

Inter-office memorandum to the Director of Field Operations, concerning x-ray examination of diplomatic pouches of a United Nations Mission

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—INVIOABILITY AND CONFIDENTIALITY OF UNITED NATIONS CORRESPONDENCE AND DOCUMENTS—X-RAY EXAMINATION OF UNITED NATIONS POUCHES COULD INFRINGE SUCH INVIOABILITY AND CONFIDENTIALITY—SECURITY CONCERNS OF MEMBER STATE—LIMITED X-RAY SEARCHES OF UNITED NATIONS POUCHES IN THE PRESENCE OF AUTHORIZED UNITED NATIONS PERSONNEL WHILE PRESERVING THE ORGANIZATION’S LEGAL POSITION—ANY SUBSEQUENT INSPECTION MUST BE LIMITED TO PARTICULAR ITEMS AND DONE IN THE PRESENCE OF AUTHORIZED PERSONNEL—INSPECTIONS MUST BE CONDUCTED WITH THE LEAST POSSIBLE DELAY—REFUSAL TO ALLOW AN ITEM IN A UNITED NATIONS POUCH ENTER THE TERRITORY IS A MATTER FOR NEGOTIATION BETWEEN THE UNITED NATIONS AND THE MEMBER STATE CONCERNED

This is in reply to your memorandum of 22 March 1986 in which you requested our views on the question whether x-ray examination of the [United Nations Mission] pouch, by [Member State] authorities at [...] crossing, would constitute infringement of the provisions of the Convention on the Privileges and Immunities of the United Nations.*

Your memorandum notes that the [United Nations Mission] pouch has hitherto passed without such examination but that the Chief Administrative Officer of [United Nations Mission] has received a notification from [a Member State] liaison officer at [the crossing] stating that in future “all [United Nations Mission]’s outgoing diplomatic pouches will be x-rayed at the [...] terminal before being allowed to enter [Member State]”.

The relevant provisions of the Convention on the Privileges and Immunities of the United Nations are set out in the attachment to this memorandum.** While they do not provide expressly for the matter of x-ray examination, their purpose, clearly, is to ensure the inviolability of United Nations correspondence and documents as well as the confidentiality of the contents, and non-detention, of United Nations pouches.

As x-ray examination of the [United Nations Mission] pouch could infringe such inviolability and confidentiality and may result in detention of the pouch, such examination would not be in accordance with the provisions of the Convention.

On the other hand, as you would appreciate, it is important that [Member State] authorities be assured that there is closest possible [United Nations Mission] supervision of what is placed in its pouch.

Such assurances in themselves would, however, hardly satisfy the [Member State] side. I would therefore like to add that a legally viable practical solution to the problem might be that [United Nations Mission], in order to assuage [Member State] suspicions and fears and with express reference to [Member State]’s precarious security situation does not, until further notice, raise objections to the x-ray search of the [United Nations Mission] pouch; the corresponding communication from [United Nations Mission] should expressly reserve the legal position of the United Nations on the issue and it should be based expressly on the understanding that [Member State] authorities will conduct the x-ray search only in the

* United Nations, *Treaty Series*, vol. 1, p. 15 and vol. 90, p. 327 (corrigendum to vol. 1).

** Not reproduced herein.

presence of authorized [United Nations Mission] personnel; likewise, if [Member State] authorities, as a consequence of the x-raying, want to open a bag, this cannot be done in the absence of authorized [United Nations Mission] personnel, and any inspection should be limited to particular items. The whole procedure must be carried out in a way which entails the least possible delay for [United Nations Mission] pouches, and should the [Member State] refuse to let a particular item or a pouch with a particular item to enter [Member State], then this matter must be made the object of negotiations by [Member State] between the Force Commander and the [Member State] Foreign Ministry.

If this “middle road” is adopted, this Office stands ready to assist in the drafting of the corresponding note to the [Member State] Foreign Ministry.

6 April 1988