

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

GENERAL ASSEMBLY

OFFICIAL RECORDS: FORTY-THIRD SESSION

SUPPLEMENT No. 26 (A/43/26)



UNITED NATIONS

New York, 1989

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.

[25 November 1988]

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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 forty-second session, the General Assembly, by its resolution 42/210 A of 17 December 1987, requested the Committee to "continue its work, in conformity with General Assembly resolution 2819 (XXVI)" and decided to include in the provisional agenda of its forty-third session the item entitled "Report of the Committee on Relations with the Host Country".

2. The present report of the Committee is arranged as follows. Following the introduction, section II describes the membership, terms of reference and organization of work of the Committee. Section III covers the topics dealt with by the Committee. The recommendations and conclusions of the Committee are contained in section IV of the report.

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

3. By its resolution 2819 (XXVI), the General Assembly decided that the Committee should be "composed of the host country and fourteen Member States to be chosen by the President of the General Assembly in consultation with regional groups and taking into consideration equitable geographic representation thereon". In 1988 there were no changes in the membership of the Committee, which was as follows: Bulgaria, Canada, China, Costa Rica, Côte d'Ivoire, Cyprus, France, Honduras, Iraq, Mali, Senegal, Spain, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and United States of America.

4. Throughout 1988, Mr. Constantine Moushoutas (Cyprus) continued to serve as Chairman, the representatives of Bulgaria, Canada and Côte d'Ivoire as Vice-Chairmen and Mrs. Emilia Castro de Barish (Costa Rica) as Rapporteur.

5. In 1971, the General Assembly, pursuant to its resolution 2819 (XXVI), instructed the Committee "to deal with the question of the security of missions and the safety of their personnel, as well as all categories of issues previously considered by the Informal Joint Committee on Host Country Relations". The Committee was further authorized to study the Convention on the Privileges and Immunities of the United Nations and to consider, and advise the host country on, issues arising in connection with the implementation of the Agreement between the United Nations and the United States regarding the Headquarters of the United Nations. In May 1982 the Committee adopted a detailed list of topics, which was retained in 1988 and was 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.

6. During the period under review the Committee held nine meetings: the 129th meeting on 5 May 1988; the 130th meeting on 24 June 1988; the 131st meeting on 23 September 1988; the 132nd meeting on 12 October 1988; the 133rd meeting on 16 November 1988; the 134th meeting on 23 November 1988; the 135th and the 136th meetings on 28 November 1988; and the 137th meeting on 30 November 1988.

7. The Bureau of the Committee consists of the Chairman, the Rapporteur, the three Vice-Chairmen and a representative of the host country, who attends Bureau meetings ex officio. The Bureau 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. During the period under review, the Bureau met three times, on 21 April, 22 September and on 28 November 1988.

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

8. At its 129th meeting, on 5 May 1988, the Committee resumed consideration of matters relating to the security of missions and the safety of their personnel. The representative of the Soviet Union indicated that the Soviet Mission to the United Nations in the last few months had faced serious problems in that regard. Although it had received co-operation from the United States authorities, which was appreciated, the Mission remained the target of negative political propaganda and acts of harassment against its personnel. Political demonstrations should not be aimed at missions. Such demonstrations produced direct insults and threats. It was necessary to discuss how missions were to be protected from such activities.

9. The representative of the United Kingdom expressed the view that a distinction must be made between the issues of the safety and protection of missions and the peaceful expression of opinion by the public in a democracy, which was a time-honoured right. However, sometimes the distinction between what was acceptable and what was not was hard to draw. He further pointed out that peaceful expression of opinion by the public did not hamper the work of missions. As to the United Kingdom Mission, it had a daily "visitation" by a group of people who did not agree with one of his country's policies. Only when their demonstrations became unruly were the police called.

10. The representative of the United States referred to the United States Constitution, which provided precise guarantees for freedom of expression, assembly and speech. The United States protected the exercise of those rights and protected the safety and functions of diplomatic missions. The Soviet Mission was assigned the largest police detail of any mission in New York City. He requested to be informed of specific instances when Soviet mission functions were impeded by political demonstrations.

11. The representative of the Soviet Union wondered whether insults by demonstrators at passing diplomats could be regarded under the United States Constitution as freedom of expression. Demonstrations against missions obstructed the work of the United Nations and that was contrary to the provisions of the Headquarters Agreement. Therefore, when the United States Constitution was invoked against a foreign mission there was a conflict between the host country's national legislation and its obligations under the relevant provisions of international law.

12. The United States representative responded that there appeared to be a misunderstanding over what constituted legal political expression and what did not. The United States was cognizant of its constitutional obligations and its responsibility to avoid illegal harassment of diplomatic missions. It made every effort to prevent illegal demonstrations and illegal activities.

13. The representative of Bulgaria stressed that the question of the security of missions and the safety of their personnel was of the utmost importance. Hostile acts against missions should be prevented. As far as Bulgaria was concerned, its Mission had been receiving co-operation from the United States Mission for which it was grateful. Permanent missions accredited to the United Nations were not diplomatic representations of their countries to the United States. Therefore,

cases of a purely bilateral nature such as consular matters should not be aimed at United Nations missions, but should be directed to embassies in Washington.

14. The United Kingdom representative, with reference to a distinction between missions accredited to the United Nations and embassies in Washington, said that they both represented their Government. He could not accept the distinction offered as valid. What mattered were the obligations of the host country to provide protection to missions to carry out their official functions.

15. The representative of the United States welcomed the comment made by the representative of the United Kingdom as to the lack of distinction between United Nations missions and embassies in Washington.

16. The representative of Bulgaria informed the Committee of a recent demonstration that pertained to the relationship between Bulgaria and the United States. In that case his Mission had written to the Dean of Fordham University from where the demonstrators originated to explain that the Bulgarian Mission was accredited to the United Nations and not to the United States.

17. The representative of the Soviet Union expressed the view that the competent authorities of the host country, not the missions, had to inform demonstrators of what they could or could not do under the law. The demonstrators often stepped beyond the bounds of permissibility and ended in harassment and insults. Such actions should be considered acts of political pressure. Demonstrations aimed at Governments should not take place against their respective missions to the United Nations.

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. Host country legislation concerning the use of the premises of foreign missions

18. At the 129th meeting, on 5 May 1988, the representative of the United States informed the Committee of the recent enactment by his country of an amendment to the Foreign Missions Act entitled "Use of Foreign Missions in a Manner Incompatible with its Status as a Foreign Mission" (P.L. 100-204, section 128, amending the Foreign Missions Act at Section 4315 of Title 22 of the United States Code). The new legislation of the host country had been conveyed to the missions to the United Nations by a note verbale from the United States Mission dated 7 March 1988. The amendment, adopted on 22 December 1987, reflected a long-established United States policy prohibiting the use of inviolable premises of a foreign mission for a purpose incompatible with the mission's accreditation. The new legislation defined premises of a foreign mission to include any property that enjoyed inviolability. The note was not directed to any particular mission and had been issued only to reiterate that the use of inviolable premises authorized solely for diplomatic purposes related to the United Nations. Missions desiring usage waivers should give the relevant facts to the United States Mission for its consideration.

19. The observer of the Libyan Arab Jamahiriya expressed concern regarding the procedure imposed upon the head of the Libyan Mission for the use of his residence

in Englewood, New Jersey. According to the unilaterally imposed regulations, he could use the residence only twice a month. The competent United States authorities and the Secretary-General were aware of the problem. To resolve the problem the Libyan Arab Jamahiriya had requested an arbitration under the Headquarters Agreement. The observer of the Libyan Arab Jamahiriya also complained of the refusal by the host country to authorize the Libyan Mission to rent out some apartments that were available in its building, whereas other missions were permitted to rent out their space.

20. Responding to those comments, the representative of the United States observed that the Englewood property of the Libyan Mission was not a primary residence of the Permanent Representative but rather a weekend retreat. It was asserted that when the Permanent Representative requested authorization to travel there he had been allowed to do so. The representative of the United States reiterated New York State Tax Law, wherein exemption from tax assessment is accorded to portions of premises utilized for mission office and the primary residence of the Permanent Representative.

2. Host country travel regulations

21. At the 129th meeting, on 5 May 1988, the observer of the Libyan Arab Jamahiriya and the representative of Bulgaria drew the Committee's attention to the travel restrictions that had been imposed by the host country on members, and their dependants, of their respective missions. The observer of the Libyan Arab Jamahiriya reminded the Committee that the personnel of the Libyan Mission was restricted in movement to the five boroughs of New York City. The representative of Bulgaria indicated that some progress had been made in the case, as the Permanent Representative and the Chargé d'affaires of members of his Mission had been exempted from restrictive measures with regard to the travel restrictions introduced by the host country in 1986. However, he hoped that the United States Government would resolve the issue by removing the restrictions completely, with respect to the other personnel as well.

22. The representative of the United States, in response to the statement by the observer of the Libyan Arab Jamahiriya, said that the travel regulations were required by the obvious security threats posed by Libyan-supported terrorism throughout the world. The United States Mission would reconsider the matter when there was justification to do so. As to the request by the representative of Bulgaria, he mentioned that the law in question provided for notification and use of travel services, without restriction on travel. Such requirement, according to his knowledge, did not impose undue difficulties.

23. By a note verbale of 18 May 1988, the United States had advised the missions of Albania, Bulgaria, Czechoslovakia, the German Democratic Republic and Poland that, effective immediately, their personnel, including persons temporarily assigned, and their dependants were required to submit in writing, 48 hours in advance during working days, for travel beyond a 25-mile radius of Columbus Circle in New York City. In their letter dated 9 June 1988, the permanent representatives of Bulgaria, Czechoslovakia, the German Democratic Republic and Poland brought the matter to the attention of the Secretary-General and called for his active assistance and for his intervention with the relevant United States authorities for the prompt revocation of the "above-mentioned unlawful and discriminatory measures".

24. Also on 18 May 1988, the Secretary-General had been advised by a note verbale from the United States Mission of the same date 1/ of travel regulations to be applied to staff members and their dependants who were nationals of Albania, Bulgaria, Czechoslovakia, the German Democratic Republic and Poland. Staff members of those nationalities and their dependants were required by the regulations, effective immediately, to submit in writing requests for travel beyond a 25-mile radius of Columbus Circle at least 48 hours in advance of the contemplated travel. In his response, dated 25 May 1988, the Secretary-General also reiterated his previously expressed protest against distinctions in the treatment by the host country of members of the United Nations Secretariat solely on the basis of their nationality. The Secretary-General also noted that the procedures in question were not intended to affect the arrangements regarding the official travel of United Nations staff members in the United States that had been in effect since 15 January 1986 (see information circular ST/IC/86/4 of 14 January 1986).

25. The 130th meeting of the Committee, on 24 June 1988, was devoted exclusively to a discussion of the new travel regulations issued by the host country referred to in paragraphs 23 and 24 above.

26. The Permanent Representative of Bulgaria stated that the new restrictive measures by the host country were contrary to both the letter and the spirit of the relevant provisions of a number of basic international legal instruments of a binding character. They constituted a clear violation of the fundamental principle on which the United Nations was based, namely the principle of the sovereign equality of all Members, as laid down in Article 2, paragraph 1, of the Charter of the United Nations. The restrictions were imposed in spite of the clear-cut provisions of section 15 of the 1947 Agreement regarding the Headquarters of the United Nations, which stipulated that members of the staff of permanent missions were entitled to the same privileges and immunities as accorded to diplomatic envoys accredited to the United States. Those measures also contravened article IV, section 11 (g) of the 1946 Convention on the Privileges and Immunities of the United Nations, according to which representatives of Member States would enjoy such privileges, immunities and facilities as enjoyed by diplomatic agents. A generally recognized standard of those privileges, immunities and facilities was codified in the 1961 Vienna Convention on Diplomatic Relations. The host country's travel restrictions were in flagrant violation of articles 26 and 47 of the Vienna Convention concerning freedom of movement and travel and non-discrimination. The restrictions imposed by the host country were completely unprovoked, unlawful, discriminatory and entirely unjustified. Their implementation would create serious and sometimes insurmountable obstacles to the exercise by the Mission of its official functions at the United Nations. The move could only be viewed as an unfriendly act directed against the Bulgarian Mission and as a challenge to the United Nations and all its Members.

27. The observer of Czechoslovakia stated that, within a short time of two years, this was the second serious step by the host country designed to restrain the freedom of movement of the staff of the four permanent missions concerned. At present, as in 1985, the conduct of the Czechoslovak Mission provided no ground for such an action. It was an irony that the date of the new restrictive measures coincided with the date on which Czechoslovakia had ratified the Agreement on Inspections in accordance with the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, generously granting the United States Inspectors, for the discharge of their functions, privileges and immunities

to the same extent as accorded to diplomatic agents. Arbitrary travel restrictions by the host country constituted a clear violation by the United States of its obligations under international law. They were incompatible with the relevant provisions of the Charter, the 1947 Headquarters Agreement and the 1946 Convention on the Privileges and Immunities of the United Nations. The measures were in flagrant contradiction to articles 26 and 47 of the 1961 Vienna Convention on Diplomatic Relations. In addition, they were not consonant with the provisions of articles 26 and 83 of the Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character of 1975. While the Convention itself had not yet entered into effect, its provisions undoubtedly constituted a codification of the valid customary law in the matter. A decision by the host country to impose similar restrictive measures on United Nations Secretariat staff members from the four countries concerned represented a differentiation among staff members solely on the basis of their citizenship. Such actions were considered as discrimination among staff members of the United Nations Secretariat and interference with the authority of the Secretary-General under the Charter and the Headquarters Agreement. They were incompatible with the principle of independence of the international civil service. The Czechoslovak Government reserved its right to take, in the final instance, such steps in relation to the United States as might be regarded as necessary for the protection of its legitimate rights and interests in the matter.

28. The observer of the German Democratic Republic stated that, despite the concern repeatedly expressed that all questions concerning the relations between the Organization and the host country must be resolved on the basis of and in conformity with the Charter of the United Nations, the Headquarters Agreement and other relevant instruments, the envisaged measures had been included as an amendment to the Foreign Relations Authorization Act, fiscal years 1988 and 1989, and enforced by the host country recently. The number of persons affected was very large and even the highest-ranking representative of the United Nations, the President of the General Assembly at its forty-second session and its third special session devoted to disarmament, the Deputy Foreign Minister of the German Democratic Republic, Mr. Peter Florin, was affected by those discriminatory measures. As was well known, during its forty-second session the General Assembly had in March of 1988 repeatedly dealt with the unlawful attempt by authorities of the host country to close the Office of the Observer Mission of the Palestine Liberation Organization (PLO) and called for the strict adherence to the Headquarters Agreement by the United States. Now the Organization was again confronted with a gross violation of the Charter and the Headquarters Agreement by the host country. Restrictive measures were entirely unjustified and unprovoked. They were in direct contradiction to fundamental norms and principles of international law and were incompatible with the obligations of the host country under the Headquarters Agreement of 1947. The travel restrictions by no means facilitated the normal functioning of the missions concerned. The German Democratic Republic strongly rejected the discriminatory measures taken by the United States authorities to restrict the freedom of movement and travel of the personnel of its Permanent Mission. The German Democratic Republic strongly protested against the application of the same discriminatory measures against staff members of the United Nations Secretariat who were nationals of the German Democratic Republic and other affected States.

29. The observer of Poland emphasized that the matter under discussion was a serious one. Not only diplomatic privileges and immunities were at stake. The Committee faced the question of a violation by the host country of its

international obligations towards the Organization, a question of escalation of unfriendly and unlawful steps directed against some arbitrarily selected missions. From the legal point of view, there was no doubt that the host country had no right to introduce measures affecting the status of missions to the United Nations. The rule of non-discrimination was a corner-stone of international diplomatic law. Privileges and immunities should be granted unconditionally and on an equal basis to all United Nations missions. There was no legal justification for selective, discriminatory treatment. The new measures by the host country were based on the Foreign Relations Authorization Act. In a recent advisory opinion, the International Court of Justice had clearly reaffirmed the fundamental principle of international law that "international law prevails over domestic law". It was clear that the domestic provisions of the United States could not unilaterally narrow diplomatic privileges and immunities. The new travel restrictions, like the former ones, were entirely unprovoked. No internal reason could justify the non-fulfilment of treaty obligations, in particular the disregard of the non-discrimination principle. The extension of new restrictions to some members of the Secretariat on the basis of their nationality was another obvious infringement on the relevant norms of international law. The restrictive measures were counter-productive to the current positive trends in bilateral relations. Poland urged the host country to revoke the imposed restrictions.

30. The observers of Cuba, the Lao People's Democratic Republic and the Byelorussian Soviet Socialist Republic considered the measures taken by the United States as unfriendly, illegal and contrary to international law. The purpose of the restrictions was to discriminate against certain missions and to place them on an unequal footing vis-à-vis other missions. The measures taken by the United States were totally at variance with the efforts by the world community to strengthen the authority of the Organization in the maintenance of international peace and security and the promotion of friendly relations among States. They urged the United States to rescind the discriminatory restrictions and to ensure normal working conditions for all missions accredited to the United Nations.

31. The representative of the United States, responding to those statements and comments, observed that in some places in the world there were travel restrictions on everyone, including local citizens. In other places there were perhaps no restrictions on anyone. The issue properly before the Committee was not the right to travel or the right of everyone to leave any country, including his own and return to his country. The issue was the ability of the United Nations and representatives of Members to function. In this connection, he recalled Article 105 of the Charter, which provided that the representatives should enjoy "such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization". The United States continued to respect the privileges and immunities of Members as set forth in the Charter, the Headquarters Agreement or the Convention on the Privileges and Immunities of the United Nations. Pursuant to Congressional action certain travel restrictions were, for reasons of national security, applied to Secretariat and mission personnel from some Member States. However, the ability of the United Nations and missions to function remained unimpaired and official travel by or on behalf of the United Nations was not affected. The United States Government remained committed to continuing to honour and fulfil its obligations as host country to the United Nations Headquarters. The United States Government saw no contradiction between its obligations as host country to the United Nations and its inherent right to take necessary legal steps to safeguard its national security.

32. The representative of the Soviet Union stated that the restriction on travel in the host country was not the essence of the problem. The essence of the matter was whether the host country could unilaterally and arbitrarily take action that affected the status of the United Nations, the Secretariat and representatives to the United Nations. Could the host country invoke the inherent right of national security to alter the status of the United Nations and representatives to the United Nations? The answer to that question was negative. The statement by the representative of the United States that greater attention would be given to matters relating to the Headquarters Agreement was noted with satisfaction. At the same time, the request by the socialist countries for a revocation of the restrictive measures had still not received an answer. The United States should reach a decision that would accommodate the wishes of the countries affected and respond to their concerns, taking into consideration the serious positive changes occurring in the international arena of openness and constructive effort. If the host country was concerned with national security, it should try to resolve such problems within the provisions of the Headquarters Agreement. Should there be disagreements over the interpretation of the Agreement, there were provisions on how to deal with such disputes. The host country's concern for the protection of its national security had to be compatible with the Headquarters Agreement. In the spirit of glasnost, the Soviet Union had recently taken measures to open up areas of the Soviet Union for unrestricted visits, without notification, by foreign ambassadors. The United States was also urged to deal with the matter in the spirit of the new changes occurring in international relations.

33. In their joint letter dated 25 July 1988 the Permanent Representative of Poland and the Chargés d'affaires of Bulgaria, Czechoslovakia and the German Democratic Republic brought to the attention of the Secretary-General the note verbale of 11 July 1988 by which the United States Mission had informed the permanent missions of the four countries, inter alia, that the travel notification according to its note of 18 May 1988 must now include also the routes of travel and overnight addresses, and that, although the Permanent Representatives of the four countries and accompanying members of their families were exempt from prior written travel notification, they would now be required to use the Foreign Missions Service Bureau for booking public transportation and accommodations. They once again called for the active assistance and intervention of the Secretary-General with the relevant United States authorities for a prompt revocation of the recent as well as previous "unlawful and discriminatory measures".

34. By its notes verbales dated 22 August and 20 September 1988, the United States Mission had advised the permanent missions of Romania and Hungary to the United Nations that similar travel regulations would be applicable, effective 29 August and 20 September respectively, to the personnel of those missions. In his letter dated 27 September 1988 addressed to the Secretary-General, the Permanent Representative of Hungary had requested the Secretary-General to intervene with the relevant United States authorities for prompt revocation of the "unjustified and unlawful restrictions".

35. The Secretary-General was also advised by the United States Mission, on 22 August and 20 September 1988, of similar travel regulations to be applied to staff members and their dependants who were nationals of Romania and Hungary, respectively. Those measures were protested by the Secretary-General in his notes verbales dated 2 and 22 September 1988.

36. The Committee resumed consideration of the host country travel regulations at its 132nd meeting, on 12 October 1988. The representative of Bulgaria restated his country's position on the matter and appealed for the Secretary-General's assistance and involvement in solving the problem. The Committee was also urged to adopt a recommendation to that effect.

37. The observer of Czechoslovakia reiterated his previously stated position on the matter. Commenting on the last note, by which the United States Mission had imposed on the Permanent Representative and his family members the obligation to utilize the Foreign Missions Service Bureau for booking public transportation and accommodations, he underlined that that step was, inter alia, a unilateral violation of the understanding reached in the matter in 1986, upon the initiative of the State Department, between Czechoslovakia and the United States. He further complained that letters had been sent by the American consul in Prague to the members of the Czechoslovak delegation to the forty-third session of the General Assembly containing an expressis verbis threat of "deportation or other sanctions" in case of non-compliance with the travel restrictions. He appealed to the Secretary-General to intervene with the host country also on the ground that similar unlawful and discriminatory measures, referred to in paragraph 33, had even been imposed on Secretariat staff members who were nationals of the countries concerned. Such impermissible interference by the host country in the internal matters of the Organization could not be tolerated and should be resolutely opposed.

38. The observer of Romania stated that his Mission had strongly protested against the unjustified and discriminatory travel restrictions imposed upon its personnel by the host country in August 1988. Those measures were particularly contradictory to the 1970 Agreement between Romania and the United States regarding a mutual lifting of the travel restrictions for diplomatic staff in the territories of the two countries. The host country was urged to revoke the restrictive measures, to discontinue its unilateral and discriminatory actions with regard to personnel of certain missions accredited to the United Nations and to fulfil entirely its international obligations under the Headquarters Agreement and the other relevant international legal instruments.

39. The representative of the Soviet Union stated that the establishment of the appropriate conditions for the normal functioning of an organization such as the United Nations required serious efforts. However, there were still problems to be resolved. The restrictive measures taken by the host country against missions of certain countries such as Bulgaria, the German Democratic Republic, Hungary, Poland, Romania, Czechoslovakia, the USSR, the Byelorussian SSR, the Ukrainian Soviet Socialist Republic, Cuba, Viet Nam and some others, as well as the discriminatory measures against officials of the United Nations Secretariat who were nationals of those countries, were illegal, selective and unfounded. Those restrictions went against the principle of sovereign equality of States, established by the Charter of the United Nations, the relevant provisions of the Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations. One could ask which would be the next country to fall into disgrace with the host country and be subjected to similar unlawful and discriminatory measures. The normal functioning of the Organization required the elimination of the measures taken against the Secretariat personnel and the representatives accredited to the United Nations. The representative of the Soviet Union hoped that the host country would take into consideration the views expressed before the Committee and revoke the offending measures. He also hoped for the Secretary-General's co-operation in the matter.

40. In response, the representative of the United States stated that the measures taken by the host country pursuant to United States law were necessary to ensure national security. Official travel on behalf of the United Nations remained wholly unaffected. United States Government fulfilment of host country obligations did not conflict with its inherent right to adopt legal measures safeguarding national security. Article 105, paragraph 2, of the Charter stipulated that "representatives of the Members of the United Nations and officials of the Organisation shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organisation". While the United States Government might be prepared to balance national interests and run certain security risks with regard to bilateral missions, the United States Government was not obliged to engender the same risks vis-à-vis United Nations missions. The United States had not and would not hamper the legitimate functions of missions accredited to the United Nations. The United States Government had never failed to respect the privileges and immunities prescribed by the Charter, the Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations.

41. The representative of the Soviet Union, referring to the statement by the representative of the United States, said that the statement was unjustified from the factual and legal standpoint, and that the discriminatory measures of a restrictive nature adopted by the host country vis-à-vis a number of missions of Member States and staff members of the United Nations Secretariat contravened the obligations of the United States under Article 105 of the Charter of the United Nations and the pertinent agreements; nor did the statement deny the discriminatory nature of the travel restrictions. He once again expressed the hope that the competent authorities of the host country would revoke the measures concerned.

42. The representative of Bulgaria stated that the only action that could satisfy his delegation would be an unconditional and total removal of the restrictions imposed. There was obviously a complete difference in the interpretation between Bulgaria and the host country, which clearly showed the existence of a dispute. Therefore, the dispute should be put before the Secretary-General for recourse action under the existing mechanisms and the Committee should make the necessary recommendations.

43. The observer of Czechoslovakia wondered how the United States could claim that the measures, which included the possibility of deportation of eminent persons in the respective delegations, were considered by the representative of the host country as compatible with its international obligations. He hoped that the Secretary-General would play a more active role in the matter.

44. The observer of Romania rejected the explanations given by the representative of the United States. Romanian diplomats had never violated the security of the United States. He appealed to the United States to revoke the measures.

45. The United States representative restated the United States position on the matters under discussion. The members of the Committee were also assured that those observations would be transmitted to the United States Government.

46. The Legal Counsel assured the Committee that he would transmit the appeals expressed in the Committee to the Secretary-General. The Secretary-General had the question before him both in connection with the members of missions to the United Nations and in connection with the members of the Secretariat. The Secretary-General would continue to search for a solution to the problem.

47. The Permanent Representatives of Bulgaria, Czechoslovakia, the German Democratic Republic and Poland addressed another letter to the Secretary-General, dated 4 November 1988, in which they appealed again for his active assistance and intervention with the relevant United States authorities for the prompt revocation of the unlawful and discriminatory measures. Since their own direct appeals had not met with any positive answer from the host country, the four Permanent Representatives in their last letter invited the Secretary-General to share any information on the reaction of the host country following his intervention in that respect.

3. Entry visas issued by the host country

48. At the 129th meeting, on 5 May 1988, the observer of the Libyan Arab Jamahiriya complained about the delays of up to three weeks by the host country in the issuance of visas for members of the Libyan delegation to attend official United Nations meetings. The head of his mission was subject to the same delays. He had requested a visa upon his departure from the United States on an urgent mission. Ten days had elapsed, but he had still not received a visa. Although the Economic and Social Council had been in session for one week, members of the Libyan delegation to the Council were still awaiting their visas and thus were unable to attend the meetings of the Council.

49. The United States representative noted the long-standing United States Government policy requiring 10 to 15 working days for the processing of single entry visas. He requested information regarding specific instances where Libyan delegation members had waited more than 15 working days to obtain a visa.

50. The Soviet representative pointed out that the complaint by the observer of the Libyan Arab Jamahiriya had a sound foundation. The question of the timely issuance of visas was an important one for missions, especially since some organs of the United Nations decided to hold their meetings on short notice.

51. The 131st meeting, held on 23 September 1988, was devoted solely to the consideration of a letter dated 22 September 1988 addressed by the Permanent Representative of Nicaragua to the Chairman of the Committee. In that letter attention was drawn to certain difficulties that had arisen with regard to the issuance by the host country of visas for members of the Nicaraguan delegation to the forty-third session of the General Assembly.

52. The observer of Nicaragua stated that his country denounced the refusal by the United States Government to grant entry visas to a significant number of members of the Nicaraguan delegation to the current session of the General Assembly to be headed by President Ortega. Among the key members who had been denied visas were the Minister of Information and Press Relations, the President's personal physician, his chief of protocol, the First Lady and the President's children. The conduct of the United States constituted a flagrant violation of the relevant international norms. The United States Government had disregarded not only the provisions of the Headquarters Agreement between the United States and the United Nations but also the sovereign right of each Member State to determine the composition of its delegation to the General Assembly. In the light of that action, President Ortega had been obliged to cancel his visit to the General Assembly.

53. The representative of the United States said that President Ortega's hasty decision not to participate in the General Assembly, when he and most of the members of his delegation had received their visas, proved that he was more interested in creating propaganda than in taking part in an extremely important meeting of the General Assembly. The Chargé d'affaires of the United States Embassy in Nicaragua had informed the Government of Nicaragua in writing on 19 August 1988 that, owing to major Embassy staff reduction, the processing of visa requests from individuals travelling to international organizations required 15 working days. On 8 September, the Chargé d'affaires had again reminded the Nicaraguan Government that the processing of the visa requests for members of its delegation to the General Assembly would take 15 days. On 13 September, the Government of Nicaragua had submitted visa requests for entry into the United States on 24 September. The Embassy had expedited the procedure, granting visas to the President, his security officers, the Minister for Foreign Affairs and several high-level officials of the Ministry of Foreign Affairs. The procedural requirement that visa applications be submitted a reasonable period in advance of planned travel was completely consistent with United States government obligations under the Headquarters Agreement. The maximum 15 working-day period for processing visa requests was applied to many other countries where circumstances preclude a shorter time period. The American Embassy in Managua has been reduced to a skeleton staff. Under those circumstances the Chargé d'affaires had no alternative but to transfer most of the United States government consular officers to other sections of the Embassy in order to perform the bare minimum of diplomatic duty.

54. With reference to the comments made by the representative of the United States, the observer of Nicaragua explained that President Ortega's decision not to participate in the General Assembly was in response to the United States refusal to grant visas to the support staff of his delegation, which was essential to a head of State for the exercise of his rights and duties at the United Nations. As stipulated in the Headquarters Agreement, the provisions of section 11 should apply regardless of the relations between the Government concerned and the host country. Consequently, the United States decision constituted totally unacceptable interference. Such an action could set a serious precedent and amounted to giving the United States indirect veto power over the composition of presidential delegations. The Committee should take an unequivocal stand with respect to an attitude that was a dangerous precedent for the United Nations.

55. The representative of the United States denied that the United States attempted to influence the composition of the Nicaraguan delegation to the General Assembly. Sixty-seven individuals had requested visas. Thirty visas had been authorized and delivered before President Ortega had announced that he would not participate in the session. The remaining 37 visas were under consideration and would probably be granted. The United States had scrupulously and consistently complied with its obligations as host country and was not in any way attempting to influence the composition of the Nicaraguan delegation. There was no question that President Ortega had the right to speak before the General Assembly.

56. The observer of Nicaragua noted that the representative of the United States seemed to want to remain on the procedural side of the problem rather than address the core of it.

57. The representative of the United States reiterated that in no case had it required more than 15 working days to issue visas to the Nicaraguan delegation. The Government of Nicaragua had received advance notice at least twice. The

Nicaraguan Government itself had created an obstacle since it had not respected the 15-day processing period.

58. In concluding the exchange of views on the matter, the Chairman of the Committee made the following statement:

"I am sure that I express the sentiments of all the members of the Committee when I say that this Committee regrets that the President of Nicaragua has felt obliged to cancel his visit to the forty-third session of the General Assembly. Mindful of the obligations incumbent upon the host country under sections 11 to 13 of the Headquarters Agreement to issue visas as promptly as possible, the Committee has taken note of the statements made by the representatives of Nicaragua and the host country. The Committee appeals to the host country to continue to expedite its efforts for the issuance of visas to the members of the delegation of Nicaragua to the forty-third session of the General Assembly."

4. Acceleration of immigration and customs procedures

59. At the 129th meeting of the Committee, the Chairman welcomed the special entry lines for diplomats at the main International Arrivals Terminal at the John F. Kennedy International Airport. He expressed the hope that similar lines could also be established at other international arrival terminals of that airport.

60. The representative of the United States clarified that the special lines had been established on an experimental basis with the hope that they would become a permanent feature. He commended the New York City Commissioner to the United Nations and Consular Corps for her participation in these efforts.

61. At the 132nd meeting, the representative of Spain stressed the importance of accelerating immigration and customs formalities. He appreciated the host country's efforts to improve the situation. However, certain problems remained to be solved. He asked the host country to continue to show good will.

62. The representative of France supported the statement made by the representative of Spain and joined in his appeal to the host country.

63. In response to those appeals, the representative of the United States declared that the host country acknowledged the existence of difficulties at Kennedy Airport. Essential security measures had been increased at airports throughout the world; all countries were involved in the fight against terrorism, drug trafficking and other criminal activity. She requested delegations' patience and offered 24-hour-a-day United States Mission services whenever United Nations missions faced conditions necessitating exceptions or special assistance.

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

64. At the 132nd meeting, on 12 October 1988, the representative of Canada noted that the question of the possible creation at Headquarters of a commissary for diplomatic personnel and Secretariat officials had been listed for the third time on the Committee's agenda. He wished the Secretariat or a host country representative would explain to the Committee why the matter posed a problem,

65. The Chairman of the Committee explained that he had requested a study on the possibility of setting up a commissary. The study would be distributed in the near future. The establishment of such a service would be in the interest of the diplomatic corps, the Secretariat and the host country.

66. Responding to those comments, the representative of the United States asserted that the United States, as a host country, had no objection to creation of a commissary. She understood there was a problem regarding available space at the United Nations.

6. Advisory opinion of the International Court of Justice of 26 April 1988

67. The observer of the PLO at the 129th meeting of the Committee referred to the advisory opinion given by the International Court of Justice on 26 April 1988 in response to the request of the General Assembly contained in resolution 42/229 B of 2 March 1988. 2/ He noted the view of the Court that there was a dispute between the United States and the United Nations concerning the interpretation or application of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, dated 26 June 1947. The Court had unanimously decided that the host country, as a party to the 1947 Headquarters Agreement, was under an obligation, in accordance with section 21 of that Agreement, to enter into arbitration for the settlement of the dispute between itself and the United Nations. Unfortunately, the United States court in which the host country authorities had lodged a lawsuit against the PLO observer mission to the United Nations was not considering the advisory opinion of the International Court of Justice. The observer of the PLO expressed the view that the General Assembly should take note of the advisory opinion at its resumed session.

68. The representative of the Soviet Union supported the view that it was important for the United States to respect its international obligations under the Headquarters Agreement and that the matter merited a resumed session of the General Assembly. At the same time, it was necessary to support the legitimate request of the representative of the PLO that the General Assembly be informed of the important advisory opinion given by the International Court of Justice on 26 April 1988.

69. The proposal that the General Assembly take note of the advisory opinion of the Court at its forthcoming meeting on the matter was also supported by the representatives of Iraq and Bulgaria.

70. The representative of the United Kingdom observed that it was a normal procedure and in accordance with precedents for the advisory opinions of the International Court of Justice to be noted by the General Assembly when they were delivered. The suggestion by the observer of the PLO was a timely one.

C. Question of privileges and immunities

71. At the 129th meeting, the representative of the United States drew the Committee's attention to two recent incidents in Paramus, New Jersey. Two non-diplomatic individuals, a spouse of a member of the staff of a mission and a Secretariat staff member, had evaded legal process regarding shop-lifting charges

lodged against them. Both individuals unfortunately had left the United States rather than answer the charges. Actions by missions to spirit their nationals away did not serve the diplomatic community as a whole. The representative of the host country appealed to missions to co-operate with the United States Mission in the event of such incidents. He expressed the hope that at least one of the individuals, the Secretariat employee, would return from leave and face the court summons.

72. With regard to the matters mentioned by the representative of the United States, the representative of the Soviet Union expressed the view that, even after holding extensive discussions with United States prosecutors, the question of how to protect diplomats and non-diplomatic staff of missions remained an unresolved question. He further wondered whether the Secretariat could find a solution as to how to protect United Nations staff members in such incidents. He also wondered how one could be sure that a prejudicial attitude did not prevail in the courts of the host country owing to the general hostile atmosphere surrounding foreign diplomats. Those matters should be discussed in order to ensure that foreign nationals received fair treatment.

73. The representative of the United States explained that in his country an accusation against an individual did not connote innocence or guilt. Once the individual concerned appeared in court, the judicial process would determine guilt or innocence. However, the presumption of innocence remained until guilt was proven beyond a reasonable doubt.

74. At the 133rd meeting, on 16 November 1988, the representative of the Soviet Union noted that the Committee did a considerable amount to preserve as favourable an atmosphere as possible around the United Nations. The Committee repeatedly expressed concern over attempts to spread negativity in the mind of the public about the United Nations, its Secretariat and the missions accredited to it. He informed the Committee of a recent case involving an international civil servant of the United Nations Secretariat who, while on his way to work and on the grounds of the United Nations Headquarters, had been the victim of crude harassment by two representatives of a private television company. A reporter and a cameraman were clearly trying to besmirch the good reputation of a Secretariat staff member and to cast doubts on international civil servants and on the United Nations in general. Such behaviour, in its form and content, prompted one to think that this had been a premeditated provocation. The investigation of that incident and actions on the victim's complaint fell within the competence of the Secretariat administration. By that specific example, he hoped to show how much alive in the minds of some people the stereotypes were of a prejudiced, negative attitude toward the United Nations and its Member States, and how extremely important it was, therefore, to continue joint efforts to overcome them.

75. The Legal Counsel stated that the staff member in question had informed the competent organs within the Secretariat about the incident, which was being investigated.

D. Transportation: use of motor vehicles,
parking and related matters

76. At the 129th meeting, on 5 May 1988, the representative of Côte d'Ivoire stated that, since January 1988, a broken New York City water-main had caused flooding in the premises of the Côte d'Ivoire Mission. As the Mission had been unable to function because of the flooding, it had been obliged to move temporarily to new premises in an area where virtually all parking was prohibited. The Mission's vehicles and those of the diplomats which were parked temporarily in front of the new premises were receiving at least three tickets a day for illegal parking. The representative of Côte d'Ivoire was worried that, at that rate, the Mission was likely to break all records for parking violations. He therefore expressed the hope that the City of New York would find a solution to the parking problem, which was a purely temporary one.

77. In reply, the representative of the United States said that the area between forty-second and fifty-ninth streets and Second to Fifth Avenues was a zone where New York City had eliminated designated parking spaces. He suggested that New York City issue temporary parking permits to missions located in the "frozen" zone. He additionally requested Commissioner Sorensen's assistance in New York City efforts to locate substitute parking immediately outside the "frozen" area.

78. The observer of Rwanda complained about lack of a parking space for his Mission. The Mission was in an area where parking space was extremely limited and diplomats received an average of four parking tickets a day. Some diplomats had received notices from the United States courts to pay fines. He asked what could be done about the situation.

79. The representative of the United States reminded the Committee that each mission was allotted two parking spaces by New York City traffic authorities. If the Rwandan Mission did not have any parking space, the matter should be brought to the attention of the New York City Commission to the United Nations and Consular Corps.

80. The New York City Commissioner to the United Nations and Consular Corps sympathized with the missions' parking problems. She was carrying on a continuing debate on their behalf with the relevant New York City authorities. She invited missions to come to her office so that she could find possible alternative arrangements for them. While permanent representatives and their deputies must have parking spaces near the mission, it was suggested that less senior officials might consider taking a bus or parking in the United Nations garage.

IV. RECOMMENDATIONS AND CONCLUSIONS

81. At its 134th meeting, on 23 November 1988, the Committee approved the following recommendations and conclusions:

(a) 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 further notes the continued need for effective preventive actions.

(b) The Committee urges the host country to take all necessary measures in order to continue to prevent any criminal acts, including harassment and activities violating the security of missions and safety of their personnel, or the inviolability of their property, for the normal functioning of all missions.

(c) The Committee urges the host country 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. To this end the Committee reminds representatives of Member States, observers and United Nations Secretariat employees of the necessity of reporting to the United States Mission to the United Nations, in a timely manner, such criminal acts directed at them in order that the host country may be able to respond.

(d) Regarding 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 reiterates its requests to the parties concerned to follow consultations with a view to reaching solutions to this matter in accordance with the Headquarters Agreement and in the spirit of co-operation.

(e) The Committee considered the travel regulations issued by the host country with regard to personnel of certain missions and staff members of the Secretariat of certain nationalities. The Committee takes note of the positions of the affected Member States, of the Secretary-General and of the host country. The Committee urges the host country to continue to honour its obligations to facilitate the functioning of the United Nations and the missions accredited to it.

(f) The Committee calls upon the host country to avoid actions not consistent with effectively meeting 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.

(g) With a view to facilitating the course of justice, the Committee 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.

(h) 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 those outstanding difficulties.

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

(j) The Committee stresses the importance of a positive perception of the work of the United Nations. The Committee expresses concern about a negative public presentation of the Organization and therefore urges that efforts be continued and intensified to build up public awareness, through all available means, of the importance played by the United Nations and the missions accredited to it for the strengthening of international peace and security.

(k) The Committee wished to reiterate its appreciation to the Host Country Section of the United States Mission to the United Nations, 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.

(l) 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.

Notes

1/ The text of the note verbale and of the subsequent correspondence between the Secretary-General and the United States Mission on the matter was issued in information circular ST/IC/88/57 of 27 September 1988 entitled "Host country travel regulations".

2/ See also A/42/915 and Add.1-5.

Annex

LIST OF DOCUMENTS

(5 January 1988-28 September 1988)

- A/42/905 Letter dated 14 December 1987 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General
- A/42/952 Note by the Secretary-General transmitting the advisory opinion given by the International Court of Justice on 26 April 1988
- A/42/956 Letter dated 9 June 1988 from the Permanent Representatives of Bulgaria, Czechoslovakia, the German Democratic Republic and Poland to the United Nations addressed to the Secretary-General
- A/42/958 Letter dated 25 July 1988 from the representatives of Bulgaria, Czechoslovakia, the German Democratic Republic and Poland to the United Nations addressed to the Secretary-General
- A/C.6/43/3 Letter dated 23 September 1988 from the Permanent Representative of Nicaragua to the United Nations addressed to the Secretary-General
- A/C.6/43/6 Letter dated 4 November 1988 from the Permanent Representatives of Bulgaria, Czechoslovakia, the German Democratic Republic and Poland to the United Nations addressed to the Secretary-General

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