

United Nations Headquarters Agreement

Source: *The American Journal of International Law*, Vol. 42, No. 2 (Apr., 1948), pp. 445-447

Published by: [American Society of International Law](#)

Stable URL: <http://www.jstor.org/stable/2193692>

Accessed: 02/06/2014 13:46

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## UNITED NATIONS HEADQUARTERS AGREEMENT

The United Nations Headquarters Agreement was negotiated with the United States by the Secretary-General under authority of a General Assembly resolution.<sup>1</sup> It was signed on 26 June 1947 and submitted by the Secretary-General to the General Assembly.<sup>2</sup> The Agreement was referred to the Sixth Committee for consideration as to the question whether the Secretary-General should be authorized to proceed with an exchange of notes to bring the agreement into force. After a general discussion on 24 September 1947 the Sixth Committee in turn referred the Agreement to Sub-Committee 1 for deliberation and report.<sup>3</sup>

The Sub-Committee confined its study to the text of the Agreement, and to a comparison with the preliminary draft Agreement negotiated prior to the location of the permanent headquarters site in New York City.<sup>4</sup> The selection of a small mid-town site in place of the large rural area originally envisaged rendered necessary certain adaptations, and most of the changes noted by the Sub-Committee were designed to meet these altered circumstances. Other changes incorporated in the present agreement represent improvements, from the point of view of the United Nations, in matters of telecommunication, establishment of postal service, and transit of invitees to the headquarters district.<sup>5</sup>

However in Section 13 of the Agreement a new element is introduced which gives to the United States Government the right to require an official of the United Nations or a representative of a Member Government to leave the territory of the United States in case of abuse of privileges in matters outside official duties.<sup>6</sup> Sub-Committee 1 construed these provisions to mean that before any person can be required to leave the country on charges of abuse of privilege, "there must be really serious grounds, which would preclude the possibility of unwarranted accusations against such a person."<sup>7</sup> Where the individual concerned possesses diplomatic immunity it is specifically stated in the Agreement that he shall be required to leave the United States "otherwise than in accordance with the customary procedure applicable to diplomatic envoys accredited to the United States."<sup>8</sup> It should be obvious, however, that the principle of *persona non grata* does not apply under the provisions of this section.<sup>9</sup>

The Headquarters Agreement provides that its provisions are to be complementary to those of the General Convention on Privileges and Im-

<sup>1</sup> Resolution 99(I), 14 December 1946.

<sup>2</sup> UN Doc. A/371, 3 September 1947.

<sup>3</sup> UN Doc. A/C.6/SR.36, 24 September 1947.

<sup>4</sup> UN Doc. A/371, 3 September 1947, and Doc. A/67, 1 September 1946.

<sup>5</sup> UN Doc. A/371, pp. 11, 12, 13, 3 September 1947.

<sup>6</sup> UN Doc. A/427, p. 13, 27 October 1947.

<sup>7</sup> Same, p. 4.

<sup>8</sup> Section 13 (b) (3).

<sup>9</sup> See UN Doc. A/371, p. 6, 3 September 1947, for Secretary-General's comment.

munities of the United Nations "as acceded to by the United States."<sup>10</sup> As indicated in the report of the Sub-Committee, certain points in connection with matters covered by the General Convention were raised in the course of the Sub-Committee's deliberations owing to the fact that the United States had not yet acceded to this General Convention.<sup>11</sup> Particular concern was expressed concerning the probability, as indicated by correspondence from the United States, that certain reservations would be made to Section 18, paragraphs (a) and (b) of the General Convention on Privileges and Immunities. The paragraphs provided that United Nations officials should be exempt from taxation upon salaries and emoluments paid by the United Nations, and should be immune from national service. It was thought by the Sub-Committee that the United States would probably make reservations concerning these exemptions so far as they applied to American nationals. With regard to the immunity from national service, the Sub-Committee was of the opinion that if complete exemption could not be obtained, it was most desirable that there should be no possibility of the work of the United Nations being hampered by the calling of such officials. This point was commended for further discussion between the Secretary-General and the United States Government.<sup>12</sup>

Some other aspects of the Headquarters Agreement may be briefly reviewed. Article III deals with the Law and Authority in the Headquarters District. The control and authority of the United Nations is postulated, but federal, state and local laws of the United States continue to apply within the district, subject to the right of the United Nations to alter them by regulations necessary to the full execution of its functions.

The inviolability provisions of Section 9 will operate in addition to the immunities granted in the General Convention, but no right of asylum is recognized. Under Section 10 the United Nations may expel or exclude persons from the headquarters for cause. Section 19 provides that no form of racial or religious discrimination shall be permitted within the district.

Disputes arising between the United Nations and the United States concerning the interpretation or application of the Agreement are to be submitted to an arbitral tribunal established in accordance with the provisions of Section 21. These disputes specifically include questions of the applicable law under Article III mentioned above. Either the Secretary-General or the United States may ask the General Assembly to request an advisory opinion from the International Court of Justice on any legal question rising out of the course of proceedings before the arbitral tribunal. The tribunal is to render the final decision "having regard to the opinion of the Court."

<sup>10</sup> See Sections 26 and 1(c). For General Convention see UN Doc. A/64, p. 25 (Resolution XIII (6), 13 February 1946).

<sup>11</sup> UN Doc. A/C.6/172, p. 4, 17 October 1947.

<sup>12</sup> UN Doc. A/C.6/172, p. 5, 17 October 1947.

The draft resolution submitted by the Sub-Committee for the purpose of bringing the Agreement into immediate effect was approved unanimously by the Sixth Committee on 23 October 1947 and adopted by the General Assembly on 31 October 1947.<sup>13</sup> As the Congress of the United States had already given its approval by joint resolution on 4 August 1947, the Agreement was brought into force by the necessary exchange of notes on 21 November 1947. Applicable provisions were extended to the interim headquarters site at Lake Success by the United States Government on 18 December 1947.

Almost immediately an incident occurred involving the application of the Headquarters Agreement. In December 1947, two newspaper correspondents accredited to the United Nations were arrested by United States authorities and detained for deportation as alien communists. Officials of the United Nations intervened on their behalf, citing Sections 11 and 13 of Article IV of the Headquarters Agreement.<sup>14</sup> Section 11 extends transit privileges to representatives of the press, or of radio, film or other information agencies, who have been accredited by the United Nations . . . in its discretion after consultation with the United States. According to Section 13, American laws and regulations regarding aliens are not to be applied so as to interfere with the privileges granted in Section 11.

The State Department objected that the correspondents, Kyriazidis, representing the newspaper *Demokratis* of Nicosia, Cyprus, and Hasan, representing the *People's Age* of Bombay, were re-accredited by the United Nations without consultation with the United States as provided in Section 11 of the Headquarters Agreement. The United States Government therefore did not consider them *bona fide* journalists.<sup>15</sup>

There also was some doubt expressed in the case of Kyriazidis whether the Agreement was applicable since he had been arrested on December 17, the day prior to the extension of the privileges to the Interim Headquarters by the United States Government.<sup>16</sup>

It was subsequently agreed that the two men should be released, but the United States suggested that to avoid any further misunderstandings the entire list of representatives of the press, radio, film and other informative agencies accredited by the United Nations in its discretion should be reviewed by the United Nations in consultation with the United States so as to bring all *bona fide* representatives clearly under the protection of the Agreement.<sup>17</sup> Discussions along the lines suggested have since begun.

<sup>13</sup> UN Doc. A/PV/101, pp. 82-90, 31 October 1947.

<sup>14</sup> UN Press Release M/361, 22 December 1947, and M/362, 23 December 1947.

<sup>15</sup> Note from the United States Mission to the United Nations, 18 *Department of State Bulletin*, p. 48, 11 January 1948.

<sup>16</sup> Same.

<sup>17</sup> Same, p. 49.