The United States was most grateful for that co-operation and hoped more missions would participate in the judicial system.

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. Letter dated 8 January 1986 from the representatives of Bulgaria, Czechoslovakia, Poland and the German Democratic Republic to the United Nations addressed to the Secretary-General

18. At its 114th meeting, the Committee considered the decision by the host country to impose regulations regarding travel within the United States of America of the members and their dependants of the missions of Bulgaria, Czechoslovakia, Poland and the German Democratic Republic. By a note verbale of 13 December 1985, the United States had advised the missions concerned that the arrangements for travel of members and dependants of those missions outside a 25-mile radius of New York City requiring the use of common carriers or rental automobiles or public overnight accommodation would have to be made through the Office of Foreign Missions. In a letter dated 8 January 1986, the representatives of the missions concerned brought that matter to the attention of the Secretary-General and requested that the contents of the letter also be brought to the attention of the Committee.

19. The representative of Bulgaria stated that the travel restrictions which had been placed on the travel of Bulgarian personnel, as well as personnel of several other missions, were unlawful and discriminatory in nature and in contravention of international law and the legal obligations of the United States under the Headquarters Agreement. It was also noted that a selective approach based on reciprocity was prohibited according to Article 105 of the Charter of the United Nations. Such measures were unprovoked, juridically unfounded and unwarranted. In a note verbale of 3 January 1986, Bulgaria had insisted that the United States revoke those restrictions, but the United States had refused to delay the imposition of those measures. Bulgaria fully supported the view of the Secretary-General and felt that he should be asked to become fully involved in seeking a solution that was in accord with the Headquarters Agreement and took into consideration the views expressed.

20. The representatives of the Byelorussian Soviet Socialist Republic, Czechoslovakia, the German Democratic Republic, Poland, the Ukrainian Soviet Socialist Republic and Viet Nam, speaking as observers, expressed their serious and continuing concern regarding the travel restrictions which were, in their view, discriminatory and in contravention of the Charter of the United Nations, the Headquarters Agreement of 1947, the Convention on the Privileges and Immunities of the United Nations of 1946 and the Vienna Convention on Diplomatic Relations of 1961. They called upon the host country to rescind the travel restrictions.

21. The representative of the United States stated that the travel regulations in question were not discriminatory or restrictive. In adopting such regulations, the United States simply wished those concerned to make travel arrangements through the relevant United States Government office. The relevant programme was not founded on the reciprocity principle, but was based on national security considerations.

22. The representative of the USSR said that the Committee should consider the question of whether the host country could establish measures which introduced differences in the status of the missions to the United Nations. All missions represented sovereign States, but the United States action discriminated between the missions. International legal norms required the United States to approach such issues in a most delicate manner. The United States could not discriminate between missions using the issue of "national security" as a pretext.

23. The representative of Bulgaria expressed the hope that the matter was not closed, that a dialogue would be maintained and that a satisfactory solution could be reached.

24. The representative of the United States, at the conclusion of the debate at the 114th meeting of the Committee, noted that the United States Government believed it had the right to take the actions which had been taken.

## 2. Entry visas issued by the host country

25. At the 118th meeting of the Committee, the observer of Afghanistan drew attention to the fact that, for more than five years, United States embassies and consular offices abroad had denied requests of Afghan diplomats accredited to the United Nations for multiple re-entry visas, requiring them to apply for a re-entry visa each time they departed from the United States. That practice created undue complications and wasted time and money for diplomats returning to their duty station in New York. A case in point had occurred on 21 May 1986 when difficulties had been created for the Permanent Representative of Afghanistan to the United Nations when he had applied to the United States Consulate at Geneva for a return visa, notwithstanding the fact that he had submitted the necessary documents. He wished, on behalf of his Government, to draw the attention of the United States authorities to their responsibilities under the Headquarters Agreement, which prohibited, inter alia, any measure by the host country that would hinder the smooth functioning of the United Nations and of the permanent missions.

26. In reply, the representative of the United States stated that there had been, in that case, a good faith effort on the part of the United States to provide extraordinarily good service. It was untrue that the United States had deliberately created difficulties in issuing the visa. The difficulties had arisen

from the fact that the date and place of issuance had been changed by the requesting party without adequate notification to the United States.

### 3. Acceleration of immigration and customs procedures

27. At the 117th meeting of the Committee, the representative of France said that some members of the immigration and customs authorities at John F. Kennedy International Airport at New York City seemed unaware of the measures introduced to accelerate the procedures. He requested the appropriate authorities of the host country to inform airport officials about the matter.

28. The representative of the United States expressed the hope that immigration procedures at John F. Kennedy International Airport would improve so as to facilitate the passage of diplomats, and assured members of the Committee that everything possible would be done to help the proper functioning of missions.

29. At the 118th meeting of the Committee, the observer for the Ukrainian SSR raised the question of the undue time required to clear shipments through customs. A minimum of four weeks seemed to be necessary and resulted in the payment of costly storage fees by missions. He proposed that airline authorities, upon receipt of a shipment, inform the missions concerned by telephone of its arrival. Such a procedure would facilitate acceleration of documents processing and would help in avoiding undue payment of storage fees.

### 4. Exemption from taxes

30. At the 117th meeting, the representative of France requested information on the timetable for introducing the new tax exemption procedure introduced in the states of the host country. The representative of the United States said that these new procedures might take some time.

31. At the 118th meeting of the Committee, the representative of the host country announced that a positive solution had been found to the problem caused by a change in the billing procedures of the Con Edison Company that had obliged diplomats to pay sales tax and later apply for a reimbursement. The utility had agreed to reinstate the previous procedure whereby sales tax is automatically deducted.

#### C. Notes verbales dated 11 March 1986 from the Permanent Missions of the Union of Soviet Socialist Republics and the Bvelorussian Soviet Socialist Republic, and letter dated 11 March 1986 from the Permanent Representative of the Ukrainian Soviet Socialist Republic, respectively, addressed to the Secretary-General

##### 1. Communications received

32. On 11 March 1986, the Permanent Missions of the USSR and the Bvelorussian SSR and the Ukrainian SSR addressed notes verbales and a letter to the Secretary-General (A/41/207, A/41/208 and A/41/209), annexing copies of notes addressed to the Permanent Mission of the United States, in which the three missions concerned vigorously protested against a demand by the United States

Government for a reduction in the staff of their missions. The notes verbales and the letter requested the Secretary-General to circulate the texts as official documents of the General Assembly and to bring them to the attention of the Committee on Relations with the Host Country. On 13 March 1986 the Deputy Representative of the United States Mission to the United Nations addressed a letter to the Chairman of the Committee, enclosing the text of the notes verbales, dated 7 March 1986, from the United States Mission addressed to the permanent missions of the USSR, the Byelorussian SSR and the Ukrainian SSR concerning staffing needs, with a request that those notes be circulated as documents of the Committee (A/AC.154/263, annexes I-III).

33. In the notes of 7 March 1986, the United States had informed the missions concerned that it had concluded that those missions had together reached a size that far exceeded the staffing needs arising from the pursuit of United Nations-related business. The United States had from time to time made known its concern about inappropriate activities of the personnel of those missions. The United States had, therefore, decided to reduce the collective size of the staff of the missions concerned to 170 permanently assigned personnel by 1 April 1988. To facilitate the smooth achievement of those reductions, the United States proposed that they be effected in four stages beginning on 1 October 1986. Personnel assigned on temporary duty status were not included in the announced ceilings.

34. In response to that note, the missions concerned described the United States action as arbitrary, groundless and a flagrant violation of the host country's obligations under the Headquarters Agreement. Nothing in any existing international agreements, including the Headquarters Agreement, gave the United States Government the right to impose numerical limits on the staff of permanent missions of Member States who were accredited not to the United States but to the United Nations. In the view of the missions concerned, the imposed reductions were incompatible with international law and generally accepted practice and constituted interference in affairs which lay exclusively within the competence of States in their relations with the United Nations.

2. Consideration in the Committee of the aforementioned notes verbales and letter of 11 March 1986

35. The issues raised by the notes verbales and letter of 11 March 1986 and the letter dated 13 March 1986 referred to above were discussed at the 115th, 116th, 117th and 118th meetings of the Committee.

36. At the 115th meeting, on 13 March 1986, the representative of the USSR said that his country had called for an urgent meeting of the Committee in connection with the wrongful action taken by the United States against the missions of the USSR and other States. He rejected the assertion by the United States that it had the right to determine the size of missions to the United Nations. Nothing in the existing agreements gave that right to the United States. The presence of the United Nations in New York was based on the Headquarters Agreement which was being flagrantly violated by the United States. Only the States Members of the United Nations had the right to determine the size of their missions. Comparisons between the number of staff in the United States and the Soviet missions were wrong because the United States could draw on the State Department and other national organizations, while the Soviet Union must be totally self-sufficient. The wrongful action by the United States, if not resisted, would create a highly

unfavourable precedent. The Soviet Union hoped that the United Nations would take a position in accordance with the Charter of the United Nations, the Headquarters Agreement and the norms of international law.

37. The representative of the United States said that it had been recognized by all concerned that there were some limits to the right to send a diplomatic mission and to the obligation of a receiving State to accept it. That question had been raised in 1946 when the Headquarters Agreement was being negotiated. At that time it was recognized that, for reasons of security and otherwise, there were such limits. That was the purpose, inter alia, of the following phrase in the Headquarters Agreement: "Such resident members of their staff as may be agreed upon". No receiving State should be forced to tolerate a situation where a particular mission reached a size that was larger than that of the two next largest missions combined. That was clearly unreasonable and abnormal. To require a phased reduction over a period of more than two years did not work a hardship or decrease the ability of a mission to conduct its official business. The action of the United States in the present case was reasonable and consistent with its responsibilities.

38. In response to a request made by the representative of the Soviet Union, the Legal Counsel noted that, in the history of the Organization, no case had arisen where the host State had called for ceilings on or reductions in the size of missions accredited to the United Nations. That appeared also to be true with respect to the specialized agencies. Thus, the matter had, in the absence of practice, to be considered purely in the light of relevant rules and principles of international law. In bilateral diplomatic relations, in the absence of a specific agreement between the sending and the receiving States, it was for the receiving State to determine the size of a diplomatic mission which it was prepared to accept from a sending State. In making a determination to that effect, national security and other factors were taken into account and the governing principle was one of reciprocity. However, other considerations and procedures also had to be taken into account where missions to international organizations were concerned in view of the fact that such missions were not accredited to the host country and that consequently reciprocity was not possible. The test, which was embodied in article 14 of the 1975 Vienna Convention on the Representation of States in their Relations with International Organizations, was an objective one. The Legal Counsel cited article 14 of the 1975 Convention, which provided that the size of the mission should not exceed what was reasonable and normal, having regard to the function of the Organization, the needs of the particular mission and the circumstances and conditions in the host State. While the Convention was not yet in force, that particular provision reflected a consensus on the matter. The determination of what, in any particular case concerning missions to international organizations, might be reasonable and normal did not depend on the considerations of the host State alone. If the host State had any reservations regarding the size of a mission, such reservations had to be resolved through consultations and, if they failed, dispute-settlement procedures. The Headquarters Agreement of 1947 did not provide anything different. Section 15 (2) of the Agreement foresaw agreement among the Secretary-General, the United States Government and the Government of the Member State concerned on staff to be assigned to missions. The legislative history of that provision indicated that it related not only to the categories of staff concerned, but also to the size of the mission. Neither implicitly nor explicitly did section 15 (2) abandon the principle of proceeding collectively in resolving specific situations which might arise under that section. In accordance with that legal analysis, the Legal Counsel concluded that, under the applicable

law, the matter was one which required consultations. The Secretary-General had expressed his readiness to be of assistance in regard to such consultations.

39. The representative of Bulgaria qualified the United States request for staff reduction as a hostile and arbitrary act which was not consistent with its obligations as host country. He stated that each Member State had a sovereign right to determine the size of its own mission to the United Nations depending upon the work-load and the duties to be performed.

40. The representative of Iraq stated that the matter affected the rights of all Member States as well as the proper functioning of the United Nations. The matter was also important because it was the first case of a host State attempting to limit the size of a mission of a sending State and would thus set a precedent. Since the matter was not merely one of bilateral relations, he called for consultations to be held between the receiving State, sending States and the Secretary-General.

41. The representative of France said that it was generally agreed under international law and usual practice that the number of representatives sent to serve in a permanent mission should be normal and reasonable. The host country had the right to refuse to agree that the size of the mission exceed the limits of the normal and reasonable limits, and that members of the mission conduct activities extraneous to their official functions of representation to the Organization. He supported the call for consultations among the parties concerned.

42. The representative of the United Kingdom said that no country had a right to increase its representation beyond all reasonable limits. The United States actions could not be described as arbitrary, and the Soviet Union had not fully explained how those actions violated its obligations under the Headquarters Agreement and international legal norms.

43. The representative of Honduras said that the matter was not one of bilateral relations but rather a triangular matter involving the host country, the Organization and the sending State. The call for consultations was consistent with the general spirit of the Headquarters Agreement of 1947, and the Secretary-General should provide the appropriate basis for such consultations among the parties concerned.

44. The representative of Spain noted that the Headquarters Agreement did not contain a specific provision to regulate the size of missions. The Vienna Convention stated that the host State should require a mission to be within normal and reasonable limits. In the absence of a specific agreement, the host State could propose limits on the size of missions provided that it was done on a non-discriminatory basis and through consultations.

45. The representative of Canada expressed the opinion that it was reasonable that the number of members assigned to a permanent mission should not be unlimited, that the size of a mission should be consistent with the functions of the Organization and that, consistent with international law, the host country could take measures to assure its national security. The parties concerned should use the good offices of the Secretary-General to resolve the problem through consultations. A decision on that matter would have important implications for all host countries.

46. The representative of Senegal recalled that the Committee was not a tribunal but an organ established to assist in finding solutions to disputes with the host country. He asked the parties to continue their dialogue through the Secretary-General of the Organization.

47. The representative of China said that there was no precedent for the dispute in question. The 1947 Headquarters Agreement provided an important juridical basis for the functioning of the Organization and the permanent missions of its members, but it did not set out a specific limit on the size of missions. However, it could not be assumed that a mission could expand its staff indefinitely. The size of a mission should be regulated in accordance with its reasonable needs. The problem was that it was unclear who should decide what constituted a reasonable level. The parties concerned should resolve the problem through consultations.

48. In exercise of the right of reply, the representative of the Soviet Union stated that no existing international convention, including the 1947 Headquarters Agreement, contained any provision giving the United States the right to fix the size of missions to the United Nations. The United States act was in violation of international law. He agreed that there must be reasonable limits and criteria for the size of missions to the United Nations.

49. At the 116th meeting of the Committee, the observer of the Byelorussian SSR stated that the United States demand to cut the staff of his country's Permanent Mission as well as the permanent missions of the Soviet Union and the Ukrainian SSR, was arbitrary, unjustifiable and constituted a flagrant violation of the international obligations assumed by the host country. He expressed his resolute protest in connection with the unlawful action of the United States Government and demanded that it be rescinded unconditionally.

50. The observer of the Ukrainian SSR said that the demand of the United States Government for reduction in the staff of the three missions concerned, including that of the Ukraine, was illegal. Attempts of the host country to impose numerical limits on the staff of missions were legally groundless and created a negative precedent whose implications could go far beyond the context of those missions. Not a single international legal document gave the host country the right to determine unilaterally and arbitrarily the size of missions.

51. Also at the 116th meeting of the Committee, the observers for a number of Member States took issue with the United States decision to reduce the size of the three missions. The observers for the German Democratic Republic, Hungary, Poland, Mongolia, Viet Nam, Afghanistan, the Libyan Arab Jamahiriya, Cuba, the Syrian Arab Republic and the Lao People's Democratic Republic considered the demand to reduce the staff of missions to be a violation of international agreements, including the Charter of the United Nations and of the Headquarters Agreement, arbitrary and discriminatory in nature and substance and an interference in the internal affairs of the States Members of the United Nations. It was also pointed out that the action by the United States was of concern to all Member States and the Organization and not only those whose missions were directly affected. The negative precedent established by the action had wide implications. The United States was called upon to rescind the measures.

52. In exercise of the right of reply the representative of the United States assured the Committee that the actions taken by the host country regarding the missions concerned were reasonable, prudent and measured. The phased reduction

would not cause a hardship in the legitimate work of those missions nor was it directed at other Members of the United Nations.

53. In exercise of the right of reply, the representative of the Soviet Union said that the United States continued to attempt to justify the action directed not only against the Soviet Mission but practically against all Member States of the Organization. He stated that the United States position was provocative and aggressive.

54. At the 117th meeting of the Committee, the observer for Czechoslovakia said that the decision of the host country gradually to reduce the size of the permanent missions of the Soviet Union, the Byelorussian SSR and the Ukrainian SSR was illegal. It violated general norms and rules of international law. No provision of any existing international instrument gave the host country the right to establish unilaterally the number of personnel in individual missions of Member States. Each Member State had the sole right to decide on the size of its representation at the United Nations. The argument of "national security" was based on an artificial construction that had no legal background. In substance it was a decision to reduce the staff of missions which had been working hard to achieve the purposes of the Charter. He regarded the decision as null and void and called on the United States Government to reconsider its decision.

55. The representative of the Soviet Union noted that the question before the Committee affected the basis of the United Nations and concerned the future of the Organization. The United States action was not a minor provocation similar to those repeatedly practised by the host country authorities, but amounted to political sabotage of the United Nations. The host country was violating its obligations under international treaties and agreements. He recalled that the permanent missions were accredited to the United Nations, not to the United States. The attempts to ignore and violate the rights and privileges of the United Nations and its Member States had to be resolutely condemned and rejected.

56. In reply, the representative of the United States restated the position of the host country that the size of the missions in question was abnormal, unreasonable and unjustifiable.

57. At the 118th meeting, the representative of the Soviet Union recalled that a number of delegations in their statements before the Committee had condemned the arbitrary, illegal and discriminatory action by the United States as incompatible with its obligations under the Charter, the Headquarters Agreement and other international documents. He said that the United States argument that the number of personnel of Soviet missions had exceeded United Nations requirements was not consistent. The assumption by the United States of the right to establish the number of personnel of missions accredited to the United Nations contradicted the Charter and the international obligations of the United States. The United States demands were inadmissible and incompatible with international practice and constituted interference in affairs within the exclusive competence of States in their relations with the United Nations.

58. The representative of Bulgaria restated the position of his Government and expressed regret that the host country had not taken steps to solve the problem under consideration to avoid violating the Charter and the norms of international law.



59. The representative of Canada noted that various legal, administrative and political aspects of the problem had been discussed in order to find a solution. He was not sure that the hostile climate in New York had anything to do with the size of missions to the United Nations, but the representative of the Soviet Union had put forward arguments that seemed to be relevant where he cited the need for Soviet teachers and additional security arrangements. He said that attempts to find a solution should be made in a smaller group.

60. The observer of the Byelorussian SSR restated the position of his Government that the United States action was unfounded and arbitrary and expressed the hope that the Committee would reject attempts by the host country to impose its demands on other States Members of the United Nations.

#### D. Question of privileges and immunities

61. At the 114th meeting of the Committee, the Chairman drew attention to the pending consideration of information prepared by the host country regarding immunities of members of missions to the United Nations participating in criminal proceedings (A/AC.154/257). The annex to that document contained responses of the relevant United States authorities to a questionnaire prepared by the open-ended contact group.

62. The representative of the United Kingdom thanked the representative of the United States for a comprehensive and coherent response to that complex matter, which related, in particular, to a possibility for a diplomat to give evidence in court as a witness.

63. The representative of the Soviet Union said that information presented by the competent United States authorities was useful. At the same time, he wished to raise a number of questions regarding federal and New York state legal procedures. What did "federal offence" and "felonies" mean? He believed that there was a substantial difference in emphasis between federal and state legal procedures. Federal procedure was more comprehensively directed towards the protection of diplomats who might be victims of crime than that of the state of New York.

64. The representative of France also pointed out differences in the existing procedures. He reminded the Committee that the 1961 Vienna Convention on Diplomatic Relations explicitly provided, in article 31, paragraph 2, that a diplomat was not obliged to give evidence as a witness. A diplomat could not waive his diplomatic status and, in particular, immunity from jurisdiction. The immunity from the jurisdiction of the receiving State could be waived only by the sending State. The representative of France stated that appropriate provisions regarding the possibility for a diplomat to give evidence as a witness in court was contained in the code of procedures of France.

65. The representative of the United States, referring to a meeting with the United States Attorney for the Southern District of New York, Mr. Rudolph Giuliani with the United Nations diplomatic community, which had taken place in February 1984, expressed the hope that the United States response entitled "Participation by persons enjoying diplomatic status in criminal proceedings" would lead to greater participation of the diplomatic community in the United States system and more successful prosecutions. The existing constitutional guarantees provided for fair and just adjudications of guilt and innocence, resulting in

reliable, consistent and honest legal precedent. Those guarantees ultimately ensured the Government's efforts to prosecute crimes against the diplomatic community.

66. The representative of the Soviet Union noted a lacuna in the procedure which did not provide for diplomats being the victims of crimes and, therefore, underlined the necessity to find an appropriate solution for protecting diplomats.

67. In connection with the problem raised by the representative of France, the Legal Counsel clarified that it had been already addressed in paragraph 13 of the annex to the letter dated 9 July 1985 from the United States Mission to the United Nations addressed to the Chairman of the Committee (A/AC.154/257), concerning indirect testimony by diplomats in criminal proceedings.

E. Letter dated 24 October 1986 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Chairman of the Committee on Relations with the Host Country

1. Communication received

68. On 24 October 1986, the Permanent Representative of the USSR addressed a letter to the Chairman of the Committee (A/AC.154/267)\* requesting an urgent meeting of the Committee to consider the question of the violation of the 1947 Headquarters Agreement resulting from the action of the United States Government to reduce the staff of the Permanent Mission of the USSR. The letter stated that the Committee had the duty to take urgent and effective steps to ensure the strict implementation of the 1947 Headquarters Agreement and the creation of conditions to permit the work of the permanent missions accredited to the United Nations to proceed normally.

2. Consideration in the Committee of the letter of 24 October 1986 (A/AC.154/267)

69. The request contained in the letter to the Chairman of the Committee from the Permanent Representative of the USSR, dated 24 October 1986 was discussed at the 119th and 120th meetings of the Committee, on 30 October 1986.

70. At the 119th meeting, the representative of the USSR said that the United States actions to reduce the staff of the Permanent Mission of the Soviet Union were in violation of the 1947 Headquarters Agreement. The host country was creating artificial obstacles to the work of the missions accredited to the United Nations in its efforts to bring the Organization under its diktat. The ultimatum

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\* At its 121st meeting, the Committee decided that this question as well as the question of the notes verbales and letter of 11 March 1986 (see chap. II, sect. C of the present report) should henceforth be considered under item 2 of the Committee's agenda entitled "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".

demande by the United States on 17 September 1986 for 25 staff members of the Soviet Mission to leave under the threat of deportation was an unprecedented example of crude arbitrariness by the United States. The Legal Counsel of the United Nations had previously stated that the host country's demands were untenable, and the Secretary-General had said that its actions were in contravention of the Headquarters Agreement. The Soviet Union had indicated its readiness to accept the good offices of the Secretary-General, but the United States had rejected the Secretary-General's proposals to mediate, thus evading the relevant procedures for dispute settlement in violation of the Headquarters Agreement. He said that United Nations missions were accredited to the United Nations and not to the United States, which had no right to determine the numbers of staff members of United Nations missions, which would run counter to the Charter of the United Nations and the Headquarters Agreement and would place the missions of other States in subordination to the United States Administration. In accordance with Article 2 of the Charter, the Organization was based on the principle of sovereign equality of all Member States. Furthermore, the host country was obliged to respect the privileges and immunities of Member States, as provided in Article 105 of the Charter. He said that the comparison of the numbers of staff of missions of the United States and other Members was inappropriate. The United States Mission is located in its own country and relies on a huge network of numerous United States governmental agencies and organizations in Washington and New York. The United States may even reduce almost to zero the size of its mission by replacing its activities with those of various agencies in New York and Washington. The Soviet Union was obliged to maintain a large number of technical, security and administrative staff and the United States had included those workers in its computation of the staff members of the Soviet Mission. Neither would suffice a purely arithmetic comparison of the quantitative sizes of the missions of different States because the scope of their tasks and activities in the United Nations would vary. The quantitative size of the Soviet Mission is determined entirely by the tasks of ensuring an effective representation of the Soviet Union in the United Nations and by the expansion of these tasks due to the growing and expanding activities of the Organization itself. The host country's actions directed at individual missions and the United Nations as a whole required decisive condemnation. It must cease its intervention in the normal activities of the United Nations. He hoped that the Committee would consider the issues and take measures to halt the illegal acts of the United States against the Mission of the Soviet Union and call for a strict adherence to the Charter and the 1947 Headquarters Agreement.

71. The representative of Bulgaria said that the rights, privileges and immunities of the Soviet Mission were being violated by the arbitrary acts of the host country. Those actions were a violation of the Headquarters Agreement and were unprecedented. The size of the staff of permanent missions to international organizations was determined by conditions in the host country and each sovereign State had the right to determine for itself its staffing needs in view of its requirements and the prevailing conditions. Nothing in the 1947 Headquarters Agreement allowed the host country to set limits on the staffing of United Nations missions. Unpredictable and far-reaching consequences were possible if such actions were allowed to continue. The United States actions should be revoked and the Committee should recommend measures to facilitate the normal functions of missions.

72. The representative of Costa Rica indicated that, although there were no provisions regarding a limitation of the size of permanent missions in the 1947

Headquarters Agreement, it was necessary for the Secretary-General, the State accrediting a mission and the host country to decide jointly on an appropriate number of representatives. The representative of Costa Rica stressed the importance of recognizing that, in accordance with the relevant legal instruments and the opinion of the United Nations Legal Counsel, both the accrediting State and the receiving State should be entitled to their views regarding the number of representatives who should make up the mission of a Member State of the United Nations. If there was no agreement between them, it was essential that they should both consult the Secretary-General, who represented the international community, since the matter was a multilateral and not a bilateral issue, and Member States were concerned by it. The representative of Costa Rica added that the factor of good faith should be relevant to the interpretation of treaties, since that factor and common sense regarding the number of representatives accredited to the mission of a Member State of the United Nations were essential in ensuring that the mission was of an appropriate size. The Legal Counsel of Costa Rica referred in that connection to paragraph 3 of the statement on the subject made by the United Nations Legal Counsel in March 1986. For all those reasons, it was very important that both the delegation of the host country and that of the accrediting State, together with the Secretary-General, should undertake broad consultations within the framework of a constructive dialogue in order to alleviate the current difficulties and produce an agreement which would be satisfactory to everyone. The representative of Costa Rica believed that that was the most appropriate means of solving the dispute and hoped that a positive solution would soon be found to the question.

73. The representative of the United States said that his delegation had already stated that there had to exist a reasonable limit to the size of missions. During negotiation of the Headquarters Agreement in 1946, it had been recognized that there were such limits. The Secretariat, in a report on privileges and immunities made in 1967, had also confirmed that it had been generally assumed that some upper limit did exist. The Legal Counsel, in his statement to the Committee in March 1986, had said that there was a common consensus that the size of missions should not exceed what was reasonable and normal, having regard to the functions of the Organization, the need of the particular mission and the circumstances and conditions in the host country. When his delegation had first raised the issue, the size of the Missions of the USSR to the United Nations had clearly exceeded the staffing needs required for the conduct of United Nations business; their size was unreasonable by any standard and constituted an abuse of the right of representation. Past efforts to secure voluntary co-operation to correct that problem had been unavailing. The personnel schedule announced in March 1986 allowed the missions sufficient support to conduct United Nations-related activities but would limit opportunities for unrelated activities damaging to substantial United States interests. The United States was as sensitive to the responsibilities and honour of being host country as it had ever been. It was absurd to suggest that applying standards foreseen as necessary in 1946, and endorsed in 1967 and subsequently, stemmed from some new policy of hostility to the Organization. The United States was legally justified in seeking to correct that situation and the measures required were reasonable. Neither the Headquarters Agreement nor the General Convention on Privileges and Immunities permitted the size of mission staff to increase clearly and demonstrably beyond that which was warranted by representation requirements. The Soviet Mission had not responded to United States initiatives to discuss the matter, and therefore his country had made a determination concerning those who had been asked to leave.

74. The representative of Canada said that, in the settlement of the matter, three points should be paramount: that the size of missions should not be unlimited; that it should be reasonable and normal; and that the host country should be entitled to assure its security in accordance with international law. He fully endorsed the recommendation made in March by the Legal Counsel to the effect that the host country and the Soviet Union should avail themselves of the good offices of the Secretary-General in order to settle the problem. His delegation hoped it was not yet too late to follow that advice.

75. The representative of Iraq said that the matter before the Committee was of concern to every Member of the United Nations. No one had disputed the statements that the size of any mission should be reasonable and normal. The question was who decided what was reasonable and normal and what happened if the decision was not accepted by the parties involved. The principle of freedom in deciding the composition and number of staff must be recognized, he said. Remedies against misuse of that freedom must be sought through consultation and mediation procedures. He regretted that the good offices of the Secretary-General had not been used and he hoped that the parties to the dispute would avail themselves of the Secretary-General's offer.

76. The representative of Senegal said that it was necessary to avoid having the issue jeopardize the United Nations or the relations between the countries concerned. While he could understand the concern of the Soviet Union, he believed that the host country was acting with goodwill. The Secretary-General could be involved in the process of facilitating a solution to the problem.

77. The representative of China said that there was no specific limit on the size of permanent missions in the Headquarters Agreement, but that their size should be reasonable and warranted in the light of their duties and responsibilities. Strict adherence to the spirit of the Headquarters Agreement and other international legal instruments was required for a solution to the problem. Consultations and dialogue between the parties, with the participation of the Secretary-General, would hopefully resolve the matter.

78. The representative of Côte d'Ivoire said that there were relevant points made in both of the statements by the United States and the Soviet Union. There was a substantive as well as a legal problem reflected in the dispute. In the view of his delegation, consultation and conciliation were required. The parties should avail themselves of the assistance of the Secretary-General in this matter.

79. The observers of the Byelorussian SSR, Czechoslovakia, Mongolia, Poland and the Ukrainian SSR said that the actions of the United States towards certain Member States were discriminatory and had no basis in the practice of States. On the basis of the Charter of the United Nations and the 1947 Headquarters Agreement, the United States had no right to introduce numerical limitations on the size of missions. The United States actions were in clear violation of existing international principles and norms. In particular, they were incompatible with the Charter which specified the principle of sovereign equality of States and the principle of non-discrimination, which was the cornerstone of diplomatic law, as reflected in article 47 of the Vienna Convention on Diplomatic Relations.

80. The Committee continued its consideration of that question at its 120th meeting. The representative of Spain said that his delegation believed that, in accordance with the Headquarters Agreement and other international instruments,

there was no established limit with regard to the size of missions, but neither was there recognition of an absolute right to an unlimited number of mission staff. According to those international instruments, the number of staff of missions should be set in accordance with the criteria of what was customarily taken to be reasonable, normal and non-discriminatory. His delegation agreed with the views expressed by the Legal Counsel in his statement (A/AC.154/264), and considered that the parties, including the Secretary-General, should initiate consultations in order to settle the question.

81. The representative of the United Kingdom said that no useful purpose would be served by again going over the legal arguments in the case. The purpose of permanent missions was to conduct their Governments' legitimate business at the United Nations and missions should not have more staff than was needed to carry on such functions. He associated his delegation with the calls for consultations between the parties as a means of reaching a solution to the problem.

82. The representative of France said that, in accepting an international organization, a country showed its dedication to the Organization and agreed to abide by obligations to ensure the proper functioning of the Organization in question. There was agreement within the Committee that the host country should respect the privileges and immunities of missions accredited to the Organization, but also that it could refuse to accept staff in numbers going beyond normal and reasonable limits without thereby calling into question the rights of the sending State. When there were doubts regarding what should be understood by "normal and reasonable", a criterion of which use could be made in that respect was that of comparison. The dispute which was before the Committee should be settled by means of consultations. It was regrettable in that connection that one of the parties had apparently avoided such consultations.

83. The observers of Afghanistan, Cuba, the German Democratic Republic, the Lao People's Democratic Republic, the Libyan Arab Jamahiriya, the Syrian Arab Republic and Viet Nam expressed the view that the size of permanent missions depended on the functions and needs of those missions and said that the freedom of the sending State to determine the composition of its mission must be observed. Under the Charter, the Headquarters Agreement of 1947 and other international instruments, the host country had no right to set "quotas" or numerical restrictions on the personnel of other missions. In keeping with the principle of sovereign equality of States, each State had the right to decide for itself on the needs of its representation to and participation in United Nations activities. If the host country had reservations regarding the size of a particular mission, they should be resolved through dispute settlement procedures and not through unilateral action.

84. In a concluding statement, the representative of the Soviet Union said that, in the light of the discussion in the Committee, it was obvious that the matter under consideration was of concern to all Members of the United Nations. He had hoped to see some signs of movement in the position taken by the United States but had been greatly disappointed. No one would dispute the fact that the size of missions should be subjected to reasonable limits, but the host country did not have the right to set limits unilaterally or determine arbitrarily what size is reasonable and necessary. Negotiation and consultation was the way to resolve such disputes. The question was whether the host country was ready to engage in a dialogue with the Soviet Union on this matter. The United States representative had said that the Soviet Union had not responded to a United States offer to discuss the matter. That was not the case, because it had been made clear that the

figures quoted by the United States were not negotiable and the United States unilateral demands and action by form and substance were undertaken as an ultimatum. The United States deliberately cut off all possible routes for seeking compromise solution and understanding. Instead of consultations, the United States requested the departure of 25 members of the Soviet Mission and rejected the good offices of the United Nations Secretary-General to which the Soviet Union had agreed. By such an action, the American side ignored the numerical size of the Soviet Mission which was below even the numerical limit set by it. He said that a number of delegations had referred to the negative attitude of the United States as the host country and the expulsion of the Soviet staff had been only one link in a chain of events which demonstrated that negativity. The attacks against the United Nations and missions were co-ordinated with the political practices of the United States in delaying payment of its financial contribution and pulling out of some international organizations. The preparation to show a defamatory television movie against the United Nations is something that should be of concern to all of its members. The time has come for the United Nations to study the question of where and under what circumstances the United Nations could function better in a more quiet and safe atmosphere than in the United States.

85. The representative of the United States, in reply, said that the attacks on the United States as host country were sad, and he emphasized that his delegation did not come to this meeting to discuss the United States press and media which enjoys full freedom from censorship. The United States had been curious to learn of the "urgent" nature of the meeting. Rather than receiving confirmation of the urgency, the United States delegation had again listened to repeated statements of the views of the Soviet Union. The United States believed that there existed a reason to place a limit on the size of missions to the United Nations and welcomed the calls by the Legal Counsel to the United Nations for consultations. His delegation stood ready to engage in such consultations.

86. In summing up, the Chairman of the Committee said that the Committee had now devoted a total of five meetings in 1986 to a discussion of the issues arising from the reductions imposed on certain missions by the host country. There had been a thorough discussion and an exchange of views among members of the Committee as well as observers, and while the particular issue under discussion concerned three Member States, there was no doubt that the question of the size of missions was a general one of concern to all Members of the Organization. It was also clear that the question should be considered under the relevant rules of international law. In that regard, he considered the statement made by the Legal Counsel at the 115th meeting of the Committee to have been very helpful. The Legal Counsel had stated that it was the view of the Secretary-General that, in accordance with the relevant rules of international law, the matter was one which should be settled by consultation between the parties concerned, and the Secretary-General was ready to be of assistance to the parties in that matter if they should so desire. The statement of the Legal Counsel had been echoed by virtually all the members of the Committee and he believed that it was the sense of the Committee that the parties were urged to follow the path of consultation with a view to reaching a solution to that problem.

#### IV. RECOMMENDATIONS AND CONCLUSIONS

87. At its 122nd meeting, on 18 November 1986, the Committee approved the following recommendations and conclusions:

(1) Considering that the security of the missions accredited to the United Nations and the safety of their personnel are indispensable for their effective functioning, the Committee notes the assurances given by the competent authorities of the host country and the constant need for effective preventive actions.

(2) The Committee urges the host country to take all necessary measures without delay in order to continue to prevent any criminal acts, including harassment 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 considered the issues raised by certain States Members of the United Nations in response to the request and action by the host country to reduce the size of their missions. The Committee urges the parties, in accordance with the suggestion contained in the statement by the Legal Counsel (A/AC.154/264), to follow the path of consultations with a view to reaching solutions to this matter in accordance with the Headquarters Agreement.

(5) The Committee calls upon the host country to avoid actions not consistent with meeting effectively obligations undertaken by it in accordance with international law in relation to the privileges and immunities of Member States, including those relevant to their participation in the work of the United Nations.

(6) The Committee, with a view to facilitating the course of justice, calls upon the missions of Member States to co-operate as fully as possible with the federal and local United States authorities in cases affecting the security of those missions and their personnel.

(7) The Committee notes with concern that there have been difficulties concerning unpaid bills for goods and services rendered by private persons and organizations to certain missions accredited to the United Nations and certain individual diplomats attached to those missions, and suggests that the Secretariat and others work together to solve these outstanding difficulties.

(8) 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.



(9) The Committee stresses the importance of a positive perception of the work of the United Nations. The Committee expresses concern about a negative public image and, therefore, urges that efforts 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.

(10) 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.

(11) 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

List of documents

(8 January 1986-27 October 1986)

- A/41/80 Letter dated 8 January 1986 from the representatives of Bulgaria, Czechoslovakia, Poland and the German Democratic Republic to the United Nations addressed to the Secretary-General
- A/41/207 Note verbale dated 11 March 1986 from the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General
- A/41/208 Note verbale dated 11 March 1986 from the Permanent Mission of the Byelorussian Soviet Socialist Republic to the United Nations addressed to the Secretary-General
- A/41/209 Letter dated 11 March 1986 from the Permanent Representative of the Ukrainian Soviet Socialist Republic addressed to the Secretary-General
- A/41/219 Letter dated 17 March 1986 from the Permanent Representative of Czechoslovakia to the United Nations addressed to the Secretary-General
- A/41/224 Letter dated 17 March 1986 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General
- A/41/236 Letter dated 26 March 1986 from the Chargé d'affaires a.i. of the Permanent Mission of Bulgaria to the United Nations addressed to the Secretary-General
- A/41/401 Letter dated 4 June 1986 from the Permanent Representative of Afghanistan to the United Nations addressed to the Secretary-General
- A/AC.154/262 Letter dated 11 February 1986 from the Acting Representative of Viet Nam to the United Nations addressed to the Secretary-General
- A/AC.154/263 Letter dated 13 March 1986 from the Deputy Representative of the United States Mission to the United Nations addressed to the Chairman of the Committee
- A/AC.154/264 Statement made by the Legal Counsel at the 115th meeting of the Committee, held on 13 March 1986
- A/AC.154/265 Letter dated 23 June 1986 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.154/266 Letter dated 18 August 1986 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General
- A/AC.154/267 Letter dated 24 October 1986 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Chairman of the Committee on Relations with the Host Country

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