

# ***Diplomatic Status***

## **"Part One"**

**The Quest for Equality in External Affairs**

**... it all began with a grievance**

# LOCAL 70371

## Diplomatic Status for External Affairs Support Staff

*By John Kruithof*

*The Foreign Service Communicators Local 70371 waged a two-year campaign (1986-1988) with Canada's Department of External Affairs for the purpose of obtaining diplomatic status abroad for Support Staff equal to that of Officers. The contentious issue had been brewing for years beforehand, but can usefully be condensed to material covering the two years under review to get a picture of what was at stake.*

*It started innocently enough:*

August 6, 1986

### NOTE TO FILE MCBRIDE GRIEVANCE

On August 5<sup>th</sup>, I was informed by Tom Boehm that 1<sup>st</sup> level grievances were being handled in Paris. Launched by Merv McBride, the issue was privileges. Officers had duty free privileges while support staff officially had few. Also the question of gasoline allocation is raised. Why should officers have 300 litres per month, with support staff members only getting 100.

My initial involvement was to ascertain what level of support McBride enjoyed among support staff in Paris for launching his grievances. The reason being that an adverse decision to his grievances could result in losing the privileges presently obtainable by staff members. If 99 percent of staff support members were against following the grievance route, this would have to be taken into consideration as to what level of support the union should give to McBride's initiative.

I spoke with McBride on 6<sup>th</sup> August and made him aware of the above. He said that although grievances were in his name, he had support of at least a dozen members in the Comcentre/Courier/Administration sections. I suggested this support be documented in a telex to PSAC HQ to the attention of Mary Ramsay if the grievances were not settled at the 1<sup>st</sup> level. With this kind of support he could count on us doing our best. The conversation was fairly short, but will have left the impression on him that the subject was too serious to entertain a "nuisance" grievance. My impression during the conversation was that Merv was in fact conducting a straightforward, principled approach.

After speaking with McBride, I telephoned Tom Boehm to inform him that this may be the start of a serious effort to undo the discrimination built into the Vienna convention. Boehm questioned whether the grievance route was the best under the circumstances. Would not EAJC consultations be more conducive to a settlement without in the meantime jeopardizing the privileges already enjoyed by support staff members. I replied that McBride was in the driver's seat at the moment, but there was no harm in the Paris Administration suggesting this route to him. Boehm sounded sincere in the possibilities of an EAJC meeting. (While speaking with Boehm, a call was coming in for him from Graham in Paris, seeking instructions on how to deal with the grievors at his doorstep).

J.K.

***In his determination to act, McBride must have been influenced by the following memorandum issued by our embassy in Paris. I was unaware of its existence until some time later, but can well imagine how it must have hit:***

Government of Canada  
MEMORANDUM

TO ALL CANADA BASED STAFF  
FROM J.E. GRAHAM

DATE JUNE 16, 1986

SUBJECT CARNAR – SASCO – MEAT ORDER

We would like to remind you, that following customs regulations only the Diplomatic Corps are allowed to order meat.

The maximum amounts permitted are the following:

25KGS from SASCO or 20-22KGS from CARNAR each month

The difference of weight is due to the cardboard used for packing.

If a non diplomat wants to take advantage of this offer, he has to buy under the auspices of a diplomat who is not ordering that month. We would appreciate your cooperation in meeting these regulations.

(sgd) J.E. GRAHAM

***Many support staff members will readily attest to special relationships with one officer or another that made circumventing regulations possible. Others never gave it a thought. The regulations, so starkly expressed in the memo, could not help but instill resentment in anyone with even the slightest modicum of pride.***

***Despite its rotational nature, Local 70371 was well positioned to undertake the new challenge of seeking diplomatic recognition for its members. It had an active executive and supportive membership. Since its formation in 1979, the Local had devoted its entire attention to addressing the needs of Communicators. The following report indicates the traditional issues dealt with:***

PSAC LOCAL 70371  
PRESIDENT'S REPORT  
WEDNESDAY, JUNE 18, 1986

Although it has been only four months since becoming President of the Local, it appears much longer than that. That so many things can happen in such a short period of time has caught me by surprise. It gives me all the more insight into the qualities of Past Presidents who so generously devoted much of their time to the affairs of the Local.

The major recent event has been the contract ratification vote. It was quite a chore getting the voting kits out to everybody. Also, in response to the decision made at our special meeting of March 11<sup>th</sup>, an information kit was sent to all posts. It was therefore gratifying to see fully 90 percent of our membership exercising their vote on the contract. The results were 72 percent against acceptance, 28 percent in favour. The ballots provided an opportunity for members to express their reason for voting against the contract. The issue of too little pay for too much responsibility drew the most attention. I thank Al Howe and Stu Greer for their assistance in counting the votes.

A LMC (Union-Management Committee) meeting was held on May 23<sup>rd</sup>. I have not yet received the minutes of that meeting, but have of course kept a record of the issues discussed and the positions taken by both sides. The representatives on our side were: Howard Abbott, Bill Bird, Moe Lambert and myself. We were substantially outnumbered by Management representatives. Ten agenda items proposed by us were discussed and a useful exchange of ideas occurred. The issue causing most discussion was that of

Acting CMs who are substantive CM5s having input into the assessments of other CM5s. Management was committed to that course of action for the duration of the present assessment period and no amount of disagreement from our side could make them change their mind. We clearly indicated that by not making an effort to immediately cease the practice, management was jeopardizing the validity of any promotion list that might come out of the present assessments. Our objection to the practice was clearly put on record, and I expect Management to reshuffle their CM6 and CM7 resources in order to avoid this issue next term.

On June 13<sup>th</sup> I attended the meeting of the External Affairs Joint Committee on Occupational Safety and Health. I found this to be a very useful Committee and to which this Local should be represented. The newly enacted Canada Labour Act is being implemented and the Committee is being restructured. I am looking for a strong-minded member of this Local to volunteer membership to this Committee.

The current posting season is causing great disruption to our Executive. Bill Bird, Howard Abbott, Donna Powell, Mike Novak, Charlie Hall, Bob Stewart, Jean Ferland, are all leaving. Their collective effort constituted the backbone of this Local's activities. Summer not being a suitable time for recruitment, I am looking forward to this fall to organize the next team. I hope that some members present here who are staying on in Ottawa will volunteer to serve.

I will wind up this report by stating that I firmly believe that we as a group belong in the centre of the labour movement in Canada. As such, I have no hesitation in using public media to get our message across, and I urge all members to exercise to the fullest their democratic rights granted under the Canadian Constitution.

(sgd) John Kruithof

***Back to the issue at hand:***

August 11, 1986

NOTE TO FILE  
MCBRIDE GRIEVANCE

On August 11<sup>th</sup> John McCann telephoned to say he was having problems with the McBride grievances in Paris. He felt that the Department may have to give negative responses with the possible result that whatever privileges now enjoyed by support staff in Paris would be cut off. The grievance of gasoline allocation might have a better chance of being dealt with if it could be shown that French non-diplomats in Ottawa were in fact obtaining non-taxed gasoline. McCann stated he was going to telephone Lloyd Fucile to review the situation.

After McCann had spoken to Fucile, the latter called Pat Fortune to see what course of action to follow. Pat called me and the two of us discussed the issue in his office. I gave Pat a copy of my August 6<sup>th</sup> note to file. We agreed that the level of support the union could give McBride would hinge on what kind of support he was getting in Paris from his colleagues. Also, that we would resist Management efforts to "blackmail" McBride in dropping his grievances by their dire warnings of repercussions. Pat asked me to contact McBride for more details as to the present standing of the grievances.

I spoke with McBride. The two grievances had a normal deadline of August 22<sup>nd</sup>. Present status was "the Paris embassy will look into it". Given the policy implications, I requested McBride to be agreeable to a possible extension to September 15<sup>th</sup> to give all parties a greater opportunity of finding a solution. He saw no problem in this. Should the embassy give a negative response before that date, the grievances would be forwarded to the next level.

McBride, while on his previous posting to Bonn, had launched a similar procedure to obtain tax-free gasoline in Germany. This had been successful because German non-diplomatic staff in Ottawa had access to duty-free gasoline here. Although Merv was not sure to what extent French non-diplomatic members of the embassy in Ottawa were getting tax-free gas, the rumour was that they were. Certainly

provincial taxes were being waived. Reciprocal arrangements do carry weight. Personally, I do not know where things stand on that score.

Merv has signed commitments of 14 colleagues, with possibly a few more to come, supporting the grievances. He will submit these to us when the grievance moves to the second level.

Pat Fortune has been informed of the above.

J.K.

***While it was always important to foster good relations, especially with our immediate bosses, it was all the more so with potential storm clouds brewing on the horizon over privileges.***

Department of External Affairs

MGT-1693  
Ottawa, Ontario  
August 18, 1986

Mr. John Kruithof  
President, Local 70371(EA),  
National Component, PSAC  
Lester B. Pearson Bldg., (MGTC)  
125 Sussex Drive  
Ottawa, Ontario  
K1A 0G2

Dear John,

I refer to our meeting of August 13<sup>th</sup> at which time we discussed the formation of the Labour Management Relations Committee and in general summarized activities over the past month.

I was pleased to receive a copy of the National Component letter regarding our LMRC activities. It is encouraging to see the interest expressed therein. As discussed with you I am pleased to confirm that the preliminary terms of reference appear satisfactory to both sides and will be used for the initial meetings of the LMRC to ensure that we have in fact identified what it is we should be doing. These terms of course will be subject to amendment but should be solidified before the end of calendar year 1986. As we discussed, the need for a suggestion box is apparent and will be followed up in the near future.

I wish you good luck with your first union meeting on September 9<sup>th</sup>, 1986 and will look forward to receiving notification of the election of a full slate of officers for Local 70371. It would be appropriate to allow a few weeks for you and your committee to become familiar with one another and with the important task which each of you will have to bear over the coming months. Accordingly, the next meeting of the LMRC will be sometime in October after I return from my travels in Europe. Thank you for taking the time to discuss these important matters with me and I look forward to meeting with you in the future.

Yours sincerely,

(sgd) R. H. Brill  
Deputy Director  
Telecommunications Division

***To which I replied:***

September 2, 1986

Dear Bob,

Thank you for your letter of August 18<sup>th</sup>.

At the August 13<sup>th</sup> meeting we also discussed the opportunity for your appearing at the next union meeting. In conformity with our Local by-laws, meetings are to be held on the second Wednesday of February, April, June, September and November. Therefore, the next meeting will be on Wednesday, September 10<sup>th</sup>, at 4:00 p.m., in the lunch room of the Comcentre.

On behalf of our membership, I invite you to the meeting, to become acquainted with newly returned CMs and to address us on the subject(s) of your choice. Please let me know as soon as possible whether your schedule permits you to attend.

You may be interested in knowing our Local by-law 2, paragraph (c), under Aims and Objects, reads "to foster good relations and mutual understanding between management and members of the union". It is with that in mind, plus the aims of the LMRC, that your presence at the meeting is welcomed.

I will keep you informed regarding the election of officers to the Local 70371 executive. Presently, I foresee the interim election/appointment of some members to fill vacant positions until the annual general meeting in November which is designated in the by-laws for the purpose of full elections.

Sincerely yours,  
(sgd) John Kruithof

***Things were not going well in Paris in respect to McBride's initiative. The embassy informed him:***

Canadian Embassy

35, Avenue Montaigne  
75008 Paris

August 19, 1986

Mr. Mervyn B. McBride  
Communication Centre

Dear Mr. McBride:

This is to acknowledge receipt of your grievance concerning tax free purchasing privileges for Canada-based staff at the Embassy.

As you are likely aware, privileges and immunities accorded to personnel serving at diplomatic missions abroad flow from the Vienna Convention on Diplomatic Relations. However, in all cases, it is the receiving state alone which decides to whom such privileges and immunities will be accorded and also the extent of such privileges and immunities.

Your request for corrective action cites articles 7 and 8 of Department of External Affairs Circular Document Admin. No 36/85 (ADA). Among other things these articles state: "The use of the allowance system, including post index methodology, to help cope with inequalities resulting from lack of privileges and immunities of some categories of rotational employees is being explored with the Treasury Board and the National Joint Council as part of the current 1985 Triennial Review of the Foreign Service Directives (FSDs)".

Since the Embassy must observe the rules and regulations established by France in regard to diplomatic privileges and immunities, it is not possible to accede to your request that all Canada based staff at this Embassy be accorded the same tax free purchasing privileges. However, you may wish to contact your Bargaining Agent's Representative to ascertain whether the issue was resolved in the National Joint Council or if discussions are still continuing.

(sgd) F. Bild  
Chargé d'affaires, a.i.

***Disappointing as this development was, life went on. For the next few months, my files are eerily quiet on the subject. Other issues rose to the fore.***

***No account of the environment Local 70371 operated in would be complete without the mentioning of COSICS. We functioned in a complex Department. Momentous developments had to be dealt with. COSICS was one of them. Here is how I reported it to our members:***

September 22, 1986

#### AUTOMATED COMMUNICATIONS SYSTEM

On Thursday, 18 September 1986, a management/staff associations meeting took place. Mr. Jacques Roy, newly-appointed Assistant Deputy Minister (Personnel), chaired the meeting. A number of Directors-General and Directors also represented management. Representatives of all staff associations were present. PSAC attendees were Pat Fortune, President National Component, Lloyd Fucile, Executive Secretary, David Delaney, Vice-President, Gary Doherty, President 70125, and myself as President of 70371. Other staff associations had at least one representative there.

Management released details of their "Long Range Management Plan". The aspect being revealed to staff associations revolved almost entirely around the projected Automated Communications System. The concept is a world-wide desk-to-desk on-line secure information and communications system (COSICS). 4,000 terminals for the system are envisaged. The plan evolved out of a communications survey conducted by consultants to the Department. Staff associations have requested a copy of the report.

COSICS will be introduced gradually. Optimistic projections call for completion by the end of 1992, but given the cost, (\$100 million), the size, (4,000 terminals), the adjustments, etc., some time "slippage" could occur. Nevertheless, some aspects of direct interest to Communicators are already emerging. Bearing in mind the tentativeness of all this, these are:

- Comcentres will be radically changed. Abroad, practically all posts will become one-person CM establishments.
- The CM classification may well disappear. CMs will be trained to become Information Managers, and be classified as "Communication and Security Service Officers".
- Most of the training will be through the equipment manufacturers and software producers.
- Our duties will include first level maintenance of equipment.

New York will be the first post where the new system will be installed, because it is "foreign", yet near. When our new Washington embassy opens in 1988, it is hoped the Prime Minister will inaugurate this show-case system. Gradually, other geographic areas will be brought on stream.

While appreciating the career opportunities inherent in the proposed system, my first concern is the job security of all our members. I therefore questioned whether any staff reductions will come under the "Work Force Adjustment" arrangements. It would. Overall, External Affairs is losing 250 P/Ys between now and 1991. The target for this year is 67. Given how the much more severe problem of last year was

resolved, CMs should have no fear for their jobs. If there is a danger, it will stem from not being able to move with the times. But as CMs look back over the years we can see how successfully we have coped with past technological advances and that we can adjust to the upcoming one also.

Management agreed to draw up a Circular Document to inform us of the program. Some details still had to fall in place before this could be done, but a CD could be circulated within a month. Ours had been an advance consultation.

MIT managers of the system are: Snow, Berube, Seguin.

I welcome questions and comments from all concerned, and am opening up a COSICS file under Technological Change.

(sgd) John Kruithof

***With Local 70371's membership of some 300 Communicators spread around the world, practically everything we touched had global elements to it. Take Health and Safety for instance:***

Foreign Service Communicators Local 70371

November 6, 1986

Mrs. Mary W. Ramsay,  
Service Officer,  
National Component, PSAC.,  
233 Gilmour Street, Suite 301,  
Ottawa, Ont., K2P 0P2

Dear Mary,

In connection with the consultations we had November 5<sup>th</sup> with External Affairs regarding Occupational Safety and Health Committees overseas, please find attached my impressions of that meeting.

I am looking forward to your comments.

Fraternally,  
(sgd) John Kruithof

attachment:

**RE: OCCUPATIONAL SAFETY AND HEALTH COMMITTEES – OVERSEAS**

With the details of yesterday's meeting regarding the role of a joint "interface" committee still fresh in mind, I thought I'd put my impressions on paper.

There is unanimous agreement that numerous safety and health problems exist at our operations overseas. To try bringing the rest of the world up to Canadian safety standards is beyond our power. Nevertheless, the safety and health of our members overseas must be protected to the best of our ability.

I believe the revised part IV of the Labour Code, providing for the formation of joint committees on occupational safety and health, is an important first step in the identification of specific problems confronting our members overseas. Therefore it is of importance to whom these committees report.

Mr. Skrabec stated his interpretation that under the legislation as presently written the overseas committees would report to Labour Canada. He expressed dissatisfaction with that arrangement. He is proposing to Labour Canada that an External Affairs Headquarters joint "interface" committee be the



recipient. The extent to which this interface committee would pass on details to Labour Canada is unclear.

I have doubts about how effectively the concerns of our members overseas will be dealt with if we allow a Headquarters interface committee, even though composed equally of management/staff association members, to determine the merit of an overseas submission. We have already heard, over and over again, management complaints about non-availability of funds. We have already seen how slow the Department has been in informing its overseas staff of the provisions of the Labour Code. I am afraid the negative attitude External Affairs has towards complying with another government department's legislation, plus their readiness to raise the issue of fiscal restraints, does not augur well for overseas submissions.

To bottle up overseas submissions in this way, I fear, will lead to the denial of effective remedial action being taken on many pressing problems. Labour Code provisions requiring reporting to Labour Canada should be adhered to. The involvement of another Ministry adds to the pressure on External Affairs to perform. Additionally, there is no reason why knowledge of genuine health and safety issues affecting overseas members should be confined in-house. The more other agencies are aware of problems, the likelier will be the solving.

The above is not an argument against the establishment of a joint interface committee. It relates only to how it fits into the scheme of things. The interface committee would be the implementing authority for corrective action. But, instead of being directly approached by an overseas committee, it would be tasked by Labour Canada to do the necessary. Whether Labour Canada is committed enough to its own programme to monitor results is another question.

The start-up of any project invariably leads to the need for consultations, which I trust will continue. May I have your comments and an indication of what the definitive PSAC position is on this issue.

***The following two short notes identify other aspects of Local activities:***

November 10, 1986

NOTE TO FILE

RE: VOTE PROCEDURE FOR RATIFICATION BALLOTS

I had conversation with Gary Curtis 10Nov. He is National Director Outside Canada for National Component. His phone number is 992-0116. He is displeased with lack of PSAC HQ assistance in getting voting arrangements done on world-wide basis. Suggests presidents 70125 and 70371 and he get together sometimes to draw up better rules.

J.K.

November 10, 1986

TO: Doug Jacobs

FROM: John Kruithof

Re: FSDs

I had conversation with Gary Curtis 10Nov. He is National Director Outside Canada for National Component. He is actively seeking input for FSD review from all members here in Ottawa and abroad. He has already asked several European posts for input while he was at recent European Seminar. Please contact Gary at 992-0116. Arrangement for requesting input from all PSAC members abroad can then be co-ordinated. Since FSDs affect both 70125 and 70371 members equally, a single call should go out for input. I think Gary will be the person able to supply definitive answers to any questions we may have on

how to go about presenting our views on FSDs most effectively. (Gary will be out of town last week of this month, so the earlier you contact him, the better).

Please let me know whether it will be possible for you to contact Gary and keep me informed of any details. Thanks.

(sgd) John

***Annual General Meetings are important to any organization, unions included. Here is the agenda for ours:***

A G E N D A  
LOCAL 70371  
WEDNESDAY, 12 NOVEMBER 1986

1. Call to Order.
2. Roll Call of Officers.
3. Reading and Approval of Minutes of Previous Meeting.
4. Business arising from Minutes of Previous Meeting.
5. Officers' Reports.
6. New Business.
7. Elections.
8. Swearing in of newly elected Officers.
9. Adjournment.

***With most of our members posted abroad, it always fell to those who were in Ottawa between assignments to set the pace. Of necessity, this was readily acceptable to everyone. It constantly lent our group fresh blood and perspective.***

***On re-reading my following report to the AGM, it strikes me how the issue of diplomatic status is not raised. An oversight for sure, but also indicative of how it had temporarily dropped off the radar screen. It also reinforces my long-held view that issues may come and go, but nevertheless wind up interconnected somehow.***

PRESIDENT'S REPORT

12 NOVEMBER 1986

Rather than going into a lot of details of my activities during the last year, I would like to concentrate on the issues which will likely face us in the near future. That is not to say I have been inactive since becoming president. But I have made it a point to leave written records for our files that can always be referred to.

The most immediate challenge facing us is to elect members of our group to fill the executive positions of our Local and for volunteers to take on Committee responsibilities. It is important all vacant slots be filled so that the workload can be fairly distributed. A look at the issues facing us gives a good indication of the amount of work to be done.

**TECHNOLOGICAL CHANGE.** The size of COSICS and the impact on our jobs are significant. Already questions are being raised by members about the training that will be provided. Our relations with the technicians of IBEW will affect the degree to which we will acquire first level maintenance responsibilities within the project. The details of reclassification have still to be ascertained. What is our attitude towards other occupational groups that may not benefit from COSICS? How do we let management know if, in our opinion, COSICS veers off in the wrong direction? These, and other

considerations, are enough to keep any executive member busy, as well as take up considerable time of members of the Technological Change Committee.

FSDs. The call is already out for input of ideas. A major review of the FSDs will take place early next year. The degree of our involvement may well influence the benefits that can be derived from the regulations.

BARGAINING. Incredible as it seems, we are about to enter the last year of the present contract. Most of you will remember the unsatisfactory outcome of the last bargaining round. What more need be said for the immediate establishment of a determined bargaining committee?

HEALTH AND SAFETY. If we can't be guaranteed a lot of money for our effort in the way of salary, let us at least insist on safe working conditions. Recent legislation by Labour Canada puts a lot of pressure on External Affairs to ensure any health and safety complaints by employees are properly investigated and rectified. Our Local has a permanent member on the Departmental work-site Health and Safety Committee. In addition, we will in all probability be called upon to provide another member to sit on the interface committee reviewing Health and Safety conditions abroad. After passing legislation beneficial to employees, Labour Canada would be disappointed if we fail to participate. The provisions are there, so let's make the most of it.

EQUAL OPPORTUNITY. We, as members, have a responsibility towards the fair and equitable treatment of each and every one of us. I believe the fabric of our society depends on it. The need for an active committee in this field deserves our support.

BULLETIN. With so many issues confronting us in Ottawa, efforts must be made to acquaint our colleagues overseas with developments. A resolution was passed by this Local last year that a bulletin for distribution to all CMs be produced. Unfortunately, the pressure of other business has precluded production. Let us see if we can do better this time around.

STEWARDS. The need exists for the formation of a vigilant Stewards committee.

MEMBERSHIP. This is one committee that has done well in keeping records up to date and bringing membership applications to the attention of newly recruited CMs.

GOOD AND WELFARE. The terms of reference for this committee will have to be reviewed. For instance, the provision of flowers and fruit baskets take up a considerable part of our budget. How can our genuine concern and sympathy be best expressed to members in distress? Another endeavour of this committee deserves our support. This is the upcoming Christmas Bash. It has the signs of being successful. Let us make an enjoyable evening out of November 28<sup>th</sup>.

EDUCATION. All members should look into the educational seminars and courses supplied by the PSAC. In addition to being valuable in understanding in greater detail the role of the union in the workplace, there is the spin-off of strengthening your skills in public speaking and committee presentations which could be of career benefit. Let's surprise PSAC by showing a sudden interest in all their educational programmes.

All of the foregoing are in addition to the usual union tasks of grievances, appeals and other activities. Reporting to the membership requires a fair amount of time on the part of executive and committee members. One way to speed things up a bit is to post minutes of meetings on an interim basis pending approval at the next scheduled meeting.

Surely the need for action is clearly established. The thing to do now is to get on with it. Nothing could be more frustrating than to stand by idly while opportunities exist to improve conditions. With enough volunteers devoting only a couple of hours a month each, we can get through the work that has to be done.

(sgd) John Kruithof

***Members did not need my urging to get involved. They had determined beforehand they wanted to participate. Here are the lists:***

President: John Kruithof  
1<sup>st</sup> Vice-President: Shirley Gillette  
2<sup>nd</sup> Vice-President: Doug Jacobs  
Secretary: Rosie Szentirmai  
Treasurer: Ken Thomas

***As Secretary, Rosie mailed the new list to 35 contacts in the union and Department.***

***Although the position of Chief Steward remained vacant, the following volunteered to serve on Committees:***

Bargaining: Al Howe  
Technological Change: Al Howe, Shirley Gillette, Ken Hoban  
Health & Safety: Matti Rikkinen, Dave Smith  
FSDs: Doug Jacobs, Rosie Szentirmai, Barrie Thomas  
Membership: Doug Harkess  
Good & Welfare: Dave Smith  
Equal Opportunity: Shirley Gillette  
Bulletin: Doug Harkess, Leslie Belland, Michel Gauthier.

***Glamorous as trips to exotic locations may sound, there are drawbacks. Culture shock is one of them. When an opportunity arose to present our case in a different quarter, the Local did so.***

Foreign Service Communicators Local 70371

November 17, 1986

Ontario Task Force on Vocational Rehabilitation,  
2 Bloor Street West, Suite 2001,  
Toronto, Ont.,  
M4W 3E2

As a submission concerning the Vocational Rehabilitation Services of the Ontario Workers' Compensation Board, I am enquiring whether the results of exposure to culture shock suffered by Canada's foreign service personnel are taken into account when the scope of rehabilitation services provided by the province are considered.

Various aspects of culture shock are examined in the latest issue of Liaison, (vol. 3, No. 1, 1986), a magazine of External Affairs. A copy of it is attached. The article on pages 8 and 9 serves as a useful introduction to the problem. Practically all other pages deal with additional stress factors related to the rotational nature of our work.

Books have been written about anxiety, the leading indicator of culture shock. Thus I am not here attempting to establish its existence, simply to confirm it. My concern is the effect of culture shock on the members of this Local who are 100 percent rotational.

The Department of External Affairs recognizes the need for re-entry workshops (see attachment B). My specific question is whether provisions exist under the Ontario Workers' Compensation Board where its resources can be called upon should efforts by the employer be inadequate to cope with the more extreme cases of culture shock victims.

If there are no such resources within WCB, are they available through other agencies? If not, is the Task Force prepared to recommend examination of the issue to determine the need for facilities?

Should you be in a position to pursue this subject, I will be pleased to provide further details.

Yours truly,  
(sgd) John Kruithof  
President

***There was no shortage of meetings to attend.***

November 20, 1986

#### NOTE TO FILE

On November 19<sup>th</sup> I attended the EAJC. COSICS was discussed. On November 20<sup>th</sup>, Al Howe and I met with Bob Brill under LMRC. As Al is the Technological Change Committee rep, COSICS again arose. I will combine reports on both meetings.

Doug Woods led off the COSICS report at the EAJC. The Department is maintaining a fairly low profile as far as informing its staff is concerned because Treasury Board approval has not yet been received. To act as if it had might upset TB. A progress report on the acquisition of hardware was given, but everything was still tentative. Two or three items of direct concern to CMs were touched upon. 1) Woods had visited London, as this was the most likely mission to be receiving COSICS after New York and Washington. His main reason was of course to look at British equipment availabilities, but he had taken the opportunity to have a fairly long discussion with London Comcentre staff. He was impressed with their receptive attitude. (Note: Levey was in MITO. She said the London staff was 'petrified'). 2) A training centre will be established at HQ for the adequate training of personnel operating COSICS. Vendors of hardware and software would be assessed for the training component of the package. Training for the in-house security and operating components would be done by Departmental staff. 3) The CM occupational category would gradually be eliminated. Job descriptions for "Telecommunications and Security Services Officer" (TSSO) will be drawn up. At what stage the switch-over would become effective was too early to say. (This point was handled by Josey Whiting). She did mention a possible retroactive feature if it was found that CMs had been doing duties properly classified as TSSO. 4) Once COSICS is officially underway, Woods thought a weekly newsletter would be distributed.

I stressed the importance we attached to training. Would a CM abroad be at a disadvantage during start-up? Not if he/she was in New York, Washington or London. This nevertheless left no answer for others, thus the issue must be watched closely. Woods declared himself appreciative of the positive CM response to the project. He said that not only would the system be second to none technologically, but also in the enlightened fashion it would be introduced.

The LMRC meeting went into considerably more detail and highlighted some of the practical problems to be encountered. CMs had not done the same amount of lobbying as the techs of IBEW had done. Management had been impressed with the lucid presentation of tech expectations. Some of the emphasis that had been built into the original consultant report favouring CMs was now swinging towards techs. It was incumbent on us to make a similar presentation. Our report should be as constructive as the IBEW's had been, particularly in the area of co-operative effort. (In my November 12<sup>th</sup> report at the Annual General Meeting I had reported that our relations with the technicians of IBEW will affect the degree to which we will acquire first level maintenance responsibilities within the project. This is all the more evident now). Bob read some segments of a management COSICS paper which cautioned employees against expecting automatic upward classification. Then he dropped an item which contrasted sharply with the upbeat mood of the EAJC meeting. The CM5 to CM6 promotional exercise would be held up pending evaluation of how it would fit in with COSICS staffing. I expressed my surprise and

disappointment at this development and told Bob in no uncertain terms that nothing would sour CM attitude towards COSICS more than to use it as a reason for delaying promotions, particularly to the 23 controller positions which had been available for a long time, and to the 5 or 6 positions opened up by the just concluded CM6 to CM7 exercise. Bob said he had already expressed his reservations to the higher-ups about this hold, especially since COSICS was not a lawful entity yet. I will follow up this item day by day.

Earlier in the day, Rod had expressed his frustration to me about not being clued in about how MITO fit in the COSICS training picture. This is a sentiment shared by Bob, who had similar difficulty. He was on the point of getting answers however.

In management eyes, COSICS staffing requirements rank paramount to any other niceties that have to be observed. This is a hard-nosed, practical business approach when 100 million dollars are concerned. It contrasts with the enlightened approach that Woods seemed to indicate. CMs will have to deliver value for their existence. It ain't gonna be a piece of cake.

J.K.

***After all these strains and stresses, it was fun to let the hair down at the Telecom Christmas Bash held on November 28<sup>th</sup> at the Royal Canadian Naval Association on Victoria Island. Leslie Belland had arranged a superb event, enjoyed by all. Close to 80 members, spouses, friends attended. Ten door prizes of \$25.00 were up for grabs.***

Foreign Service Communicators Local 70371

December 10, 1986

Dear Leslie,

In response to several requests from members who attended the recent Telecom Christmas Bash, it is my pleasure to sincerely thank you officially for the care and attention you devoted to bringing the event to its lively and entertaining conclusion. The setting was perfect for launching the Christmas spirit of companionship and togetherness. The ovation accorded you at the "Bash" was richly deserved.

Thanks again for everything you have done for the benefit of the CM group. Have a merry Christmas and the best of everything in 1987.

Faternally,

(sgd) John Kruihof  
President

***Any thought of coasting towards Christmas and New Year was dispelled by several meetings being held, including these two:***

December 22, 1986

#### NOTE TO FILE

On Thursday, December 11<sup>th</sup>, management called a meeting with union representatives to gauge our attitude towards extending Level III hardship posts to three years from the present two.

Mr. Fogerty (ADA), who chaired the meeting, started out by saying External Affairs wanted to save money by cutting down on the number of moves. Also, some organizations representing business people

were advocating that trade officers attached to embassies remain at their post for three years to increase effectiveness.

Mr. Fogerty stated the 50% differential bonus would continue to apply from the twenty-fourth month.

Among the union representatives were: Dave Delaney, Les Cundell, Gordon Craig, Christine Manseau and myself.

Our side was against the obligatory third year being added. Citing the results of the CM survey conducted about two years ago, I stated there was considerable interest in our group for a third year. But that third year should be voluntary, on the basis of a request for an extension. The concept of a voluntary versus an obligatory third year kept coming up throughout the meeting. I stated that, just because the Department was strapped for money, there had not been a 50% decrease in hardship factors associated with posts that justified them being two-year posts in the first place.

I want to protect members from having to pay a share of their removal costs should they be unable to face the hardship of a Level III post for a period longer than two years. At the same time, I proposed that the serving of a third year should not be precluded if it was advantageous to all parties. Therefore, why not offer a Level III post for three years, with the disposition of the third year being decided one year into the posting. That way, on the basis of on-the-spot assessment by the employee at the post, an informed decision can be made whether to extend for a third year, or to terminate the posting at the two year limit without penalty. This procedure would overcome reluctance by many to initially accept an obligatory third year at Level III hardship posts.

I saw no need to be contractually committed to three years when the Department, financially strapped, would be more than willing to grant a third year on a voluntary basis. Since the financial position of the Department is unlikely to improve during the next several years, the likelihood of extensions look good.

To sum up: It is too early to say what attitude management will adopt towards the length of Level III posts. It was made crystal clear to them that a third year would only be acceptable on a voluntary basis.

J.K.

December 22, 1986

#### NOTE TO FILE

On Thursday, December 18<sup>th</sup>, Messrs. Rod Irwin, Tom Boehm and Pat Jezewski met with staff representatives (PSAC attendees: Lloyd Fucile, Mary Ramsay, Dave Delaney, Gary Doherty and myself) to inform them of the downsizing exercise. Details had already appeared in the newspapers, and no effort was made by the management team to supply more information.

Embassies in Abu Dhabi, Helsinki and Quito were to close by the end of the current fiscal year. Some consulates were also to be closed, while some embassies and other consulates were to be reduced in size.

As far as CMs are concerned, we are losing two positions (Helsinki and Quito). The two incumbents are to be absorbed in vacancies created through attrition.

Mr. Fucile expressed his unhappiness at reading news of events affecting members of his staff association in the newspapers before being briefed by the employer. Mr. Irwin admitted there had been massive leaks that had embarrassed the Department and caught them flat-footed.

All three management representatives were of the opinion that the incumbents of cut positions could be absorbed without lay-off notices being necessary.

Mr. Irwin stated that in the first year of P/Y reductions the emphasis had been placed on support staff to take the brunt. But the financial squeeze of the present necessitated cutting where the big bucks could be saved. The cut this time would be concentrated on Heads of Mission with their expensive attributes.

Dave Delaney raised the point of excess workload for employees at missions covering off the closed ones. I stressed there should be no wholesale re-assigning of duties without due consultations and adequate training.

Several times during the meeting I felt Mr. Irwin showed a rather arrogant attitude towards unions, brushing off our concerns as if they didn't count. Slouched in his chair, not neatly dressed, he made no effort to provide documentary details that are often supplied. The whole meeting smacked of lack of preparation. Perhaps the premature press leaks had upset the orderly presentation of their side. Or the shock of cuts in high places had left him dispirited. All in all, not an impressive display.

J.K.

***Merry Christmas and Happy New Year everyone.***

***It wasn't until January 14, 1987 that the issue of diplomatic status resurfaces:***

January 14, 1987

TO: Doug Jacobs

Doug, today I received a call from Mary Ramsay. She wants to know whether the McBride initiative "that all Canada-based staff abroad be accorded the same privileges of tax free orders... as Diplomatic Officer" is being pursued in context of FSD review proposals. She recommends this be done to show that this issue is an area of concern.

I informed her you were on midnight shift, thus the answer would have to wait till tomorrow. I mentioned you were our FSD Committee chairman, and that you are co-ordinating our FSD input with Gary Curtis.

Can the issue be incorporated under the FSDs?

Personally, I attach great importance to the removal of discriminations built into the Vienna Convention, and am in favour of this issue being pursued in all possible ways.

Your comments please.

(sgd) J.K

***A week later, on January 21, I visited my Member of Parliament, Michael Cassidy. I was on close enough terms with him to address him as Mike. In an accompanying letter, serving as aide-mémoire, I spelled out the issues:***

Foreign Service Communicators Local 70371

January 21, 1987

Dear Mike,

(The first six paragraphs consist of a draft Local position paper about to be released in final form. See below).

You are no doubt familiar with the McDougall Royal Commission on Conditions of Foreign Service, and the Response of the Government of Canada to it. At the earliest opportunity our Local will distribute a



survey to our members in Ottawa and abroad. For the administrative support categories, I have no doubt that conditions are still as dismal as McDougall found them.

We are trying to remove from the Vienna Convention those discriminations that seriously affect the morale of our members in the foreign service. Anything you can do to support this will be appreciated.

Yours truly,

(sgd) John Kruithof  
President

***By that time, our Local had started to shop for a legal representative. As luck would have it, our very first contact, prominent lawyer Lawrence Greenspon, expressed interest. In short order Committee Member Matti Rikkinen paid him a visit, well armed with documents. My suggestions to Matti were:***

Foreign Service Communicators Local 70371

January 23, 1987.

Matti,

In presenting these documents, stress:

- 1) We have a history of bringing to Management's attention the disparity of treatment accorded diplomatic vs. non-diplomatic members. It can not come as a 'surprise' to them to hear about it now.
- 2) To their credit, management has issued diplomatic ('red') passports to all members, diplomatic and non-diplomatic. This was recognized as a 'cosmetic' measure only. Substantive disparity is the same now as 5-6 years ago.
- 3) Individual cases change from time to time and place to place.
- 4) The Canadian Government has, in fact, the ultimate power to designate all members to diplomatic status.
- 5) Management can justify granting of diplomatic status for various reasons. We now call for this implementation based on the equality of Canadians.
- 6) This memo to be attached to documents.

(sgd) J.K.

***With political and legal aspects being worked on by the Local, it was time to galvanize the union. Not surprisingly, we first turned to our 'mother' Local, 70125, from which we had split some eight years earlier. Many members of 70125, serving abroad in Secretarial, Clerical, Custodial and other categories, were in the same boat as we were.***

Foreign Service Communicators Local 70371

January 29, 1987

Ms. Carol Chilton,  
A/President, Local 70125  
Public Service Alliance of Canada,  
53 Queen Street,  
Ottawa, Ont.,  
K1P 5C5

Dear Sister Chilton,

Attached is our Local's position paper on the issue of diplomatic privileges and immunities.

I am considering proposing the subject as an agenda item for the next EAJC. Do you support? I think a few words on why we feel so strongly about the issue, plus handing out our position paper, is about as much as we can do on that occasion.

Could you check the records of Local 70125 and see what previous activity has been undertaken in this field? Also, I would be pleased to incorporate any ideas you may wish to suggest.

I have communicated with Mary Ramsay along the same lines.

Please inform me at the earliest opportunity of your reaction.

Faternally,

(sgd) John Kruithof  
President

Attachment:

THE EFFECT OF THE VIENNA CONVENTION ON  
MEMBERS OF THE ADMINISTRATIVE SUPPORT  
CATEGORIES AT CANADIAN MISSIONS ABROAD

Our Local is interested in ways and means of revising the Vienna Convention on Diplomatic Relations in order to achieve equality of treatment accorded diplomatic and non-diplomatic personnel at Canadian missions abroad

Drawn up in Vienna in 1961, the Vienna Convention on Diplomatic Relations entered into force for Canada on June 25, 1966. It promotes friendly relations among nations, irrespective of their differing constitutional and social systems. In reality, friendly diplomatic relations are often severed at the first sign of friction.

What the Convention has achieved during its quarter century existence is the maintenance of diplomatic privileges and immunities for members of the diplomatic corps. For the same length of time it has, unfortunately, also maintained limitations on privileges for administrative support staff members at Canadian missions abroad.

This disparity in treatment of diplomatic officers and administrative support members, extended to their respective families, should be a cause for concern to all Canadians who believe in equality.

Members of the administrative support categories enjoy the same privileges and immunities accorded diplomatic agents under Articles 29 to 35 inclusive, except that the "immunity from civil and administrative jurisdiction specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties". Further discrimination is practiced under Articles 36 and 37. Article 36 states "the receiving State shall... permit entry of and grant exemption from all customs duties, taxes, and related charges... articles for the personal use of a diplomatic agent or member of his family forming part of his household, including articles intended for his establishment". This exemption from customs duties applies for the entire duration of the diplomatic agent's stay in the receiving State. Article 37.1 extends that exemption to "the members of the family of a diplomatic agent forming part of his household". Article 37.2 limits the exemption for members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, to "the time of first installation". This means that for administrative support staff exemption is accorded only on articles brought in on first arrival.

During the last quarter century progressive social changes have taken place in Canada, exemplified by the Canadian Charter of Rights and Freedoms. No such liberating influences have affected the Vienna Convention.

Canadian civil servants in the administrative support categories serving at Canadian missions abroad, aware of the degree of equality achieved in Canada, are offended when discriminated against under the Convention. Members of the administrative support categories therefore call for the elimination of discriminatory Articles from the Vienna Convention.

Members of our Local have frequently drawn to the attention of the Department the disparity existing in the treatment of diplomatic and non-diplomatic civil servants. We have called for the equal treatment of all members of Canadian missions abroad. Little progress was made. Our Local is now looking into the possibility of obtaining legal advice to bolster our campaign.

The Canadian government has the ultimate power of designating all members to diplomatic status. It has, in the past, justified the granting of diplomatic status for exceptional reasons. We now call for this implementation based on the equality practiced in Canada.

Morale in Canada's foreign service will be boosted by the removal of constant irritants brought on by the discriminatory Articles of the Vienna Convention.

February, 1987.

***With that off our chest, we were ready to do battle.***

***A special meeting was called:***

SPECIAL MEETING  
LOCAL 70371  
UNDER PROVISIONS OF BY-LAW 5, SECTION 4, OF OUR LOCAL, A SPECIAL  
MEETING IS CALLED FOR:  
WEDNESDAY, 25 FEBRUARY 1987, 4:00 P.M.  
COMCENTRE LUNCH ROOM  
AGENDA ITEM:  
"CONSIDERATION OF RETAINING A LAWYER FOR  
THE PURPOSE OF DEFINING OUR RIGHTS  
IN RELATION TO DIPLOMATIC PRIVILEGES ABROAD".  
PLEASE PLAN TO ATTEND.

***The Minutes of the meeting read:***

MINUTES  
SPECIAL MEETING – LOCAL 70371  
WEDNESDAY – 25 FEBRUARY 1987

Under provisions of by-law 5, section 4, a special meeting was called for the consideration of one item: "Retaining a Lawyer for the Purpose of Defining our Rights in Relation to Diplomatic Privileges Abroad".

14 members, including all executive members except Secretary Rosie Szentirmai, attended. She was in Europe on TD.

The President called the meeting to order at 4:00 P.M.

Various points of discrimination abroad were discussed, such as the disparity in gas coupons in Paris, and the memo related to meat orders.

The letter from lawyer Lawrence Greenspon agreeing to represent us was discussed. In addition to the \$100.00 already paid, he needed a further \$500.00 as retainer.

M/S Moe Lambert/Barrie Thomas that the expenditure be authorized. The vote was unanimously in favour.

In addition to retaining Mr. Greenspon, the President expressed his intention of having the issue of the Vienna Convention raised at the next External Affairs Joint Council (EAJC) meeting, and sending a letter to Joe Clark.

A short reference was made to 14 grievances being filed by acting CM6s relating to salary increments while acting.

M/S Lambert/Rikkinen that the meeting be adjourned.

Meeting adjourned at 4:35 P.M.

***Our lawyer was informed:***

Foreign Service Communicators Local 70371

February 25, 1987.

Mr. Lawrence Greenspon,  
Karam Garay Greenspon & Pascoe,  
Barristers & Solicitors,  
150 Montreal Road, Suite 312,  
Vanier, Ont.,  
K1L 8H2

Dear Mr. Greenspon,

Thank you for your letter dated February 18<sup>th</sup> in which you indicated your readiness to represent us in defining our rights in relation to diplomatic privileges abroad.

At a special meeting of our Local, authorization was obtained to issue a cheque for \$500.00 to cover legal fees. It is enclosed.

We recognize the right of the receiving State to determine the privileges to attach to diplomatic agents. Our aim is to have the sending State (Canada) appoint us as members of the diplomatic staff of the mission when sending us abroad. This, we believe, is entirely within the jurisdiction of Canadian authorities. The failure to exercise this option exposes us, as members of the administrative and technical staff, to an unsupportable level of disparity in treatment abroad vis-à-vis that of diplomats.

While we advocate the eventual changing of the Vienna Convention to exempt all professional and rotational civil servants from customs duties, etc., our immediate aim is expressed in the preceding paragraph. Were Canada to establish equality, it would set the standard for others to follow.

We are looking forward to further consultations after your return from Colombia. Having experienced the joys of extensive travel ourselves, we hope your trip was an entirely satisfactory one.

On behalf of the Local, I am

Respectfully yours,

(sgd) John Kruithof  
President

***Our Committee went to work immediately to garner input:***

ANTI-DISCRIMINATION COMMITTEE  
CALL FOR IN-PUT

AS YOU ARE AWARE, A COMMITTEE HAS BEEN FORMED TO UNCOVER POSSIBLE DISCRIMINATORY PRACTICES AND INEQUITABLE TREATMENT BY THE DEPARTMENT OF EXTERNAL AFFAIRS AGAINST FOREIGN SERVICE COMMUNICATIONS PERSONNEL.

THE COMMITTEE REQUIRES, ON AN URGENT BASIS, WRITTEN EXAMPLES OF DISCRIMINATORY PRACTICES, AND REQUESTS YOUR INPUT OF PERSONAL EXPERIENCES AT BOTH HEADQUARTERS AND AT POSTS ABROAD, FOR SUBMISSION TO MR. GREENSPON BY THE 15<sup>TH</sup> OF MAY AT THE LATEST.

POSSIBLE EXAMPLES COULD INCLUDE THE FOLLOWING:

- I. ALLOCATION OF STAFF ACCOMMODATION ABROAD.
- II. GRANTING OF LEAVE AND OVERTIME POLICY AT POST.
- III. ALLOCATION OF FSD30 VEHICLES.
- IV. DIPLOMATIC IMMUNITY.
- V. IMPORTATION OF DUTY-FREE GOODS AFTER ARRIVAL AT POST.
- VI. IMPORTATION OF PERSONAL BELONGINGS ON ARRIVAL AT POST.
- VII. INTERPRETATION OF FOREIGN SERVICE DIRECTIVES.
- VIII. POSTING POLICY PRACTICES AT HEADQUARTERS.
- IX. PRE-POST FOREIGN LANGUAGE TRAINING.
- X. AFFECTS ON SPOUSES, CHILDREN AND DEPENDENTS.

WE URGE YOU TO BE FACTUAL AND ACCURATE IN YOUR INPUT AND AGAIN REMIND YOU THAT RESPONSES ARE URGENTLY REQUIRED FOR OUR SOLICITOR BY 15MAY.

THIS CALL FOR INPUT IS ALSO BEING FORWARDED TO ALL CM POSTS ABROAD. WHILE WE REALIZE THAT THIS TIMEFRAME CANNOT BE MET BY ALL OVERSEAS POSTS, WE REQUIRE YOUR EXAMPLES AND RESPONSES FOR FUTURE REFERENCE.

YOUR INPUT SHOULD BE ADDRESSED TO THE ANTI-DISCRIMINATION COMMITTEE.

(SGD) M. RIKKINEN

(SGD) S. GILLETTE

(ABSENT) J. HOPE

***The time had come to face our main adversary: The very Department we worked for.***

Foreign Service Communicators Local 70371

February 26, 1987.

TO: Gregory Stack, Co-ordinator

We spoke this morning about the inclusion of 'Diplomatic Privileges' as an agenda item for the next EAJC.

Attached is our basic position paper on the subject. Also, a copy of the National Component's approval to have it raised.

(sgd) John Kruithof  
President

***On March 18<sup>th</sup>, 1987 we duly presented our case to the EAJC.***

***The External Affairs Joint Council (EAJC) was the gathering of people with the influence of making things happen. The i's were dotted and the t's were crossed there. The Department's Deputy Ministers, Assistant Deputy Ministers, Directors-General, Divisional Directors etc. and their advisors made regular appearances depending on the main topics under discussion. Senior representatives of PAFSO, PSAC, IBEW, ESSA and PIPS etc. and their advisors, rounded out the union side. Most meetings had at least 10 members on each side of the table. On rare occasions, that might even double. Other ad hoc management side/staff side meetings were held at the same level, but the regularly scheduled EAJC could be counted on to tackle anything and everything. Events moved fast and there was never a dull moment.***

***There are two versions of what happened that day regarding diplomatic privileges. The official version, extracted from minutes, is:***

SUMMARY RECORD OF  
ITEMS DISCUSSED AT THE  
EXTERNAL AFFAIRS JOINT COUNCIL MEETING  
MARCH 18, 1987

The meeting was chaired by Management Side.

EXTRACT

Diplomatic Privileges for Administrative Staff Abroad

A discussion paper was tabled by PSAC in support of its position favouring the granting of equal privileges to all Canadian public servants abroad including non-diplomatic staff in the administrative support categories.

Management asked two subject matter experts, one from Protocol and the other from the Legal Advisory Division, to explain the administrative and legal framework within which the Department operates. These representatives provided detailed information.

In short, they mentioned that the main governing authorities on the matter were the International Vienna Convention on Diplomatic Relations and Consular Relations and the Canadian "Diplomatic and Consular Privileges and Immunities Act". Because the latter restricts the authority of the Secretary of State for conferring privileges and immunities to foreign representatives in Canada, it also imposes restrictions on the content of reciprocity agreements which may be entered into between this country and another as a result of negotiations. It was reported that within this framework, a number of administrative arrangements have already been made with other countries to reduce differences. Further, the conduct of an exercise to review privileges and immunities abroad compared to those conferred on foreign representatives in Canada has been approved and will be completed, hopefully, by the end of the year with the view of gathering evidence to support a recommendation to expand, under the legislation, the authority of the Secretary of State. Employees abroad who feel prejudiced by discrepancies between the privileges they enjoy in a receiving country and those granted to their foreign counterparts in Canada are

invited to report these discrepancies to either Protocol or their ambassador. As a result of the review and with the cooperation of those concerned, it was expected that more solutions could be worked out bilaterally, between countries to further improve the situation of the support staff abroad.

Management believed that, short of being able to bring about quickly a change in the Canadian and international legislation, the course of action described had the greatest possibilities of success for the obtainment, as soon as possible, of favourable results.

Some PSAC representatives were concerned that working within the restriction of the actual legislation governing privileges and immunities may not lead to the equality of treatment desired. For this reason, they indicated their intention to pursue this matter with a broader view, having in mind the overall Canadian legislation and more specifically the Charter of Rights.

***Here is my version of what happened, extracted from my note to file:***

#### EXTRACT

DIPLOMATIC PRIVILEGES: Chairman Roy indicated subject had been discussed on previous occasions (years ago). Did not seem enthusiastic about seeing it raised again. However, it was on agenda, so let's go.

Gregory Stack had provided, in advance, copies of Local 73071 discussion paper. Thus the two special Departmental representatives (Heidi Bennet – XDC and Jean Fredette – JLA) were well prepared.

Bennet started out by saying there was good news. Protocol was eager to have any difficulties experienced in reciprocal arrangements brought to their attention. They would do their utmost to have issues resolved with the maximum amount of benefits.

Jean Fredette mentioned JLA and XDC were working on recommendations to be incorporated in the Privileges and Immunities Act which was to go before Parliament (by end of year?).

There was general agreement that changing the Vienna Convention was a hopeless undertaking as it would take years and years to accomplish. Specific items such as (limited waivers) and reciprocal employment arrangements (18 countries) were negotiated bilaterally.

I mentioned that our objective was full equality in privileges for diplomats/non-diplomats. Time ran out, not discussed further.

At no time did I detect any intention on External's part to consider equality.

***Both the official minutes and individual 'notes to file' have to be kept in mind to get a composite picture. I just happen to rely more on my own 'notes to file' as a guide to what had happened, and how to proceed, than on minutes.***

***In addition to Privileges, this particular EAJC meeting tackled other subjects as well: Workforce Adjustment / Person Year Reduction, Accommodation Deficiency Adjustment, Length of Tour of Duty, Canadian on Line Secure Information and Communications System (COSICS), Parking, Next Meeting, List of Attendees. The minutes ran to four pages. Yet I was able to note in my notes that while the Agenda had more than the usual number of items, the meeting lasted just over an hour.***

***As the minutes of the EAJC indicate, members of staff overseas were encouraged to approach their ambassador to complain about things. That's the beauty of our democratic system. Anybody can talk to anyone they want. And we did. So it was in that spirit that I contacted the Minister.***

March 31, 1987.

Rt. Hon. Joe Clark,  
Secretary of State for External Affairs,  
Lester B. Pearson Building,  
125 Sussex Drive,  
Ottawa, Ont.,  
K1A 0G2

Dear Mr. Clark,

This is to bring to your attention a subject causing widespread discontent among employees within the Department. It concerns the difference in treatment accorded Canadian administrative support staff abroad vis-à-vis that of Canadian diplomats.

Because of our non-diplomatic status, we are discriminated against in immunities and privileges. Thus, there exists a "caste system" at our missions abroad, as reported by Miss McDougall in the Royal Commission on Conditions of Foreign Service.

Canadian authorities, by allowing this disparity to continue, are not safeguarding the equality which Canadians have the right to expect.

At the request of staff associations, the subject of diplomatic immunities and privileges was discussed at the External Affairs Joint Council (EAJC) meeting on March 18<sup>th</sup>, 1987. A discussion paper prepared by my Local was distributed to members attending the Council. A copy of it is attached to this letter.

External Affairs officials expressed themselves committed to ensuring the present system of reciprocal arrangements existing under the Privileges and Immunities Act would be honoured to the fullest extent possible. This, in fact, still falls far short of equal treatment for all members of the Canadian foreign service.

I request your intervention towards having the intent of Canadian society reflected in the conditions of Canada's foreign service.

Please inform me of your views in this matter, and any steps that could be taken to have the equality practiced in Canada implemented for all Canadian civil servants abroad.

Respectfully yours,

(sgd) John Kruithof  
President

***A lull descended over the scene. The next few weeks saw very little action. Time for everyone to digest what had come down the pike. I was able to give more attention to the job I was being paid for: Instructor in Operator Training Section (MITO) directed by Rod Villeneuve. That involved training communications personnel in our own Department, as well as other Departments and Agencies as required. Cryptographic equipment and operational security were the main components. I enjoyed the work, and it showed. Despite my frequent absences on union business, Rod was very generous at appraisal times to highlight my contributions to the Training Section.***

***Information on diplomatic privileges and immunities started flowing again in May.***

Foreign Service Communicators Local 70371



May 8, 1987.

Mr. Lawrence Greenspon,  
Karam Garay Greenspon & Pascoe,  
Barristers & Solicitors,  
150 Montreal Road, Suite 312,  
Vanier, Ont.,  
K1L 8H2

Dear Mr. Greenspon,

Re: PRIVILEGES AND IMMUNITIES FOR ADMINISTRATIVE STAFF ABROAD

Attached is an extract from the Summary Record of items discussed at the EAJC March 18<sup>th</sup>. It accurately reflects the discussion on this subject.

On the surface, the Departmental position looks conciliatory. "Employees abroad who feel prejudiced by discrepancies between the privileges they enjoy in a receiving country and those granted to their foreign counterparts in Canada are invited to report these discrepancies to either Protocol or their ambassador".

The problem is, equality with our **foreign** counterparts is not our goal. In fact, it is the relegation to that standard that disturbs us.

What we do want is equality within the **Canadian** community abroad. That is the reason for our intention to pursue the matter.

The subject has been put on the agenda for the upcoming May 20<sup>th</sup> meeting.

We hope to deliver to you by May 15<sup>th</sup> some case histories reflecting the varied forms of discrimination practiced within the Foreign Service under present legislation.

I have not yet had the opportunity of sending a follow-up letter to Mr. Clark questioning the lack of response to mine, but will do so within a day or two.

Respectfully yours,

(sgd) John Kruithof  
President

*And again a few days later:*

May 14, 1987.

Dear Mr. Greenspon

Re: PRIVILEGES AND IMMUNITIES FOR ADMINISTRATIVE STAFF ABROAD

As stated in my letter of May 8<sup>th</sup>, attached are several written submissions by members of this Local detailing discriminatory practices within Canada's foreign service. After reviewing these, I trust you will share Commissioner Pamela A. McDougall's sentiment that "status differences must cease to be reflected in inequitable treatment at posts abroad, particularly in the housing and financial areas". (Royal Commission on Conditions of Foreign Service p.26). An indication from you to the effect that Canadian authorities have a legal obligation to cease inequitable treatment will be of help to me in confronting Departmental authorities at the scheduled May 20<sup>th</sup> meeting of the External Affairs Joint Council.

Apart from the elimination of distinctions in the type of passport provided to foreign service employees, nothing substantive has changed since the Commission report (of 1981). This is not surprising, since in its (1985) "Response of the Government of Canada to the Report of the Royal Commission on Conditions of Foreign Service" (p.3). the Government stated it had "decided not to accept the Royal Commission's recommendation that diplomatic status should be sought for members of the administrative support staff...(because) implementation of this recommendation would be contrary to established international practice and could create personnel management difficulties". As you are aware, through our correspondence and conversations, we, as Canadians, have difficulty in accepting being treated "to established international practice". It is the **Canadian** standard that ought to prevail.

Turning to the attached submissions, attachment 1 shows the effect of differing level of taxation in Denmark. Attachment 2 reveals the disparity in privileges in France. Attachment 3 is self-explanatory. The reaction of staff members in Paris to that memo should not be difficult to divine. Attachment 4 indicates deliberate refusal of passes to the UN commissary in Vienna because of rank. Attachment 5 indicates the increased physical security danger in Kenya through the lack of CD vehicle plates. Ditto for Abidjan (attachment 6). Attachment 7 shows discrimination in housing (London), as well as the social caste system affecting family members (San Jose). Attachment 8 compares the good atmosphere of an all diplomatic mission (Beijing) to that of a normal site (Seoul). From the almost universal complaint about importation of vehicles, attachment 9 shows even parts for same are not exempt (Buenos Aires). Attachment 10 outlines unfair treatment in housing selection (Kuala Lumpur). Attachment 11 shows that with good fortune, necessities can be acquired duty-free, albeit through the grace of others. (Pamela McDougall commented on this phenomenon on p.27 of her Report: - "I have found that the handling of the issue of access to duty-free goods is very uneven across the system – much depends on the attitudes of senior management at the post." The member did not, however, fare that well in respect to housing (Warsaw). Attachment 12 – back to cars (Bogota). The last attachment (13) shows the disparity in access to spirits (Harare).

The above came from only a small portion of Communicators, who themselves are only one of three major administrative groups abroad (the others being secretaries and clerks). There are countless other instances. Given time, a stack of several hundred submissions can be obtained. This should not be necessary. Discriminatory legislation and regulations governing foreign service predetermine these findings.

I trust Canadian law supports the elimination of such blatant practices.

Hoping to hear from you at the earliest possible opportunity, I am

Respectfully yours,

(sgd) John Kruithof  
President

***The morning of May 20<sup>th</sup> found me in a pretty nervous state. Scheduled for later that day, I was to again walk into the lion's den (EAJC). What pressure could I exert? Just reiterating the injustices being perpetrated would fall on deaf ears to those who were perpetrating them. What to do! What to do!***

***The answer came later that morning in the form of our lawyer's letter:***

Karam Garay Greenspon & Pascoe  
Barristers & Solicitors

May 20<sup>th</sup>, 1987

Messrs. John Kruithof and  
Matti Rikkinen

Lester B. Pearson Building  
125 Sussex Drive  
Ottawa, Ontario  
K1A 0G2

Gentlemen:

I am writing to advise you that I have completed my review of the materials which you have provided to me, which outline various discriminatory practices within Canada's foreign service. Your complaint concerns the difference in treatment accorded Canadian administrative staff abroad, and in particular the Foreign Service Communicators, vis-à-vis that of Canadian diplomats. You have asked me to render an opinion on whether or not the constitutional rights of your members are being violated.

The first issue is whether or not the Charter of Rights and Freedoms applies in this case. In my opinion, the fact that your members are posted throughout the world does not prevent the Charter from applying to them.

The Charter serves to regulate all levels of government law making activity in that it is the supreme law of Canada. If the Federal Government, passes legislation that is inconsistent with the provisions of the Charter, the courts have the power to strike down the offending law by declaring it to be unconstitutional.

Section 2(1) of the Diplomatic and Consular Privileges and Immunities Act gives certain sections of the Vienna Convention on Diplomatic Relations, the force of law in Canada. What we would seek to challenge are those sections of the Convention that distinguish people in our foreign service based on diplomatic status. It seems very clear from a review of the Convention and the materials that you provided to me, that there are far more rights and privileges accorded to those persons who are given diplomatic status as compared with those, such as your members, who are not.

We would argue that as a result of the distinctions in the Act, your members are being denied the right to "equality before and under the law" and the right to "equal protection and equal benefit of the law without discrimination", pursuant to section 15(1) of the Charter. That is, your members are being discriminated against because they have not been appointed as members of the diplomatic staff of the mission when being sent abroad.

However, as I have discussed with you, the type of discrimination that we are alleging is not one of the enumerated grounds of discrimination in section 15(1) of the Charter, i.e. race, national or ethnic origin, colour, etc. Specifically, is discrimination limited to one of these grounds? The answer is no. There is case law which says that a successful complaint of discrimination is not dependant on proof of a violation of the grounds specified in section 15(1) of the Charter.

What then amounts to an infringement of the rights guaranteed under section 15(1) of the Charter? There are currently two theories of interpretation of section 15(1) being used by the Court: namely, the "mere distinction" theory and "unequal treatment" theory.

The "mere distinction" theory states that all we have to show is that your members, i.e. administrative staff, are being treated differently from other non-administrative staff, i.e. diplomatic staff. Once we prove this distinction, which we appear able to do quite easily, the onus shifts to the government to show that this infringement or limitations of your members' equality rights under section 15(1) is a reasonable limit that can be justified in the circumstances.

The "unequal treatment" theory of interpretation is similar to the first theory in that we have to show different discriminatory treatment, but we also have to show that your members have suffered an "adverse effect" as a result of this different treatment. Based on the thirteen case summaries that you have supplied me to date, in my opinion, we will be able to show to the Court the adverse effects on your members as a result of them not being appointed as members of the diplomatic staff when sent abroad.

Assuming that we can show the Court that your members' equality rights have been violated by the legislation, the onus of proving that this violation is reasonable in the circumstances rests on the government.

The government will argue that this distinction between diplomats and non-diplomats is justified because all other democratic countries make the same distinction and therefore the discrimination that we allege is justified and reasonable in the circumstances. They will also argue that it is the receiving state that is practicing this form of discrimination because they are the ones who grant diplomatic status and therefore the Charter has no application, because it is not the Canadian Government that is discriminatory, but the government of the receiving state.

Our chances of success depend on our ability to refute the government's argument. We do this by showing the Court that a great many countries appoint their administrative staff as members of the diplomatic staff. For example, your material indicates that France requests and receives attaché status for their administrative staff, to name but one country.

Our major task will be to identify all of the countries that request some form of diplomatic status for their administrative staff and be able to document it for the Court in order to show that this form of discrimination is not reasonable, nor is it justified in the circumstances.

The remedy we would seek is to have the governing statute declared unconstitutional and thereby require the government to appoint your members as members of the diplomatic staff of the mission when sending them abroad. As you no doubt are aware, this is no small order.

Please review my comments with your executive and your members and then we can get together to discuss this matter in greater detail.

Trusting that the foregoing is satisfactory, I remain.

Yours very truly,

KARAM GARAY GREENSPON  
& PASCOE

(sgd) Lawrence Greenspon

***The substantive implications of the letter had to be quickly absorbed and played to best advantage at the upcoming meeting. I decided haste makes waste. Caution the better part of valour. The official minutes reflect that:***

SUMMARY RECORD OF  
ITEMS DISCUSSED AT THE  
EXTERNAL AFFAIRS JOINT COUNCIL MEETING  
MAY 20, 1987

EXTRACT

The meeting was chaired by Staff Side.

Privileges and Immunities

A PSAC representative related his attempts, within the legislative and judicial system to bring about equality of treatment between the administrative support and the diplomatic staff abroad in relation to privileges and immunities.

Management reiterated its readiness to look at individual situations as part of the ongoing review conducted by Protocol but informed Staff Side again that some differential treatment was beyond the

control of the Department, e.g., treatment resulting from conditions imposed outside the Canadian jurisdiction.

Staff Side expressed its intention to gather more information on the subject and, if the need arises, to suggest formally that further discussions be held in a separate consultative committee.

***The suggestion for a separate consultative committee had an underlying motive. Without saying so, I wanted to project the image that I knew, and probably that they knew, that the time had come to iron out our differences in-house. The letter from Mr. Greenspon could not help but fortify my body language at the meeting, but that I was a gracious enough person to be magnanimous.***

***Some of the underlying atmospherics were reflected in the Local's next letter to Mr. Greenspon:***

May 24, 1987.

Dear Mr. Greenspon,

Re: PRIVILEGES AND IMMUNITIES FOR ADMINISTRATIVE STAFF ABROAD

Thank you for your letter dated May 20<sup>th</sup> containing your review of the subject matter. I am encouraged that, with additional groundwork, we should have a presentable case for the elimination of discrimination in Canada's foreign service.

Your letter arrived just before the start of the scheduled meeting of the External Affairs Joint Council. There, while keeping the contents private, I alluded to it. My impression is that the Department also ran the issue past their legal advisors and came up with much the same conclusion.

In the background, of course, was the question of the disposition of my letter dated March 31<sup>st</sup> to Mr. Joe Clark. Management stated the letter was in the hands of the Minister, that a substantive reply was being worked on, but that it was being delayed by the frequent absences of Mr. Clark. I expressed my understanding that a substantive reply would require time. Sensing the likelihood that the mood of the meeting would be reflected in the forthcoming reply, I asked whether management wanted to see the issue hauled "kicking and screaming" through the courts. They exhibited no enthusiasm. The meeting then went on to consider unrelated agenda items.

The union's future course of action will, to a degree, depend on the contents of the ministerial reply. Our side concurs with your view that the reversal of governmental practice "is no small order". It may very well be that, for starters, a small union/management committee is formed, **not** for the purpose of deciding legalities, but to arrange the orderly introduction of equality in our service. Anything short of that may see us eventually in court. The President of our Component (23,000 members) has assured me the issue will not be allowed to wither.

I will keep you informed of developments accruing from the above. Trust you will also be on the lookout for events elsewhere contributing to our cause. Arrangements for a meeting can then be initiated from either side to expand on details.

Respectfully yours,

(sgd) John Kruithof  
President

***In short order, I was disabused of any degree of optimism by the arrival of Mr. Clark's letter:***

The Rt. Hon. Joe Clark, P.C., M.P.  
Secretary of State for External Affairs

May 29, 1987

Dear Mr. Kruithof,

Thank you for your letter of March 31, 1987 regarding the privileges and immunities enjoyed by Canadian administrative support staff and the differing treatment that could arise from the non-possession of diplomatic status.

You possibly are aware of the various steps that have been taken to mitigate the effects of the different privileges which are granted on the basis of an individual's status at missions abroad. For example, the Department has entered into administrative arrangements with 18 countries (Australia, Barbados, Cuba, Federal Republic of Germany, Gabon, Hungary, Indonesia, Iraq, Italy, Malaysia, Netherlands, Nigeria, Romania, Thailand, Turkey, USA, USSR and Venezuela) to reduce differences in treatment through the extension of sales tax exemption privileges and other benefits to non-diplomatic personnel. Informal/unofficial arrangements are made at many posts to allow non-diplomatic personnel to enjoy a variety of benefits.

In addition, the current post index methodology, which determines the level of allowances, is designed to provide compensation, in the form of a higher post index, to members of the foreign service who do not benefit from diplomatic perquisites. A minimum identifiable economic disadvantage must exist, however, to warrant a higher index, with the result that different indices have been established at very few posts. As well, Foreign Service Directive 50.06 provides, at certain posts, for reimbursement of any customs duties or taxes imposed on shipments made in conjunction with Foreign Service Travel Assistance.

Finally, the Department is undertaking a comprehensive review of the Diplomatic and Consular Privileges and Immunities Act to determine what changes of legislation are necessary to give the Secretary of State for External Affairs more flexibility in applying the principle of reciprocity, with a particular view to extending privileges available to non-diplomatic staff. The above is indicative of the efforts which are made and will continue to be made to compensate for any additional costs which result from lack of diplomatic or consular privileges.

While the measures outlined above have been taken to lessen differences in treatment, it is necessary to recognize that such differences are not per se inequitable. Inequitable treatment is discriminatory treatment of employees based on factors irrelevant to the situation in which the treatment occurs; differential treatment is differing treatment based on such factors as collective agreements, international conventions, and job-related requirements. The Department is committed to the eradication of any lingering traces of inequity that may have developed in any areas; it accepts, however, that differential treatment exists and will continue to exist in certain areas such as that of privileges and immunities which are governed by international conventions.

The discussion paper attached to your letter suggests that the Canadian Government should move to solve the problem of differing treatment by designating all employees including administrative support staff as diplomatic staff. Such action would be contrary to established international practice, which as you are aware is largely governed by the Vienna Convention on Diplomatic Relations. It would also be contrary to the view of the McDougall Report that there was "no justification or need for giving all support staff diplomatic status". It is also important to note that in accordance with the Vienna Convention on Diplomatic Relations, Canada makes a distinction between diplomatic and non-diplomatic staff in the accreditations of foreign service personnel of other countries to Canada.

The Department will continue to do what it can to lessen such differences in the treatment of Canadian administrative support staff abroad as now exist. I believe, however, that, given the complicated nature of this subject, it would be unrealistic of me to suggest that all differences in treatment in the area of privileges and immunities will be eliminated in the foreseeable future.

Yours sincerely,

(sgd) Joe Clark

***That did it. I felt betrayed. I was angered. If that's the way nice guys are treated, than no more Mr. nice guy for me. From that point onwards, the gloves were off.***

***In early June, information came to light that the issue of diplomatic privileges and immunities was also being pursued elsewhere:***

MICHAEL CASSIDY  
M.P. Ottawa Centre

HOUSE OF COMMONS

June 1, 1987

Dear Mr. Kruithof,

I am writing to you at this time to bring you up to date on the progress of your concern your association brought to my attention recently.

Enclosed please find a copy of the response I've received. While Mr. Clark indicates that his department is beginning to address the issue your association has been raising, he misses the question about the Vienna Convention. I have written again to the minister and will let you know his reply.

Yours sincerely,

(sgd) Michael Cassidy, M.P.  
Ottawa Centre

enclosure:

The Rt. Hon. Joe Clark, P.C., M.P.  
Secretary of State for External Affairs

OTTAWA, ONTARIO

March 11, 1987

Dear Michael:

Thank you for your letter of January 30, 1987, regarding the inequities among foreign service personnel and their families abroad that could arise from the non-possession of diplomatic status.

As noted in the Response of the Government of Canada to the Report of the Royal Commission on Conditions of Foreign Service, established international practice, as largely governed by the Vienna Convention on Diplomatic Relations, prevents Canada from obtaining diplomatic status for all foreign service employees serving abroad. Various steps have been taken, however, to address the problems arising from this fact. For example, the current post index methodology, which determines the level of allowances, is designed to provide compensation, in the form of a higher post index, to members of the foreign service who do not benefit from diplomatic perquisites. A minimum identifiable economic disadvantage must exist, however, to warrant a higher index. A recommendation to maintain this

approach is scheduled to be considered shortly by the National Joint Council of the Public Service of Canada. In addition, Canada has entered into arrangements with 16 countries (Australia, Barbados, Cuba, Federal Republic of Germany, Gabon, Hungary, Indonesia, Iraq, Italy, Malaysia, Netherlands, Nigeria, Romania, Thailand, Turkey, USA, USSR and Venezuela) under which sales tax exemption privileges and other benefits are extended to non-diplomatic personnel. Further, informal/unofficial arrangements are made at many posts to allow non-diplomatic personnel to enjoy a variety of benefits. Finally, the Department of External Affairs is undertaking a comprehensive review of the Diplomatic and Consular privileges and Immunities Act to determine what changes of legislation are necessary to give the Secretary of State for External Affairs more flexibility in applying the principle of reciprocity, with a particular view to extending privileges available to non-diplomatic staff.

Yours sincerely,

(sgd) Joe

***The thinking behind that enclosure dated March 11<sup>th</sup> dovetails with what was expressed in Mr. Clark's May 29<sup>th</sup> letter to me. Michael Cassidy easily spotted how the Minister "misses the question about the Vienna Convention". Anyone reading the offending sections of the Convention, drawn up in 1961, can easily visualize a privileged pack of dignitaries, obviously considering themselves a cut above the rest of humanity, looking after themselves. Perhaps that is why the Convention did not enter into force in Canada until 1966. Be that as it may, the motivation for discrimination was clearly elitist and would not have appeared in the Convention had it been drawn up more recently. Good for Michael to pick up on it. I telephoned Cassidy's office June 9<sup>th</sup> suggesting a get-together to compare notes and stress that we had not been sitting by idly neither.***

***It was time to return attention to Mr. Greenspon:***

Foreign Service Communicators Local 70371

June 8, 1987

Dear Mr. Greenspon,

You will remember we were eagerly looking forward to Mr. Clark's reply to my letter of March 31<sup>st</sup>. Well, it has arrived.

Our initial reaction is that aside from the interesting hair splitting in the middle paragraph of page 2 there is extremely little innovative thinking put out on behalf of the Minister.

Detailed consideration of the letter is in progress and we will inform you of our conclusions in due course.

We would, of course, be delighted in hearing your opinion of the letter.

Respectfully yours,

(sgd) John Kruithof  
President

***I copied this letter to Matti Rikkinen, now posted to Helsinki. Wasn't it slated for closure? If memory serves me correctly, Finns in Canada, and there are many of them, lobbied (apparently successfully) to keep the mission open.***



***It is time to take a break from all this diplomatic stuff, and look at what the Local was doing as a whole.***

AGENDA  
LOCAL 70371  
WEDNESDAY, JUNE 10, 1987  
4:00 P.M.

1. CALL TO ORDER
2. ROLL CALL OF OFFICERS
3. READING AND APPROVAL OF MINUTES OF PREVIOUS MEETING
4. EXECUTIVE REPORTS
5. PRIVILEGES AND IMMUNITIES:
  - a) Mr. Lawrence Greenspon's legal opinion
  - b) Mr. Joe Clark's opinion
  - c) Local's future course of action
6. BARGAINING UPDATE
  - a) Communications Group demands
  - b) Master Agreement demands
7. FSD UPDATE
8. COSICS
9. LOCAL ISSUE
  - a) Attitude towards Term Appointments within MITC
  - b) Christmas Party arrangements
  - c) Dental Plan
  - d) Appointment of a Local Action Co-ordinator (LAC)
  - e) Appointment of a Chief Shop Steward
  - f) LMC re: Pay Section
10. UNFINISHED BUSINESS
11. NEW BUSINESS
12. ADJOURNMENT

***The minutes reflect input from all the Committees. A number of our members contributed, and I wish I could reproduce all the reports, attachments etc. that came from their diligent efforts. Certainly not forgotten, but space limitation precludes production.***

***Next, my report. Do you see the connection here? My report appears, that of the others don't. That's how the Vienna Convention works, folks. Sorry, guys.***

PRESIDENT'S REPORT  
LOCAL 70371  
JUNE 10, 1987

This report covers some of the events that have happened since the previous Local meeting on April 8<sup>th</sup>.

On April 15<sup>th</sup> I attended an evening meeting at the PSAC Regional Office. Local presidents in the Ottawa area exchanged views and ideas with PSAC staff. It was considered a useful exercise in keeping each other informed. The recommendation was that periodic meetings of this nature should take place.

On Friday, April 24<sup>th</sup>, a retirement farewell was held in the Comcentre for Ernie Meldrum and Willy Willberg. The Local presented them with engraved plaques.

On May 3<sup>rd</sup>, Maude Barlow, prospective Liberal Candidate for Ottawa Centre, held an informal get-together in my area. The event provided ample opportunity to discuss issues with her and her administrative assistant. Maude is on record for promoting renewed pride in the Public Service.

I participated in a four-day pre-convention Finance Committee meeting in Ottawa May 4-7. Met many delegates from across the country who will be attending the Convention in Saskatoon July 13-16.

On May 20<sup>th</sup> the regularly scheduled EAJC meeting was held. Of prime interest was the discussion on Immunities and Privileges.

Madeleine Desloges of the Hull R.O. visited Locals 70125 and 70371 on May 11<sup>th</sup> with the view of identifying Local Action Co-ordinators.

Numerous contacts with Departmental officials were maintained during the period.

Today's agenda items are numerous and varied. A brief status report follows:

Privileges and Immunities: We have a detailed legal opinion from our lawyer, Lawrence Greenspon (his letter dated May 20<sup>th</sup>). The issue can be pursued on a legal basis. Adequate evidence of disparity exists already. Of course, a lot more details have to be prepared before bringing it to court. We also have the Department's policy, clearly stated in Joe Clark's letter of May 29<sup>th</sup>. He considers it unrealistic to suggest that disparity in treatment in the area of privileges and immunities will be eliminated in the foreseeable future. We have to prove him wrong. What course of action do we employ? Legal challenge can be initiated, but will probably cost tens of thousands of dollars. Funding can be requested from the PSAC, but will take some time.

While pursuing this option, Local policy has to be formulated to make sure pressure is kept up during the interim period. Michael Cassidy, M.P. Ottawa Centre, is already involved (see his letter June 1). My intention is also to approach Progressive Conservative party officials to ascertain to what extent Mr. Clark is personally involved in outlining his position, which so obviously is just a rehash of Departmental policy. At some stage, we may wish to go public by arranging to have the issue raised in the House of Commons, planting newspaper articles, and informational picketing. At this time, I would like to acknowledge the leading role Matti Rikkinen has played in this subject. Even his posting to Helsinki has not diminished his interest in seeing this thing through.

Bargaining Update: Committee Chairman Al Howe will comment. Communications Group demands have been submitted (see our letter May 20<sup>th</sup>). (For confusion, see our note April 30<sup>th</sup>). There will be a meeting on June 16<sup>th</sup> with Senior Service Officer Chris Dann to get a negotiating team going. As far as Master Agreement demands are concerned, only one item has been identified (standby) (see our letter June 2).

FSD Update: 2<sup>nd</sup> VP Doug Jacobs and Committee member Barrie Thomas have been active participants.

COSICS Update: Technological Change Committee Chairman Al Howe comments. Note secondment of Ken Hoban and Roger Banville to Projects. (MIT memo).

Term Appointments: (see our letter June 2<sup>nd</sup>)

Christmas Party: (see our note May 26<sup>th</sup>)

Dental Plan: (see our note May 26<sup>th</sup>)

LAC: (see recruitment kit)

Chief Steward: Please....

LMC: (see our letter June 8<sup>th</sup>)

All these activities are taking place at a time when many members are scurrying around making final arrangements for their posting. Just think of how much they will be missing.

(sgd) J.K.

***It was a welcome surprise to receive a letter from our lawyer containing detailed observations related to the analyzing of Mr. Clark's letter:***

June 22<sup>nd</sup>, 1987

Gentlemen:

I wish to acknowledge receipt of your letter of May 24<sup>th</sup>, 1987 and your letter of June 8<sup>th</sup>, 1987, enclosing a copy of Mr. Clark's reply to your letter of March 31<sup>st</sup>, 1987.

I have reviewed Mr. Clark's letter of May 29<sup>th</sup>, 1987 and agree with your general comment that there is little innovative thinking put forward by the Minister. I particularly disagree with the Minister's statement on page 2, paragraph 2 where he states that "...it is necessary to recognize that such differences are not per-se inequitable". Mr. Clark goes on to draw a distinction between inequitable and differential treatment. In my view such a distinction is mere semantics. I would suggest that even if such a distinction can be made, the treatment that your members are presently forced to endure comes within the Minister's own definition of inequitable treatment.

However, I think it is encouraging to note the Minister's comments on page 2, paragraph 1 where he states that the Department has undertaken a comprehensive review of the Diplomatic and Consular Privileges and Immunities Act, "...with a particular view to extending privileges available to non-diplomatic staff". I will await with great interest the outcome of this review.

It seems clear to me that, at the very least, the Minister and his Department are now fully aware of your concerns. The Minister also appears to implicitly recognize that the extension of diplomatic privileges to non-diplomatic staff would go a very long way towards eliminating the various discriminatory practices that currently exist within Canada's foreign service. I also believe that Mr. Clark now realizes that this is a very serious issue that cannot be ignored and one that must be dealt with quickly.

We have finally been able to contact the various individuals in protocol, Diplomatic Corps Services and Staff Relations whose names you were good enough to provide me. Mr. McMunagle, a lawyer who works with me, spoke to the Deputy Chief of Protocol, Mr. Doyle, who informed him that the Protocol Office only dealt with the foreign representatives and had nothing to do with our own foreign service personnel. He suggested we contact the Staff Relations Office. The same response was given by the Diplomatic Corps Services Office.

We then contacted Mr. Scott, the Director of the Staff Relations Office. He confirmed the steps as outlined in the Minister's letter, that the Department was taking to mitigate the effects of the different privileges which are granted on the basis of an individual's status at missions abroad. He could not add anything to what the Minister had already outlined and referred us to the Legal Services Branch.

We then contacted the Legal Services Branch and spoke to a staff lawyer, Mr. Fredette. He confirmed that it is the host country that decides the privileges that attach to diplomatic agents. He also indicated that the issue was really one of applying the principle of reciprocity as outlined in Article 47(2).

Canada grants privileges to the same degree as we are granted in the host country (see Section 2(4) of the Act) and if the host country places a restrictive interpretation on Article 47(2) this does not constitute discrimination on Canada's part.

I believe the best response to this type of analysis was stated in your letter to me of May 14<sup>th</sup>, 1987, when you said that "...we, as Canadians, have difficulty in accepting being treated to established international practice. It is the Canadian standard that ought to prevail".

I believe that there are some encouraging signs in the Minister's letter and I await the outcome of the Department's review of the governing legislation. For it is here that I believe your efforts to bring about change could be the most effective.

I look forward to receiving news of any and all future developments and take this opportunity to enclose my account.

Should you have any questions, please do not hesitate to contact me.

(sgd) Lawrence Greenspon

***While the contents of Mr. Clark's May 29<sup>th</sup> letter had been disappointing, it was encouraging to know he had a hand in the game. It was time to raise the ante.***

Foreign Service Communicators Local 70371

June 30, 1987.

Dear Mr. Clark,

This letter concerns the disparity in treatment accorded Canadian foreign service administrative support staff vis-à-vis that of Canadian diplomats. Your letter dated May 29, 1987, in response to mine of March 31, 1987, refers.

Your referenced letter was forwarded to our lawyer, Mr. Lawrence Greenspon. He is well acquainted with the nature of our complaint. In his opinion, the conditions we are presently forced to endure come within the definition of inequitable treatment. Whether you term our treatment inequitable or differential, it is at variance with the equality called for in the Canadian Charter of Rights and Freedoms. It is precisely because of such semantics that this Local has obtained expert legal advice. Should you be interested in Mr. Greenspon's detailed position in the matter, may I suggest your contacting him.

The Local's position on some other aspects of your letter is as follows: we view the fact that there are only one or two missions where different indices reflect economic disadvantage of our status as indicating our interest in equal status is not predicated on monetary considerations. On the matter of designating support staff as diplomatic, some countries already do so. We, as Canadians, do not want to be subjected to the "established international practice" of those countries that differentiate, since that practice is inequitable under Canadian law.

Your statement that in the view of the McDougall Report there was "no justification or need for giving all support staff diplomatic status" may be technically correct, but is nevertheless inexcusably misleading. From an extract of the Commission Report attached to this letter (attachment A) you will read "Diplomatic status should be requested for all foreign service members where there is any question that its absence would jeopardize their personal security or that of their families. Further, I recommend the granting of diplomatic status (for example, the rank of attaché) to members of the administrative support staff in recognition of long service".

That the Canadian government of the day should disagree with the recommendation was one thing, but to now misrepresent the intent of the Commission is another. This, plus the impolitic closing statement of your letter that all differences in treatment in the area of privileges and immunities will not be eliminated in the foreseeable future, will lead me to bring the issue to the attention of a) the Prime Minister, b) the Executive of the Progressive Conservative Party, and c) with other interested parties.

The above approach would not have been considered by this Local had it been convinced that the Department was genuinely stymied by international opposition to liberalization within its foreign service, or that meaningful progress could realistically be expected from the comprehensive review of the Diplomatic and Consular Privileges and Immunities Act being undertaken. The latter is dispelled by the closing thought of your letter, the former by the following examples.

In the Royal Commission Report, Ms. Pamela McDougall recommended that "the passport issued be of the same type for all foreign service members, their spouses and their dependents". In the Response of the Government to the Report (attachment B), the Government of the day accepted the recommendation. It issued all Canada-based employees, their spouses and dependents, with diplomatic passports, even though it was stated by the government as constituting "a departure from general international practice".

The support staff was appreciative of the action, although it was recognized by all parties as merely symbolic of the greater changes needed.

All went well for three or four years. Officers and personnel were issued passports of the same type. Equality in travel documents had been achieved.

Then, in a memorandum dated 1987-04-22 (attachment C), the Director General of the External Affairs Passport Bureau declared that in "a number of instances in previous years...the wrong type of passport was issued". By an excruciatingly contrived technicality, it had been decided to again issue differing passports in some instances. The ideal of equality could be circumvented, and the Department exploited it. It's an indication of the lack of respect the Department has for the concept of equality. The serious repercussions to the morale of dedicated personnel seem not to have been taken into consideration.

Recognizing the passport issue as symbolic, Ms. McDougall urged that "in more concrete terms, status differences must cease to be reflected in inequitable treatment at posts abroad, particularly in the housing and financial areas". If the Department wanted to ensure, for example, the equitable allocation of housing at missions abroad, it would devise means for effective representation of support staff views at housing committees. This is rarely done. Disturbing claims have been made to me that staff members representing administrative support categories are purposely excluded from mission committees dealing with administrative and housing policy. A letter (attachment D) pointing out this state of affairs was recently sent to the Head of Staff Accommodation Services. This is again an issue where rank outweighs the genuine needs of support staff.

It is in this negative atmosphere that Departmental resistance to equality is perceived. It is unacceptable for the Department to declare "established international practice made us do it!!". Clinging to this outmoded philosophy does not augur well for the Department's continued high esteem in the public mind.

Despite the above negative factors, co-operative management/staff endeavours are possible. I regularly attend External Affairs Joint Council (EAJC) and External Affairs Joint Committee on Occupational Safety and Health (EAJCOSH) meetings. The evenly matched management/staff association composition lends to constructive dialogue. This Local's channel of communications with management functions very well at various levels, e.g. contact with supervisors, the Divisional Labour Management Relations Committee (LMRC), the broader Labour Management Consultations (LMC), etc. As well, ad hoc meetings run smoothly. In my opinion, the Department, at home and abroad, would benefit from increased consultation and staff participation.

It was in that frame of mind that the staff side broached the tentative idea of forming a sub-committee to the EAJC tasked with looking into the orderly introduction of measures to promote equality. Its possible formation was effectively squashed by the positions outlined in your letter.

This Local had to be seen to have done everything possible to achieve the desired result before legal confrontation. I believe it has done so.

The opinion held by many veteran Communicators that our rights as Canadians were being lost in the adherence to "established international practice" has been confirmed by our lawyer. Our dignity demands that something be done about it

Your time is valuable. But if you agree that Departmental administration should adopt a more futuristic character, time devoted towards achieving that will be well spent.

Respectfully your,

(sgd) John Kruithof  
President

cc: Matti Rikkinen, HELSINKI  
Lawrence Greenspon

***We received a short letter of acknowledgement from Mr. Greenspon:***

July 6<sup>th</sup>, 1987

Dear John,

Thanks ever so much for forwarding to me a copy of your correspondence to Mr. Clark. I look forward to receiving a copy of his reply and I appreciate being kept advised as to progress in this matter. All the best.

(sgd) Lawrence Greenspon

***Not very long afterwards, we received this:***

Department of External Affairs

OTTAWA, ONTARIO

July 15, 1987

ACB-0430

Dear Mr. Kruithof:

The Secretary of State for External Affairs has asked me to reply to your letter of June 30, 1987, regarding a variety of matters relating to the treatment of Canadian foreign service administrative support staff.

I have requested that the various points raised in your letter be reviewed with the responsible officials in the Department. As soon as this review has been completed, I will reply to your letter in a comprehensive fashion.

Yours sincerely,

(sgd) Jacques S. Roy  
Assistant Deputy Minister  
Personnel

***This was an entirely logical development. Mr. Clark should be able to delegate to officials, since a variety of issues were raised in my letter. It was considerate of Mr. Roy to inform me so promptly. I informed Mr. Greenspon of this development, with the notation that I expected the Department to undertake the various reviews with the seriousness they deserved.***

***Summer is a hectic time at Foreign Affairs. Departmentally, the emphasis was on managing the comings and goings of members in transition. The Operator Training Section was no different. A stream of Communicators going out on postings had to be prepared for conditions there. Returning Communicators from abroad had a broader range of cryptographic equipment and procedures to become acquainted with. My work kept me busy.***

***My report to the Local in September pretty well sums it up:***

PRESIDENT'S REPORT  
LOCAL 70371  
SEPTEMBER 9, 1987

The summer months have been marked with a fair degree of disruption. Members of the executive did their share of TDs. Carrying out Local tasks was thus made more difficult.

This report covers some of the events that have happened since the previous Local meeting on June 10<sup>th</sup>.

On June 16<sup>th</sup> Al Howe, Doug Jacobs and myself met with Dave Delaney and Chriss Dann of the PSAC. Collective bargaining procedures were discussed. At that meeting, Al was chosen as the Bargaining Representative for our Local, and Doug as Alternate rep. Demands submitted by this Local were discussed. Subsequent to this meeting, Al was selected as member of the PSAC Bargaining Committee. This leaves Doug as the Local rep.

On June 24<sup>th</sup> a preparatory meeting was held to consider an LMC on Pay Section. Many complaints regarding the performance of the Pay Section were reviewed. Our side was represented by Moe Lambert, Glen Ulyot, Wayne Simms, Dave Preece, Dave Smith and myself. MIT was represented by Clem Coulombe, Bernie Mongeon, Jack Young and Rolly Lavoie. It was agreed that employees should initially attempt to solve their problems with direct contact to Pay Section. If that failed, full consultation with MITC admin should be entered into. As a last resort, grievances can be filed. A full-scale LMC needs more preparation. TD assignments to key members has delayed progress. A new evaluation will have to be made whether an LMC is still warranted. Of interest in this respect is the successful grievance launched by Hong Kong which found the Pay Section negligent in carrying out its tasks.

The National Component Convention was held in Saskatoon July 13-16 and I attended as delegate. A full report will be published in booklet form by the Component. I found the 200 attending delegates to be dedicated unionists committed to extracting useful service out of the PSAC.

In early August I went out on a 2-1/2 week TD in Pretoria and Abidjan. While the absence was not long, it takes a bit of time to get back into the thick of things.

On September 4<sup>th</sup> a special meeting of the Occupational Safety and Health Committee was called to disclose the new Treasury Board smoking policy. Dave Smith and I attended. Effective October 1, there will be no smoking allowed within the Comcentre. The small conference room in the hallway just outside the Comcentre entrance will be designated as a smoking area.

At the previous meeting June 10<sup>th</sup>, I reported on the status of Privileges and Immunities. In response to the negative letter from Joe Clark received at that time, I sent one dated June 30<sup>th</sup>. On July 15<sup>th</sup> we received a response to the effect that a variety of matters relating to the treatment of Canadian foreign service administrative support staff will be reviewed within the Department with a substantive reply to follow. This is where things stand at present. Since the subject will also be raised at the next EAJC (September 23) I sent informational kits to staff side participants to put them in the picture. The topic also arose at a lunch I had with Component President Pat Fortune on September 4<sup>th</sup>. He gave his approval to our initiative.

In addition to thanking all members for their activities, support and assistance during the summer months, I would especially wish to thank George McKeever for becoming the Chief Steward for this Local. While all Stewards, including myself, are always prepared to assist members in pursuing their rights, I am counting on George to orchestrate the whole affair into an effective representational unit. Good luck, George. Another member who volunteered to stick out his neck is Charles Cosgrove, who recently became our Secretary. With the slate of executives now completely filled, I am prepared to take on the additional responsibility of Local Action Co-ordinator (LAC), as Local contact point for Regional Action Committee (RAC) initiatives. A detailed list of executive and committee members for this Local is being updated. There is always room for additional participants. Anybody having special interests they would like to pursue...identify yourself and be counted.

I am looking forward to a continued high rate of activity by the Local now that the summer period has passed.

(sgd) J.K.

***I hope readers are not saying “enough already about that EAJC”. It figured big in staff associations’ relationship with the Department, and as I previously mentioned, it had clout. It was constantly on my mind.***

Foreign Service Communicators Local 70371

September 11, 1987.

Mr. Gary Doherty,  
President,  
Local 70125 External Affairs,  
125 Sussex Drive,  
Ottawa, Ont.,  
K1A 0G2

Dear Brother Gary,

EXTERNAL AFFAIRS JOINT COUNCIL (EAJC):  
PRIVILEGES AND IMMUNITIES FOR ADMINISTRATIVE STAFF ABROAD

By copy of my September 2<sup>nd</sup> letter to Mary Ramsay, you will have already received some informational material related to the subject matter, consisting of copies of letters exchanged between this Local and the Department.

To further prepare you for the upcoming EAJC, it is my pleasure to attach copies of correspondence detailing the relationship we have with this Local’s lawyer. I think you will agree this avenue provides a valuable contribution towards understanding the complexities of Canada’s foreign service.

I am looking forward to having this initiative utilized in further endeavours to achieve equality in our service.

Fraternally,

(sgd) John  
President

cc: Mary Ramsay (with attachments)

***I digress here for a moment to air some dirty linen, but not from the Department.***

Foreign Service Communicators Local 70371

September 14, 1987.

Mr. L. A. Fucile,  
Executive Secretary,  
National Component, PSAC.,  
233 Gilmour Street, Suite 301,  
Ottawa, Ont.,  
K2P 0P2

Dear Brother Fucile



Re: NATIONAL COMPONENT CONVENTION – SASKATOON

In reference to your letter dated September 1, please find attached copies of letters related to prior approval for hotel costs for the evening of July 16<sup>th</sup>.

While it did become obvious during the day of July 16<sup>th</sup> that departure that day was possible, the representative of the travel agency informed me there were over twenty names already waitlisted for the flight and that my chances of obtaining a seat were nil. I accordingly informed Brother Delaney, who accepted the situation.

I trust this information is sufficient for the Component to absorb the cost involved.

Yours truly,

(sgd) John Kruithof  
President

National Component

September 18, 1987

Dear Brother Kruithof,

RE: 1987 NATIONAL COMPONENT CONVENTION  
SASKATOON, SASKATCHEWAN

Thank you for your correspondence of September 14, 1987 in reply to my earlier correspondence on the above-referenced matter.

Today I spoke directly to Vice-President, Countries Outside Canada, Dave Delaney on the matter of you receiving authority from him to stay in the hotel July 16<sup>th</sup> in Saskatoon at Component expense.

Vice-President Dave Delaney advised me this date that he did not provide any such authority to you to remain in the hotel at Component expense for the evening of July 16<sup>th</sup>.

In addition to the above, it is my understanding that you did not provide to the travel agent your name to be placed on a list for travel reservations July 16. This also has been confirmed by you in your correspondence of September 14<sup>th</sup>.

Based on all of the above, I have no authority not to request from you payment for hotel charges for staying in Saskatoon on the evening of July 16, 1987.

Thanking you in advance for your consideration of the above.

Sincerely,  
(sgd) L.A. Fucile,  
Executive Secretary

cc: D. Delaney, VP Outside Canada  
G. Doherty, Alt. VP

Foreign Service Communicators Local 70371

September 24, 1987.

Dear Brother Fucile,

Re: 1987 NATIONAL COMPONENT CONVENTION  
SASKATOON, SASKATCHEWAN

This is in response to your letter of September 18<sup>th</sup>.

Your having no authority not to request payment from me for hotel charges for the evening of July 16<sup>th</sup> is appreciated. Please pass the following information on to whoever can give you the authority not to request...

From the contents of your letter, more was read into mine of September 14<sup>th</sup> than is warranted. As clearly stated in my letter, Brother Delaney accepted the fact I had been informed by the travel agency representative that there was a waiting list of over twenty names for the flight and that my chances of obtaining a seat were nil. Nothing more, nothing less. Brother Delaney did not provide any authority, because none was sought. My understanding of the Component's responsibility was based on its letter of May 27<sup>th</sup> which clearly states that "based on the fact that you are a committee member, the Component is prepared to pay for the cost of your room for the evening of July 16, 1987".

I was not aware that failure to leave my name with the travel representative after having been told there was not a chance of flying would be grounds for the Component's collection effort. Nor, I suspect, was the representative.

Under the circumstances outlined above, I believe payment on my part is not warranted. I am nevertheless disturbed by this misunderstanding.

Faternally,

(sgd) John Kruithof  
President

cc: D. Delaney, VP Outside Canada  
G. Doherty, Alt. VP.

National Component

October 22, 1987

Dear Brother Kruithof:

RE: CONVENTION EXPENSE CLAIMS

All Convention claims have now been reviewed. It was noted that in some cases, through misunderstanding and other matters, some claims were not entirely correct.

In all instances where it has been determined that the Component may have erred, no collection will be forthcoming from the member.

With respect to you, please be advised that our earlier correspondence to you requesting \$55.64 should be disregarded.

Regretting any inconvenience this may have caused you,

Sincerely,

(sgd) Marie Keasey  
(for) L.A. Fucile  
Executive Secretary

cc: P.J. Fortune, National President  
M. Keasey, Financial Adviser.

***This “inconvenience” set the stage, within months, coupled with my unorthodox conduct towards the Department over Privileges and Immunities about to be detailed, for a serious challenge to my position as Local President, and within years, the ousting of David Delaney from his.***

***I must turn to my trusty notes for the atmospherics at the September 23<sup>rd</sup> meeting of the EAJC.***

September 23, 1987

NOTE TO FILE

This note covers item 6 of the EAJC agenda: privileges and immunities.

Mr. Fogerty was the spokesman for Management side on this issue. He started by stating that, as instructed by the Secretary of State for External Affairs, a letter had been sent to us mid-July (ACB-0430) and that the Department was still conducting reviews. He listed the countries which were being compared for the treatment of their foreign support staff, (e.g. Australia, New Zealand, Britain, France, U.S.A., etc.). While most had replied in some form, he was awaiting further information before sending us the comprehensive reply promised in the letter.

I countered by saying the Department was using the wrong approach. It is irrelevant how other countries treat their employees. The central point is respect for Canadian law which calls for equality.

Mr. Fogerty responded that my approach was too simplistic. Extraterritorial application of national laws was a complicated international matter. Many nations have difficulty with it.

I replied it was true my approach was simple and charged the Management side with deliberately complicating the issue to deny equality being granted to us. I challenged them to adhere to Canadian law and overcome any difficulties that might be in the way instead of finding roadblocks to put in its path.

Mr. Fogerty stated Management was doing its best to ensure we were given a fair deal. (I had the impression he thought observance of reciprocal arrangements in place would satisfy us). I reiterated our stand that nothing short of equal recognition would satisfy us. He responded that everyone was not equal. I responded that under the Charter of Rights and Freedoms Canadians were equal and that I would have to revise my opinion of colleagues within External who argued otherwise.

I expressed the opinion that Management did not understand how deeply we felt about the issue. I credited them with having enough intelligence to look at the inequality of the system and realize that dissatisfaction would inevitably lead to grievance. I saw no need of meetings with them to draw pictures. Our pursuit for equality would not cease.

By way of concluding the item, our side's co-ordinator Gregory Stack, seated beside me and directly across from External's chairman Roy, indicated he saw the issue ending up in court. Mr. Roy thought it would not. I stated my hope it would not.

(sgd) J.K.

***And another note:***

September 24, 1987

NOTE TO FILE

During the last few weeks an excellent relationship has developed between 70371 and 70125 in relation to privileges and immunities. 70125 President Gary Doherty is now actively involved in planning future strategy.

In letters dated September 2<sup>nd</sup> and 11<sup>th</sup>, and several conversations, Gary is now fully in the picture of 70371 activities. He informed me that at a recent 70125 meeting, the Local voted to meet our initial legal costs of \$600.00 halfway, and that a cheque for \$300.00 was in the mail. I expressed my gratitude for this sign of solidarity and that we were much heartened by it.

We talked about developing a joint committee to plan the involvement of members abroad, such as designing a questionnaire. Also to be considered are joint manifestations of discontent over External's elitist attitude.

One matter to be resolved is whether meetings with Management are desirable while we are pursuing our goal of equality. At the September 23<sup>rd</sup> EAJC meeting I credited Management with enough intelligence to look at the inequality of the system and realize that our dissatisfaction would inevitably lead to grievance and that I therefore felt no need of meetings with them to draw pictures. My inclination is to stick to that line unless I am convinced of benefits deriving from meetings.

(sgd) J.K.

***In due course, Gary's letter arrived:***

Local 70125 External Affairs

October 1, 1987

Dear John,

At the recommendation of the executive of Local 70125 the following motion was presented and passed at our regular monthly meeting on September 21/87.

THAT LOCAL 70125 support our sister LOCAL 70371 in their fight against discrimination of our members abroad and send a cheque in the amount of three hundred dollars (\$300.00) to cover 50% of their lawyer's fee.

Enclosed you will find a cheque for \$300.00.

I can assure you that this Local appreciates the effort of Local 73071 and we will continue to support you in any way we can.

Fraternally,

(sgd) Gary Doherty  
President

cc: D. Delaney, V.-P. Regions Outside Canada  
L. Cundell, Treasurer

***Gary intimated the vote had not been unanimous.***

***Local 70125 was on side, but where was the input from PSAC?***

Foreign Service Communicators Local 70371

October 14, 1987.

TO; Mary W. Ramsay

Dear Mary,

My letters dated September 2<sup>nd</sup> and September 11<sup>th</sup>, 1987, provided you with the basic documentation related to the subject. The September 2<sup>nd</sup> letter covered Local/Departmental correspondence, the September 11<sup>th</sup> letter the Local/Legal relationship.

You will remember from conversations we had that I am interested in being informed of the PSAC's opinion, especially of the September 11<sup>th</sup> letter. The suggestion was made to have the matter reviewed by PSAC legal advisors for their comments.

Locals 70125 and 70371 have formed a joint committee to pursue the objective of equality. It would like to receive, as soon as possible, an indication of the PSAC's position in the matter. When may this be expected?

Fraternally,

(sgd) John Kruithof,  
President

cc: Heather Brooker

***With the issue receiving wider and wider dissemination, it was again time to turn to the Department:***

Foreign Service Communicators Local 70371

October 15, 1987.

M. Jacques S. Roy,  
Assistant Deputy Minister Personnel,  
Department of External Affairs,  
125 Sussex Drive,  
Ottawa, Ont.,  
K1A 0G2

Dear M. Roy,

Re: Privileges and Immunities for Administrative and Technical Staff Abroad

Your letter ACB-0430, dated July 15<sup>th</sup>, 1987, indicated a comprehensive reply to our letter of June 30<sup>th</sup> would follow.

Considerable time has now elapsed. Are you in a position to indicate when further information may be expected?

Because of the importance we attach to the principle of equal application of Canadian law to all its citizens, your response will, as usual, be considered by us as reflecting the views of the Minister.

Yours truly,  
(sgd) John Kruithof President

***They must have been waiting:***

Department of External Affairs

OTTAWA, ONTARIO  
K1A 0G2

October 15, 1987

Dear Mr. Kruithof:

I am writing with reference to my letter of July 15, 1987 in which I promised a comprehensive reply to your letter of June 30, 1987 to the Secretary of State for External Affairs, regarding a variety of matters relating to the treatment of Canadian foreign service administrative support staff. We discussed some of the topics you raised in your letter at the recent meeting of the External Affairs Joint Council (EAJC). As indicated there, I do not have a definitive response to all the issues which are of concern to you, but I believe it would, nevertheless, be useful to provide you with comment to the extent that I am able at the present time.

On the matter of differential versus discriminatory treatment, I can only repeat, as outlined in the SSEA's letter of May 29, 1987, and as stated at the recent EAJC meeting, that differential treatment is not per se inequitable. The distinction between the two is not merely one of semantics. This distinction is explained in detail in the attached copy of Circular Document Admin. No. 30/84 (ADA) of August 15, 1984 on Equitable Treatment, the contents of which remain valid. You will note that differential treatment may be based on such factors as international conventions. The Department's practice not to designate all administrative support staff as diplomatic staff has been based on established international practice, as largely governed by the Vienna Convention on Diplomatic Relations. We are at the present time updating our information on the practices of other countries to determine whether there is a basis on which our policy could be changed, and will present a report of our findings at a future meeting of the EAJC.

It should be noted that the designation of administrative support staff as diplomatic staff does not in itself ensure that diplomatic status will be granted. Indeed, the granting of diplomatic status is the sole prerogative of the Receiving State which may refuse to grant such status to individuals performing functions which it does not consider to be diplomatic. It should also be noted that a Receiving State is under no obligation to grant such status on the basis of domestic legislation in a Sending State, such as the Canadian Charter of Rights and Freedoms.

I have noted your comments regarding your lawyer's views on this matter. While I would be interested in his views, I do not believe that it would be appropriate for me to contact him direct. However, if you wish to pass them on to me, I would be very pleased to receive them.

The reference in the SSEA's letter to the fact that, in the view of the McDougall Report, there was "no justification or need for giving all support staff diplomatic status", was not meant to mislead but simply to flag an important aspect of the Report which often is overlooked when this subject is considered. It is true that the Report recommended the seeking of diplomatic status for reasons of "personal security". However, as you are probably aware, in its Reponse to the Report, the Government indicated its intention to continue the policy adopted following a review of the question in 1979. according to that policy, diplomatic status would be sought "for all staff and their families in countries where, in the Canadian Government's view, such status is deemed necessary for reasons of security and personal safety". This is what is now done in a number of countries.

On the other hand, the Report's recommendation that diplomatic status should be sought for members of the administrative support staff in recognition of long service was not accepted. The Government's Response noted that the implementation of such a recommendation could create personnel management difficulties in that long service cannot always be correlated with merit, and that there were other ways of rewarding long service. In addition, the Response indicated that it was possible for promising members of the support staff, chosen on the basis of merit, to become administrative officers and thereby have diplomatic status while serving abroad.

As you have indicated, some countries designate members of the administrative support staff as diplomatic. The information available to us indicates that western countries do so on the same basis as does Canada, specifically when it is deemed necessary for reasons of security and personal safety. Indeed

the practices of these countries, which we are reviewing at the present time, serve as the basis for the “established international practice” on which current Canadian policy has been based.

In light of the comments contained in the above paragraphs, you will appreciate that the statement made in the closing sentence of the SSEA’s letter of May 29 was one of fact. Differences in treatment in the area of privileges and immunities are based on the possession or non-possession of diplomatic status. As such status can only be granted by Receiving States, which may not be prepared to grant such status to members of the administrative support staff of foreign missions, the SSEA had no choice but to state that “it would be unrealistic of me to suggest that all differences in treatment in the area of privileges and immunities will be eliminated in the foreseeable future”. However, steps have been taken to mitigate the effects of the different privileges which are granted on the basis of an individual’s status at missions abroad.

I have raised your points regarding the issuance of diplomatic passports with the Passport Bureau and have been advised as follows:

In 1983, the Government of the day did...decide that “all Canada-based employees assigned for tours of duty to Canadian diplomatic and consular missions abroad...may travel on diplomatic passports to, from and during their assignments abroad”. That decision continues to be followed as a supplementary instruction to the entitlements provided in the Diplomatic and Special Passport Regulations. The Director General of the Passport Bureau in his memorandum of April 22, 1987 made the distinction that Departmental personnel on temporary duty abroad, but not entitled either by the Regulations or by other instructions and not assigned to a mission, are entitled to special passports only. The Government statement of 1983 referred to ...”all personnel on posting abroad”, (and) not to all persons traveling abroad on Government of Canada business. The reference of the Director General in his memorandum to “a number of instances in previous years where the wrong type of passport was issued” was not a comment on what type of passport entitlement should have existed...but, rather, his recognition that administrative errors in individual cases...(had) been made both before and after the 1983 decision. Such errors may have led to the confusion regarding entitlement that he3 presumed initiated the request for the clarification that he was providing.

Similarly, I have raised your concerns regarding the allocation of housing at missions abroad with the Staff Accommodation Services Section and have been advised as follows:

Authority for the allocation of staff quarters has been delegated to Heads of Mission. The criteria to be used in the allocation process are listed in FSD 25.07(B). These include annual salary, household size and program requirements, including the requirement to extend substantial official hospitality at home.

The Department has recommended that housing sub-committees be formed at every mission abroad. At smaller missions, the creation of such sub-committees is not always practical. The role of the sub-committee is to advise the committee of post management (CPM) on housing and matériel matters. The CPM then advises the Head of Mission. The Department has suggested that membership of the sub-committee [should] include representatives from the mission’s principal programs, as well as a representation from support staff, ...[a representative] selected from the spouses accompanying employees abroad and one single employee. Composition of the housing sub-committee is decided by the Head of Mission. It is, of course, not always possible to include all the above groups on the sub-committee. Officials in the Physical Resources Bureau (MRD) would be pleased to investigate any cases where support staff have been excluded from housing sub-committees.

Finally, I wish to refer to your suggestion regarding the formation of a subcommittee of the External Affairs Joint Council (EAJC) tasked with looking into the orderly introduction of measures to promote equality. Given the willingness of management to discuss specific problems with staff association

representatives either on an ad hoc basis or through the many channels of communication outlined in your letter, as well as the bi-monthly meetings of the EAJC, I am not convinced that there is a need for an EAJC subcommittee tasked as you suggest.

In this letter, I have sought to clarify present Departmental policy with regard to the issues raised in your letter. I believe, however, that it is important not only to clarify existing policy but also to ensure that it remains appropriate. It is with this in mind, as well as the importance of the designations given to foreign service employees serving outside Canada, that we are reviewing the practices of western countries with which Canadian policy normally is compared. We will be discussing this question in the EAJC when the updated information we have requested has been received. We will also then be able to determine the most appropriate means of proceeding further.

Yours sincerely,

(sgd) Jacques S. Roy  
Assistant Deputy Minister  
Personnel

*There are a couple of things puzzling about that letter, even twenty years later. At first blush, it would appear the above two letters simply crossed. But how come the latter was dated October 15, yet was not received by me until October 21? For a Department able to send messages around the world in minutes, what was the holdup? I was located in the same building, same Tower even, as the sender. Was it simply a case of Mr. Roy not being available to sign until days after the letter had been produced? Or was it held up for more review because of my letter stating that Departmental response would be considered by us as reflecting the views of the Minister, and when it was finally released, someone forgot to change the date?*

*Was it during those six interim days that the fourth paragraph was inserted, about welcoming legal views from our lawyer? To my eye, now, as then, the paragraph appears an afterthought, glaringly different from the rest of the letter. But was it a sincere desire? Or simply a stalling tactic? Were they preparing for court and just wanted to see what I had up my sleeve?*

***If there is anyone out there with the answers, please let me know.***

*In 1987, on receipt of that letter, finally, the opportunity presented itself for my being able to release our lawyer's opinions, which I'd had in hand since May 20<sup>th</sup>, over five months earlier. Patience is a virtue. Rather than forcing findings on the Department earlier, now they were asking for them. Or would the course of events have been different had I informed the Department earlier? In any event, what follows is what I think lawyers call final summation, and Communicators call last kick at the can:*

Foreign Service Communicators Local 70371

October 27, 1987.

Dear M. Roy,



Thank you for your letter dated October 15<sup>th</sup>.

I agree Departmental administrative policy must be appropriate to the times. This is precisely why, in my June 30<sup>th</sup> letter, I cautioned against clinging to past 'traditional' practices. A new approach, based on Canadian realities, must be fashioned. It is not so much a question of what I want, or you want, but what is needed to stay within the letter and intent of Canadian law. I was pleased, therefore, to read of your readiness to receive legal views, for it is on that basis that changes will be accomplished.

Progressive social forces in Canada, by entrenching the Canadian Charter of Rights and Freedoms in the Constitution, created the means to abolish discrimination. It applies to all Canadians, without exception. For an illuminating description of the power of the Charter, one might turn to page 271 of the Canadian Encyclopedia. The article, in part, reads "every law that is inconsistent with the Constitution is, to the extent of the inconsistency, of no force and effect".

As you know, our complaint is that External Affairs presently condones one segment of its workforce to receive lesser privileges and immunities than another.

As this stage, I will take the liberty of quoting extensively from the findings of our lawyer, Lawrence Greenspon. I do this, firstly, to convince you of the legitimacy of our complaint, secondly, to give you an opportunity of reviewing them with Departmental legal experts, thirdly, to elicit return views, and fourthly, to ensure every effort is made to resolve this issue without delay.

"Your complaint concerns the difference in treatment accorded Canadian administrative staff abroad, vis-à-vis that of Canadian diplomats. You have asked me to render an opinion on whether or not the constitutional rights of your members are being violated".

"The first issue is whether or not the Charter of Rights and Freedoms applies in this case. In my opinion, the fact that your members are posted throughout the world does not prevent the Charter from applying to them".

"The Charter serves to regulate all levels of government law making activity in that it is the supreme law of Canada. If the Federal Government passes legislation that is inconsistent with the provisions of the Charter, they courts have the power to strike down the offending law by declaring it to be unconstitutional".

"...It seems very clear from a review of the Convention and the materials that you provided to me, that there are far more rights and privileges accorded to those persons who are given diplomatic status as compared with those, such as your members, who are not... your members are being denied the right to 'equality before and under the law' and the right to 'equal protection and equal benefit of the law without discrimination', pursuant to section 15(1) of the Charter".

"...the type of discrimination that we are alleging is not one of the enumerated grounds of discrimination in section 15(1) of the Charter, i.e. race, national or ethnic origin, colour, etc. Specifically, is discrimination limited to one of these grounds? The answer is no. There is case law which says that a successful complaint of discrimination is not dependant on proof of a violation of the grounds specified in section 15(1) of the Charter".

"What then amounts to an infringement of the rights guaranteed under section 15(1) of the Charter? There are currently two theories of interpretation of section 15(1) being used by the Courts: namely, the 'mere distinction' theory and 'unequal treatment' theory". (Two complex paragraphs clarify how each theory applies to our case).

(Once we) "show the Court that your members' equality rights have been violated by the legislation, the onus of proving that this violation is reasonable in the circumstances rests on the government".

It should not be difficult to deduce from the above the seriousness with which this issue is being pursued by us. Nothing but the absolute compliance with the Constitution is called for.

I look forward to receiving an equally forthright response from the Department on its legal stance and whether it wishes to contest our lawyer's opinions in court.

Yours truly

(sgd) John Kruithof  
President

***One quick note about this letter. In the second last paragraph of our lawyer's opinions, I entered in parenthesis "Two complex paragraphs clarify how each theory applies to our case". I purposely excluded any detail of how those theories applied. Keep them guessing.***

***I do not know the effect my letter had on the Department. I do know the effect it had on me. It made me more resolved than ever not to give up. I also resolved I'd do anything to win. Within six weeks, my resolve would be sorely tested, with near disastrous consequences.***

***On the practical level, two other factors had to be developed: the in-house resources for dealing with problems, and an outreach program to get others involved. The following letter has elements of both:***

Foreign Service Communicators Local 70371

October 16, 1987.

Mr. E. N. Christensen,  
Chief Steward,  
International Brotherhood of Electrical Workers (IBEW),  
Department of External Affairs (MITW),  
125 Sussex Drive,  
Ottawa, Ont.,  
K1A 0G2

Dear Chris,

Re: Privileges and Immunities for Administrative and Technical Staff Abroad

The two PSAC Locals (70125 & 70371) with members in External Affairs have formed a joint committee to pursue the goal of equal treatment abroad. Committee members are:

Heather Brooker  
Barrie Thomas  
Shirley Gillette  
John Kruithof

You have indicated your readiness to act as contact point for Committee/IBEW relations. This will contribute to the dissemination of information on an issue of common concern.

On behalf of the Committee, I am encouraging maximum possible involvement of the rotational ELs. We would be delighted to have a member of the IBEW on the committee. Please consider this letter an open invitation to join.

As you know, privileges and immunities granted diplomats exceed those accorded to administrative and technical staff. This goes against provisions of the Canadian Charter of Rights and Freedom, which guarantee equality under the law.

Our aim is to evolve management towards recognizing the contribution the administrative and technical staff makes in Canada's foreign service and that it must be accorded equal respect. No small order, given the traditional attitude held by so many officers.

Fraternally,

(sgd) John Kruithof  
President

***Our lawyer had to be kept informed:***

Foreign Service Communicators Local 70371

October 28, 1987.

Dear Lawrence,

Further to my letter dated October 19<sup>th</sup>, here are details of recent developments.

Attached is a copy of External Affairs' letter dated October 15, 1987, with its Circular Document Admin. No. 30/84 (ADA) dated August 15, 1984. (Although dated October 15<sup>th</sup>, the letter was not received by me until October 21<sup>st</sup>). Also attached is a copy of my response, dated October 27.

The October 15 letter displays systemic elitist discriminatory attitudes. For example, in the last paragraph of page 2, it states "that it was possible for promising members of the support staff, chosen on the basis of merit, to become administrative officers and thereby have diplomatic status". It links diplomatic status with merit (elitist), and then for administrative officers only (discriminatory). What if a technical specialist wishes to remain in his profession? Will merit in that occupation result in diplomatic status? No.

Several other aspects of administrative practices will be raised separately with the employer.

My reply dated October 27 concentrated on the legal route. Even at the risk of giving away a part of the store, I considered it necessary to enlighten management of our legal resources. In any event, during the course of soliciting support from Local 70125, PSAC HQ and IBEW, I had to put the cards on the table, including your opinions. While urging privacy, the chances of our papers becoming available to management have increased.

I realize that presently our account is balanced and arrangements for your continued involvement need to be made. Can you give me an indication of your views on our future relationship? Also, in your view, given the present state of affairs, is legal pursuit still a viable option?

Yours truly,

(sgd) John Kruithof  
President

***It is no accident that a newspaper clip of an opinion / analysis piece that appeared in The Ottawa Citizen on Wednesday, October 28<sup>th</sup>, 1987 was kept on file by me. It's bold title reads "Blowing the whistle on government". The first paragraph states that the triumph of dishonesty can usually be traced to the inability or unwillingness of honest people to speak out. That's why there is good***

*reason to regret the Public Service Staff Relations Board's ruling on an immigration officer who was fired for blowing the whistle on his superiors. The article then goes on to detail the plight of a John Quigley, who in front of a Commons committee alleged his superiors were breaking immigration rules. The concluding paragraph reads that whistle-blowers should be encouraged to tell MPs if they know of specific kinds of malfeasance, ...abuses of authority, etc. This is essential to democracy and good government.*

*A similar story in the November 4, 1987 of the Citizen gave details of the Professional Institute of the Public Service (PIPS) seeking the establishment of an ethics commission to give whistle-blowers protection.*

*The very next day a news story detailed how the Canadian Union of Postal Workers had asked the courts to strike down a back to work law that it considered "violating a string of provisions in the Charter of Rights and Freedoms".*

*Newspapers and magazines were avidly read by me in order to get a feeling for the parameters I could operate within.*

*In mid-November (undated) I received this letter:*

MICHAEL CASSIDY  
M.P. Ottawa Centre

Undated

Dear John,

As promised, enclosed you will find a copy of Hansard dated Friday October 16<sup>th</sup>, 1987. The debate on C254 begins on page 10102.

Also enclosed is a copy of the minutes of proceedings and evidence of the Legislative Committee on Bill C254. If you require more copies of either the Hansard or minutes please give me at call at 995-9511.

I will let you know of any new developments on the bill.

Keep in touch.

Yours truly,

(sgd) Michael Cassidy,  
MP Ottawa Centre

*A short extract from October 16, 1987 Hansard:*

...I know from contacts with my constituents in Ottawa Centre that non-diplomatic personnel, support staff, the secretaries, the people doing the ciphering and the communications work and that kind of thing, suffer some real discrimination in foreign posts. Diplomats receive tax-exempt status and have certain abilities to import products without tariffs, which the non-diplomats do not have...

As a country which has spoken up at the United Nations and elsewhere for the status of women in diplomatic life and in diplomatic and in international postings, and as a country which is concerned about equality between different people whether they live

and work at the elite level or the working level, I think Canada should be pressing very hard that the countries of the world amend the Geneva Convention in order to ensure that this discrimination against the lower paid and lower status personnel in diplomatic missions abroad should be brought to an end...I have raised this matter with the Secretary of State for External Affairs (Mr. Clark) on a number of occasions, as well as with my own critic in that area.

***At External Affairs, Mr. Alan Sullivan was appointed Assistant Deputy Minister Personnel, replacing Mr. Roy.***

***The EAJC met on December 2<sup>nd</sup>. Following are the official minutes, then my note to file.***

#### E X T R A C T

EXTERNAL AFFAIRS JOINT COUNCIL  
December 2, 1987

#### SUMMARY RECORD

##### 5. Privileges and Immunities for Support Staff:

Management reported that a survey has been completed of the policies of other countries with which Canadian practices are usually compared. Consultations on this matter are currently being conducted with JLA and XDC. Staff Side was advised that Management is actively engaged on this matter and expects to present proposals to Senior Management within the next two months. Staff Side will be advised of any progress and/or developments at the next meeting of the EAJC.

***Then my note:***

#### NOTE TO FILE

EAJC – DECEMBER 2, 1987

The issue of privileges and immunities for support staff categories abroad was discussed at the EAJC December 2<sup>nd</sup>.

Mr. Sullivan started out by saying the Department recognized the seriousness with which this topic had to be handled. External Affairs were conducting several surveys, now nearing completion. After consulting with Legal Affairs Division, a submission to senior executive management would be made. A definitive Departmental decision would be sought in time for the next EAJC meeting in early February. Mr. Sullivan stated the result of the decision could not be anticipated – acceptance of our position should not be excluded.

National Component President Pat Fortune voiced skepticism about the possible direction of management's decision, in that it would probably be based on the kind of submission tendered to it by External bureaucrats.

A barrage of criticism was leveled at management represented at the table. IBEW's Mr. Consul particularly was vehement about the unfairness of FSD 30 rental car provisions. The assault on human dignity was raised. FSDs were criticized.

After considerable discussion had taken place, I reiterated the necessity of making a black and white decision of whether the discriminatory practices abroad had to be stopped on constitutional grounds.

After the completion of the EAJC, I had a social chat with Mr. Lindsay Hiseler. He expressed the usual platitudes about diplomats only being entitled to privileges. He expressed his opinion that if we were to

make this case public, there would be little interest on the part of Canadians generally, who were bored by hearing about privileges involving duty-free liquor and cigarettes. I told him that if we were incapable of arousing interest, we would hire a public relations consultant. Liquor and cigarettes would be the least areas of our concern, which would concentrate on private vehicles, Christmas gifts for children, and support staff members being thrown out of Crown-leased housing to make way for higher ups.

(sgd) J.K.

***This conversation with Mr. Hiseler reminded me that I had failed to make clear to the Department what my course of action would be if an unfavourable ruling came down in February. I set about to correct that oversight.***

***After mulling it over in my mind for a week or so, I drafted, drafted mind you, a letter to my Member of Parliament:***

Foreign Service Communicators Local 70371

December 14, 1987.

Mr. Michael Cassidy,  
MP Ottawa Centre,  
Room 914, Confederation Building,  
Ottawa, Ont.,  
K1A 0A6

Dear Michael,

Re: Privileges and Immunities for Administrative and Technical Staff Abroad

February 3, 1988, could become a historic date in the Department of External Affairs. On that day the Department may indicate whether it chooses to continue, or abolish, the two-class system in Canada's foreign service.

The material in this binder gives our view of the situation. I hope that on the strength of the information contained herein you, or the NDP critic, will be prepared to privately, or publicly, draw the Secretary of State for External Affairs' attention to the importance that should be attached to the upcoming decision.

I am requesting your assistance in this way for several reasons: you have already peripherally raised the issue in the House of Commons during the Citizenship Act debate; the outcome of Departmental deliberations will affect the dignity of thousands of conscientious Canadians serving their country abroad (not only support staff members presently deprived of equal privileges and immunities, but also the Canadian diplomats who recognize the unfairness of the two-class system); the Departmental bureaucracy quite likely has the authority to make the decision on its own, leaving the Secretary of State for External Affairs, because of his extremely busy schedule, not fully involved; a decision of this legal/social/political magnitude needs the involvement of as many parties as possible.

Contained in this binder are extracts from the Royal Commission on Conditions of Foreign Service report submitted by Commissioner Pamela A. McDougall on October 21, 1981; an extract from the Response of the Government of Canada to the Report; Local 70371 position paper dated February, 1987; copies of correspondence between Local 70371 and its legal counsel; extracts from Local memorandums; copies of correspondence between the Local and Mr. Clark; extracts from the Summary Record of External Affairs Joint Council (EAJC) meetings; copies of correspondence between the Local and the Department; and newspaper clippings of related cases.

As already mentioned, the Department is in the process of formulating a decision. It appears it could go either way. Mr. Sullivan, Assistant Deputy Minister, Personnel, at the December 2<sup>nd</sup> EAJC meeting stated we should not exclude the possibility of a favourable outcome. But in the subsequently released summary of the previous EAJC meeting (September 23) are the words "Canada is currently following practices similar to most other countries". The latter is the probable defense the Department would use in court after a negative decision. In that case, our task will be to minutely dissect each and every country's foreign service administration, show with what countries Canada is aligning its own, and how low that standard compares to the expectations every Canadian is entitled to have in this day and age.

Michael, you have been involved in many battles in labour's cause. I leave it to your judgment as to how this material can best be used. Should you be able to intervene, it would seem to be a case of the sooner the better.

Please keep me informed.

Respectfully yours,

(sgd) John Kruithof  
President

***Now it was simply a matter of informing the Department, with a letter I did send:***

Foreign Affairs Communicators Local 70371

December 14, 1987.

Mr. Alan Sullivan,  
Assistant Deputy Minister Personnel,  
Department of External Affairs,  
125 Sussex Drive,  
Ottawa, Ont.,  
K1A 0G2

Dear Mr. Sullivan,

Re: Privileges and Immunities for Administrative and Technical Staff Abroad

Before turning to the attached letter, not yet sent, please read my explanations.

You will remember that at the December 2<sup>nd</sup> External Affairs Joint Council (EAJC) meeting the subject of privileges and immunities abroad was discussed. My notes indicate you would make every effort to have a definitive Departmental decision on the disposition of the two-class system by the time we meet again February 3<sup>rd</sup>. You said we should not anticipate what the decision would be – a favourable outcome should not be excluded. You may remember PSAC National Component President Pat Fortune's expression of skepticism about the possible direction of executive management's decision, in that it would be based on the kind of submission tendered to it. From your own experience, and the discussion at the meeting, you will be aware of the unfair aspects of the system.

My own position is this: the Departmental decision must have the personal blessing of the Secretary of State for External Affairs. I am counting on his stature as a statesman, as a seasoned politician and as a staunch anti-apartheid activist to influence on the decision. For the Department to evolve a parochial solution and have a signature-writing mechanism do the validating simply won't do. It is for that reason alone that I am prepared to turn to other parties to alert the Secretary.

Your categorical assurance that the Secretary will be thus involved in the decision will negate the necessity of my sending the attached letter. Can you give me that assurance?

Because of our short acquaintance, you may misconstrue the motive for this letter. That is your privilege, albeit totally unwarranted.

Sincerely,

(sgd) John Kruithof  
President

*When everything stayed quiet for a couple of days, I started breathing again, figuring the Department had taken my information on board, and safely tucked it away somewhere.*

*Then, on December 18<sup>th</sup>, the telephone rang. Pat Fortune, President of the PSAC's National Component, on the line. I was informed that Pat Scott, Director, Staff Relations and Locally Engaged Staff Abroad Division of External Affairs, had telephoned him the previous day, asking him what the National Component's position was regarding my December 14<sup>th</sup> letter to Mr. Sullivan. Fortune was at the disadvantage of not possessing a copy of my letter. I was royally blasted for that. I protested that even had I mailed a copy, it would still not have been available to him at the time of Scott's telephone call. I was nevertheless given a severe dressing down. Jesus, John, you can't threaten Deputy Ministers like that. We have to work with these people all the time. Suggestions have been made that you be disciplined, and removed from office. Even while receiving a tongue-lashing, I knew it would not have been the Department calling for my head. Be at my office at 11:00 a.m. on Monday. Participants will be me, Delaney, Doherty, and you.*

*I was informed early Monday morning (December 21<sup>st</sup>) that Delaney and Doherty would not be available for the meeting. It was therefore postponed until after Christmas. Fortune and I agreed to this interim solution: he would phone Pat Scott, indicate that the Component was aware of and supported the establishment of equality abroad, and that the concern the Department had about the December 14 letter had been brought to my attention. He would continue by stating that in conversations we had, I had indicated that if my letter of December 14 would interfere with Departmental consultations, no action need be taken on it.*

*Just to make sure Pat Scott was given exactly that message, I sent a letter on my own:*

Foreign Service Communicators Local 70371

December 21, 1987.

Dear Mr. Scott,

Thank you for your recent telephone enquiry to Mr. Fortune, President of the National Component, PSAC., regarding the source of approval/instigation of my December 14<sup>th</sup> letter to Mr. Sullivan.

In the interest of informing you at the earliest possible opportunity, it is my understanding Mr. Fortune will telephone you in essence that the National Component is aware of, and supports, the establishment of equality abroad, and that I had indicated to him if my letter of December 14 interfered with Departmental consultations towards achieving a definitive position on the two-class system, the requested action in it need not be taken.



If, by chance, there is any discrepancy in this letter to what you have been given to understand by Mr. Fortune, both he and I will be pleased to amplify our position.

Respectfully yours,  
(sgd) John Kruithof  
President

***I made a point of cc'ing Pat Fortune.***

***Although my file fails to indicate exactly when the meeting at Pat Fortune's office took place, the meeting itself is so seared in my memory that I don't need notes. The four of us met. We went over the part of my conduct that had been wrong. I spoke about my instinct that a void had been out there, and had to be filled. The question now arose: what to do next. Gary Doherty, who had been quietly soaking it all up, spoke: what is going to happen next is that John is to continue doing the things he thinks need doing. Collective breaths were held for five seconds. Then Pat spoke: OK. The meeting is over.***

***It had been a close shave, but I am convinced the experience was of benefit. It did not, however, stop me from being in the face of the Department.***

***My file also fails to indicate exactly what happened to the vaunted EAJC meeting scheduled for February 3<sup>rd</sup>, 1988. I can't imagine it having been held without something appearing on file. The best I can come up with is that the EAJC was postponed until March 23, 1988. What a day that turned out to be.***

***On January 4<sup>th</sup>, 1988, the Local received a letter from our lawyer. It answered the last point I had raised in our letter to him October 28<sup>th</sup>, 1987: "...in your view, given the present state of affairs, is legal pursuit still a viable option"?***

***The applicable paragraph in his January 4<sup>th</sup> letter reads:***

"Finally, an update of my opinion letter to you of May 20<sup>th</sup>, 1987, the Courts have for the most part, been adopting the unequal treatment theory of interpretation of section 15(1) of the Charter. This would mean that a person applying for a remedy for having had their equality rights infringed or denied would have to demonstrate an adverse effect resulting from the unequal treatment. I believe that some of the examples which you provided to me in your correspondence of May 14<sup>th</sup>, 1987 would be sufficient to satisfy this test".

***For sheer persuasiveness in detailing the conditions prevailing at missions abroad, nothing excels that of a six-page submission on January 22, 1988, by five support staff members in Brasilia. Addressed to their ambassador, John P. Bell, the letter shows as no other the sheer disgust of support staff members over being subjected to the degradation of second-class citizenship. Even on its own, it would conclusively assist our lawyer in arguing his case.***

***On February 10<sup>th</sup>, our Local met. Part of my President's Report reads:***

PRIVILEGES AND IMMUNITIES: The next External Affairs Joint Council (EAJC) meeting scheduled for March 23<sup>rd</sup> should see the Department in a position to indicate whether it will continue, or discontinue, the two-level foreign service. There is a body of opinion which says diplomats are too conscious of their status to ever allow non-diplomats equality. The other body of opinion, of which this

Local is a part, says that discrimination between the two levels must be eradicated. We have the law and social justice on our side. Therefore, only full equality of privileges and protection will be acceptable. Our lawyer, Lawrence Greenpson, in a letter January 4<sup>th</sup> ...confirms this.

Other recent developments are: at the December 2<sup>nd</sup> EAJC meeting I stated the need for a clear-cut black and white decision on constitutional grounds to stop discriminatory practices abroad. On December 14<sup>th</sup> I sent a letter to the Department indicating I would turn the entire file over to my Member of Parliament unless the influence of Mr. Clark was brought to bear on the issue. The Department refused to commit itself to this in writing. At least, they know which direction I will go if the March 23<sup>rd</sup> decision is negative. Discontent is being manifested abroad. In a 6-page memo to their ambassador, the support staff at our embassy in Brasilia gave him an earful. On February 8<sup>th</sup>, after detecting some wavering in Mr. Clark's commitment to justice within the Commonwealth, I sent a letter to the Editor of the Ottawa Citizen, assailing Mr. Clark's selectivity (it seems he is more interested in apartheid than anything else). It is too soon to say whether the letter will be published".

***On Friday, February 26, the Ottawa Citizen published my letter. It was so severely edited that the original purpose was obscured. But, if spotted by External, it would send a clear enough message:***

Human Rights

Joe Clark's trip to Africa and his chairmanship of the Commonwealth foreign ministers committee in Lusaka added to his stature as a leading force against apartheid. I applaud his statement to the Committee that there is no excuse for apartheid.

He should have added that the existence of apartheid is no excuse for the continued abuse of human rights in Commonwealth countries.

John Kruithof

Ottawa

***An update to our lawyer:***

Foreign Service Communicators Local 70371

March 4, 1988.

Dear Mr. Greenspon,

Thank you for your letter of January 4<sup>th</sup>.

The issue of the Department of External Affairs' administrative decision of what to do about the two-tier structure abroad will be addressed at the next External Affairs Joint Council (EAJC) meeting scheduled for March 23<sup>rd</sup>. A definitive position has been indicated for that occasion.

A detailed reply to your letter of January 4<sup>th</sup> will be made in light of what transpires on March 23<sup>rd</sup>. For the moment, I am satisfied External realizes the seriousness of the matter. I am also satisfied with the amount of effort External is expending in gathering data for an informed decision. As to what we have to do for our side, this will be determined on March 23<sup>rd</sup> by External's decision.

The establishment of equality in recognition for the purposes of privileges and immunities will be a positive human rights development. There are signs our members abroad are getting involved on a spontaneous basis.

On behalf of our members, I thank you for your continued interest in this matter.

Respectfully yours,

(sgd) John Kruithof  
President

***The big day itself - March 23, 1988. The EAJC conference room filled to overflowing. Both sides had double their usual complement of representatives, with others standing behind. According to my trusty notes, this is what happened:***

Late in the EAJC meeting on March 23<sup>rd</sup> came the pièce de résistance – our cause célèbre. Mr. Sullivan gave the Departmental position by reading the highlights of an all mission telegram that had been prepared. My fondest hopes had been realized. In the clearest language possible, instructions were going out to grant us equality. No ifs or buts about it. On completion, our side gave Mr. Sullivan a firm round of applause. An unusual event.

Fortune, Delaney and I voiced our appreciation of this development.

There was agreement that widespread publicity at this stage, before foreign governments were aware of this move, would be counter-productive. If there was any press coverage at all, comments should be limited to approval of a progressive move.

(sgd) J.K.

The highlights of the telegram: (in CAPITAL letters. All telegrams in those days were):

DIPLOMATIC (OR CONSULAR) STATUS FOR MEMBERS OF SUPPORT STAFF

SUMMARY: THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS HAS AGREED THAT ALL SUPPORT STAFF NOT NOW HOLDING RANK OF ATTACHE AT DIPLOMATIC MISSIONS (OR VICE-CONSUL AT CONSULAR MISSIONS) SHOULD BE ACCORDED THAT RANK AND DIPLOMATIC (OR CONSULAR) STATUS SOUGHT FOR THEM ON THIS BASIS FROM RECEIVING STATE.

THE DEPARTMENT OF EXTERNAL AFFAIRS RECENTLY UNDERTOOK COMPREHENSIVE REVIEW OF ITS POLICY REGARDING DIPLOMATIC (OR CONSULAR) STATUS FOR MEMBERS OF SUPPORT STAFF. REVIEW REVEALED FOLLOWING, AMONG OTHER THINGS:

- (A) INTERNATIONAL PRACTICE HAS MOVED CONSIDERABLY BEYOND NARROW INTERPRETATION OF VIENNA CONVENTION ON DIPLOMATIC RELATIONS WHICH IN THEORY LIMITS DIPLOMATIC STATUS TO PERSONNEL PERFORMING PRECISELY DEFINED DIPLOMATIC FUNCTIONS;
- (B) CANADIAN PRACTICE REFLECTS THIS FACT IN THAT DIPLOMATIC STATUS SUCCESSFULLY HAS BEEN SOUGHT FOR SUPPORT STAFF IN 18 COUNTRIES REPRESENTING MORE THAN 22 PERCENT OF SUPPORT STAFF ABROAD FOR REASONS LARGELY UNRELATED TO ABOVE-MENTIONED DIPLOMATIC FUNCTIONS;
- (C) CANADIAN PRACTICE, WHILE ROUGHLY SIMILAR TO THAT OF SEVERAL COUNTRIES WITH WHICH CANADIAN PRACTICE NORMALLY IS COMPARED, IS BEHIND THAT OF OTHER SIMILAR COUNTRIES.

SUCH FACTORS LED TO RECOMMENDATION BY SENIOR MANAGEMENT THAT DIPLOMATIC (OR CONSULAR) STATUS SHOULD BE SOUGHT FOR ALL SUPPORT STAFF, RECOMMENDATION WHICH WAS AGREED TO BY THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS.

IN LIGHT OF THE ABOVE, MISSIONS SHOULD AMEND DIPLOMATIC PASSPORTS OF CANADA-BASED SUPPORT STAFF WITH OBSERVATION INDICATING NEW DESIGNATION OF ATTACHE (OR VICE-CONSUL), ADVISE LOCAL MINISTRY FOR FOREIGN AFFAIRS THAT THESE INDIVIDUALS HAVE BEEN "PROMOTED" TO LEVEL OF ATTACHE (OR VICE-CONSUL) AND REQUEST DIPLOMATIC (OR CONSULAR) STATUS TOGETHER WITH APPROPRIATE IDENTITY CARDS ETC. FOR THEM ON THIS BASIS. SHOULD THE MINISTRY FOR FOREIGN AFFAIRS QUESTION REQUEST AND, FOR EXAMPLE, SEEK CLARIFICATION, IN FORM OF JOB DESCRIPTION ETC. OF FUNCTIONS TO BE PERFORMED BY NEW ATTACHES OR VICE-CONSULS YOU SHOULD INDICATE:

- (A) THAT NORMAL INTERNATIONAL AND CANADIAN PRACTICE IS TO SEEK AND TO GRANT DIPLOMATIC (OR CONSULAR) STATUS ON BASIS OF DIPLOMATIC (OR CONSULAR) DESIGNATION IN DIPLOMATIC PASSPORT;
- (B) THAT IT IS NOT NORMAL INTERNATIONAL OR CANADIAN PRACTICE TO QUESTION REQUESTS MADE ON THIS BASIS OR TO DEMAND OR TO PROVIDE CLARIFICATION OF FUNCTIONS TO BE PERFORMED, AND
- (C) THAT CANADA THEREFORE IS NOT PREPARED TO PROVIDE SUCH CLARIFICATION.

GRANTING OF DIPLOMATIC (OR CONSULAR) STATUS IS SOLE PREROGATIVE OF RECEIVING STATE. WE ARE AWARE THAT SOME STATES MAY REFUSE REQUEST FOR SUCH STATUS. MISSIONS SHOULD ADVISE OF ANY PROBLEMS ENCOUNTERED IN THIS REGARD. WE ANTICIPATE SHAKEDOWN PERIOD OF APPROXIMATELY SIX MONTHS AT END OF WHICH WE WILL EXAMINE THOSE CASES, IF ANY, WHERE RECEIVING STATE HAS REFUSED REQUEST FOR DIPLOMATIC (OR CONSULAR) STATUS AND DETERMINE WHAT MEASURES SHOULD BE TAKEN TO DEAL WITH THIS FACT.

AS POSTSCRIPT, LACK OF DIPLOMATIC (OR CONSULAR) STATUS HAS BEEN LONGSTANDING ISSUE FOR MANY MEMBERS OF SUPPORT STAFF. RECOGNIZE, THEREFORE, SIGNIFICANCE OF THIS MEASURE AS ONE WHOSE TIME HAS COME AND TRUST ALL WILL SHARE IN SATISFACTION THAT THIS STEP NOW BEING TAKEN.

***Within minutes of completion of the EAJC meeting, the telegram was dispatched to all Canadian missions around the world. To facilitate the missions being able to implement this new policy without interference, the telegram went out in code.***

***The Department had done well.***

***Achieved !***

***Diplomatic Status – Implementation***

***“Part Two”***

## **LOCAL 70371**

### ***Implementation of Diplomatic Status for Support Staff***

***By John Kruithof***

***Whereas March 23, 1988, had been suspenseful, wondering what the Department of External Affairs would announce at the EAJC, the following day was a day to celebrate. Celebrate that the Department, after some prodding, had done the right thing. It was on March 24<sup>th</sup> that the Canadian diplomatic community abroad awoke to a new future. Gone were the days of friction between diplomatic and non-diplomatic staff at missions abroad. From now on, only one standard would prevail, that of equality.***

***As stated in my letter of October 27, 1987 to Assistant Deputy Minister Roy, "it is on (the) basis (of law) that changes will be accomplished". Had there not been the Canadian Charters of Rights and Freedoms, support staff could have complained until they were blue in the face, and still nothing would have changed. Even our lawyer, Lawrence Greenspon, might not have had a leg to stand on. So, first and foremost, hats off to the visionary Canadians who, in 1982, entrenched the Charter in the Constitution.***

***Local 70371 had been instrumental in making the Department see the light. That effort was appreciated by members. As President, it was my happy task to deal with the results:***

#### **NOTE TO FILE**

March 23: After the EAJC meeting, congratulations from attendees Pat Fortune, Dave Delaney, Mary Ramsay, Shirley Gillette, Doug Jacobs, and some others. I telephoned Dave Smith, Barrie Thomas and Christine Hantel-Fraser with the news. They stated their supportive positions.

March 24: At work, a dozen colleagues dropped by at MITO to shake hands and express satisfaction. Matti Rikkinen telephoned from Helsinki. Nicole Levesque and Peter Nigl sent a telegram from Beijing. Rod Villeneuve was delighted my efforts had paid off. Throughout the day, consistent comments were brought to my attention expressing satisfaction, including those from the IBEW. Dave Smith had printed a large thank you banner on his computer and tacked it to the lunch room bulletin board. On arrival home, a fruit basket from colleagues at work had been delivered.

March 25: Had telephone call from Gary Doherty, President 70125. Subsequent Telepost message received. Rolly Mailloux offered a bottle of champagne from his *cave* to pass to lawyer. Completeness of victory had sunk in and historic implication appreciated.

March 27: Jud Dogterom, (Harare), recuperating from facial operation, telephoned his congratulations.

#### ***The CNCP TELEPOST message read:***

ON BEHALF OF ALL THE MEMBERS OF LOCAL 70125 PARTICULARLY THOSE IN THE ROTATIONAL FIELD WE WISH TO CONGRATULATE AND DISPLAY OUR APPRECIATION FOR YOUR INDIVIDUAL EFFORT IN OBTAINING THE DIPLOMATIC STATUS FOR MEMBERS OF THE ADMIN SUPPORT GROUP AT OUR MISSIONS ABROAD. THE ROLE OF LOCAL 70125 HAS ALWAYS BEEN OF FINANCIAL AND MORAL SUPPORT IN THIS ISSUE AND WE ARE VERY GRATEFUL FOR YOUR EFFORT ON OUR BEHALF.

(sgd) GARY DOHERTY  
PRESIDENT

***A touching telegram was received from Denis Martel in Tunis, which concluded:***

THIS NEW POLICY WILL HAVE GREAT EFFECT ON MORALE AND MY RESPECT FOR OUR  
DEPARTMENT HAS GONE FROM 0 TO 10.

***The Department received its share of kudos:***

National Component PSAC

March 24, 1988

Mr. Alan Sullivan  
Assistant Deputy Minister Personnel  
Department of External Affairs

Dear Mr. Sullivan:

As a result of the decision taken by the Department and announcement to the Unions at the March 23, 1988 External Affairs Joint Council Meeting, I wish to take this opportunity, on behalf of all members of the PSAC employed outside of Canada, to thank you personally, and the Department, for this long required step to provide equity of treatment to all of our members posted abroad.

I would like to reiterate again the comments I made at the EAJC that the above decision, albeit after long consultation, does prove the value of the Union-Management Consultation process.

In conclusion, I would again mention to you my concerns with the distress and indecision that is caused to the members of my Union when layoffs or positions are to be reduced in the Department and hope that again, with consultation, we can arrive at a solution to this problem, equal to the one that has been achieved for diplomatic status abroad.

Sincerely,

(sgd) Patrick J. Fortune  
National President

***And my own letter:***

Foreign Service Communicators Local 70371

April 4, 1988.

Dear Mr. Sullivan,

On behalf of the entire Communicators' group, I express admiration for the progressive element in External's management being able to move with the times in promoting equality and human dignity within the ranks of its foreign service.

It is recognized that foreign governments have the prerogative of granting diplomatic status. Canada's decision to seek that status is a crucially important first step. We will watch with interest how External eventually copes with governments resisting this change.

In keeping with the joint understanding that the implementation of this new policy is best pursued through quiet diplomacy, no public statement of appreciation is attempted. Our reaction to the good news at the March 23<sup>rd</sup> EAJC speaks for itself. I would, however, be delighted if you were to additionally convey to the Secretary of State for External Affairs this Local's gratitude.

Yours truly,

(sgd) John Kruithof  
President

***We had to keep our line of communication open with those who helped us. Among them: Lawyer Lawrence Greenspon and Member of Parliament, Michael Cassidy.***

Foreign Service Communicators Local 70371

April 4, 1988.

Dear Lawrence,

Re: Privileges and Immunities for Administrative and Technical Staff Abroad

There has been a significant breakthrough in the subject matter. Departmental instructions were sent out March 23<sup>rd</sup> to all Canadian missions abroad indicating diplomatic status was to be sought from receiving states for all support staff not now holding that status. It is this Local's conclusion that the Department excelled in wording its instruction.

There is enough material to fill a book on the many aspects that had to fall in place for the Department to make the decision it made. And the story is not finished yet. It is recognized that foreign governments have the prerogative of granting diplomatic status. Their reaction is far from in.

In the interest of informing you where things stand at present as concisely as possible, I have attached copies of the following:

- a) note to file dated March 24
- b) gist of Departmental instructions
- c) note to file dated March 31
- d) letter to Mr. Sullivan dated April 4

As the note of March 31 indicates, clouds are on the horizon. However, this does not detract from External having made the right decision on March 23<sup>rd</sup>.

Lawrence, on behalf of all members of this Local, thank you for having seen us through the first step. I do hope that, should conditions require it, we can continue calling on your assistance. I would be pleased to give you periodic updates of the progress being made.

Respectfully yours,

(sgd) John  
President

Foreign Service Communicators Local 70371

April 4, 1988.



Dear Michael,

It is with great pleasure and pride that I can inform you there has been significant forward movement in the provision of equal privileges and immunities for Canada's foreign service.

In a message dated March 23, 1988 to all Canadian missions abroad, the Department of External Affairs stated "The Secretary of State for External Affairs has agreed that all support staff not now holding rank of attaché at diplomatic missions (or vice-consul at consular missions) should be accorded that rank and diplomatic (or consular) status sought for them on this basis from receiving states".

This development is a reflection of your statement in the House on October 16, 1987 as Canada being a country concerned about equality and that discrimination against lower paid and lower status personnel in diplomatic missions abroad should be brought to an end.

While Canada is doing its part in seeking diplomatic status for all personnel abroad, it must be remembered that the actual granting of that status is the sole prerogative of receiving states. Worldwide acceptance of Canada's approach is unlikely. Unions and management have agreed for this reason that the implementation of equality has the best chance of succeeding when pursued through quiet diplomacy. I will follow with interest how Canada will eventually deal with countries that resist granting equal status.

Michael, I am sure you share the satisfaction of seeing a move in the right social direction being made. If there are any details of which you would like to be informed, it would be my pleasure to get together and go over the available information.

Many thanks for your support.

Respectfully yours,

(sgd) John  
President

***What were those "clouds on the horizon" mentioned in my letter to Lawrence?***

March 31, 1988

NOTE TO FILE

Today I received a telephone call from Matti Rikkinen in Helsinki. He gave me information what was happening in regard to the implementation of privileges and immunities in Scandinavia.

HELSINKI: No internal problem. MFA to be approached soon.

STOCKHOLM: Swedish MFA "refused" to grant status.

COPENHAGEN: Some internal opposition. Access to PJ and OP questioned. (Amb. Armstrong).

OSLO: Internal opposition. Embassy officers trying to reverse HQ decision. Roger Lucy named.

I mentioned to Matti that the telegraphic instructions left out the one issue that made HQ decision irreversible. That was that the issue had a profound constitutional aspect, and the HQ decision reflected that. (Is is just as well Canadian constitutionality was not incorporated in the telegram, because extraterritorial application is highly questionable. Better to stick to international practice superseding Conventional language). Because of constitutional considerations, opposition by officers at missions would be disposed of, (legally, if necessary, through intervention of lawyer). I promised Matti I would take up the matter immediately with HQ, and for him to keep me informed of developments.

I then telephoned Mr. Fogerty, Director, Personnel Policy and Planning Division, who had been designated by the Department as contact point for the implementation of the new policy. He only had a few minutes before going to a meeting. He mentioned that several messages had come in from various missions, mostly administrative in nature, such as, how does it affect military personnel, who appears where on the diplomatic list, etc. I then stated that in the case of Oslo, there seemed to be active opposition by our own embassy officers. I was keeping the matter informal at present, making verbal representation rather than written. Mr. Fogerty stated he was not surprised that opposition surfaced at some missions as "there had been considerable opposition at Headquarters to the new policy, and it was implemented only at the insistence of a few key people". He said the telegram provided for a review after a six-month shakedown. I replied that that period was provided before starting to deal with resisting foreign governments. It was not provided to give our officers that length of time trying to sabotage implementation. He fully agreed and suggested a telegram would be sent half-way through that six-month period to any missions that appeared to have run into difficulties for whatever reason.

We agreed to keep in touch.

(sgd) J.K.

***At the Local's general meeting on April 13, 1988, I reported:***

PRESIDENT'S REPORT

APRIL 13, 1988

Being president of a Local is not easy. Numerous meetings are involved, each presenting unique challenges. For example, I presently attend regular meetings of the External Affairs Joint Council (EAJC), the External Affairs Joint Committee on Occupational Safety and Health (EAJCOS&H), and the Employee Assistance Programme Advisory Committee (EAPAC). Then there are ad hoc meetings on day-to-day matters, and last but not least, the general meetings of this Local. All require considerable preparation and participation.

It is therefore with satisfaction that some positive results have come out of these meetings. The EAJC played an important role in convincing the Department to seek diplomatic status on behalf of the entire support staff abroad. I believe it was also instrumental in influencing the Treasury Board to come out with new staff quarter guidelines reducing the difference between representational and non-representational space standards. As for the EAJCOS&H, it devised a smoking policy for External that everybody could live with. EAPAC is presently involved in rewriting the guidelines governing treatment of addiction problems of employees. As a member of the Committee, I will encourage it to recommend progressive attitudes in this area.

Members of the Local will understand that in recent months much of my energy was directed towards achieving the above. In the immediate future, I hope to turn increased attention to other aspects of Local affairs. In this, I will count on the active involvement of the various Local Committees.

(sgd) J.K.

***In early May, 1988, this was brought to my attention:***

The Canadian High Commission presents its complements to the Ministry of Foreign Affairs of the Republic of Singapore and wishes to inform the Ministry that the Department of External Affairs has recently undertaken a comprehensive review of its policy regarding diplomatic status for members of its support staff.

The review revealed, among other things, that international practice has moved considerably beyond the narrow interpretation of the Vienna Convention on Diplomatic Relations. Canadian practice has reflected

this fact in that diplomatic status has been sought successfully for support staff in eighteen countries representing more than twenty two per cent of support staff outside Canada.

Nevertheless, Canadian practice, while roughly similar to that of several countries with which Canadian practice normally is compared, has been behind that of other similar countries. As a result of the above mentioned review, the Secretary of State for External Affairs has determined that diplomatic status should be sought for all support staff.

In light of the above, the following members of the High Commission have been promoted to the level of Attaché:

(In three lists, headed Name, Date of Birth, and Passport No., are the names of ten persons. Significantly, two are identified as spouses, and three as (teen-age) dependants).

The diplomatic passports held by the above have been amended to indicate their new designation. It is normal international and Canadian practice to seek and grant diplomatic status on the basis of the diplomatic designation entered in a diplomatic passport. The High Commission, therefore, requests that the above persons, along with their spouses and dependents, and their successors, be granted diplomatic status together with appropriate identification cards.

The Canadian High Commission avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Republic of Singapore the assurances of its highest consideration.

SINGAPORE, 12 April, 1988.

***Nearly twenty years later, I am still hoping someone will pop up and say: Oh, that was just a silly old draft. We wouldn't have dreamt of letting anything that incompetent slip beyond our doors.***

***No better wording could have been used to deliberately sabotage the new Canadian policy. In 1988, I did not take it lightly.***

Foreign Service Communicators Local 70371

May 9, 1988.

Dear Mr. Fogerty,

To the best of my knowledge, the attached reflects the contents of the Note our High Commission sent to the Singapore Ministry of Foreign Affairs in relation to obtaining diplomatic status for support staff.

Based solely on the contents of the Note, I believe it can not be considered as having been drafted in the spirit of the specific instructions that were dispatched from Ottawa.

Firstly, the unquestionable right (obligation?) of the Department to "promote" its support staff need not have been qualified to a foreign government as was done in the first three paragraphs of the Note.

Secondly, and this is a personal observation, the question of the status of family dependants might have been better handled after the status of the actual attachés was in hand. Are dependants attachés?

Thirdly, a minor point, is the spelling of the word 'complements' in the Note's opening sentence. Although, in view of what was given, the spelling is appropriate.

The above comments are provided in the co-operative style of information exchange established between us. I look forward to being informed of your views in this matter, and whether some action needs to be taken.

Yours truly,  
(sgd) John Kruithof  
President

*Shirley Gillette, posted to Singapore, was informed:*

May 9, 1988.

Dear Shirley,

It was nice to hear from you so soon after your settlement in steamy Singapore. Thanks for the information you supplied.

I will need to keep this note short and to the point, in the hope that we will develop a continuing exchange of comments as time goes on.

I am in contact with Mr. Fogerty a couple of times a week on the progress we are making in getting MFAs to go along with granting status. My recommendation to him that a score card be kept on all missions did not get accepted, but the seed is planted.

As far as the Singapore High Commission is concerned, it's dynamite. You will see from the wording of my letter to Mr. Fogerty (attached) that I am laying the groundwork for suing them, if it comes to that. Don't worry about supplying that kind of information, such as the Note. External Affairs HQ is actually quite relaxed about sharing information, in that all employees have a stake in the efficient running of the Department.

Will inform you of any comments Mr. Fogerty comes up with.

So you were in on the plaque business, were you. Dave Smith used the occasion of Ken Curry's retirement party at which many CMs, as well as 1<sup>st</sup> floor brass (Coulombe, Brill, RCOs, etc.) were present, to give me the plaque. I hadn't a clue it was coming. In case you haven't seen the plaque, this is how the inscription reads:

*John Kruithof*

**IN RECOGNITION  
OF YOUR  
OUTSTANDING ACHIEVEMENT  
AND SUCCESS**

**OUR SINCERE APPRECIATION  
FOR DIPLOMATIC STATUS**

**LOCAL 70371  
MARCH 24, 1988**

I made a short speech in which I thanked membership solidarity, the work of the Discrimination Committee, Pamela McDougall, our lawyer, Matti Rikkinen, visionary legislators who had enshrined the Charter of Rights and Freedoms in our Canadian Constitution, the Secretary of State for External Affairs, etc. My contribution had only amounted to a bit of information dissemination.

Oh well, the price of glory. On the whole, I have received compliments from many sources, and there is of course my personal satisfaction of having been involved in something successful. So you can readily understand my interest in not having this achievement nullified by disgruntled officers.

This is the only time you will find me tooting my own horn. You will remember at the EAJC our virtual oath of silence.

Cheers & best of luck.

(sgd) John

***In response to Patrick Fortune's letter March 24<sup>th</sup>, the Department sent this:***

Department of External Affairs

May 12, 1988

Dear Mr. Fortune:

I am writing in response to your letter of March 24, 1988 concerning both the announcement regarding diplomatic status which I made at the External Affairs Joint Council Meeting of March 23, 1988 and your concerns regarding the matter of layoffs.

I was pleased to be able to make the announcement regarding diplomatic status and am equally pleased by the favourable response to it of the affected employees. As you are aware, the Department is proceeding as quickly as possible with the implementation of the announced policy; given the complicated nature of the subject, however, it likely will be some months before the success of the policy accurately can be judged. I agree that the decision regarding diplomatic status demonstrates the value of the Union-Management Consultation process; I believe that it also demonstrates that the Department is attuned to changes, both domestic and international, in areas affecting its employees and is willing to adjust its policies accordingly.

I both understand and share your concerns regarding the stress created for all employees by the possibility of layoffs. I also appreciate that the excellent record of the Department to date in minimizing the negative effects of downsizing cannot entirely eliminate these concerns. Unfortunately, in the current climate of austerity and workforce reduction, there are no easy answers to this question. We are nevertheless examining possible actions which could be taken, and look forward to an exchange of ideas on a workable approach to the problem.

Yours sincerely,

(sgd) Alan Sullivan  
Assistant Deputy Minister  
Personnel

***The Summary Record of the EAJC meeting held on May 25, 1988 shows the degree to which other issues were again coming to the fore. Eleven topics were noted, of which Privileges and Immunities for Support Staff was fifth:***

Management reported that good progress has been achieved in implementation of the policy to improve the status of support staff abroad. Some problems have been identified regarding host government acceptance of the Canadian policy. It will take time to reach 100% success rate.

***This prompted the following from me:***

Foreign Service Communicators Local 70371

May 30, 1988.

Dear Mr. Fogerty,

With last Wednesday's EAJC meeting still fresh in mind, I would like to comment on some impressions gained from it relating to diplomatic status.

As we are now getting some reports of success or failure from abroad, your intention of keeping a tally sheet is welcomed. A fresh instruction will need to be sent to missions, as the original did not require reporting of success. I hope you will consider sending me periodic updates as the tally progresses.

The original instructions foresaw a shakedown period of approximately six months before the Department would formulate a policy on how to deal with cases where status was refused. May I suggest that within this timeframe representatives in Ottawa of those countries holding out be invited to the Lester B. Pearson building in order to allay any doubts about respective positions.

What should the Department's policy be once differences have been conclusively determined?

One option seems to be to get at the desired Canadian objective bit by bit as support staff members get posted. There are at least two difficulties with this. It would prolong an unsatisfactory situation for up to 2-3 years for several members presently abroad. Even more importantly, failure of the Department to pursue the issuance of diplomatic I.D. papers to attachés with any less vigour than for other ranks constitutes continuation of discrimination by other means.

Another option is to apply reciprocal arrangements. For each valid Canadian diplomatic passport, with valid inscription, refused by a foreign government, one of its diplomatic passports, equally valid, is refused by Canada, regardless of rank. Other governments may decide to withhold equality from their staff. That's their prerogative. But let it not be at the expense of a specific Canadian group.

Hopefully, the combined efforts of missions and HQs will instead see a speedy and orderly resolution of this issue.

Yours truly,

(sgd) John Kruithof  
President

***Mr. Fogerty must rue the day the Department assigned him to being my pen-pal.***

Foreign Service Communicators Local 70371

June 7, 1988.

Dear Mr. Fogerty,

Brussels was mentioned as being a problem area in having attaché status for support staff accepted.

I have been informed that Canadian missions there allowed the Belgian Foreign Ministry to ascertain that no change in job description was involved. One way it was done was to have the application papers for diplomatic identity cards show actual duties performed by members. On that basis, granting of diplomatic status was denied.

May I have your advice as to how the matter is evolving in Brussels?

Yours truly

(sgd) John Kruithof  
President

Foreign Service Communicators Local 70371

June 8, 1988.

Dear Mr. Fogerty,

This is merely to put on record that we had a telephone conversation regarding the diplomatic status issue in Washington.

Anything that can be done to instill some order into the situation there will be appreciated.

Yours truly,

(sgd) John Kruithof  
President

***I fully supported mum being the word as far as letting the rest of the world know what the Department was doing, but failed to understand why it also seemed to apply within. So I wrote to Mr. Fogerty about it.***

Foreign Service Communicators Local 70371

June 15, 1988.

Dear Mr. Fogerty,

The current issue of a prominent American business magazine contains comments on how to achieve an organization's objective. That is, top management must communicate a clear vision of the organization's goal and rally middle managers and employees around it. If there is a shift to an unexpected course, the affected members need to understand the reason for it. Otherwise a policy will fail.

The Department's decision to seek diplomatic status for its support staff could be looked upon as an unexpected course. The lack of full explanation why the policy was introduced may lead some officers at missions to accentuate imagined drawbacks. This contributes to the failure of having the policy implemented in those places.

Officers and support staff alike will benefit from a clear internal statement by the Department of how its new administrative policy addresses the needs of a modern Canada. That statement could run the gamut from present and future employees' unpreparedness to be discriminated against, to the Department's subscription to a vision of Canada as enshrined in the Constitution. Compared to other foreign services, Canada's is now in the forefront of enlightened management. This deserves to be widely understood.

Yours truly,  
(sgd) John Kruithof  
President

Foreign Service Communicators Local 70371

June 16, 1988.

Dear Mr. Fogerty,

A colleague in Paris called today to inform me that it is only now that staff passports have been amended to reflect the attaché status. But this apparently comes at a time when it is already fait accompli that the French foreign ministry will not issue diplomatic I.D. papers to newly promoted members already stationed in Paris. How was this reverse sequence of events arrived at? By what procedure did the embassy obtain indications of French policy?

Are newly arriving attachés to be issued appropriate I.D. papers by the French?

My contact indicated the embassy is awaiting definitive instruction from Ottawa. Is this correct?

Yours truly,  
(sgd) John Kruithof  
President

***On the surface, it appeared we were getting nowhere. But that is a false impression. For every one embassy that caused us problems, there were a handful that smoothly navigated the course in getting status granted. Most missions were already 'in the bag'. Enough so to celebrate.***

#### COMING EVENT

On Friday, June 17<sup>th</sup>, under the sponsorship of our Local, the Communicators will host a steak-Bar-B-Que/shower/dance and general get-together at the Naval Club, 150 Middle St., Victoria Island (site of last year's CM party). The shower is for Jocelyn Gallant-Khalaf (shower gifts optional).

We will have steaks, drinks (reasonably priced) and a D.J. to spin records starting at 16:30. This will be a fun affair. Tickets are \$ 5.50 each and (get this) the second ticket is free. So plan ahead and get your tickets from the following personnel:

L. Belland (MITC)  
J. Kruithof (MITO)  
M.C. Byzewski (MITO)  
E.A. Lancaster (MITA)

There will be 5 door prizes of \$ 20.00 each.

So please plan to attend. It should be fun...

***If I remember correctly, the women came for the reasonably priced drinks, the men to shower gifts on Jocelyn.***

***Letters were not all one-way:***



House of Commons

June 23 1988

Dear John,

Thank you very much for your letter regarding the move by the Government to begin to seek diplomatic status for all support staff serving overseas.

I am especially happy that you feel my statement in the House last October, urging an end to discrimination against lower paid and lower status employees, had a positive impact on the Government's decision.

I agree that quiet diplomacy is the best way to negotiate with the countries involved for diplomatic status for Canadian foreign service staff, now that the Government has agreed that such status should be sought.

I will be very pleased to be kept informed of new developments as they occur. If I can be of assistance to you in the future, please don't hesitate to let me know.

Yours sincerely,

Michael Cassidy, MP  
Ottawa Centre

***My optimism had gotten the better of me. The month of July, 1988 turned out to be a tough slog.***

***Details of a grievance came to light. Handed in on May 18, 1988 by our colleague Tom Tierney at the Embassy in Copenhagen, it put a new spin on events. It had been re-submitted as a new grievance to redress the denial of a previous grievance some three years earlier. The new grievance read:***

The Dept. of External Affairs has promoted me to the rank of attaché which is a diplomatic rank. Diplomats in Denmark are allowed to claim reimbursement for Value Added Tax (VAT) paid on certain purchases. As a diplomat I would be allowed to claim for VAT paid on purchase of automobile in the amount of approximately \$1,000.00 CAD. The Danish Foreign Ministry has advised the Embassy that it will not recognize my promotion to the rank of attaché and will not put me on the diplomatic list. This puts me in a position of inequality with other members of Embassy who hold diplomatic status.

**CORRECTIVE ACTION REQUESTED:**

The Embassy, or the Department of External Affairs should protest to the Danish Ministry of Foreign Affairs, Protocol Division and seek to have them recognize my promotion and grant me diplomatic status. Or the Dept. of External Affairs should request the Treasury Board of Canada to grant an ex gratia payment of the VAT that was paid for my auto.

***The fate of the original grievance had been decided in Ottawa based on then prevailing sentiments:***

Department of External Affairs

June 14, 1985

REPLY TO GRIEVANCE OF T.J. TIERNEY  
(Final Level)

This is the final level reply to your grievance concerning the issue that support staff at your post are required to pay a 22% moms tax upon purchase of a motor vehicle, whereas, diplomatic officers are exempt from such taxation. It is your contention that this tax discriminates between officers and support staff. As your correction action, you have requested the Department to petition the Danish authorities for a waiver of this tax and/or provide provisions to allow support staff to claim under the Foreign Service Directives.

I have carefully reviewed and considered all aspects of your grievance including the submissions of your union representatives, Mrs. Lynn Starchuk and Mr. Alan MacLean.

The distinction between diplomatic and non-diplomatic personnel is recognized in the Vienna Convention on Diplomatic Relations. In this context, many foreign governments grant various levels of privileges to Canada-based personnel depending upon their diplomatic status. Therefore, it is not unusual that foreign tax laws may differentiate between individual employees serving abroad depending on their recognized status. Although this situation may subject some employees to certain forms of taxation, this is a matter which is outside the Department's jurisdiction and at the complete discretion of the host country.

With regard to the provisions contained in the Foreign Service Directives, there is no entitlement which would allow employees to claim the tax which is incurred upon purchase of a motor vehicle at post. In your particular situation, you may have avoided the payment of foreign taxes had you purchased your vehicle in Canada. The Foreign Service Directives provide provisions which allow employees to ship their personal vehicle to post at Departmental expense. Had you chosen this option, you would have been exempt from any foreign entry duties or taxes.

With regard to your proposal to amend the existing provision of the Foreign Service Directives, it is the Department's view that these issues may be more appropriately addressed within the consultative framework of the triennial review.

Accordingly, your grievance is denied.

(sgd) J. G. Harris  
Assistant Deputy Minister  
Personnel

***The question now, in July 1988, is what to do about it.***

Foreign Service Communicators Local 70371

July 4, 1988.

Mary W. Ramsay  
Service Officer,  
National Component, PSAC

Dear Mary,

Grievance: Thomas Joseph TIERNEY

After looking at the grievance presented in Copenhagen on May 18<sup>th</sup>, 1988, I think it ought to be pursued. The details of the grievance note the continuing inequality of Mr. Tierney with other members of the embassy. The corrective action requested of lodging protests with the Danish Ministry of Foreign Affairs and/or payment of costs associated with that inequality are items that should be sympathized with.

From the attachments you will see that Mr. Tierney previously grieved the issue and that it was denied. Perhaps more information is available from files in the PSAC. When he again brought it to the attention of the embassy in a note dated April 22<sup>nd</sup>, 1988, the Committee on Post Management declined assistance.

It is entirely appropriate that practical consequences of the Department's previous morally bankrupt policy be exposed. For years, supposedly intelligent managers thought it quite alright to send Canadians abroad on an uneven playing field. To this day, even after Ottawa decreed there must be change, a powerful group within External is actively engaged in stopping the introduction of progressive measures. A hearing of the grievance will reinforce the conviction that a policy of discrimination is unjust. Mr. Tierney's car is a representation of the many items that non-diplomatic personnel have to contend with.

The McDougall Report on Conditions of Foreign Service, the Canadian Charter of Rights and Freedoms, and common sense should have alerted management years ago that the discrimination against lower paid personnel was reprehensible. Instead, they issued misleading missives such as Circular Document Admin. No. 30/84 (ADA) dated August 15, 1984, and their letter to me of October 15, 1987. The millions of dollars lost by support staff because of the Department's policy is not forgotten. It may prove difficult to get any of it back, but the magnitude of the crime is worth revealing.

Faternally,

(sgd) John Kruithof  
President

***Many of External's officers giving us a hard time were themselves members of an Association. Relations between Associations and Unions were cordial and mutually supportive, as indicated by this:***

THE PROFESSIONAL ASSOCIATION OF FOREIGN SERVICE OFFICERS

July 5, 1988

Dear Mr. Kruithof,

The Professional Association of Foreign Service Officers would like to invite you to a reception in honour of its outgoing President, Mr. John Lobsinger, and to welcome its incoming President, Mr. Rodney Briggs, on Wednesday, July 20, 1988 at 6:00 p.m., Suite 600, 45 Rideau Street.

Yours sincerely,

(sgd) Christine Manseau  
Executive Director

***Christine and I often sat next to each other at EAJC meetings. I considered her a role model of how associations/unions ought to present themselves. It still brings tears to my eyes when I think of how prematurely she died of cancer.***

***Problems besetting the implementation stage of diplomatic status boiled over. I sent a note to Matti Rikkinen in Helsinki, outlining where things stood.***

July 12, 1988

NOTE TO MATTI RIKKINEN

Now that the privileges and immunities issue has taken on a new complexion, we discussed by telephone the possibility of Canadian Human Rights Commission involvement. Following are some considerations that may be relevant.

When we first started out effort to get the issue addressed, we requested Human Rights assistance. They declined, I believe, on grounds that diplomatic issues were beyond their terms of reference. In terms of extraterritorial application of Canadian constitutionality, this is quite understandable. This is why we went the legal route based on the Canadian Charter of Rights and Freedoms ((70371 letter to External dated October 27, 1987 (attachment "A")). On March 23, 1988, the Department responded favourably to our lawyer's arguments ((Diplomatic (or Consular) Status for Members of Support Staff (attachment "B"))).

Attachment B clearly indicates the route the Department wished to follow. Implementation of the new policy apparently has been successful in many areas of the world. But as early as March 31, signs of trouble were revealed. We are convinced this is a result of Departmental officers' opposition to the new policy. As stated by Mr. Fogerty, External's spokesman, opposition at some missions was not surprising as "there had been considerable opposition at Headquarters to the new policy, and it was implemented only at the insistence of a few key people" ((Note to File March 31, 1988 (attachment C)).

Thus the situation today is that at about a dozen capitals there are problems in getting the new policy implemented. Based on some documentation available to us, and several conversations, obstructionism by Canadian officials abroad is evident. This has been brought to the attention of the Department ((letters dated May 9, May 30, June 7, June 8, June 15, and June 16 (attachments D to I)).

There is joint agreement that negotiations with foreign governments be conducted through quiet diplomacy ((70371 letter to Alan Sullivan, dated April 4, 1988 (attachment J)). But there is absolutely no commitment on how to deal with the Canadian element opposed to the new policy. That element is composed of status conscious Canadian officers opposed to uniform application of privileges and immunities to all ranks of Canada's foreign service. In other words, that element advocates the continuance of the "caste system" identified in the McDougall Royal Commission on Conditions of Foreign Service (attachment K).

It is of course unacceptable that those Canadian officers, promoting a caste system within Canada's foreign service, be allowed to thwart the introduction of the official Canadian position to eliminate it. Can the Human Rights Commission investigate the activities of Canadian officials where there are reasonable grounds to believe that those activities were detrimental to the implementation of a policy of equality?

We are convinced there is evidence of non-compliance with official Canadian instructions. It is most likely to exist in Brussels. For example, Brussels embassy CM Virginia Ellis informed us that documentation for attaché accreditation was handled by a locally engaged staff member aware of members' duties. CANDELNATO CM Guy Price informed us that the mission administration sat on the instructions for many weeks before informing affected staff members, declined to alter passports expeditiously, and engaged in high-level discussions on the disadvantages of the new policy.

If the Human Rights Commission is prepared to investigate, our preliminary recommendation would be to concentrate on Brussels and Ottawa, without excluding the possibility of other places. Final approval by the Local to give Human Rights the go-ahead must come through the authority of a special meeting.

If Human Rights decline to get involved, we will consider other avenues to address the issue.

The above is just to get the ball rolling. Your own ideas are welcome.

(sgd) J.K.

***Having worked myself into a fine state of agitation, I had to let off some steam:***

July 14, 1988.

P E R S O N A L

Mr. C. D. Fogerty

Doug,

On a purely private basis, I am providing you with a copy of the attached note to file. While I have no objection to it becoming part of official records, it is entirely up to you whether to use it for that purpose. Dispose of it at will.

Best wishes.

(sgd) John

attachment:

NOTE TO FILE

On July 13<sup>th</sup> I telephoned Mr. Fogerty to express my disappointment over the lack of progress in having attaché status implemented at many missions abroad. The telephone call was at my initiative and I had certain things to say. For that reason I gave Mr. Fogerty little opportunity but to listen.

My main complaint revolved around foot-dragging by External officers abroad. To this day, some passports had not been amended. To this day, some staff members may not have been officially informed of External's policy to seek diplomatic status. (This was in part based on Gilbert Clermont's experience in Stockholm). I voiced my hunch that some embassy administrations, in order to pursue their obstructionist tendencies, were deliberately withholding policy information from staff to avoid pressure from them. Consequently, the good will engendered at Headquarters by the announcing of the attaché policy was lacking at some of our missions.

I reiterated the need for comprehensive feedback from missions. It was no longer safe to assume that no news was good news. For all we knew, missions might just be sitting on their instructions. I had deliberately not gotten involved in informing members overseas of their attaché status, considering it to be a management prerogative to break the good news to them. This had now better get done.

I clearly indicated to Mr. Fogerty that the success of obtaining the new policy had been achieved because I had brought the issue to the attention of the highest levels. I would be just as prepared to go to these same levels to ensure implementation abroad.

Mr. Fogerty stated there was a tremendous amount of work to be done with limited manpower resources. Each case required individual attention. He acknowledged nearly four months had elapsed and it was time to get firm information from abroad to assess the present status. He expressed sympathy for my fears about the situation overseas getting derailed. He voiced recognition of considerable officer opposition to the policy.

I interjected by stating that I respected officers having their views heard. Everyone is entitled their day in court. But time for talking was finished. Implementation had now to be carried out.

The tone of Mr. Fogerty's comments were conciliatory. I detected in him the realization that things can not be allowed to continue indefinitely. I hope his sentiment will lead to decisive action. If it does not come from his side, by default it will come from mine.

Mr. Fogerty encouraged keeping our line of communication open and to inform him of any information that came available to me.

(sgd) J.K.

***Mr. Fogerty was soon able to illustrate how protracted implementation could be:***

***Department of External Affairs***

July 20, 1988

Dear John:

This is in reply to your request for a status report with regard to where we stand in terms of diplomatic status for personnel in Vienna.

The Embassy presented a note to the Ministry of Foreign Affairs containing the request for diplomatic status on April 25. This was followed by a meeting on May 3 in which the Austrian side expressed reservations. A written reply was to follow, but follow-up calls have only produced the comment that the decision would have to be made at the highest level. During a meeting on July 7, Embassy personnel were told that an answer was unlikely during the "quiet summer period". The Ambassador has a meeting with the Chief of Protocol on July 25 to press the case further.

I shall be pleased to advise you when we receive any additional information.

Yours sincerely,

(sgd) Doug Fogerty

***Another disappointment was the disposition of the Tierney grievance.***

National Component PSAC

August 8, 1988

Dear Brother Kruithof:

Re: STAFF RELATIONS GRIEVANCE  
T.J. TIERNEY

With reference to the above-noted subject, please find attached copy of the final level reply. This will complete your files.

As you will note, it is, unfortunately a denial.

Mr. Tierney may be interested in pursuing the matter further, but I have already advised him that the grievance is not adjudicable.

Should you have any queries on the subject, do not hesitate to contact me.

Fraternally,

(sgd) Mary W Ramsay

attachment:

Department of External Affairs

July 22, 1988

REPLY TO GRIEVANCES OF T.J. TIERNEY  
(Final Level)

This is the Final Level reply to your grievances concerning diplomatic privileges (Value Added Tax on your telephone bills and purchase of an automobile).

I have examined the circumstances giving rise to your grievance and taken into account the representation made on your behalf by your union representative, Mrs. Mary Ramsay, Public Service Alliance of Canada.

Privileges and immunities accorded to personnel serving at diplomatic missions abroad flow from the Vienna Convention on Diplomatic Relations. It is the receiving State alone that decides the limitations to and recipients of any privileges and immunities.

For the above reason, your grievance is denied.

(sgd) Brian Northgrave  
A/Director General  
Personnel Administration Bureau

***Additional input from members abroad:***

August 10, 1988.

NOTE TO FILE

Elizabeth Deboer, on her way to Delhi, indicated that FSD30 cars there were still being provided to support staff, while officers had the privilege of importing their own cars.

To be raised with Fogerty, in conjunction with overall developments.

(sgd) J.K.

August 10, 1988.

NOTE TO FILE

Had a short telephone call from Paris this morning to the effect that newly-arrived attachés were being asked by the Embassy to sign French MFA papers as support staff in order to get residency permits. Their assessment was that it was contrary to their interests to sign.

I agreed to that, saying they should sign nothing that sets them apart from other Canadians. Canadian constitutional guarantees prohibited it.

I immediately informed Doug Fogerty of the situation, who found it useful to have the advance information. He expected Paris to report soon in response to HQ request for a sitrep.

(sgd) J.K.

*Just as quickly as things had flared up in July, things inexplicably quieted down. From notes kept of the EAJC meeting on September 29<sup>th</sup>, a sure sign of direction was detectable.*

September 29, 1988.

NOTE TO FILE  
EAJC

Extract

PRIVILEGES AND IMMUNITIES: Of 82 countries, 67 now had full privileges. 5 held out some promise. 10 were adamantly opposed and were being pressed hard. I reminded management that original decision to go for equality was to include everybody.

By December 7<sup>th</sup>, 1988 I noted only three hold-outs: Australia, Singapore and Switzerland. They too eventually caved in. Some administrative details related to diplomatic lists had to be dealt with in early 1989. After that, the issue evolved into a situation requiring no more maintenance than any other. The job was complete.

**POSTSCRIPTS:**

*Unfortunately, I may have neglected to send Mr. Fogerty a thank you letter. Maybe he was just as relieved not to receive any more missives. I did meet him recently at a gala and we exchanged cordial pleasantries.*

*After initially granting diplomatic status to all Attachés at our embassy in Washington, in May of 1989 the U.S. State Department reversed its position and began refusing diplomatic accreditation to members of the Administrative and Technical Support Group. It fell to Heather Brooker, President of PSAC Local Z-0252 in Washington, to set the wheels in motion for a complex series of events to finally settle the issue, which included the involvement of Barbara McDougall, Secretary of State for External Affairs and International Trade, our Ambassador Derek Burney, the U.S. Secretary of State James Baker, U.S. Ambassador to Canada James Blanchard, the Canadian Department of Justice, a Governor General Order-in-Council, etc. Tough battles all, but our cause was just. As stated in Barbara McDougall's November 5, 1991 letter to James Baker, ..."without the evidence of diplomatic status there can be no assurance of diplomatic treatment at all times".*

*On January 6, 1995, in my capacity as PSAC National Director Countries Outside Canada, which afforded me a seat at the PSAC's highest decision-making body, I wrote a scathing report on External Affairs' penchant for hiring Locally-Engaged Staff (LES) based on monetary consideration, rather than the traditional exceptional talents not found in Canada.*

*Please, spare yourself. Don't get me started on that...*

*Ottawa  
September 2008*



***Diplomatic Status***

***Part Three***

**Diplomatic Status in the USA -**

**Five Years After the Fact**

by

John Kruithof

*At the end of my previously completed Parts One and Two of the Diplomatic Status for External Affairs Support Staff, I added a Postscript:*

After initially granting diplomatic status to all Attachés at our embassy in Washington, in May of 1989 the U.S. State Department reversed its position and began refusing diplomatic accreditation to members of the Administrative and Technical Support Group. It fell to Heather Brooker, President of PSAC Local Z-0252 in Washington, to set the wheels in motion for a complex series of events to finally settle the issue, which included the involvement of Barbara McDougall, Secretary of State for External Affairs and International Trade, our Ambassador Derek Burney, the U.S. Secretary of State James Baker, U.S. Ambassador to Canada James Blanchard, the Canadian Department of Justice, a Governor General Order-in-Council, etc. Tough battles all, but our cause was just.

*In this Part Three, I will expand on some of the details related to achieving Diplomatic Status for our staff at the Canadian Embassy in Washington.*

Foreign Service Communicators Local 70371

July 10, 1989.

Mr. L. Hiseler,  
Personnel Policy and Planning Division (ADA),  
External Affairs and International Trade Canada,  
125 Sussex Drive,  
Ottawa, Ont., K1A 0G2

Dear Mr. Hiseler,

Re: STATUS ABROAD

As mentioned in our conversation on Friday, two recent events at the Washington embassy disappointed some staff members there.

A few months ago members requested, and were given reason to believe, that new ID papers to be issued by the Canadian military representative for access to the embassy commissary would be identical for officers and staff. But when recently issued, IDs were of two different colours, as before, according to perceived ranks. Since no (or equal) restrictions apply to both, there is no reason for distinction. It is felt the issuance of differing IDs runs counter to the Departmental move towards uniformity of documents.

The other event concerns July 1<sup>st</sup> celebrations. In a flyer to the Canadian community in Washington, an invitation was extended by "the ambassador and senior officers" (or something close to that) for Canadians to drop by the embassy. Separately, staff members were requested to volunteer for various duties related to the invitation. It appears more staff members would have volunteered for duty had the original invitation been made in the name of the ambassador and staff.

Both events led to misgivings among staff. Can anything be done to improve the situation?

Yours truly,

(sgd) John Kruithof  
President

NOVEMBER 7, 1989.

FROM: JOHN KRUTHOF  
TO: ROGER BANVILLE, WASHINGTON

SUBJECT: STATUS

AFTER OUR CONVERSATION TODAY, I IMMEDIATELY TELEPHONED LINDSAY HISELER, THE OFFICER LOOKING AFTER THIS ISSUE.

THE STRAINS AND STRESSES THAT NON-ACCREDITED EMPLOYEES WERE GOING THROUGH WERE BROUGHT TO HIS ATTENTION. I MENTIONED THAT WHILE ON THE SURFACE IT LOOKED DEMOCRATIC TO ASK EMPLOYEES WHAT ARRANGEMENTS THEY COULD LIVE WITH, THE PRACTICAL REALITY IS THERE ARE DIFFERING OPINIONS. THIS CREATES ADDITIONAL STRESS AND THROWS INTO QUESTION THE DETERMINATION WITH WHICH OTTAWA IS PURSUING ITS POLICY.

HISELER RESPONDED, CONVINCINGLY, THAT OTTAWA IS HANGING TOUGH IN ORDER TO ACHIEVE CANADIAN OBJECTIVES. THEY ARE RUNNING INTO FORMIDABLE OPPOSITION FROM CONSERVATIVE AMERICANS WHO ARE NOT WILLING TO ACCORD DIPLOMATIC RANK TO STATE DEPARTMENT SUPPORT STAFF. WHETHER THERE ARE CONSTITUTIONAL USA REQUIREMENTS OR NOT IS UNCLEAR AT THE MOMENT.

ACCORDING TO HISELER, MUCH AS OTTAWA DISLIKES TO SETTLE FOR HALF-MEASURES (BECAUSE OUR CONSTITUTION CALLS FOR EQUALITY) IF WASHINGTON DOES NOT BUDGE THEN WE HAVE TO LOOK AT THE ALTERNATIVES. HENCE THE REQUEST FOR EMBASSY INPUT.

HE WAS LOOKING FOR A DEFINITE DECISION FROM THE STATE DEPARTMENT WITHIN THE NEXT FEW WEEKS. CONTACT WITH THE AMERICAN EMBASSY IN OTTAWA WAS BEING MAINTAINED.

HISELER WAS ALREADY WELL INFORMED OF HOW THE ISSUE AFFECTED INDIVIDUAL SITUATIONS. HE FULLY SYMPATHIZED WITH THOSE CAUGHT IN THE MIDDLE.

HISELER AND I REVIEWED OTHER MISSIONS WHERE THE POLICY WAS HAVING PROBLEMS. OVERALL, ENCOURAGING PROGRESS IS BEING MADE, ALTHOUGH TWO COUNTRIES (AUSTRALIA AND SINGAPORE) WERE COMPLETELY NEGATIVE. INDIA WAS NOT RESPONDING VERY WELL. OTHERS (SWITZERLAND IN PARTICULAR) WERE SHOWING CRACKS IN THEIR OPPOSITION. HE UNDERTOOK TO GET AN UPDATE FROM THOSE MISSIONS BETWEEN NOW AND CHRISTMAS.

CANADA WAS NOTICING AN INCREASED NUMBER OF ATTACHES BEING POSTED FROM OTHER COUNTRIES TO CANADA. THESE WERE BEING ACCORDED DIPLOMATIC STATUS IN CANADA WITHOUT QUESTION. AS YOU KNOW, IT IS THE AMERICAN REFUSAL TO ACCORD THEIR EMPLOYEES THAT DESIGNATION THAT PREVENTS CANADA FROM ACCEPTING THEM.

**PRESIDENT'S REPORT**  
**LOCAL 70371 ANNUAL GENERAL MEETING**  
**WEDNESDAY, NOVEMBER 8, 1989**

Members of the Local in Ottawa are well aware of the problems we are facing. At this meeting, officers have to be elected to the executive to carry on the duties for the next year.

I stated some time ago I will not seek re-election to the presidency. After five years on the executive, four of them as president, my physical constitution demands a break. I trust members recognize the advisability of this course of action.

My interest remains with Local affairs. I am a candidate for the position of Advisor (COSICS). I am also prepared to undertake responsibilities assigned to me by the new president, such as the continued follow-up of the diplomatic status abroad issue. Additionally, as past president, I will co-operate with the new executive to the extent requested.

Naming everyone whose support I have enjoyed over the years would make this too lengthy a report. Please accept a simple "Thank you all". And good luck to the new crew.

J.K.

At the November 8, 1989 AGM of Local 70371,  
the following slate of officers was sworn in by  
David Delaney, National Component Vice-President, Countries Outside Canada:

President – Robert (Bob) Stewart  
1<sup>st</sup> Vice-President – Donald (Tony) Washbrook  
2<sup>nd</sup> Vice-President – Carolyn Webb  
Secretary – Monique Barsalou  
Treasurer – Doug Harkess  
Chief Shop Steward – George McKeever  
Advisor (COSICS) – John Kruithof  
Advisor (Terms) – Steve Gates

Foreign Service Communicators Local 70371

January 18, 1990.

(Letter to Hiseler)

Re: DIPLOMATIC STATUS FOR COURIERS

The situation at the Paris mission, where CMs and ELs have diplomatic status, has led to frustration among diplomatic couriers, and others, at not being accorded similar status.

Several weeks ago, the four diplomatic couriers stationed in Paris drew up a grievance presentation detailing their position (copy attached). In consultation with them, I convinced them to withhold actual submission of it on grounds that the Department was actively pursuing their, and other missions, interests. Additionally, the technical timing and hearing requirements of a grievance could complicate an already complex ongoing process.

I understand the diplomatic status issue will be raised by the couriers in an upcoming meeting with departmental officials. No doubt firsthand accounts of difficulties being encountered in Paris because of the lack of status will be presented.

The need for a prompt and equitable solution has always been apparent. Every effort must be made to achieve it. If there is any way I can assist, please do not hesitate to contact me.

(sgd) John Kruithof  
Advisor COSICS

*The following message made me scratch my head as to where matters really stood in Washington, and who was doing what to whom:*

COSICS – INFORMAL MESSAGE

Date posted: 24-Sep-1990 11:54 EST  
From: TSSO Manager – WSHDC\_UNAG

TO: John Kruithof – MIDO  
Subject: Diplomatic Status: Washington

Check into situation where recent Washington SCY arrival used highly individualistic approach of having State Department accord her diplomatic status.

(name withheld) may have directly submitted her job description to State, who then considered her eligible for diplomatic (attache?) status. This ran counter to embassy/departmental policy.

(names withheld) then went into job switching scheme (instigated by admin?).

How has this affected (name withheld)? Was she successful in getting State diplomatic accreditation?

Was embassy supportive in her quest? Did the job switching affect her status? Where do things stand at present? How does (name withheld) feel about the situation? What are the facts?

Getting to the bottom of this event may give a clue of embassy administration sentiment towards support staff achieving diplomatic recognition.

*The addressing of inequalities experienced by Departmental support staff members was a logical union activity, which the Foreign Service Communicators Local 70371 was well placed to pursue:*

The reason Local 70371 resonated with its members was because it reflected the character of the community it represented. Run for CMs, by CMs. The executive was drawn from CMs who happened to be in Ottawa at the time. Being a rotational profession, the composition of the executive was in constant flux. This was a handicap in some respects, continuity in a particular position never guaranteed. A greater benefit, however, was the new blood and ideas injected by virtue of the posting cycle. Practical problems confronting Communicators were, through experiences at home and abroad, fresh in everyone's mind. The Local became a focal point through which solutions could be sought.

*In early 1991, that aspect of personal experience manifested itself. I was offered a posting to Washington. The prospect of going to that divided mission did not appeal to me, and I informed the Department accordingly. Its response was unsympathetic:*

External Affairs and International Trade Canada

February 14, 1991  
No. APV-0316

Subject: OFFER OF ASSIGNMENT TO WASHINGTON

This is a follow up to our meeting on February 12<sup>th</sup> at which you were offered an assignment to Washington to fill the third TSSO position.

2. You expressed some reservations concerning this assignment due to the problems we are experiencing in obtaining accreditation for all staff in Washington. I have discussed the situation and believe the Department has made and continues to make every reasonable effort to convince the U.S. State Department to accept accreditation of all staff.

3. We do not propose to pursue the question of accreditation any further and request you confirm whether or not you accept this assignment. If you refuse, we will require you provide your reasons in a memo.

(sgd) Assignment Officer

*Which I did:*

The reservations I expressed at the time you offered the assignment to Washington were entered under COMMENTS on my Assignment Program Preference form: "Accreditation problems in Washington of great concern. Am not prepared to undergo uncertainties forced upon colleagues there. Solution, even if individual, must be attempted before proceeding to post".

The primary reason for declining acceptance of the assignment is health related. Involvement in the process that led to the Department seeking diplomatic status for support groups abroad was extremely stressful. To be now faced with an assignment to a location where the process failed is emotionally unappealing.

The secondary reason is my belief that the Department has an obligation to do more to have established policy implemented. Assignments under the old regime must stop. After nearly three years of effort, other approaches, individually tailored if necessary, should be tried.

Once the problem has been overcome, I'd look forward to a Washington assignment.

(sgd) J. Kruithof

*Not that it did me much good. Sixteen months later (July 1992) I found myself in Washington. At the Canadian Embassy in Washington, the task of obtaining diplomatic status for Canada-based staff (CBS) at the mission was undertaken by PSAC National Component Local Z-0252, with Heather Brooker its President.*

PSAC LOCAL Z-0252

Washington, D.C.

April 5, 1990

R. Archambault  
Head of Chancery  
Canadian Embassy  
Washington

Dear Mr. Archambault:

Re: Diplomatic Status for Administrative Support Staff

A large percentage of the members of the PSAC Local Z-0252 have been waiting for diplomatic status for some time – some since June 1989. Through various means, mostly sporadic, members have been kept informed of the progress (or lack thereof) being made by senior management with the State Department. The last information that was forthcoming was when ADM Peter Walker addressed CBS in the Theatre in January 1990. The purpose of this letter is to formally request an update of the situation on a regular basis – every second month. I am also requesting that the Local receive a copy of all relevant correspondence between the State Department and our Department to date, to be copied on all future correspondence, and, most importantly, to receive a copy of the legal brief stating our government's position on this matter. An indication of when the brief will be presented would also be appreciated.

The subject item has been on the agenda at the EAJC for years. We (union officials) understand that difficulties are being encountered in various countries, of which the U.S. is one. However, since a number of members of the administrative support staff have been in "limbo" status since their arrival, and since this problem has now been in effect at the Post since June 1989, as Local President I believe the

time has arrived for a forum of regular communication, as outlined above, to be established. This issue is of utmost concern to my members. It surfaces as the most important issue in the results of a survey of how the union can serve their needs.

I understand that this issue is being pursued with the State Department at your level, and the level of Mr. L. Legault. I would appreciate confirmation of this. A strong commitment to the principle of this issue at the senior management levels, and the pursuit of same at high levels will ensure success. I feel confident in assuming that you will agree that the very essence of our multi-cultural existence – which **is** Canada – is dependant upon an absence of discrimination against specific groups of people because of their race, religious belief, classification, etc. The latter is the reason why this issue must remain a Department priority, and why it must be pursued at senior levels with enthusiasm.

Looking forward to your response as soon as is practicable.

Yours sincerely,  
(sgd) Heather Brooker  
President

PSAC LOCAL Z-0252

Washington, D.C.

May 21, 1991

The Honourable Barbara McDougall  
Secretary of State for External Affairs and International Trade Canada  
House of Commons  
West Block, Room #231  
Wellington Street  
Ottawa ON K1A 0A6

Dear Madame Minister:

As the local representative of most of the Canada-based administrative support staff personnel located in our Embassy in Washington, D.C., I am writing to you on behalf of myself and my members to advise you of our collective concern regarding the issue of diplomatic status and the situation as it presently stands.

In early 1988, the then ADM of Personnel, Alan Sullivan, informed PSAC representatives at an External Affairs Joint Council (EAJC) meeting that the Department would be seeking diplomatic status for Canada-based administrative support personnel located abroad with each host government where Canada had embassies and high commissions. Over a period of many months this status was secured from many host countries. However, there were a few host countries that did not agree with the Department's interpretation of the specific articles in the Vienna Convention with regard to their personnel in the Administration and Technical Support Group. Initially, the United States was not one of the countries with which the Department experienced difficulties. The Embassy staggered its submissions until all new attachés who were already located at the Embassy had received their accreditation with the State Department. The submissions to the State Department began in April of 1988, which was shortly after Mr. Sullivan's announcement and the subsequent instructional all-post telegram, and diplomatic status for all new attachés at this Embassy was finally secured around January of 1989.

However, in May of 1989 the State Department reversed its position and began to refuse accreditation, as diplomats, to members of the Administrative and Technical Support Group who were arriving to commence their posting as attachés. As a result of these rejections, informal consultations between representatives from our Department and the State Department then ensued in an effort to resolve the issue. The result of these discussions is that in December 1990, the Under Secretary of State, M. de Montigny Marchand wrote to his counterpart at the State Department, Mr. Lawrence Eagleburger, on this issue and a response was received in March 1991.

We understand that a response from the USSEA to Mr. Eagleburger's letter is in the process of being drafted, possibly accepting the terms offered by the Americans. We wish to bring it to your attention that the employees who have been in a state of "limbo", some since June 1989, have not been consulted collectively as to whether or not they accept the terms offered by the Americans. Indeed, the specifics, or examples thereof, of the proposed offer that are alluded to in Mr. Eagleburger's letter have not been made privy to the affected employees. Furthermore, if we accept this "half-measure" and the State Department asks for reciprocity, would the Canadian government be in a position to comply with their request?

Informally, we have been led to understand that at one point, prior to M. Marchand's letter, a letter had been drafted for the signature of the SSEA to his American counterpart on this issue. However, at that time it was decided to reserve that option until all other avenues have been exhausted.

We are concerned that the Embassy will recommend acceptance of the State Department's offer as outlined in Mr. Eagleburger's letter, and the Department will accept without exhausting every avenue available. It has been brought to our attention that the State Department, in outlining its position, pointed out that our own people do not consider us diplomats or they would have included our names in the Canadian Representatives Abroad directory. It has also been pointed out to us that the State Department requests a "Statement of Duties" from our diplomats with the rank of attaché, but our Department does not request any such statements from would-be American attachés posted to Ottawa. Furthermore, our Department has yet to refuse accreditation to an American attaché posted to Ottawa. The efforts made so far on our behalf by the Department are commendable, but the situation is viewed by us as a unilateral bargaining situation where the State Department is in the position of power. However, perhaps if different strategies and tactics were adopted the tables may turn in our favour.

In conclusion, we respectfully request that you review the situation, advise us of the possibility of your personal intervention in this matter, and assure us that "no stone will be left unturned" in the efforts by the Department to secure equality for its personnel. In our view, diplomatic status for all personnel working at Canadian embassies and high commissions epitomizes the Canadian spirit of equality and justice for all as implied in the Canadian Charter of Rights and Freedoms.

Yours sincerely,  
(sgd) Heather Brooker  
President

cc: Ambassador D.H. Burney

The Secretary of State for External Affairs

December 9, 1991

Ms. Heather Brooker,  
President Local Z-0252  
Washington

Thank you for your letter of May 21, 1991 regarding the question of diplomatic status for Canada-based administrative and support personnel in Washington.

As you know, the Department has made numerous representations to the U.S. State Department since 1988 in support of our policy of seeking diplomatic status for Canada-based administrative and support personnel at Canadian missions around the world. The Department has consistently pressed host governments in all our countries of accreditation to give our Canada-based administrative and technical staff full diplomatic privileges and immunities.

Most countries have granted this recognition. The United States has not. The United States does not, as you have pointed out, share the Department's interpretation of the Vienna Convention. The United States grants different levels of privileges and immunities based solely on the category of work performed. Obviously, we do not share their interpretation.



There are, unfortunately, no indications that the U.S. is willing to modify its policies. However, I have decided to write to Secretary of State Baker to request that he consider modifying the U.S.A. approach insofar as it applies to Canadian administrative and technical staff. A copy of that letter is attached. The issue will be reviewed once a reply is received.

Yours sincerely,  
(sgd) Barbara McDougall

c.c. Ambassador Derek H. Burney

The Secretary of State for External Affairs

November 5, 1991

The Honourable James Baker III  
State Department  
Washington, D.C.

Dear Jim:

I am writing to ask your support in defence of the self-evident truth that all men (and women) are created equal and do not lose that equality even when they enter the Foreign Service of Canada or the United States.

Since March 1988, the Government of Canada has accorded diplomatic rank to the Canadian administrative and technical staff of all Canadian embassies everywhere and has sought recognition of their diplomatic status from their host governments. Most countries have granted this recognition; the United States has not.

Canada's new policy on diplomatic status for administrative and technical staff is driven by considerations of equality and security. Our human rights laws make it hard for us to defend different standards of treatment for various members of our diplomatic missions: all of them serve their country, all of them face the same risks, whatever jobs they may hold abroad.

What we ask for our administrative and technical staff in other countries, we are prepared to grant to the administrative and technical staff of other countries in Canada. Nonetheless, after lengthy discussions between senior officials in Ottawa and Washington, the State Department has refused our request. In March, your Deputy, Lawrence Eagleburger, wrote to my then Deputy, de Montigny Marchand, to convey this position.

The refusal of our request, it appears, is dictated not by law but by policy. Oddly enough, however, State Department is prepared to grant our Canadian administrative and technical staff full diplomatic privileges and immunities but not the outward evidence that would make their status clear (for example, diplomatic identity cards and license plates). Such half-measures, unfortunately, are not enough; without the evidence of diplomatic status there can be no assurance of diplomatic treatment at all times.

This is a matter of personal concern to me. Again, we are prepared to grant your administrative and technical staff the same treatment we ask for ours.

Yours sincerely,  
(sgd) Barbara McDougall

EMBASSY OF THE  
UNITED STATES OF AMERICA

September 2, 1993

No. 285

Dear Mr. Minister,

I have the honor to refer to your Note No. JLA-0786 of August 26, 1993, the text of which is as follows:

Quote: Excellency, I have the honour to refer to recent discussions between representatives of the Government of Canada and the Government of the United States of America concerning the privileges and immunities of members of the administrative and technical staff of the Embassy of Canada in the United States of America and members of the administrative and technical staff of the Embassy of the United States of America in Canada.

In the light of those discussions, and on instructions of my Government, I have the honour to propose, on the basis of reciprocity, that members of the administrative and technical staff of the Embassy of Canada in the United States and members of the administrative and technical staff of the Embassy of the United States in Canada, and the members of their families forming part of their households, be accorded the privileges and immunities of diplomatic agents as specified in the 1961 Vienna Convention on Diplomatic Relations. These privileges and immunities shall extend to members of the administrative and technical staff who are nationals of the sending state and not nationals of, or permanently resident in, the receiving states, and members of their families who are not nationals of, or permanently resident, the receiving state.

For Canada, the legal authority for entering into this agreement is the Foreign Missions and International Organizations Act (which incorporates the relevant articles of the Vienna Convention on Diplomatic Relations). For the United States, the legal authorities for entering into this agreement are the Vienna Convention on Diplomatic Relations and the Diplomatic Relations Act.

It is understood that this agreement is without prejudice to the position of either government with regard to the interpretation of that Convention.

If the foregoing is acceptable to your Government I propose that this Note, which is authentic in English and in French, and your reply to that effect, shall constitute an agreement between the Government of Canada and the Government of the United States of America which shall enter into force on the date on which the parties have notified one another in writing that the requirements under their legislation to grant such diplomatic privileges and immunities have been met.

I avail myself of this opportunity to renew to your Excellency the assurance of my highest consideration.

Barry Mawhinney, Legal Advisor for  
the Secretary of State for External Affairs. Unquote.

I have the honor to inform you that the proposals contained in Your Note are acceptable to the Government of the United States of America and to confirm that Your Note, which is authentic in English and in French, and this reply shall constitute an agreement between the Government of the United States of America and the Government of Canada which shall enter into force on the date on which the parties have notified one another in writing that the requirements under their legislation to grant such diplomatic privileges and immunities have been met.

I avail myself of this opportunity to renew to your Excellency the assurances of my highest consideration.

(sgd) James. J. Blanchard  
Ambassador of the United States  
to Canada

Department of External Affairs

Note No. JLA-1533

The Department of External Affairs presents its compliments to the Embassy of the United States of America and has the honour to refer to Note No. JLA-0786 of August 26, 1993, from the Secretary of State for External Affairs, and to Note No. 285 of September 2, 1993, from the Ambassador of the United States of America, concerning the privileges and immunities of members of the administrative and technical staff of the Embassy of Canada in the United States of America and members of the administrative and technical staff of the Embassy of the United States of America in Canada.

The Department of External Affairs has the honour to inform the Embassy that all requirements under Canadian legislation to grant such diplomatic privileges and immunities have been met.

The Department of External Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Ottawa, September 17, 1993  
(Seal of Department of External Affairs)