



REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY

Addendum

1. At the 134th meeting of the Committee on Relations with the Host Country, on 23 November 1988, the observer of the Palestine Liberation Organization (PLO) drew the Committee's attention to the fact that on 8 December 1988 the General Assembly would begin its debate on Palestine, and Mr. Yasser Arafat, the Chairman of the PLO, intended to participate in that debate and in particular to make an opening statement. Mr. Arafat and his party would be sending their passports and the appropriate forms to the United States Embassy at Tunis on 25 November 1988. He expressed the hope that those passports and forms would be processed promptly and that the travel and access by Mr. Arafat to the United Nations would be facilitated.
2. The representative of Iraq expressed the view that there would be no problem with holding a meeting of the Committee at short notice, if necessary, regarding the granting of a visa for Mr. Arafat.
3. The Chairman of the Committee confirmed that the Committee was always ready to meet should situations arise that required its urgent attention.
4. On 28 November 1988, at the urgent request of Iraq, the Committee considered, at its 135th and 136th meetings, the question of the denial by the United States Secretary of State of the visa application of Mr. Yasser Arafat, which had been made in order to permit Mr. Arafat to attend the forty-third session of the United Nations General Assembly.
5. At the 135th meeting, the representative of Iraq deplored the denial by the host country of the visa for Mr. Arafat. Such a decision was in violation of the host country obligation under section 11 of the Headquarters Agreement of 1947. A dangerous precedent would have been set if the decision were not revoked. The host country had taken upon itself the right to decide who should and who should not come to the United Nations. He further expressed the view that the Committee and the General Assembly should take a clear-cut position on his matter. They should reject the decision completely and appeal to the host country to comply with its obligations under international law.
6. The representative of France stated that as soon as his Government had learned of the United States decision, it had requested the host country to reconsider its position. Such a position was not in conformity with the Headquarters Agreement. The visit to the United Nations of Mr. Arafat was most desirable at this time. He appealed to the United States to reconsider its decision.
7. The representative of Spain expressed the concern of his Government at the fact that the host country, by denying a visa, prevented the Chairman of the PLO from appearing before the General Assembly to deal with matters that the Organization itself had been established to discuss. After recalling General

Assembly resolution 3237 (XXIX) of 22 November 1974, which granted observer status to the PLO and invited it to participate in the work of the Assembly, he stated that the Headquarters Agreement contained clear and unequivocal provisions regarding the host country's obligation not to deny persons invited by the United Nations access to the Headquarters district. Compliance with those obligations was imperative and indispensable, and for Spain a matter of primary importance that could not be avoided. The Spanish Government, along with the Governments of the European Community, had welcomed the positive developments represented by the resolutions recently adopted by the Palestine National Council, and was concerned that the new situation might have an adverse effect on the development of initiatives to attain peace in the Middle East. On behalf of his Government, he urged the host country to reconsider its position and take a decision that was fully in accordance with the provisions of the Headquarters Agreement.

8. The representative of Bulgaria supported the views expressed by the preceding speakers. The decision by the United States represented a serious and clear-cut violation of the Headquarters Agreement and the relevant resolution of the General Assembly granting observer status to the PLO. Mr. Arafat had the right to be heard by the United Nations. The United States decision was unacceptable. The host country should be urged to reconsider the decision and to ensure that Mr. Arafat was allowed to attend the Assembly session during its discussion of the Palestine question. Violation of the Headquarters Agreement was a very serious matter.

9. The representative of the Union of Soviet Socialist Republics said that the question was important and urgent. He supported the views expressed that the United States action could only give rise to the greatest concern. He also fully supported the statements by the Secretary-General and the President of the forty-third session of the General Assembly on this subject. The Headquarters Agreement provided that no obstacles should be placed to the travel to Headquarters of persons on United Nations business. It contained the relevant provisions for the participation of all invited to the United Nations as observers. A gross violation of sections 11, 12 and 13 of the Agreement had been perpetrated. The host country should immediately review its decision, taken at a time when there was a growing trend towards a process for peace in the Middle East. The Palestinian question was the crux and heart of that situation. He appealed to the United States authorities to reconsider their illegal decision and to allow Mr. Arafat to address the General Assembly.

10. The representative of China stated that the decision by the United States was in violation of the Headquarters Agreement and was not conducive to a settlement of the Middle East question. The United States had an obligation not to impose any impediments to persons invited to the Headquarters on official business. The refusal by the United States to issue a visa for so-called security reasons was in violation of the Agreement. The Palestine question was the core of the Middle East question, which the international community wished to see settled. He hoped the United States would reconsider its decision. China supported the statements of the President of the General Assembly and the Secretary-General on this matter.

11. The observer of the Palestine Liberation Organization reminded the members of the Committee that the initial request for visas for the PLO Chairman and his colleagues had been made on 8 November, not 24 November. On 25 November, the necessary documents had been presented at the United States Consulate in Tunisia. The United Nations Legal Counsel later informed the PLO that he had not been contacted with regard to the request for visas. Resolution 3237 (XXIX) of

22 November 1974, which granted the PLO observer status, provided the PLO with the right to nominate its delegation to the United Nations. Consequently, it was expected that the host country would abide by that resolution. According to the Headquarters Agreement, the United States did not have the right to decide who could enter the country in connection with the Organization's work. Therefore, the United States was violating its obligations under sections 11, 12 and 13 of the Headquarters Agreement. At a time when the Palestine National Council had adopted a very positive stand, its Chairman was carrying an important message to reach the United States Administration. The important question was whether it could be done within 48 hours. It was the responsibility of the United States to permit the Organization to carry on with its work.

12. The representative of the United Kingdom of Great Britain and Northern Ireland stated that he would have liked to hear Mr. Arafat confirm to the General Assembly that the PLO wished for an international conference on the basis of Security Council resolutions 242 (1967) and 338 (1973), and rejected terrorism. The decision of the Palestine National Council had been a modest, but a significant step forward. He looked to the Palestinians and Arab Governments to carry the process forward, and to Israel to show a constructive response. He understood that the United States had serious concerns, but hoped that a way could be found for Mr. Arafat to speak to the Assembly.

13. The representative of the United States of America stated that the United States had always taken its host country responsibilities seriously, and continued to do so. Over the years, visas had been issued to thousands who otherwise, under United States law, would not have been able to come. The PLO had been invited in 1974 to participate as an observer. The United States had acknowledged its responsibilities in that regard, issuing visas to observers from the PLO, notwithstanding any policy differences between the two. The United States had been scrupulous in respect of its obligation under the Headquarters Agreement. The United States had the right to protect its national security. The host country was not expected to accept the entry of every individual to the Headquarters district; it had the right to deny visas in some cases. That had happened in several situations, including in 1954 with an Iranian citizen who had been convicted of an attempt to kill the Shah. Individuals associated with the "hostage incident" in Iran had been excluded with no objection. Similar denials had occurred in 1981, 1982, 1983, 1984, 1985, 1986 and 1988. There was no objection to this United States position, which had been reconfirmed by United Nations practice. In the case under discussion, there was evidence that the PLO had engaged in terrorism against the United States after that organization forswore terrorism in 1985. Having evidence that Mr. Arafat knew of and condoned terrorism against the United States, the United States Government had denied him a visa, which was consistent with the Headquarters Agreement, which the United States had accepted. The United States would continue to take its responsibilities as the host country most seriously.

14. With reference to the cases of denials of visas with the alleged United Nations acquiescence in the past, referred to in the statement by the representative of the United States, the observer of the PLO stated that in this particular case the United Nations had not acquiesced.

15. The Committee continued its consideration of the question of the denial of Mr. Arafat's visa application at its 136th meeting, on 28 November 1988.

16. The representative of Canada stated that his Government was concerned about the United States decision not to grant a visa to Mr. Arafat and was in the process of communicating that concern to the United States authorities. Canada believed it was more important than ever for the views of the PLO to be heard by the General Assembly.

17. The representative of Costa Rica stated that her Government shared the concerns expressed by the Secretary-General and the President of the General Assembly regarding the action taken by the United States. It understood, however, the reasons given by the United States authorities. Costa Rica had maintained a firm stand against terrorism. Her delegation joined in the appeal to the United States to reconsider its decision.

18. The representative of Mali said that his delegation had noted with deep concern the decision by the United States Government to oppose the visit to New York of Mr. Yasser Arafat, Chairman of the Palestine Liberation Organization, to participate in the work of the forty-third session of the United Nations General Assembly. The refusal by the host country to grant an entry visa to Mr. Arafat was a violation of the provision of sections 11 to 13 of the Headquarters Agreement of August 1947, and came after Algiers, where the Palestinian leadership had taken important decisions in favour of peace. That process should be encouraged. It was against that background that his delegation appealed to the United States Government to reconsider its position so as to enable active and high-level participation by the PLO in the work of the session.

19. Speaking as an observer on behalf of the Group of Arab States, the representative of Jordan said that Arab countries condemned the decision taken by the host country not to grant a visa to Mr. Arafat. That decision constituted a clear violation of the host country's obligations under the Headquarters Agreement and was an impediment to peace efforts in the Middle East. Members and observers could constitute their delegations as they saw fit. The Arab Group hoped that the Assembly would adopt a decision stating that the United States action was a violation of the Headquarters Agreement and appealing for its revocation in order to allow Mr. Arafat to address the General Assembly.

20. The Legal Counsel confirmed that a visa request for Mr. Arafat, Chairman of the PLO, was presented to the Secretary-General on the afternoon of 8 November 1988. The visa request stated explicitly that the purpose of Mr. Arafat's visit was to participate in the work of the forty-third session of the General Assembly. The note was transmitted by him to the United States Mission on 9 November 1988. In transmitting this request he had drawn attention to the fact that the note was worded in exactly the same way as the normal PLO visa requests, that Mr. Arafat was designated therein as the Chairman of the Executive Committee of the Palestine Liberation Organization and that the purpose of Mr. Arafat's visit was to participate in the work of the forty-third session of the United Nations General Assembly. The request, therefore, fell under sections 11, 12 and 13 of the Headquarters Agreement. The Headquarters Agreement did not contain a reservation of the right to bar the entry of those who represent, in the view of the host country, a threat to its security, as mentioned in the Determination by the Secretary of State dated 27 November 1988. There was a difference of opinion between the United Nations and the United States on the legal character and validity in international law of the so-called security reservation contained in section 6 of Public Law 80-357. That difference had surfaced occasionally. In the present circumstances, it sufficed to refer to the wording of section 6, whatever

the international legal character of that proviso might be, which spoke of the need to "safeguard its own security and completely to control the entry of aliens into any territory of the United States other than the Headquarters District and its immediate vicinity and such areas as it is reasonably necessary to traverse in transit between the same and foreign countries" (emphasis added). Mr. Arafat's visa application was precisely to visit the Headquarters District and nothing else. The application thus fell within the scope of section 11, within the scope of the exception provided for in section 13 (d) of the Headquarters Agreement and within the area left open by section 6 of Public Law 80-357. The statement of the Department of State did not make the point that the presence of Mr. Arafat at the United Nations would per se in any way threaten the security of the United States. With reference to the assertion by the United States that the host country had the right to decline the issuance of visas and that the United Nations had, on a number of occasions since 1954, acquiesced in such a practice, the Legal Counsel stated that the United Nations had not acquiesced in such a practice. He further expressed the opinion that the host country had been and was under an obligation to grant the visa request of the Chairman of the PLO, an organization that has been granted observer status by the General Assembly.

21. The representative of Iraq supported the statement made by the Legal Counsel and in particular its conclusion that the United States was in violation of the Headquarters Agreement. The Committee should go on record in support of the statement by the Legal Counsel and should call on the United States to rescind its action. The matter should be dealt with expeditiously.

22. The representative of Senegal expressed his country's concern at the refusal by the United States to grant a visa to Chairman Yasser Arafat. That decision constituted a regrettable non-fulfilment of obligations to which the United States had solemnly subscribed under the Headquarters Agreement. Senegal appealed to the United States to reconsider its action. Senegal, which chaired the Committee on the Exercise of the Inalienable Rights of the Palestinian People, consider that the Algiers decisions of the Palestine National Council had opened the way for the peace process in the Middle East.

23. The representative of Honduras joined in the appeal for the granting of a visa for Mr. Arafat, believing that his participation in the General Assembly debate on Palestine would give a better understanding of the evolution of the Middle East problem. That was especially so now when one of the parties involved seemed to offer a position that could become a constructive one for the peace efforts.

24. The representative of the United States responded that the Government of the United States did not share the view of the Legal Counsel with respect to the provisions of the Headquarters Agreement relating to matters of security. The United States also had a different view with respect to other parts of the Legal Counsel's statement but would not go into detail at the present meeting. The position of the United States on the matter was well known. She also pointed out that the PLO had not been prevented from expressing its views at the United Nations.

25. In summing up the exchange of views on the matter under discussion, the Chairman, after consultations held within the Committee's Bureau and with other interested delegations, made the following statement:

"At its 135th and 136th meetings, the Committee heard statements by members of the Committee, observers of Member States, the observer of the Palestine Liberation Organization and the Legal Counsel of the United Nations concerning the Determination by the Secretary of State of the United States denying the visa application of Mr. Yasser Arafat, Chairman of the PLO, to enable him to attend and participate in the forty-third session of the United Nations General Assembly.

"Taking into account those statements, in my capacity as Chairman of the Committee on Relations with the Host Country I wish to sum up as follows:

(a) The vast majority of speakers were of the opinion that the denial of the application for a visa by Mr. Arafat is a violation of the United States obligations under the Headquarters Agreement. In this regard these speakers concurred with the statements issued by the Secretary-General and the President of the General Assembly.

(b) The United States restated its position that its actions were fully consistent with the facts of the situation, with its obligations under the Headquarters Agreement, and with existing practice.

(c) The vast majority of those who spoke were of the opinion that the host country should be asked to urgently review and reverse the decision taken with respect to Mr. Arafat, to enable him to participate in the General Assembly debate as scheduled."

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