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PROVISIONAL VERBATIM RECORD OF THE ONE HUNDRED AND SECOND MEETING

Held at Headquarters, New York,
on Tuesday, 1 March 1988, at 10 a.m.

President: Mr. FLORIN (German Democratic Republic)

later: Mr. MATOS PROENCA (Portugal)

- Scale of assessments for the apportionment of the expenses of the United Nations [121] (continued)
- Report of the Committee on Relations with the Host Country: Reports of the Secretary-General [136] (continued)

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The meeting was called to order at 10.20 a.m.

AGENDA ITEM 121 (continued)

SCALE OF ASSESSMENTS FOR THE APPORTIONMENT OF THE EXPENSES OF THE UNITED NATIONS
(A/42/925)

The PRESIDENT (interpretation from Russian): I should like to draw the Assembly's attention to document A/42/925, which contains a letter addressed to me by the Secretary-General, and point out that, since yesterday, and as already reflected in this communication, Guatemala has made the necessary payment to reduce its arrears below the amount specified in Article 19 of the Charter.

May I take it that the General Assembly duly takes note of this information?

It was so decided.

AGENDA ITEM 136 (continued)

REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY:

- (a) REPORTS OF THE SECRETARY-GENERAL (A/42/915 and Add.1)
- (b) DRAFT RESOLUTIONS (A/42/L.46 and A/42/L.47)

The PRESIDENT (interpretation from Russian): In connection with this item, the General Assembly has before it two draft resolutions, A/42/L.46 and A/42/L.47.

Mr. AL-ALFI (Democratic Yemen) (interpretation from Arabic): I wish first to say how pleased we are to see you, Sir, once again presiding over the work of the forty-second session of the General Assembly. We join preceding speakers in extending to you our thanks for having so swiftly responded to the request by the Group of Arab States for a resumption of the session. We are also happy to see the Secretary-General with us, and we wish to tell him how much we appreciate his constant efforts to ensure the rights of the United Nations under the Headquarters Agreement are respected.

(Mr. Al-Alfi, Democratic Yemen)

The General Assembly is today considering one of the most important questions it has had to face since it was founded, a question that affects the very basis of the functioning of the United Nations. The Ambassador of Bahrain has expressed the view of the Group of Arab States about the American law relating to this question. We consider that the legal issue is clear, and that there is no need for further comment on it; it has been set forth in the Secretary-General's reports to the General Assembly.

There is a dispute between the United Nations and the United States, the host country, about the interpretation and application of the Headquarters Agreement, which the two parties concluded in 1947. In particular, the United States is trying to interfere with the work of the United Nations by closing the Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations and is even trying to prevent the implementation of section 21 of the Agreement. It is thus flouting its legal international commitments under the Agreement.

It is natural that that intransigent United States position and flagrant violation of the Headquarters Agreement requires that the United Nations - the General Assembly in particular - shoulder its responsibilities, condemning such action and taking urgent measures in order, first, to defend itself. The application of such an illegal measure would set a precedent. Nobody would be safe from its effects; we all risk being the subject of a similar decision by the host country.

There is no need to recall that this measure is a kind of political blackmail by the host country against the United Nations and its Members, which all have equal rights as Members. The United States is placing itself above all the other Member States after its financial pressure on the Organization failed to attain the same goals. We have not forgotten that the host country explicitly made the

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elimination of certain resolutions adopted by the United Nations, reflecting the will of the international community, a condition for removing such pressure.

It is odd that although the PLO Observer Mission to the United Nations was established 14 years ago we are told that the host country has suddenly discovered that its presence here is illegal, as though it were for the host country to decide whether or not it should exist.

With the adoption of the legislation and in view of its aims, we must stress the following facts. First, we categorically reject Arab problems such as Palestinian representation at the United Nations being used in United States election tactics, particularly since one of the candidates for the United States presidency was one of the proponents of the law.

Secondly, the purpose of the law was to create trouble between the members of the international community and to divert their attention, given the international community's unanimity about the need to convene an international conference under United Nations auspices on the Middle East. Only the United States, with Israel, failed to join in that international unanimity.

Thirdly, we firmly believe that the measure is the result of a political position whose objective is purely political advantage. It is not surprising that the decision was taken at the time of American action in the Arab region under the pretext of a desire to achieve peace.

We must ask ourselves whether the United States is really in the Arab region as a mediator, when it has already taken a clear position in support of Israel. How can it be a mediator when it wishes to prevent the sole legitimate representative of the Palestinian people, the PLO, playing its part in the attempt to find a comprehensive solution in the Middle East, particularly as the question of Palestine is at the heart of the conflict in the region?

(Mr. Al-Alfi, Democratic Yemen)

The international community cannot be deceived by such measures. The United States and Israel are bound by a strategic alliance. Israel receives unlimited support from the United States in all spheres, and United States decisions on the Middle East are even approved by Israel in advance.

(Mr. Al-Alfi, Democratic Yemen)

We believe that that attempt to close the Observer Mission of the PLO to the United Nations - a decision taken by the host country - and United States activities in the region at the same time are all aimed towards the same goal: namely, to put an end at the international level to political achievements by the Palestinian people, under the leadership of the Palestine Liberation Organization and in particular to put an end to their right to self-determination and the establishment of an independent homeland, as well as their right to be represented at the international conference on the Middle East.

Obviously - and as the entire world recognizes - such attempts will not succeed as long as the Palestinian people continue to play such a heroic role in the occupied territories against Israeli occupation and armed forces, which are still trying to crush the political will of the Palestinian people and to eliminate that people. Who today could possibly believe the allegations made by the United States and Israel that the Palestinians are terrorists? We have seen young people throw stones against the most sophisticated weapons of the occupying forces, which have failed to put an end to the uprising because the Palestinians' cause is a just one.

The media are reporting on developments in occupied Palestinian territories and reported that the Israeli occupying forces are carrying out the worst forms of State terrorism. Is there anything worse than the attempt to bury Palestinians alive? Is there anything worse than the injuries being imposed on the Palestinian people?

The international community cannot stand by without taking action, as it witnesses the murder of old people, women and children by the armed forces.

We have not yet heard from the United States Administration any condemnation of such Israeli actions - actions that are against the human rights of the Palestinian people. On the contrary, we know how all the United States leaders are

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condemning the Palestinians and Arabs in general whenever any single Israeli is involved.

In conclusion, we would confirm once again that the United Nations today must shoulder its responsibility for the future and discharge its duty in respect of this flagrant violation by the host country of its international legal commitment under the Headquarters Agreement.

Mr. PEJIC (Yugoslavia): Mr. President, may I first of all express the great pleasure of my delegation at seeing you again presiding over the General Assembly. We all remember the very successful and effective way in which you have guided the forty-second session, which in our opinion has been one of the most successful sessions in the past 10 years.

The question of the status of the Permanent Observer Mission of the Palestine Liberation Organization and its normal functioning in the United Nations, in addition to legal aspects, is basically a question of essentially political nature. A constructive solution to this question is therefore of great importance for the present and future work and activity of the world Organization as regards the realization of the purposes and principles enshrined in the United Nations Charter. To carry out the decision of the host country, the United States of America, to close the PLO Mission in New York would constitute a dangerous precedent for the normal functioning of the world Organization.

We therefore consider that it is in the broadest interest of the States Members of the United Nations that the question of the activity of the PLO Observer Mission to the United Nations be resolved in a way which would preclude once and for all what in our opinion are harmful and artificially created controversies and disputes. This is all the more so since the recent dramatic events in the West Bank and Gaza and the resolute resistance of the Palestinians to, and their

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rejection of, foreign occupation have already demonstrated that there can be no lasting and just solution of the problem of Palestine without the direct participation of Palestinians, whose sole and legitimate representative is the Palestine Liberation Organization.

It is a paradox indeed that the world Organization should be compelled to discuss the question of the status of the PLO Observer Mission at a time of the uprising of the Palestinian people, which is resolved in its aspirations to realize its legitimate right to self-determination and independence, despite the most brutal measures of the Israeli occupation forces which are met with condemnation and abhorrence all over the world. In our opinion, this should be the focus of the action and efforts of the General Assembly, the Security Council and the United Nations as a whole.

The normal functioning of the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations is of unquestionable importance in the overall efforts of the international community for opening the process of the peaceful and just solution of the question of Palestine. What is involved is the right of liberation movements, recognized by the world Organization, to participate actively as legitimate representatives of their peoples in the work of the United Nations, particularly regarding questions concerning the realization of their legitimate aspirations.

In this context I should like to recall that by its resolution 3237 (XXIX) the General Assembly invited the Palestine Liberation Organization to participate, in the capacity of Observer, in the work of the United Nations, from which emanated the clear obligation of the host country to enable the PLO Mission to the United Nations to carry out its functions normally and without obstruction, in accordance with the Headquarters Agreement. This position was almost unanimously reaffirmed by General Assembly resolution 42/210 B of 17 December 1987, which was adopted in

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response to steps taken by the host country. Let me also recall that that resolution states, inter alia:

"... the Permanent Observer Mission of the PLO to the United Nations in New York is covered by the provisions of the Headquarters Agreement and should be enabled to establish and maintain premises and adequate functional facilities and that the personnel of the Mission should be enabled to enter and remain in the United States to carry out their official functions."

At their meeting of 16 October 1987 the members of the Movement of Non-Aligned Countries, of which the Palestine Liberation Organization is a full-fledged member, determined that the action of United States Congress relating to the closing of the PLO Observer Mission in New York constituted a violation of the Headquarters Agreement and that such a step, at a time when the international community was making efforts to convene the international conference on the Middle East, under United Nations auspices, was

"... a denial of the inalienable right of the Palestinian people to present and defend their cause in international forums, particularly in the United Nations."

The deplorable developments that have taken place in the meantime, particularly the Act of 22 December 1987, by which the action of the host country was enacted into a law, have borne out the warnings voiced in the course of the consideration of the report of the Host Country Committee.

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I would therefore like to point out on this occasion also the principled position of my delegation that we cannot accept the attempts to flout and interpret selectively the obligations assumed under international agreements through arbitrary decisions of the host country and thus introduce a practice which is contrary to the principles of equality and equitable international co-operation.

Bearing in mind the newly created situation, the Yugoslav delegation calls upon the host country, the United States, to undertake urgent measures to remove each and every obstacle to the normal work and functioning of the PLO Observer Mission to the United Nations and to ensure full respect for the provisions of the Headquarters Agreement and the appropriate resolutions and decisions of the General Assembly.

It is therefore to be hoped that the host country will take appropriate measures to reconsider the decision, the carrying out of which could constitute a violation of international obligations and thus create serious and lasting disruptions in the work of the world Organization, particularly in the resolution of outstanding international problems that threaten international peace and security, of which the question of Palestine is certainly one of the most complex and acute.

In this context, I should like to express my delegation's full appreciation of the efforts of the Secretary-General, whose report indeed provides impetus for the overcoming of the difficulties concerning the work and activities of the PLO Observer Mission to the United Nations. Yugoslavia supports each measure and action that would enable a constructive solution of the problem on the basis of full respect for the Headquarters Agreement, in order not only to protect the basic principles of the United Nations Charter but also, at this important historic juncture, to enable the United Nations to focus on the essential question of the

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opening of the process of a comprehensive, lasting and just solution to the question of Palestine.

Mr. OTT (German Democratic Republic): The delegation of the German Democratic Republic has for some time been following with great concern the attempts to discredit the United Nations, the multilateral forum of dialogue and co-operation. It has been the assessment of the overwhelming majority of State representatives during this debate that the recent measures to close the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations are part of those attempts to hinder the world Organization, by both political and financial means, in the fulfilment of its tasks. The German Democratic Republic shares that view because those measures are in gross contradiction of international law, the Charter of the United Nations and, in particular, the obligations laid down in the Headquarters Agreement. We therefore supported the convening of this resumed session, the more so since we live at a time when opportunities have emerged to improve the entire international atmosphere, to make headway in the field of arms limitation and disarmament and, not least, in the peaceful settlement of international conflicts - opportunities that must be used and not blocked.

All activities of the PLO Observer Mission to the United Nations are based on decisions adopted by the General Assembly and are clearly stipulated in the Headquarters Agreement. Under that Agreement of international law, which was concluded between the Government of the host country and the world Organization, the United States is obliged to guarantee to all missions accredited to the Organization - among them the Permanent Observer Mission of the PLO - that it will facilitate the fulfilment of their tasks vis-à-vis the Organization and not impair their normal functioning. This refers to unhindered participation in the activities of the General Assembly and all international conferences and sessions

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under the auspices of the United Nations to which the PLO, as the legitimate representative of the Palestinian people, has been explicitly invited under resolutions 3237 (XXIX) and 3375 (XXX). The decision to grant the PLO the status of observer was also taken by the General Assembly. If attempts are now made to close the office of the PLO Observer Mission, they will constitute, in the final analysis, measures which are, in their dimension and effect, directed against the United Nations Organization as a whole, and against implementation of the purposes and principles laid down in the Charter to maintain world peace and strengthen international co-operation.

Resolution 42/210 B, which was adopted by an overwhelming majority, has already reaffirmed the right of the PLO to an Observer Mission pursuant to resolution 3237 (XXIX) and the Headquarters Agreement. The Foreign Relations Authorization Act of 22 December 1987 is in contradiction of that right - that is, it is a violation of obligations under international law. The Administration of the host country, the United States of America, is aware of that fact as can be seen from the letter of 5 January 1988 from Ambassador Okun to the Secretary-General, in which it is said that:

"... the provisions [of the Foreign Relations Authorization Act] concerning the PLO Observer Mission may infringe on the President's constitutional authority and, if implemented, would be contrary to our international legal obligations under the United Nations Headquarters Agreement". (A/42/915, para. 4)

The proceeding of the host country against the New York office of the PLO is also incompatible with the principle of the fulfilment in good faith of obligations under international law as it is enshrined in the United Nations Charter, the Helsinki Final Act and other international legal documents. The Final Act of the

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Conference on Security and Co-operation in Europe, which was signed by the host country, states:

"The participating States will fulfil in good faith their obligations under international law, both those obligations arising from the generally recognized principles and rules of international law and those obligations arising from treaties or other agreements, in conformity with international law, to which they are parties.

"In exercising their sovereign rights, including the right to determine their laws and regulations, they will conform with their legal obligations under international law ...".

The German Democratic Republic holds the view that respect for and strict observance of the international set of treaties is an essential basis for international co-operation, the further improvement of international relations and the safeguarding of world peace. We therefore strongly oppose the steps, hostile to international law, taken by the host country against the Permanent Observer Mission of the PLO. We call upon the authorities of the host country to adhere strictly to their obligations under international law and the Headquarters Agreement and to withdraw immediately their decision to close the PLO Office. We emphatically support the efforts made by the Secretary-General to ensure full observance of the Headquarters Agreement, and we request him to continue these efforts to enable the PLO Observer Mission to go on with its work.

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Republic)

Since a dispute exists between the United Nations and the United States, it is required that the dispute settlement procedure set out in section 21 of the Headquarters Agreement be invoked. In that connection, we share the expectation of various sides that, as a minimum, the host country will not change the status quo of the PLO Observer Mission pending final disposition of the dispute.

The measures to close the PLO Mission are being taken at a time of unabated protests in the territories occupied by Israel. The people's uprising, which is ever growing in scope and intensity, illustrates impressively - but also tragically - that the Palestinian people cannot be denied its right to self-determination, independence and the establishment of a State of its own, either by military force or by sham declarations. The will for freedom of an entire people is invincible. If attempts are now being made to impair the legitimate activities of the PLO in the United Nations, activities which are so important for a settlement of the Middle East conflict, these can only be regarded as machinations by those circles which try by all means to prevent a comprehensive settlement of the conflict even in the future.

Only recently, the General Assembly at its forty-second session, with the support of an overwhelming majority of States, reaffirmed that there is no alternative to a comprehensive, just and lasting solution to the Middle East conflict. The withdrawal of Israel from all territories occupied since 1967, the realization of the sovereign rights of the Palestinian people, and guarantees of the right of all States of the region to independence and secure borders are important foundations for a durable peace in the Middle East.

The German Democratic Republic strongly advocates a speedy solution to the Middle East problem, which can be brought about exclusively by peaceful means. It is evident, now more than ever before, that it is the convening of an international

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conference, with the participation of the five permanent members of the Security Council and all the parties involved, including the PLO, that will provide the key to settling the explosive situation in the region.

Likewise, it is widely acknowledged that there can be no just solution if the PLO is excluded. The legitimate representative of the Palestinian people, recognized by the United Nations, must not be deprived of the political means to realize the legitimate rights of its people, and must not be prevented from participating in settling the conflict in the framework of the world Organization. The unrestricted participation of the PLO in the activities of the United Nations is indispensable for the realization of the right of the Palestinian people to self-determination and for a just settlement of the Middle East conflict, which is imperative today more than ever before.

The German Democratic Republic reaffirms in this connection its solidarity with and support for the just cause of the Palestinian people under the leadership of the PLO.

Mr. AL-KAWARI (Qatar) (interpretation from Arabic): It gives me pleasure to join previous speakers in expressing sincere appreciation to His Excellency Mr. Javier Perez de Cuellar for his comprehensive, objective reports on the item before the Assembly at its resumed session. I should like also to thank the Secretary-General and his associates for their work to clarify the legal, practical and other aspects of this matter.

As a number of other speakers have done, I should like at the outset to refer to an important binding principle of international law: international obligations take precedence over the provisions of domestic laws. If obligations assumed by a State under international law or under bilateral or multilateral treaties are in

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conflict with provisions of that State's domestic legislation, the treaty or international law provisions take precedence over domestic legislation.

That has become one of the fundamental rules of contemporary international law and has been incorporated into the Constitutions of a number of Member States whose Constitutions were formulated or reformulated during the past 50 years, that is, since this rule became firmly established in international law.

I cannot fail in this regard to note that the Vienna Convention on the Law of Treaties of 23 May 1969, to which the United States became a signatory on 24 April 1970, explicitly states that "A State is obliged to refrain from acts which would defeat the object and purpose of a treaty" (A/CONF.39/27, article 18), and the Convention further states that "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty". (Article 27)

Those legal provisions, to which the host country is committed by virtue of its being a party to the Vienna Convention on the Law of Treaties, make it abundantly plain that the course of action decided upon by the Government of the host country is a clear breach of the international obligations it assumed under the Headquarters Agreement, specifically its obligation set out in sections 11 and 12 of the Agreement not to impose any impediments to transit to or from the headquarters district of persons invited to the headquarters district irrespective of the relations existing between the Governments of those persons and the Government of the host country.

The provisions of the Vienna Convention make it perfectly clear that the host country may not use a law adopted by its legislature in an attempt to justify its breach of an international obligation.

(Mr. Al-Kawari, Qatar)

We hope that the Government of the United States of America, as the host country, will reconsider its position in a manner that will strengthen the international legitimacy and effectiveness of this Organization. Should the Government of the host country cling to its position, which runs counter to international law in its clear international obligations, the only path left before the General Assembly would be that mentioned in section 21 of the Headquarters Agreement, that is, binding arbitration.

In the meantime, my delegation believes that the General Assembly should request an advisory opinion from the International Court of Justice, in accordance with Article 65 of the Statute of the Court, on the legality of the pending action of the Government of the host country and the extent to which such action coincides with that State's international obligations, as well as another opinion on the temporary measures that should be taken to ensure respect for those obligations until this dispute is resolved through arbitration.

The world's attention today is riveted on the events taking place in the occupied Palestinian territories, where the Palestinian people have taken their cause into their own hands and decided to resume their struggle, depending only on the assistance of God and the justice of their cause and on their readiness to make sacrifices. The Palestinians have shown exemplary patience and endurance under occupation and provided the international community ample opportunity to play its role. What has been the result? Resolution upon resolution have been adopted but never implemented; the world, influenced by the Zionist media, has accepted that the question of Palestine should be delayed and that Zionism should impose its will on the Palestinian people - until this sacred revolution began, exposing Zionism even to those who for a while were taken in by its fabrications. They now witness a new nazism that indulges in infanticide, arrests women and buries people alive.

(Mr. Al-Kawari, Qatar)

Nothing more eloquently describes the Zionist measures taken against the Palestinian people in the occupied territories than the brave comment made by the ambassador of a Western State in Tel Aviv whose country had suffered under Nazi occupation:

"Even Nazis did not go out into the streets breaking people's bones with clubs. We read in the newspapers that the Israeli soldiers go out into the streets breaking bones, taking children from their homes. I do not say that this is better or worse than the situation in my country when under Nazi occupation. Both situations are very bad. Yet I do not recall seeing German soldiers hitting people on our streets."

Thus Zionism exceeds nazism in its cruelty.

The matter before us is of extreme importance. The Zionists' objective in seeking to close the PLO office is to silence the Palestinian voice because it is the voice of right and the voice of right is strong. But they forget, or prefer to forget, that a stone thrown by the innocent hand of a Palestinian child is more eloquent than any statement and stronger than any resolution. The Palestinian people of all walks of life, both inside and outside Palestine, have chosen their sole, legitimate representative: the Palestine Liberation Organization (PLO). The world recognized that legitimate representative when 13 years ago it became an Observer at the United Nations.

My country - which has supported and continues to support the brotherly Palestinian people on the basis of common national origin and of faith in the justice of the cause for which they are struggling - pays tribute from this rostrum to the struggling people in the Palestinian territories and declares its continued support for that people and its sole, legitimate representative, the Palestine

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Liberation Organization. There is no mention in history of a people that struggled for its freedom and self-determination having failed to achieve its goal. The victory of the Palestinian people will confirm this fact, notwithstanding the magnitude of Zionist schemes that attempt to silence the voice of the Palestinian people in this international forum.

It is incumbent upon the General Assembly to take all necessary legal measures to frustrate these schemes through the aforementioned means, which were supported by all the representatives who spoke before me.

Mr. YUSOF (Malaysia): Once again the United Nations is faced with a critical problem, one that could threaten the viability of the Organization. This time it is the threat of closure of the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations by the United States Government, the host country, before the end of this month.

The position of the United Nations Headquarters, the obligations of the host country and their relationships with one another have been clearly established and provided for in the Headquarters Agreement of 1947. These provisions have been extended to the PLO in General Assembly resolution 3237 (XXIX) of 22 November 1974. At this session of the General Assembly, these provisions were reiterated with the request that

"the host country... abide by its treaty obligations under the United Nations Headquarters Agreement and in this connection... refrain from taking any action that would prevent the discharge of the official functions of the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations". (resolution A/42/210 B).

Previous speakers have clarified these legal principles, and I shall not dwell upon them except to say that my Government is in complete agreement with their

(Mr. Yusof, Malaysia)

conclusions and with the call for the host country to abide by its treaty obligations under the Headquarters Agreement. It is obvious that there is a dispute between the United States and the United Nations over the application of the Headquarters Agreement to the PLO Mission.

(Mr. Yusof, Malaysia)

My delegation appreciates the efforts of the Secretary-General, who has given very close attention to this question since December 1987. I should like to extend to him and to the Legal Counsel, Mr. Carl-August Fleischhauer, our sincere appreciation for the reports contained in documents A/42/915 and A/42/915/Add.1, of 10 and 25 February 1988 respectively. These reports underline the fact that the United States Government has not taken any action

"concerning the application or enforcement of the legislation with regard to the PLO Observer Mission to the United Nations in New York". (A/42/915/Add.1, para. 1)

It is further reported that no date for a decision has been set by the host country to put the legislation into effect.

At this point it may be acknowledged that the United States Government has refrained from taking such action as would prevent the discharge of the official functions of the PLO Mission as required by resolution 42/210 B of 17 December 1987. It is also a fact, as noted by the Permanent Observer of the PLO in his statement in this Hall yesterday, that in signing into law the Foreign Relations Authorization Act for Fiscal Years 1988 and 1989, Title X, on 22 December 1987, the President of the United States entered a reservation in regard to the provisions relating to the PLO Observer Mission to the United Nations.

There is no doubt that the United States will have to resolve the Presidential reservation on section X of the Act within the specified time-frame. We had expected that a solution to the question would be found within the ambit of domestic legislation. But, regrettably, contacts by the Secretary-General with the United States Government have not brought forth assurances in that direction.

Nevertheless, it must be noted that these reservations are not without limitation. The relevant provision of the Foreign Relations Authorization Act is expected to take effect on 21 March 1988. The threat of the closure of the PLO

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Mission must surely affect its proper functioning. The uncertainty of the situation is hampering its official work: hence the anxiety felt by the PLO Mission and members of this Organization that the United States Government will enforce section X of the Act. The enforcement clearly will be a violation of the Headquarters Agreement by the host country. We regret that such action is being contemplated. In no uncertain terms we should like to express our very serious concern over it.

Our concern also extends to the ramifications of the violation of the Headquarters Agreement, since this Organization spreads to all parts of the world; and to the consequences such a violation could have on the serious efforts by the international community to find peaceful solutions to the many problems of the world.

My delegation believes, however, that the real issue behind the attachment of section X to the appropriation Act is the Palestinian problem. The application of the Act would have the effect of preventing the resolution of that problem, and the restoration of all Arab lands illegally occupied by Israel, since the efforts to that end must necessarily include the full participation of the PLO in a United-Nations-sponsored international conference on the Middle East as endorsed by the Security Council.

The situation we are witnessing today in the occupied territories of the West Bank and the Gaza Strip is the latest symptom of the powder keg whose fuse is burning in the Middle East. We witness daily the continuation of the popular uprising, with Palestinian youths trading stones in response to bullets. We continue to ask the question: how many more Palestinian youngsters must die before a comprehensive solution is found?

(Mr. Yusof, Malaysia)

However difficult it may be, a peace process must begin with the Israelis and their supporters realizing that it can be achieved only through dialogue. A negotiated settlement with the Palestine Liberation Organization, the sole representative of the Palestinian people, is inevitable.

Malaysia reiterates its solidarity with the Palestinian people in their continuing struggle for justice and peace, which will be obtained only when the Palestinian people have had restored their rights to return to their own homeland and to exercise their self-determination, and when all Arab lands illegally occupied by Israel have been returned to their rightful people.

My delegation feels that both the legal and the political aspects of the problem before the Assembly must be addressed at the same time. We have no doubt that the implementation of the Act will be a violation of the Headquarters Agreement. Therefore, we call upon the host country to abide fully by its treaty obligations and to assure the Organization that no action will be taken to infringe upon existing arrangements for the official functioning of the PLO Mission. For that purpose we urge the Secretary-General to continue his efforts with the United States Government to stay the implementation of the Act. And in view of the urgency of this problem my delegation also supports the Secretary-General in invoking section 21 of the Headquarters Agreement, which puts in train dispute-settlement procedures.

However, within the limited time still available, my delegation would like to renew the call upon the host country to consider seriously its legal obligations under the Headquarters Agreement, and to refrain from imposing its unilateral decision upon the international community.

Having stated that, I am pleased to indicate that Malaysia has joined other Member States in sponsoring draft resolutions A/42/L.46 and A/42/L.47, which

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express our support not only for the PLO Mission but also for the safeguarding of the viability of the United Nations.

Mr. ADJOYI (Togo) (interpretation from French): Since this is the first time I have spoken in my capacity as the Ambassador and Permanent Representative of the Republic of Togo to the United Nations before the General Assembly during its resumed forty-second session, I wish first of all to convey to you, Mr. President, to all the delegations here and to the Secretary-General a message of peace and solidarity from His Excellency General Gnassingbé Eyadema, the President and founder of the Rally of the Togolese People. I assure you that the Government of Togo is fully ready and resolved to co-operate with you in the building of a world of peace and security - the raison d'être of the Organization, of which we freely decided to become a Member.

Also, I take this opportunity of expressing to you, Mr. President, my delegation's satisfaction at the skilful way in which you led our work during the first part of the forty-second session. That augurs well for a successful conclusion to our present meetings.

Furthermore, I wish once again to welcome the persistent efforts of the Secretary-General, Mr. Javier Perez de Cuellar, to attain the objectives laid down in the Charter. He has just completed a very significant trip to Africa, and my country can only congratulate him on this and encourage him to continue such travels, which are necessary for a better understanding of the outstanding problems and the attainment of appropriate solutions to them.

(Mr. Adjayi, Togo)

Through the Secretary-General I wish to pay a tribute to the United Nations system as a whole for the active role it is continuing to play in bringing about peace and security in all regions of the world, and particularly in the Middle East, where the Palestinian problem remains at the centre of all our concerns.

All of us are bound by resolution 3236 (XXIX), entitled "Question of Palestine," which, inter alia, reaffirms the inalienable rights of the Palestinian people in Palestine and emphasizes that full respect for and the realization of those inalienable rights of the Palestinian people are indispensable for the solution of the question of Palestine.

In order fully to play its role in the settlement of the question of Palestine, on 22 November 1974 the United Nations adopted, in addition to resolution 3236 (XXIX), resolution 3237 (XXIX), in which the General Assembly invited the Palestine Liberation Organization (PLO) to participate in the sessions and the work of the General Assembly in the capacity of observer. Aware of the PLO's responsibility in the process of finding a solution to the Palestinian question, on 10 November 1975 the General Assembly adopted resolution 3375 (XXX), which, inter alia, requests that the PLO, the representative of the Palestinian people, be invited to participate in all efforts, deliberations and conferences on the Middle East which are held under the auspices of the United Nations, on an equal footing with other parties, on the basis of the aforementioned resolution 3236 (XXIX), which, in addition, recognizes that the Palestinian people is a principal party in the establishment of a just and lasting peace in the Middle East.

The PLO, a principal party in the establishment of a just and lasting peace in the Middle East, cannot continue to be ignored by the other parties to the conflict. More than ever before, the explosive situation prevailing in the region requires the PLO's presence at New York within the administrative district of the United Nations in order to assist the Organization in finding a solution to

(Mr. Adjoyi, Togo)

the situation. It is therefore quite normal for all countries committed to peace and dialogue to be disturbed by the law adopted by the host country, a law that, if enforced, would prevent the Permanent Observer Mission of the PLO to our Organization from maintaining the premises that enable it to respond to the invitation issued it by the Organization, in particular to participate in the meetings and work of the General Assembly as an observer. Such a situation would also undermine the efforts made so far by the United Nations and the PLO to find a solution to the Palestinian problem, which - and this cannot be overemphasized - lies at the heart of the Middle East question.

Togo voted in favour of General Assembly resolution 42/210 B of 17 December 1987, adopted almost unanimously, which requested the Secretary-General to take effective measures to ensure full respect for the Headquarters Agreement of 26 June 1947. That resolution, inter alia, recalls the aforementioned resolution 3237 (XXIX) of 22 November 1974, which makes the PLO an invitee of the United Nations pursuant to the Headquarters Agreement. As an invitee, the PLO is covered by the provisions of sections 11, 12 and 13 of the Headquarters Agreement which, inter alia, confer an obligation on the host country to permit the PLO Observer Mission to remain in the United States to carry out its official functions. Togo voted in favour of that resolution because it is a country of law and believes in the rule of law, and because it believes a fundamental principle of substantive international law governing international relations is about to be flouted and the situation must be remedied. It also did so because the primary effect of every treaty, that which gives it its binding force among the States parties to it, is being challenged. We must here emphasize the binding nature of treaties, for unfortunately treaties are all too often violated. We must also emphasize that, just as crimes and offenses under the domestic laws of States do not abrogate

(Mr. Adjoyi, Togo)

criminal law, the failure of political leaders to honour their word cannot negate either the sacred nature of treaties or the principle of their binding force. In 1630, Cardinal Richelieu wrote: "A great prince must risk his person and even the interests of his State rather than fail to live up to his word."

Later, Guizot stated: "A country's honour resides in its fulfilment of its word." For its part, the Togo of General Gnassingbé Eyadema has always ensured strict respect for its commitments. Thus, while recognizing Israel's right to continued existence, it also maintains its support for the right of the Palestinian people to self-determination, including their right to independence and sovereignty under the leadership of the PLO, in keeping with the relevant resolutions of the United Nations.

There is a body of legal precedent that supports the principle of the binding nature of treaties. A practical and essential consequence of that principle is that a State party to a treaty must bring its domestic laws, and its behaviour in general, into line with the treaty it has signed. On 7 September 1910, the Permanent Court of Arbitration at The Hague, in the case of the Atlantic fisheries, affirmed that contractual obligations must be carried out in complete good faith, thus precluding the right to legislate at will on the subject of a treaty.

(Mr. Adjoyi, Togo)

The principle of good faith is vital; it has governed international relations ever since it was enshrined in Article 2 (2) of the Charter, which provides:

"All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter."

That demands adherence to commitments entered into. Therefore, to legislate as or chooses about the subject of an agreement is not an act of good faith compatible with the limitations on competence previously accepted.

Togo supported resolution 42/210 B without undue concern. Having learned of the position of the United States Secretary of State, as set out in paragraphs 46 to 49 of the report of the Committee with Relations with the Host Country (A/42/26), my country was sure that the United States, a country in which the law has primacy over everything else, was motivated by respect for the fundamental principle of the rule of law in international relations, which I have just described. That position means that the United States has an obligation to allow the personnel of the PLO Observer Mission to enter the United States and remain there to discharge their official functions at United Nations Headquarters.

However, since the adoption of that resolution it seems - according to the Secretary-General's reports (A/42/915 and Add.1) - that the measure envisaged by the host country became law on 22 December 1987 and that there is no reason to think that a compromise is near.

Togo, whose friendship for the United States and its people needs no further proof, already sees the danger to our Organization in the new situation and is here to warn about it. If implemented, the measure will be gravely detrimental to the United Nations role in the maintenance of international peace and security.

(Mr. Adjoyi, Togo)

Today, because an invitee of our Organization causes displeasure for reasons of domestic politics, a country disregards its contractual obligations, expelling that invitee from Headquarters, thus ignoring its importance within the framework of dialogue and communications which the United Nations fosters in its quest for the peaceful resolution of conflicts.

There is nothing to guarantee that tomorrow another invitee, or even a State, will not cause displeasure and be expelled. Let us keep the worm from getting into the fruit; let us destroy that worm, to prevent it eating at our Organization.

To treat the PLO as if it were a pariah is not the right way to seek peace in the Middle East. It is daily being proved that no solution to the Palestinian problem is possible without the participation of the PLO. The United States Government, which has decided to play an important role in the search for peace in the Middle East, cannot get round that fact. Above all, it should not give one of the parties the impression that it is itself both judge and a party.

With the PLO at United Nations Headquarters, considerable work has been done, because the Palestinian people as a whole has thus been represented. There is no longer any doubt that for all the Palestinians, not yet gathered together in a State, the PLO is the only means of expressing their nationalism, their faith and their belief in their future. To humiliate the PLO is to humiliate the whole Palestinian people, and that must not be done.

The General Assembly knew what it was doing when it adopted resolutions 3236 (XXIX) and 3237 (XXIX) of 22 November 1974 and resolution 3375 (XXX) of 10 November 1975, which - let us re-emphasize this - above all asked that the PLO, representative of the Palestinian people, be invited to participate in all efforts, discussions and conferences on the Middle East held under United Nations auspices on an equal footing with the other parties.

(Mr. Adjoyi, Togo)

The denial of the right of the PLO to be present in New York within the administrative district of our Organization raises a serious legal problem, which should not conceal the underlying political question. The time has come for everyone to put aside partisan domestic political considerations to seek ways and means leading to the holding of an international peace conference on the Middle East, bringing together under United Nations auspices all the parties concerned, naturally including the PLO. That is what is at stake.

With regard to the legal issue, the delegation of Togo hopes that as in the past in other difficult situations, wisdom will again prevail. We are convinced that everyone is keenly aware that diplomacy, honourably practised, is essentially based on concepts of justice and freedom as well as ethical principles in line with international law. Therefore, it calls upon the Government of the host country and the Secretary-General of our Organization to continue their efforts to find a solution acceptable to all. We remain convinced that it is still possible to prevent the problem's becoming a serious dispute. The position of the United States Federal Administration leads us to think that it regards as sacrosanct respect for United States legal international obligations.

Mr. KAGAMI (Japan): Mr. President, since this is the first time I have the honour to address the General Assembly, having just taken up my duties as Permanent Representative of Japan to the United Nations, I should like to congratulate you on the excellent manner in which you have been presiding over the deliberations of this august body. I deem it a privilege, to have the opportunity to work with you for the remainder of your tenure.

Last December Japan joined the votes for General Assembly resolution 42/210 B, which was adopted almost unanimously. In that resolution the General Assembly reiterated its position that the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York was covered by the provisions of the Headquarters Agreement, and requested the host country, namely the United States, "... to abide by its treaty obligations under the United Nations Headquarters Agreement ...".

I wish to join the previous speakers who have expressed appreciation for the efforts the Secretary-General has been making to resolve this issue. It is very much regrettable, however, that his talks with officials of the United States have so far not resulted in a solution. Consequently, we are meeting here today in the resumed session of the forty-second session of the General Assembly in order to discuss the issue.

In his report of 10 February (A/42/915) and its addendum of 25 February (A/42/915/Add.1) the Secretary-General has described the legal problems emanating from the legislation enacted by the United States with regard to the PLO, problems which are also recognized by the United States Department of State. Having studied carefully all aspects of this issue, as well as the Secretary-General's report, Japan considers it necessary to urge the United States once again to abide by its treaty obligations under the United Nations Headquarters Agreement. If, however,

(Mr. Kagami, Japan)

the United States is unable to do so, we are of the view that the dispute settlement procedure set out in section 21 of the Headquarters Agreement should commence.

In concluding my remarks I should like to express Japan's strong hope that this matter will be settled quickly and to the satisfaction of all parties concerned so that the current arrangement to enable the PLO Observer Mission to carry out its official functions can be maintained.

Mr. ADAM (Sudan) (interpretation from Arabic): The forty-second session of the General Assembly has been resumed in order to continue discussion on agenda item 136, "Report of the Committee on Relations with the Host Country", in response to the request of the Arab Group, supported by other regional groups representing the overwhelming majority of the States Members of the Organization.

Mr. President, we wish here to express our thanks for your swift response in convening the General Assembly in resumed session. We are confident that you will make every possible effort, especially since we know your statesmanship and objectivity, guarantees of success for this session.

The agenda item we have been discussing since yesterday is, in the view of my country, an extremely sensitive issue bearing on the very existence of this Organization, or even its demise. The Headquarters Agreement, which has stood the test of time for over 40 years, is now put to a critical test, and we must pay due attention in order to ensure the inviolability of the Organization, in which we have sought refuge as Members, Observers and invitees.

Respect for the Agreement by the two parties - the United States Government, the host country, and the United Nations - and for its provisions is necessary in

(Mr. Adam, Sudan)

order to enable all delegations, regardless of legal status, to carry out their official functions in a normal and regular manner, both in practical and in psychological terms.

The first session of the General Assembly emphasized the need to preserve the immunities and privileges of representatives of Member States, Observers and invitees. Further to its legally-binding character internationally, the Headquarters Agreement, signed in 1947, also seeks to ensure the independence and inviolability of our Organization. It would also ensure the conduct in good faith of relations between the host country, the United Nations and Member States. We are all aware that international agreements take precedence over all domestic legislation by States.

We have every reason to believe that the Government of the United States, the host country, will seek to implement measures against the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations aimed at preventing it from carrying out its official functions.

We all know that the international community as represented by the General Assembly of the United Nations some 13 years ago emphasized the right of the PLO to participate in the sessions and activities of the General Assembly. In General Assembly resolutions 3237 (XXIX) and 3375 (XXX) the PLO was invited to participate in all efforts, deliberations and conferences convened with regard to the Middle East, under the auspices of the United Nations, on an equal footing with all other parties. The emergence of the PLO and its recognition by the world community have not been accidental. The PLO emerged in order to represent an entire nation rendered homeless as a result of aggression by a settler expansionist enemy which resorted to individual and collective terrorism against the Palestinian people throughout all phases of the creation of the State of Israel. That enemy continues

(Mr. Adam, Sudan)

even today to practise terrorism in the Palestinian and other Arab territories it occupies. It kills women and children, boards up houses, destroys all means of livelihood, breaks the bones of youths and even buries them alive. This is genuine terrorism as represented in the Deir Yassin massacre, in the 1988 invasion of Lebanon and in the horrifying massacres of Sabra and Shatila. All these massacres were designed and perpetrated by the aggressive military forces of the Israeli enemy.

The Observer Mission of the Palestine Liberation Organization draws its legitimate presence in the United Nations from resolutions that reflect the will of the international community as a whole. This legitimacy has not been accorded by the host country as a grant; it is in fact the reflection and implementation of the will of the world community as enshrined in the resolutions I have just mentioned.

(Mr. Adam, Sudan)

Furthermore, the legal relationship between the Observer Mission of the PLO and the host country is quite clear and is governed by the provisions of the Headquarters Agreement, which represents an international obligation willingly accepted by both the world Organization and the host country in full freedom and in accordance with all relevant procedures.

Like other international instruments, that Agreement sets forth all the steps to be taken in the event of a dispute regarding application, interpretation or other matters covered by the Agreement. Are we proceeding accordingly?

Since, in its resolution 42/210 B of 17 December last, the General Assembly reaffirmed the legitimacy of the presence of the Observer Mission of the PLO to the United Nations, the host country has taken a position that can only be described as one of legal manoeuvring, manipulative and vague. If today the victim is the Palestine Liberation Organization, who will it be tomorrow? Our presence in the Organization and the normal exercise of our official functions cannot be secure unless all the provisions of the Headquarters Agreement are scrupulously and faithfully implemented. The purposes and principles of the Charter make it imperative for all Member States to fulfil their international obligations in all circumstances and at all times.

In our view this dispute is a clear disagreement between the two contracting parties, the United Nations and the United States Administration. The Secretary-General has recognized that from the outset and has fully discharged his duties. We thank him, and are confident that all members of the international community will support him in his endeavours.

The credibility of the Organization and its ability to continue to operate necessitate compliance with international law and strenuous efforts to preserve it under all circumstances.

(Mr. Adam, Sudan)

The possibility that the United States Administration will enforce the decision to close the PLO Observer Mission in New York poses a threat to the very foundation of international law. There are serious implications, and the threat must be averted.

In his reports in documents A/42/915 of 10 February and A/42/915/Add.1 of 25 February, the Secretary-General informed us of the steps he had taken under section 21 of the Headquarters Agreement. According to the latter report, the United States Administration had informed him that

"a decision had still not been taken by the United States Government concerning the application or enforcement of the legislation with regard to the PLO Observer Mission to the United Nations in New York". (A/42/915/Add. , para. 1)

Time is passing, and 21 March, the date on which the legislation enters into force, is drawing near.

Reports carried by the American media in the past few days indicate that it will enter into force notwithstanding the statements of some United States officials to the effect that implementation of the legislation on the PLO Observer Mission in New York would be contrary to the international obligations of the United States of America under the Headquarters Agreement. We hope that they will prevail and the dispute will be resolved forthwith.

Yesterday the Secretary-General, in his capacity as custodian of the Headquarters Agreement, again expressed the hope that the host country would succeed in reconciling the domestic legislation and the purposes and intentions of the Headquarters Agreement and that section 21 of the Headquarters Agreement would be applied, as it sets out all the steps and procedures to be followed.

(Mr. Adam, Sudan)

From this rostrum we call upon the Government of the United States of America to accept the arbitration principle and to name its arbitrator under section 21 of the Headquarters Agreement.

Pending a legal settlement satisfactory to all parties, we call upon the United States to refrain from taking any steps that might adversely affect the normal official functions of the personnel of the PLO Observer Mission in New York.

We call upon the General Assembly to adopt a draft resolution referring the dispute to the International Court of Justice, seeking an advisory opinion from the Court under article 65 of its Statute, and taking into account the tight time constraints.

Finally, it must be pointed out that the world community has welcomed the Palestine Liberation Organization in its capacity as the sole, legitimate representative of the Palestinian people. Those States which do not yet recognize that fact should see the PLO as a channel of communication that cannot be set aside in any effort to resolve the Middle East problem.

How can a solution be reached when the host country is moving to prevent the PLO from fulfilling its official functions within the United Nations and from playing its proper role as a key party to a conflict that poses a threat to world peace and security?

We hope that this anomaly will be rectified, so that international law and stability may be upheld.

Mr. SHAH NAWAZ (Pakistan): It gives me great pleasure, Sir, to join my other colleagues who have spoken before me to welcome your presence in New York to preside over the resumed forty-second session of the General Assembly. We greatly look forward to the opportunity of benefiting once again from the wide experience, diplomatic skills and abilities which you brought to bear upon the proceedings of

(Mr. Shah Nawaz, Pakistan)

the forty-second session last year and which contributed in no small measure to its success.

The resumed session has been called to consider an ominous development which threatens the proper functioning of the United Nations and, if not redressed, would seriously erode its credibility. At stake is not only a question of principle but also the sanctity of international legal obligations freely assumed more than four decades ago by the host country, which is a founding Member of the United Nations.

It has been made abundantly clear that the legislation passed by the United States Congress and signed into law last December is in direct contravention of the Headquarters Agreement of 26 June 1947 and violates the right of the Palestine Liberation Organization (PLO) to maintain the facilities of its Permanent Observer Mission to the United Nations in New York. The State Department itself is reported to have recognized that the law is in violation of United States international legal obligations and, accordingly, to have urged delaying the application of the law pending a ruling by the International Court of Justice and a Special International Tribunal.

In his statement before the General Assembly yesterday the Secretary-General reiterated the position of substance he had taken in his contacts with the host country. The PLO, he said, was an invitee of the United Nations by virtue of General Assembly resolution 3237 (XXIX) of 22 November 1974, and the United States was, as a consequence of the Headquarters Agreement, under an obligation to permit duly accredited PLO personnel to enter and remain in the United States in order to carry out their official functions.*

* Mr. Matos Proença (Portugal), Vice-President, took the Chair.

(Mr. Shah Nawaz, Pakistan)

Saying that the position he had taken was endorsed in General Assembly resolution 42/210 B, the Secretary-General expressed the hope that even now it would be possible for the host country to reconcile its domestic legislation with its international obligations in such a manner as to ensure full respect for the spirit and the letter of the Headquarters Agreement.

The Secretary-General added that in case the host country must give effect to its legislation it should recognize the existence of a dispute between the United States and the United Nations and accordingly agree to utilization of the dispute settlement procedure provided for in section 21 of the Headquarters Agreement. We fully endorse the Secretary-General's views.

The authors of the Headquarters Agreement had obviously foreseen that unilateral action by the host country could interfere with the intent of the Agreement, and they provided safeguards against such an eventuality. Sections 11, 12 and 13 of the Agreement clearly spell out the obligations of the host country towards those invited to participate in the work of the United Nations. In fact, the Headquarters Agreement goes further, and takes cognizance of any possible misinterpretation or conflict. It provides for the settlement of disputes in its section 21 (a), which calls for a tribunal of three arbitrators to take a final decision on any dispute concerning the interpretation or application of the Agreement not settled by negotiations. Alternatively, under section 21 (b), the Secretary-General may ask the General Assembly to request the International Court of Justice to give an advisory opinion on any legal questions arising in the course of such proceedings.

The Secretary-General, in fulfilment of the responsibilities entrusted to him, has taken timely action to seek a resolution of this problem. His efforts in this context are outlined in his report of 10 February 1988 (A/42/915). It is clear

(Mr. Shah Nawaz, Pakistan)

from that report that the United Nations has worked for an amicable settlement of this issue, but that there has been no forthright assurance from the host country that the existing arrangements will continue.

According to a report appearing in The New York Times, the United States Attorney General has

"determined that the Justice Department must enforce legislation to close the PLO mission, despite protests from the State Department". (The New York Times, 27 February 1988, p. 3)

That press report goes on to say that the United States Attorney General

"had concluded that under Supreme Court precedent, the department was required to obey the legislation and close the PLO mission even if it might violate international treaties".

This conclusion pays little heed to the contents of the letter dated 5 January 1988 addressed to the Secretary-General by the Acting Permanent Representative of the United States to the United Nations, in which the Ambassador categorically states that

"Because the provisions concerning the PLO Observer Mission may infringe on the President's constitutional authority and, if implemented, would be contrary to our international legal obligations under the United Nations Headquarters Agreement, the Administration intends, during the ninety-day period before this provision is to take effect, to engage in consultations with the Congress in an effort to resolve this matter". (A/42/915, para. 4)

The announcement of the decision to implement the law has not been made so far, and according to the New York Times report awaits the return of the United States Secretary of State from his Middle East shuttle. There is therefore still time for reconsideration of a decision which cannot but damage the long-term interests of the host country itself.

(Mr. Shah Nawaz, Pakistan)

The implementation of the decision to enforce the legislation which would close the PLO office in New York would not only contravene the Headquarters Agreement but would be incongruous with the current initiative of the Secretary of State to reinvigorate the process for achieving a peace settlement in the Middle East. It is clear that the objective of peace in the Middle East cannot be achieved by closing the New York office of the Observer Mission of the Palestine Liberation Organization, the sole, legitimate representative of the Palestinian people.

How is the international community to react to these contradictory signals? How can a peace process which the world community has agreed to conduct through an international conference on the Middle East under the auspices of the United Nations ever come to fruition if the representatives of the Palestinian people are denied access to the world body? It was this world body which at the twenty-ninth session of the General Assembly - on 22 November 1974 to be precise - considered

"that the Palestine Liberation Organization is entitled to participate as an observer in the sessions and the work of all international conferences convened under the auspices of other organs of the United Nations".

(resolution 3237 (XXIX), para. 3)

The United States Secretary of State, on the commencement of his latest visit to the Middle East, called on Israel to take decisions of historic proportions in an effort to change the status quo in the region, which, he said, was not a stable option for any of the parties. In that statesmanlike approach to the Middle East question lie not only a realization of the tragic mistakes made in the past but also a true vision of the future. In the past, an entire nation of Palestinians was deprived of its homeland and driven into exile or scattered into refugee camps, which continue to represent a fragmented nation that has lost none of its

(Mr. Shah Nawaz, Pakistan)

determination to regain what is lawfully its own. The achievement of a lasting peace in the Middle East is inseparable from the restitution of the legitimate rights of the Palestinian people and the exercise of their inalienable right to self-determination and statehood.

We are familiar with the obduracy with which Israel has opposed the will of the international community, as embodied in numerous resolutions of the Security Council and the General Assembly, to bring justice to the Palestinian people, which alone can bring lasting peace to the region. It is ironic that Israel should be rewarded for such obduracy with the fruits of full representation at the United Nations while even the observer status of the PLO should lose its visible symbol at United Nations Headquarters with the closure of its offices in New York.

The Government and the people of Pakistan stand staunchly by the people of Palestine in their valiant struggle in pursuit of a just peace in the Middle East based on recognition of their legitimate rights, including their inalienable right to self-determination. Peace will not be promoted in the Middle East by actions such as the prohibition of the PLO Observer Mission in New York. At this crucial juncture we join others who have urged the host country to refrain from taking any action which would not only jeopardize the functioning of the United Nations but also subvert the vitally needed peace process in the Middle East.

Mr. PASHKEVICH (Byelorussian Soviet Socialist Republic) (interpreted from Russian): The delegation of the Byelorussian SSR fully shares the concern expressed by all other speakers in this debate at the illegal action taken by the host country against the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations.

(Mr. Pashkevich, Byelorussian SSR)

Everyone knows the intent of this action, an action which was made possible by the host country's recent pursuit of the policy of undermining the activities of the United Nations, fettering multilateral co-operation, creating all manner of obstacles to block the activities of many representatives and observers accredited to the United Nations.

We do not think we need any complicated legal analysis of this situation to see what is self-evident: the host country is violating international agreements previously entered into; it is flouting the fundamental principle and corner-stone of international law, pacta sunt servanda - treaties must be respected.

(Mr. Pashkevich, Byelorussian SSR)

The presence in New York of the Permanent Observer Mission of the PLO to the United Nations is not due to permission magnanimously granted by the United States side. That Mission came to the host country in response to an invitation by the international community contained in General Assembly resolution 3237 (XXIX) adopted on 22 November 1974, and it is accredited not to the Government of the United States but to the United Nations.

It is also noteworthy that the General Assembly, which at its twenty-ninth session invited the Palestine Liberation Organization (PLO) to participate in the sessions and work of the General Assembly as Observer, on the very same day adopted a resolution on the question of Palestine appealing to all States and international organizations to lend support to the Palestinian people in its struggle to restore its rights in accordance with the Charter, and requesting the Secretary-General to establish contacts with the PLO on all matters relating to Palestine. That was recognition of the major role of the Palestine Liberation Organization in finding a just and comprehensive settlement to the Arab-Israeli conflict and the key issue thereof, the Palestinian problem, in accordance with the Charter and the decisions taken by the United Nations.

It is also not difficult to see that, given the present evolution of the situation in the Middle East, the Palestinian problem is still extremely relevant. A solution of it and a settlement of the explosive situation in the region as a whole is possible only through the convening of an international conference with the participation of the five permanent members of the Security Council and all interested parties, including the PLO, which is the sole, legitimate representative of the Palestinian people.

The question before us today is not a new one. The Committee on Relations with the Host Country has already taken this matter up, as did the Sixth Committee

(Mr. Pashkevich, Byelorussian SSR)

at the forty-second session of the General Assembly last year. The conclusion arrived at by the majority of States after due consideration is quite clear: the action taken by the Congress of the host country on the closing of the Permanent Observer Mission of the Palestine Liberation Organization must be described as contrary to the foundations of international relations and the international obligations of the United States of America, in particular the 1947 Headquarters Agreement and the Charter of the United Nations. General Assembly resolution 42/210 B, which was adopted almost unanimously, stated that:

"... the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York is covered by the provisions of the ... Agreement [between the United Nations and the United States of America regarding United Nations Headquarters] and should be enabled to establish and maintain premises and adequate functional facilities, and ... the personnel of the Mission should be enabled to enter and remain in the United States to carry out their official functions".

The position taken by the Secretary-General on this matter is unambiguous. He has stated, inter alia, that officials of the PLO Observer Mission are, by virtue of resolution 3237 (XXIX), invitees to the United Nations and as such are covered by sections 11, 12 and 13 of the 1947 Headquarters Agreement.

Accordingly, the host country has a treaty obligation to permit officials of the PLO Observer Mission to enter and remain in the United States in order to carry out their official functions at United Nations Headquarters.

As can be seen from the reports of the Secretary-General (A/42/915 and Add.1), the host country has disregarded the request addressed to it in the aforementioned resolution regarding implementation of its treaty obligations in respect of the PLO and has not taken any steps towards settling the problem.

(Mr. Pashkevich, Byelorussian SR)

It was quite natural under those circumstances for the Secretary-General to conclude that there exists between the United Nations and the United States a dispute regarding the interpretation and application of the Headquarters Agreement and that recourse should be had to the dispute settlement procedure provided for in section 21 of the Headquarters Agreement.

In connection with the host country's evident unwillingness to settle the question on the basis of arbitration, the Byelorussian delegation supports the proposal to request an advisory opinion from the International Court of Justice as to whether section 10 of the United States law on the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, is in accordance with the obligations of the United States under the United Nations Charter and the 1947 Headquarters Agreement.

Twenty days remain until the action by the host country takes effect. We appeal to the host country to be reasonable, to ensure respect for its obligations under the aforementioned international legal instruments and to create normal conditions for the functioning of the Permanent Observer Mission of the PLO in New York City.

Mr. LI Luye (China) (interpretation from Chinese): First of all, please allow me to express the gratitude of my delegation to the President for his personally presiding over this resumed session of major importance. At the same time I should also like to express our appreciation to the Secretary-General for his report on the agenda item under discussion and his instructive introduction

Last year the United States Congress adopted a piece of legislation designed to obstruct the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations from carrying out its official functions. In response the forty-second session of the General Assembly adopted resolution 42/210 B by an

(Mr. Li Luye, China)

overwhelming majority of 145 to one, requesting the host country to abide by its treaty obligations under the United Nations Headquarters Agreement and refrain from taking any action that would prevent the discharge of the official functions of the PLO Observer Mission.

(Mr. Li Luye, China)

It is regrettable, however, that the legislation mentioned in the resolution has already been signed into law by the President of the United States and will come into effect very soon. That cannot but arouse the serious concern of the international community.

It is universally recognized that the United States, as the host country, should strictly abide by the relevant provisions of the United Nations Headquarters Agreement. The administrative authorities of the host country have admitted clearly that this piece of internal legislation,

"if implemented, would be contrary to our international legal obligations under the United Nations Headquarters Agreement"

and have expressed their readiness

"to engage in consultations with the Congress in an effort to resolve this matter" (A/42/915, para. 4)

before the law becomes effective. However, up to now, the host country has not come up with any appropriate concrete assurance. In order to prevent the signing into law and implementation of the aforementioned legislation and to ensure that the normal functioning of the PLO Observer Mission will not be curtailed or otherwise affected, the United Nations, especially the Secretary-General, has made great efforts, but has failed so far to receive a positive response from the host country.

In such circumstances, the Arab Group requested that the forty-second session of the General Assembly be resumed to continue the consideration of this question under the agenda item "Report of the Committee on Relations with the Host Country". As that request was entirely necessary and reasonable, it naturally received extensive sympathy and support from the international community.

(Mr. Li Luye, China)

The PLO, as the representative of the Palestinian people, has been invited by the General Assembly to participate as an observer in the sessions and work of the Assembly and other relevant organs. Under the United Nations Headquarters Agreement, the host country is bound by its treaty obligations to permit the PLO Observer Mission personnel to enter and remain in the United States so as to carry out their official duties at the United Nations. Over the past decade or more, the legitimate rights which the PLO has enjoyed have all along been respected and guaranteed in the practice of the host country. Everyone present is well aware of that. But of late the relevant authorities in the United States have, in disregard of their bounden obligations under the international treaty and the call of the General Assembly resolutions, sought to avoid honouring their obligations under international law by means of domestic legislation and to close by force the office of the PLO Mission. Such an act of wilfully violating one's international treaty obligations, if it goes unchecked, will not only seriously harm and obstruct the normal functioning of a mission at the United Nations but also create a dangerous precedent, thus fundamentally threatening the legal effect of the United Nations Headquarters Agreement. It is hence unacceptable to the international community.

I should also like to point out emphatically that the PLO is whole-heartedly supported by the Palestinian people. It has established official relations with more than 100 countries and maintains offices of representatives or observers in over 80 countries and international organizations. It is universally recognized as the legitimate representative of the Palestinian people. The voice of the PLO should be given due attention by the United Nations. Without its participation, there will not be a comprehensive, just and lasting settlement of the Middle East question.

(Mr. Li Luye, China)

The Chinese delegation is of the view that the rights the PLO is entitled to under the United Nations Headquarters Agreement should be respected; that the normal participation of the PLO Mission in United Nations activities should be guaranteed; and that the positive efforts of the Secretary-General to ensure an appropriate solution to this question should be supported. The Chinese delegation deeply sympathizes with and resolutely supports the efforts of the Arab Group and others to find a just and reasonable solution to this question. In addition, it strongly calls upon the relevant quarters in the United States to heed in earnest the views of the various delegations, strictly abide by their obligations under the United Nations Headquarters Agreement, co-operate with the United Nations in an effort to seek a proper way to solve this question in a fair and reasonable manner through the relevant procedures contained in the Agreement for the settlement of disputes and, at the same time, take appropriate steps to ensure the normal functioning of the PLO Mission at the United Nations in accordance with the relevant General Assembly resolutions.

Mr. NOWORYTA (Poland): The question under discussion is of grave concern. We are confronted with unilateral action aimed at the closure of one of the United Nations Missions, which has participated in the activities of our Organization in the course of the last 13 years.

From the legal point of view, the case is quite clear. By virtue of resolution 3237 (XXIX) the Palestine Liberation Organization is invited to participate, in the capacity of observer, in the sessions and work of the General Assembly and other international conferences convened under its auspices or under the auspices of other organs of the United Nations. In resolution 42/210 B, 145 States have unequivocally reiterated that the Permanent Observer Mission of the PLO to the United Nations in New York is covered by the provisions of the

(Mr. Noworyta, Poland)

Headquarters Agreement and should be enabled to maintain premises and adequate functional facilities. Thus, beyond any doubt sections 11, 12 and 13 of the Headquarters Agreement, in conjunction with their subsequent interpretation and application, cover the PLO Mission, like any other Member or observer mission to the United Nations. As was distinctly stated by the Legal Counsel,

"The Headquarters Agreement [is] a binding international instrument the obligations of which [are], in the view of the Secretary-General and the General Assembly, being violated by the legislation in question". (A/42/915, para. 7)

In those circumstances the action is directed not only against the Mission of the Palestine Liberation Organization, which is the sole, legitimate representative of the Palestinian people, as is clearly recognized in relevant resolutions of the General Assembly: it is directed also against the United Nations as a whole. It disregards treaty commitments and therefore can hardly be considered as compatible with the fundamental principle of international law "pacta sunt servanda", enshrined in Article 2, paragraph 2 of the United Nations Charter and in many other international instruments. And, obviously, no internal law can undermine an international agreement. May I also note that, quite recently, the Declaration on the enhancement of the effectiveness of the principle of the non-use of force in international relations - resolution 42/22 - once again unanimously reaffirmed that States shall fulfil their international obligations in good faith.

(Mr. Noworyta, Poland)

My delegation has attentively followed the developments surrounding the question under discussion. We noted the encouraging declaration of the Secretary of State, Mr. George Shultz, in his letter of 29 January 1988, that the United States is

"under the obligation to permit PLO Observer Mission personnel to enter and remain in the United States to carry out their official functions at United Nations Headquarters."

That position has repeatedly been reiterated by the Department of State, as is noted in the recent report of the Secretary-General (A/42/915). I would also refer to the meaningful statement by the State Department's Legal Adviser, Abraham Sofaer, as quoted in The New York Times of 12 January 1988, that the Congressional mandate "has the clear implication that Congress does not care if it violates international law". In addition, I should like to recall that the representative of the United States to the Sixth Committee, in the course of the discussion of agenda item 136, said, inter alia:

"As the host country, the United States has been proud and conscious of its responsibilities at the founding of the Organization. The United States has always sought to find the best possible solution to the problems facing the Missions and has in most cases successfully met its responsibilities."

Yet in spite of all consultations, efforts and assurances, the matter has still not been resolved and the date when the law is to take effect is approaching. Its possible application affects the status of our entire Organization; it affects the fundamental question of respect for international law. It might be seen as a kind of escalation of a number of restrictive and unfriendly measures that, unfortunately, have been applied by the host country towards certain Missions.

(Mr. Noworyta, Poland)

Any action that could make more difficult the solution of the Middle East conflict should be avoided. This is particularly important at a time when feelings against the Israeli occupation have found their manifestation in the popular uprising of the Palestinian people, which has been met with a policy of brutal repression. Thus the imperative necessity of the peaceful settlement of the Middle East crisis has now become more urgent than ever. The right path towards its just solution is the convening of the international conference, with the participation of the permanent members of the Security Council and all the parties concerned, including the Palestine Liberation Organization.

In conclusion, I wish to emphasize the need to undertake all measures to prevent adverse implications for the international situation, the present positive development of which is in the interests of all States. It is also indispensable for the constructive atmosphere in the United Nations and its efficient and undisturbed functioning.

For all those reasons Poland has joined the sponsors of draft resolutions A/42/L.46 and L.47.

Mr. SIDDIKY (Bangladesh): My delegation is pleased to see you, Sir, a distinguished Vice-President of the General Assembly and an officer of the forty-second session of the United Nations in the Chair, and it is confident that you will make a significant contribution towards the success of our deliberations.

We have gathered here at the call of the President of the General Assembly to deliberate upon a crucial issue under agenda item 136, an issue arising out of host country legislation that might lead to the closure of the Palestine Liberation Organization (PLO) Observer Mission at the United Nations. It is regrettable that we should be here to discuss a matter that should not have arisen at all, given the moral and legal commitment of all involved, and especially of the host country, to the principles and smooth operation of the United Nations.

(Mr. Siddiky, Bangladesh)

When the move was afoot in the United States Senate in respect of the Foreign Relations Authorization Bill for the Fiscal Years 1988-1989 to prohibit, inter alia, the establishment or maintenance of any facilities of the PLO within the United States, including its Observer Mission in New York, it was clearly perceived as being inconsistent with the obligations of the host country to abide by the Headquarters Agreement of 1947.

The Secretary of State of the United States, in a letter to the Senate, stated as early as 29 January 1987 that the host country was

"under an obligation to permit PLO Observer Mission personnel to enter and remain in the United States to carry out their official functions at United Nations Headquarters."

That view is shared by 145 Members of the United Nations, which voted in favour of General Assembly resolution 43/210 B, which was adopted on 17 December 1987 - with the sole exception of a single Member State. Such unanimity of opinion on the interpretation of a legal provision is truly unprecedented.

And rightly so. Without such a conclusion it would have been wellnigh impossible to implement and provide shape and spirit to the purposes and principles enshrined in the United Nations Charter, especially those embodied in the preamble and in Article 1. The resolution also upholds the millenium-old practice on the principle of representation and reiterates the basis of multilateral co-operation in the present-day world.

Distressingly, notwithstanding global public opinion, the view of the United States Department of State and the wisdom of centuries, the solemn international obligation to a primary legal instrument between the international community and the host country is being overturned as the result of a piggy-back clause in an authorization act of transitory nature.

(Mr. Siddiky, Bangladesh)

The key operational provision of the Headquarters Agreement, Article IX, section 25, states:

"Wherever this agreement imposes obligations on the appropriate American authorities, the Government of the United States shall have the ultimate responsibility for the fulfilment of such obligations by the appropriate American authorities." (resolution 169 (III) B)

Sad to say, things have come to such a pass that this has become inoperable.

(Mr. Siddiky, Bangladesh)

The operation of section 21 of the Headquarters Agreement concerning settlement of disputes has been suggested by the Secretary-General. Unless there is an amicable solution, we feel this is without prejudice to the rights of the parties, and is also the only legal and reasonable course left open under the circumstances. The choice of Mr. Eduardo Jimenez de Arechaga, a former President of the International Court of Justice, and a most distinguished legal mind, as one of the arbitrators in the proposed Arbitration Tribunal of three under section 2 is reassuring, and deserves commendation by all who have respect for international law. We deeply appreciate the efforts of the Secretary-General in this respect.

The Roman jurist Celsus defined law as the art of the good and the fair. Roman law, as well as all other major legal systems, placed great store in respect for the pledged word and expressed intention. This principle, which laid the very foundation of organized and civilized society, and which is manifested in the eternal dictum pacta sunt servanda - treaties are to be kept - is just as relevant and valid today as it was then. So shall it be in the future. Our actions today on this issue will have unprecedented impact on the future of international law in the event of conflict with municipal law. We do not believe that anyone here or outside, in other great legislatures, would for a moment presume that national legislation could or should override prior international obligations without due process. Should that happen, we would witness the unravelling of a new concept of sovereignty, not one the international society has agreed upon, where some limitation is accepted on this concept for the purpose of orderly conduct of relations between nations.

We are all agreed that what is at stake is something more fundamental than the simple continuance of the PLO Observer Mission in New York. It involves the future

(Mr. Siddiky, Bangladesh)

of multilateral diplomacy, freedom of expression and representation, and even that of this body, as envisioned by its founders. More specifically, it involves the fate of the Headquarters Agreement of 1947, which defines the rights and obligations of the host country vis-à-vis the Organization, and particularly the unhindered functioning of this great body.

As someone associated with legal milieus for over five decades, I strongly feel that the need of the hour is urgent action under section 21 of the Headquarters Agreement. Justice delayed is justice denied. Let us resolve to avoid this in the case of the PLO. Its people today suffer excruciatingly from the pangs of illegal occupation. The Israelis may have buried some of them alive, but not their hope. The Israelis may have broken some of their bones, but not their spirit. Israel has denied the Palestinians their birth right. Let us not do the same. Let us allow their voices to be heard, their complaints to be made, their hopes to be expressed in this, the greatest legislative forum of all.

I have an enduring faith in the triumph of that hope that, despite all adversities, has inspired the Palestinian people. I have no doubt that they will not be denied justice for ever. Let us, then, resolve that the rights of the PLO shall be maintained unhindered and their desires represented in this forum.

Mr. BASENDWAH (Yemen) (interpretation from Arabic): First, I thank the President for having accepted our request for a resumption of the session. We are very pleased that he is once again presiding over our work. I also wish to express our gratitude to the Secretary-General for having stressed the importance of resuming the session to consider the report of the Committee on Relations with the Host Country on the question of the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations and for using his good offices with the United States, although those efforts resulted in an impasse.

(Mr. Basendwah, Yemen)

I also wish to express our gratitude to the Chairmen of the political Group and representatives of friendly nations who accepted the request that the session be resumed.

Our brother, the Chairman of the Arab Group, the Ambassador of Bahrain, Mr. Karim Ebrahim Al-Shakar, set out in his statement at the beginning of this resumed session the position of the Arab States, which coincides with that of my country, the Yemen Arab Republic. Many Heads of delegations have already given detailed account of the question under consideration, and so I need only express our solidarity with the international community in the face of the flagrant violation by the host country of the independence of the United Nations and of the 1947 Headquarters Agreement.

After 13 years the United States, the host country, is attempting to close the offices of the PLO Permanent Observer Mission to the United Nations.

It will be recalled that the American Administration, represented by its Attorney General, when the Senate considered the proposal by one of the Republican candidates for the American presidency to close the PLO Mission to the United Nations in New York and its information office in Washington, drew attention to the fact that such a measure would not have international legitimacy and would be contrary to the Headquarters Agreement between the United States and the United Nations. But many members of the Senate known to favour Israel closed their eyes to the seriousness of such a decision and adopted it. After ratification and signature by the President, it now has the force of law, and the Attorney General must now enforce it within 90 days - that is, by 21 March at the latest.

Faced with this situation, we have had to meet to deal with the serious challenge faced by the United Nations, a challenge that is unprecedented. However,

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we should not confine ourselves to condemning the American decision; rather, we should take every possible step to prevent implementation of the law, even though that means transferring United Nations Headquarters elsewhere in the world.

Several places would be happy to welcome it.

To accept the host country's decision would be tantamount to closing our eyes to its violation of the independence of the United Nations and the rights of our Organization stemming from the Headquarters Agreement.

(Mr. Basendwah, Yemen)

In a sense we would be entitling the United States, which is one Member of many in our Organization - even though it is a super-Power and a permanent member of the Security Council - to close down the offices of other Observer Missions of Member States it would not wish to have in this American city. We would then never know who the next victim would be.

That the Palestine Liberation Organization was accredited as an Observer Mission was not the result of a decision by the United States of America; it was the result of a decision adopted by the General Assembly in 1974. Furthermore, the PLO Mission is accredited to the United Nations and not to the United States. Consequently, since the United States did not grant such a status it has no right to withdraw it.

The United States Senate may pass laws for its country; that is an undeniable right. But it does not have the right to pass laws for the United Nations, which does not fall under its jurisdiction. Likewise, the United States Administration does not have the right to determine which Mission will be a Member or an Observer at the United Nations, merely by exercising its one vote out of 159 Members of the United Nations.

The United Nations is faced today with two choices: either to guarantee the existence of the Organization as such for all countries of the world, expressing the will of the international community as a whole, or to become an instrument of the United States of America. Quite simply, to accept such humiliation and such a restriction of its independent status would lead it to lose its effectiveness, its credibility and its respect in the eyes of the peoples of the world.

The American position, however, is not new for the United States of America. We all know that the United States has always adopted a hostile attitude towards the PLO and is in favour of Israel.

(Mr. Basendwah, Yemen)

But what is quite curious is that the United States continues to be hostile to the leadership of the Palestinian people represented by the PLO even at this time when, through Mr. Shultz, its Secretary of State, it is attempting to play a mediating role in the conflict between Palestinians and Arabs on the one hand and the Israelis on the other. How can the United States of America play a mediating role and at the same time show a hostile position towards an essential party to the conflict: the PLO, which is the sole, legitimate representative of the heroic Palestinian people, as recognized by impartial American newspapermen who recently visited the region after the ongoing popular uprising in the occupied Palestinian territories began, an uprising which has been escalating every day and which now counts intellectuals and other eminent Palestinians among the leadership.

In any event, the threat to the PLO arising from the position of the United States Administration - the question we are considering today - should not detract us from the events taking place on the Palestinian scene: to wit, the revolution in which many youths, women, children and old people are being martyred under the brutal force of the Israeli occupation army.

Just as we must save the PLO office in New York, we must also end the suffering of the Palestinian people, half of which live in camps or in exile and are daily subjected to murder and massacre - a shameful blot on humanity and on our times.

What we see and hear from the television screens in this country - the crimes perpetrated by the Israeli leaders and their barbarous army and the statements by Yitzhak Rabin and other Israeli leaders - makes us wonder: Is it a fact that the Palestinians have no other weapons than stones and that the Israelis are well armed by the United States? The answer is clear, unless one believes that the light of day can be concealed.

(Mr. Basendwah, Yemen)

In conclusion, we must all stand in solidarity in the face of United State aggression against the independence of the United Nations and its rights embodied in the Headquarters Agreement, and in the face of Israeli brutality against the Palestinian people, which continues to resist despite deaths, expulsions, arrests and all manner of suffering and injustice to which it continues to be subjected

The PRESIDENT: In accordance with General Assembly resolution 477 (V) of 1 November 1950, I now call on the Observer of the League of Arab States.

Mr. MAKSOUD (League of Arab States): Mr. President, let me at the outset express the appreciation of the League of Arab States for the prompt response to resume the forty-second session in order to deal with an issue of major legal and political consequences. We have heard in this Assembly appeals to eschew what is described as the "politicization" of the current debate.

Understandable as these pleas are, the political origins of this legal issue can neither be ignored nor even glossed over.

The obligations of the host country have been extensively spelled out clearly. The legislation passed by the United States Congress to close the PLO Observer Mission sets a most dangerous precedent and constitutes a damaging intrusion into the United Nations conduct of its affairs and threatens the integrity and independence of the world body. That is why there is near unanimity in supporting the United Nations Secretary-General's position, and deep appreciation for his efforts in shielding the status of the PLO Mission. We in the League of Arab States support the Secretary-General in invoking section 21 of the Headquarters Agreement, and partake in the view that the PLO Observer Mission is covered under sections 11, 12 and 13 of that Agreement. The conclusion of the Secretary-General that his efforts to persuade the United States to be bound to its legal obligation have been unavailing is a serious indictment that has prompted this Assembly to resume its forty-second session.

(Mr. Maksoud, League of Arab States)

The Secretary-General only yesterday, in his characteristically firm but elegant style, appealed to the host country "to reconcile its domestic legislation with its international obligations". (A/42/PV.100, p. 31) If not, and in deference to inherent idiosyncracies in the United States-Israeli special relations, he requested the United States Administration to proceed with the dispute settlement mechanism, including acquiescence to the outcome of possible arbitration.

There are certain elements in debating - a more adequate description would be deliberating, in view of the broad agreement emerging - this issue that must be spelled out, from our point of view.

First, this is not a PLO-versus-the United States issue; nor is it an Arab-versus-the United States issue. It is the United Nations versus the United States. Our collective Arab status is to enhance the efforts of the Secretary-General in his endeavours to uphold international legality and to fortify commitments to preserve the dignity, credibility and role of the United Nations.

Secondly, the PLO is recognized as the sole, legitimate representative of the Palestinian people by far more countries than recognize Israel. Hence, to prevent its voice from being heard, its presence from being felt, its policies from being discussed, reflected upon and understood, is to deny the United Nations the opportunity to receive an authentic contribution to its role and functions in bringing about just and comprehensive peace in the Middle East. The United Nations cannot allow its universality to be impaired, its integrity to be challenged and its deliberations to be curtailed. On this issue the United Nations cannot afford a precedent that will debilitate its credibility and effectiveness.

All Member States of the Organization realize the inherent dangers that can undermine the moral and functional authority of the United Nations if this law is

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not confronted head-on and in one way or another repealed, especially as it applies to the PLO-United Nations Mission. The host country must be more respectful of the need for the United Nations to be insulated from the corrosive legislative tantrums that impinge on the United States responsibilities and legal obligations as a host country to the United Nations.

I venture to say that many in the United States Administration may not share the prevailing consensus and are shocked by their inability to arrest the onslaught of a legislation that is unnecessarily embarrassing to the United States besides being harmful to their country, while proclaims incessantly its belief and commitment to the rule of law.

The jurisprudential aspects of this issue have been elaborated upon and there is, as I have mentioned, a universal conviction as to the need to reconfirm and strengthen the pre-eminence of the Treaty obligations over transient omnibus congressional amendments that violate the Treaty. This Assembly is bound to adopt the necessary measures to shield its operations and make it accessible to all those it has invited and whose active presence it deems necessary for it to shoulder, unimpeded, its responsibilities.

Perhaps a synoptic brief on the legislative history of the law that seeks to close the PLO Observer Mission will throw some light on how this whole issue came about. If we are made aware in this regard, future dealings with the host country will not be caught up in this unprovoked, unnecessary and injurious crisis.

The story of this legislation starts with the agenda of AIPAC - the official lobby of Israel in the United States Congress - which disclosed in its April 1987 convention that its first objective was to seek the closure of the PLO office in

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the United States and the PLO Observer Mission to the United Nations. Let us listen to the AIPAC logic:

"... the PLO or its representatives have no place at the negotiating table. AIPAC opposes 'pre-negotiations' between the United States and Arab parties which are by the PLO's own admission designed to achieve recognition of the PLO by the United States. United States diplomacy should focus on how to circumvent the PLO, not seek ways to bring the terrorist PLO into negotiations through the back door. AIPAC believes that the following principles must be upheld by the United States in its pursuit of peace:

1. There must be direct negotiations between Israel and its Arab neighbours leading to peace treaties;
2. The United States role should be that of facilitator of direct negotiations rather than participator in the negotiations;
3. The PLO should not be involved in negotiations. Instead, the United States should encourage the promotion of alternative and constructive Palestinian representatives;
4. An independent Palestinian State in Judea and Samaria and Gaza is unacceptable;
5. An international conference is an inappropriate forum for negotiations."

Then, under the rubric of international terrorism, AIPAC proceeds to state:

"The PLO is the leader among terrorist organizations. Options for legal action against PLO terrorists include closing the PLO offices in Washington and New York, denying PLO access to the United Nations in New York, cutting funding for PLO activities at the United Nations, convening a grand jury investigation into the PLO ...".

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Then AIPAC states that it "calls for strong action against PLO criminal activities in this country and around the globe".

Such was the agenda and the Israeli thinking behind the Congressional eagerness to take its cue from AIPAC directives. As a result, some presidential candidates, notably Senators Dole, Simon and Jack Kemp, besides Senator Grassley and others, sponsored the legislation in the hope of securing AIPAC - signalling its approval, support and membership contribution to their campaigns. Not a single sponsor hesitated for a moment to heed the argument within the Administration; not a single sponsor wanted to examine the legal as well as the diplomatic issues involved; not one of them sought to investigate possible consequences that might ensue; not one had the courtesy to investigate the veracity of AIPAC's allegations. Editorials in The Los Angeles Times, The Minneapolis Tribune, The Boston Globe, The Christian Science Monitor, The New York Times, The Washington Post, even the New Republic, and many, many other publications in the various regions of the United States, voiced their strong objections to this reckless legislation. Some even dared to question the excessive influence that the Israeli official lobby exercises on Congress. Many jurists and human rights advocates were genuinely concerned about the violation to the First Amendment of the United States Constitution. Many worried in turn about the jeopardy of such legislation to United States policy, to its interests and image abroad and in the Middle East.

As the so-called Grassley amendment was being tugged into the State Department Appropriations Bill, the Council of Arab Ambassadors in Washington, D.C. met with the Deputy Secretary of State of 27 October 1987. The Arab Ambassadors entrusted with promoting United States-Arab relations were pressing the Administration to dissuade Congress from adopting this reckless amendment. Subsequently, the United States Administration felt that it had reached a "compromise" with Congress.

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Suddenly, when the Council of Arab Ambassadors met again with the Department of State on 18 December 1987, we were informed that a decision had been taken that the Palestine Information Office had been elevated to the status of a Foreign Mission. And then the Secretary of State decided to close it on the same day.

It was later intimated to the concerned Arab Ambassadors and representatives that this astounding decision was made in order, to quote an official: "to take the wind out of the sail" and to "protect the PLO Observer Mission to the United Nations".

The executive branch of Government thought that by sacrificing the PLO in Washington it would salvage its Treaty obligations to the United Nations.

The ACLU - the American Civil Liberties Union - in conformity with its noble tradition assumed the legal responsibility to restore the constitutional rights of the PLO in Washington, and the case is now in the hands of the United States Court of Appeals.

But the United States Administration fell into the trap. It underestimated the hold of AIPAC and the Israeli lobby on a majority of the Congress. The sponsors of the Grassley Amendment tricked the Administration and insisted on the pursuit of AIPAC's objectives of closing both the PLO office in Washington and the PLO Observer Mission to the United Nations.

Again diplomatic efforts were undertaken. Administration officials showed sympathetic responses but equally manifested a stunning helplessness before an adamant and relentless Congressional indifference to the legal, political and national agreements and evidence.

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For days many options were put forward to prevent public international embarrassment of the United States.

It is our belief that the President of the United States has the prerogative to exclude implementation of this unfair law where it violates United States treaty obligations, as in the case before us. We are amazed at the reluctance of the White House to exercise this constitutional prerogative. It is most regrettable that on this pivotal issue legal authority is not accompanied by corresponding political will.

That is why the forty-second session of the General Assembly has been resumed.

It is a matter of vital urgency that before the law comes into effect on 21 March 1988 the Secretary-General redouble his efforts to ensure that all necessary measures are taken to protect the PLO Observer Mission and thus protect the United Nations itself, the Organization of which he is chief custodian.

Even at this late date I want to appeal on behalf of the League of Arab States to the host country to reconsider its position, to assert the primacy of its treaty obligations and to treat the law infringing on the honour that the international community has given it as host to the United Nations as an aberration and a crude interruption of its historical responsibility to the United Nations.

In the period between the adoption of this AIPAC-inspired legislation and the consideration of the issue at this resumed session of the General Assembly, the Palestinian uprising in the occupied territories has taken place. The brutality of the oppressive measures being taken against the civilian population is but a physical expression of the intellectual and political terrorism that preceded the adoption of the Grassley amendment. Since many attitudes and perceptions are changing as a consequence of this ennobling uprising in the occupied Palestinian territories, we hope that a constituency of conscience will arise in Congress to

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repeal this law and that the United States Administration - especially in the aftermath of the recent Shultz visit to the region - will realize that recognizing the PLO not only as the sole legitimate representative of the Palestinian people but as the framework of Palestinian peoplehood is the path by which the United States can contribute to a genuine, just and lasting peace in the Middle East.

As objectivity is beginning to assert itself in media reporting of events in the occupied territories, and as outrage is being fearlessly expressed by millions of Americans, the political costs of a clear rational policy are no longer as great as prevailing political yardsticks would indicate. On the contrary, there is growing evidence that the American people, in their characteristic tradition of fair play, are willing, and perhaps eager, to give the Palestinian cause a fair hearing. The United Nations has done so since 1974. The United States - despite the election campaign - can do so in 1988. Let this General Assembly assist the United States people in that process. I am confident this can be done. It ought to be done.

The meeting rose at 1.15 p.m.