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PROVISIONAL VERBATIM RECORD OF THE ONE HUNDREDTH MEETING

Held at Headquarters, New York,
on Monday, 29 February 1988, at 10 a.m.

President: Mr. FLORIN (German Democratic Republic)
later: Mr. LEGWAILA (Botswana)

- Resumption of the forty-second session
- Tribute to the memory of Mr. Sean MacBride, Former Minister for External Affairs of the Republic of Ireland and former United Nations Commissioner for Namibia
- Tribute to the memory of Her Excellency Dr. Nora Astorga Gadea, Former Deputy Minister for Foreign Affairs and Permanent Representative of Nicaragua to the United Nations
- 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.

RESUMPTION OF THE FORTY-SECOND SESSION

The PRESIDENT (interpretation from Russian): I declare the forty-second session of the General Assembly resumed.

As members are aware, the Assembly is being reconvened to consider agenda item 136 - "Report of the Committee on Relations with the Host Country" - which, by decision 42/460 of 21 December 1987, has been retained on the agenda of this session.

TRIBUTE TO THE MEMORY OF MR. SEAN MACBRIDE, FORMER MINISTER FOR EXTERNAL AFFAIRS OF THE REPUBLIC OF IRELAND AND FORMER UNITED NATIONS COMMISSIONER FOR NAMIBIA

TRIBUTE TO THE MEMORY OF HER EXCELLENCY DR. NORA ASTORGA GADEA, FORMER DEPUTY MINISTER FOR FOREIGN AFFAIRS AND PERMANENT REPRESENTATIVE OF NICARAGUA TO THE UNITED NATIONS

The PRESIDENT (interpretation from Russian): Before taking up the agenda for this morning I should like to invite the Assembly to join in a tribute to two international personalities that we have lost in recent months.

It is with deep regret that I must refer to the death of Mr. Sean MacBride, Minister for External Affairs of Ireland from 1948 to 1951 and United Nations Commissioner for Namibia from 1973 to 1977.

Serving with distinction in the cause of human rights, justice and peace, he was the recipient of both the Nobel Peace Prize, in 1974, and the Lenin Peace Prize, in 1977.

On behalf of the members of the General Assembly I extend to the members of Mr. MacBride's family, and to the Government and people of Ireland, our profound and sincere condolences.

I now invite members of the Assembly to stand and observe a minute of silence in tribute to the memory of Mr. Sean MacBride.

The members of the General Assembly observed a minute of silence

The PRESIDENT (interpretation from Russian): I now call upon the Secretary-General of the United Nations.

The SECRETARY-GENERAL: The passing away of Mr. Sean MacBride of Ireland has been deeply felt throughout the international community. He was one of those personalities, rare in any age, whose idealism remained undiminished through a crowded experience in public life.

After having won many laurels, and at a time of life when most men would think of retiring to a more tranquil régime, he agreed to serve as United Nations Commissioner for Namibia for a period of four years. This was but one sign of his devotion to the cause of human dignity and international justice. Likewise, the award to him of both the Nobel Peace Prize and the Lenin Peace Prize indicated a remarkably broad recognition of his stature as a dedicated and eminent servant of peace.

He was a true friend of this House, and I wish, therefore, to pay a heartfelt tribute to his memory.

The PRESIDENT (interpretation from Russian): We have also learned with great sorrow of the passing of our colleague Her Excellency Dr. Nora Astorga Gadea, former Deputy Minister for Foreign Affairs and Permanent Representative of Nicaragua to the United Nations. As a Vice-President of the General Assembly during its current session Ambassador Astorga dignified the Assembly with her diplomatic skills. Her death represents a great loss not only for her country but also for the international community.

On behalf of all her friends and colleagues assembled here, I should like to express to her family and to the Government and the people of Nicaragua our profound and sincere condolences.

I now invite members of the Assembly to stand and observe a minute of silence in tribute to the memory of Her Excellency Dr. Nora Astorga Gadea.

The members of the General Assembly observed a minute of silence.

The PRESIDENT (interpretation from Russian): I now call upon the Secretary-General.

The SECRETARY-GENERAL (interpretation from Spanish): It is with deep sadness that I reiterate to the Government and the people of Nicaragua the condolences of the United Nations and my own very sincere condolences on the untimely demise of Ambassador Nora Astorga Gadea, Permanent Representative of Nicaragua to the United Nations.

We have all witnessed her courage in the face of physical illness and the calm strength of her convictions, as well as her valuable contribution to the activities of the Organization. We shall long cherish her memory.

As Secretary-General it is with deep emotion that I associate myself with this tribute to her memory.

The PRESIDENT (interpretation from Russian): I call upon the representative of Senegal, who will speak on behalf of the Group of African States.

Mr. SARRE (Senegal) (interpretation from French): Since the suspension of the forty-second session of the General Assembly, the international community has lost two worthy members of the great multilateral family.

With the passing of the Ambassador of Nicaragua, Her Excellency Mrs. Nora Astorga Gadea, we have lost a courteous, gracious and responsive colleague. Regardless of differences that may have existed between her delegation and others, which are in any case part of the normal order of things, her open-mindedness always made contact and dialogue easy.

(Mr. Sarré, Senegal)

She thus demonstrated how the United Nations can be used intelligently and responsibly to find solutions to the many problems before us. Mrs. Astorga Gadea also did a great deal to contribute to the Non-Aligned Movement, of which she was a militant member and in which she will be sorely missed.

With the death of Mr. Sean MacBride the ideals of justice, disarmament and peace among peoples have suffered a loss. He was a militant advocate of peace and the multilateralism reflected in the Charter of the United Nations, and during his work with the United Nations as Commissioner for Namibia he left an indelible mark and made a vast contribution to international affairs, for the triumph of justice and law, and for Namibia's accession to independence.

Reading the papal encyclical Pacem in terris a few days ago, I noted how those two personalities drew inspiration from that historic document in their daily actions. On this occasion the African Group wishes to associate itself with the tributes being paid to those personalities of our time. We extend sincere condolences to their Governments and their families. We hope that in his infinite goodness God will grant them mercy.

The PRESIDENT: I call on the representative of Burma, who will speak on behalf of the Asian States.

Mr. GYI (Burma): It is with deep sadness that the Group of Asian States has learned of the passing of Mr. Sean MacBride and Ambassador Nora Astorga Gadea, Permanent Representative of Nicaragua. The reconvening today of the General Assembly is indeed a solemn and auspicious occasion on which to remember and honour them.

In my capacity as Chairman of the Asian Group for this month, and on behalf of the Group, I assume the sad duty of joining the international community in paying tribute to the memory of those two outstanding personalities, who during their lifetimes were prominent on the international scene. Their passing is all the more

(Mr. Gyi, Burma)

deeply felt because in their time they pursued their endeavours within this Organization, in which we continue to strive for understanding and tolerance.

Many of us who are gathered here today may not have had the privilege of meeting Mr. Sean MacBride personally. It is, however, well known that his long years of devotion to international service and his espousal of the cause of peace, justice and understanding won him honours and the respect of the international community. He will be particularly remembered for the important role he played in the cause of the independence of Namibia. I have the honour to express on behalf of the Asian Group our deep condolences to the Government and people of Ireland and to the family of Mr. Sean MacBride in their hour of bereavement.

The untimely passing of Ambassador Nora Astorga Gadea has touched us most deeply. She was in our midst as recently as during the forty-second session of the General Assembly. In her life she was well known for her devotion and service to her country. Here in the United Nations she will be remembered with deep respect for her human qualities and the dignity with which she represented her country.

She bore her illness with courage and fortitude, and she served her country till the last days of her life. I deem it an honour to extend, on behalf of the Group of Asian States, our profound condolences to the Government and people of Nicaragua and to the members of the bereaved family on their sad loss.

In these days of hope and despair, this sad occasion brings to mind the brevity of our own lives; whatever our worldly pretensions may be, we share a common human destiny, for after all we live on the same planet, we belong to the human race, and we are all mortals.

With these words, and in all humility, we pay our tribute to Mr. Sean MacBride and Ambassador Nora Astorga Gadea. They have indeed fulfilled their dignity and worth as individuals in this life, and we offer our prayers for them in the life hereafter.

The PRESIDENT (interpretation from Russian): I now call on the representative of the Soviet Union, who will speak on behalf of the East European countries.

Mr. BELONOGOV (Union of Soviet Socialist Republics) (interpretation from Russian): I should like to pay a tribute to the memory of our good friend and colleague the Permanent Representative of Nicaragua to the United Nations, Ambassador Nora Astorga Gadea. The news of the untimely death of that talented Nicaraguan diplomat, who was a prime example of noble service in the interest of her country and of the United Nations, has left a deep pain in our hearts. We have lost more than a distinguished representative of Nicaragua, who I know enjoyed well merited respect among all of us; we have also lost a revolutionary, a genuine fighter, a remarkable person endowed with exceptional personal qualities.

(Mr. Belonogov, USSR)

Nora Astorga Gadea's wide-ranging knowledge, particularly of the law, knowledge that was recognized by the award of a doctorate, made it possible for her to cope brilliantly with the responsible tasks she had to carry out in high Government posts. At the Ministry of Justice, the Foreign Ministry - indeed, everywhere - this energetic and ardent revolutionary was motivated by a passionate desire to promote the progress and well-being of her people and by a boundless love for her people which sustained her to the end of her regrettably short life.

One can only feel inspired by the dignity and bravery with which Nora Astorga, who faced a severe illness all alone, continued to carry out her duties, giving her strength to the cause of the Nicaraguan people and for a glorious and peaceful future for that people, right up to her last day.

The last years of the life of Nora Astorga were closely related to the work of the United Nations. I am sure that representatives present remember her not only as a skilled leader of the Nicaraguan delegation at sessions of the General Assembly, who proved to be a skilled orator and showed a mastery of political dialogue, but also as an active participant in the numerous meetings of the Non-Aligned Movement. One can say with every justification that here at the United Nations her name is linked with the implementation of the noble principles of the policy of the non-aligned countries.

While paying tribute to the great and energetic work done by Nora Astorga as a diplomat, one cannot overlook the striking fact that at the same time she remained a caring mother, who gave her children in her free time the full warmth of her heart.

On behalf of the Group of East European Countries, I request that the Nicaraguan delegation convey to the Government of Nicaragua and the family of Nora Astorga our most sincere deep condolences.

(Mr. Belonogov, USSR)

On behalf of the Group of East European States, I also wish to express our deep condolences to the delegation of Ireland on the death of the former United Nations Commissioner for Namibia, Sean MacBride, Honorary President of the World Federation of United Nations Associations and a distinguished Irish political and public figure, diplomat and jurist. It was through his vigorous efforts in the noble cause of a settlement to the Namibian question, as United Nations Commissioner for Namibia, that it proved possible in 1976 to open in Lusaka the United Nations Institute for Namibia and for the United Nations to take a number of concrete steps to bring about a practical solution to that problem.

It is noteworthy that in whatever official post Sean MacBride occupied, at home or abroad, his desire to uphold highly humanitarian principles in the practice of diplomacy was always evident. Those principles were primarily those of peace, justice and the friendship of peoples, his dedication to which were manifested in his frequent participation in international forums of peace-loving forces and in international movements and organizations struggling for peace and disarmament. It is no accident that for those reasons he had the great honour of being awarded the Nobel Peace Prize and the international Lenin Peace Prize for the strengthening of peace among peoples. The glowing pages of Sean MacBride's biography show he was a man who generously gave his own strength to serve the interests of his people and to implement the noble purposes of the United Nations.

The PRESIDENT: I call on the representative of Belize, who will speak on behalf of the Group of Latin American and Caribbean States.

Mr. TILLET (Belize): It is appropriate that we pause for a few minutes today to recognize the life and contribution of Mr. Sean MacBride. His career, both in his native land of Ireland and in the international community, was illustrious. Before coming to the United Nations he distinguished himself in

(Mr. Tillet, Belize)

service to his country. Among his many contributions to Ireland, he served as Minister for External Affairs. In any nation that is one of the highest positions in Government.

Ireland has lost a great son, and so has the international community. Mr. MacBride was well known for presiding over the Commission on the Study of Communications Problems and writing the book "Many Voices, One World" as a result. He was also well known for winning the Nobel Peace Prize and the international Lenin Peace Prize and for his campaign for Namibian independence.

On behalf of the Latin American and Caribbean Group, I offer to Mr. MacBride's family and friends and to his Government and people our sincere condolences.

Mr. President, on behalf of the Latin American and Caribbean Group, I thank you for including a tribute to Her Excellency Nora Astorga on this occasion.

After a long struggle against cancer, Nora Astorga died two weeks ago. She bore her illness well, with such strength and grace that many who worked with her did not even know she was ill.

We live in a time when materialism and greed characterize a large section of humanity. Personal riches and self-aggrandizement have become the primary purpose of living. In such a world, there is no room for a cause. Nora Astorga lived in this time, but portrayed a new era. She did not have to become a revolutionary. The oppression by the Somoza régime and the poverty of Nicaraguans had little effect on her. Hers was a wealthy family, a family that was associated with, and favoured by, the Somoza régime. As a result, she was able to study sociology at the Catholic University in Washington DC, and to complete her law degree at the University of Managua. She could have joined the Somoza régime and helped to oppress her fellow Nicaraguans. But Nora Astorga chose differently; she chose to join the Sandinista guerrilla movement to free Nicaragua of the Somoza oppression.

(Mr. Tillett, Belize)

We here at the United Nations knew Nora Astorga as Her Excellency the Permanent Representative of Nicaragua to the United Nations: kind, friendly, beautiful, active, hardworking and a defender of Nicaragua and the principles of the Non-Aligned Movement.

To her people and Government she was known as a heroine of the revolution, a leader of guerrillas, chief special prosecutor of members of the Somoza régime's National Guard, Deputy Foreign Minister, representative to Contadora, and the voice of Nicaragua at the United Nations and many other international organizations and conferences. U.S. News & World Report paid this tribute to her:

"Her life turned into a legend after she abandoned family and privilege to become a jungle guerrilla leader, chief prosecutor of 6,000 'war criminals' and, in 1986, Ambassador to the U.N."

(Mr. Tillett, Belize)

The New York Times recorded her defence against critics of the Sandinista Government as follows:

"Revolutions are not exportable like Coca-Cola or paperbacks or something like that. You don't produce it internally and send it away. Revolutions are made in a country when the conditions in that particular country are for a process of change."

Last Wednesday, in a solemn ceremony, the Latin American and Caribbean Group paid tribute to Nora Astorga. Numerous Ambassadors took that opportunity to express their sense of loss and their admiration of Nora, as well as condolences to her family, people and Government. Among them was Ambassador Moya-Palencia of Mexico, who said: "Nora Astorga possessed the virtues of the new Latin American woman".

In this decade, when developing nations are struggling against poverty, rejecting interference in their internal affairs and defending their independence against economic and military colonialism, those virtues of the new Latin American woman will be needed not only in Latin America and the Caribbean, but in all developing nations throughout the world.

During her life, Nora called us to peace, solidarity and commitment to a cause. In her untimely death, she calls us to be prepared to meet our God.

On behalf of the Latin American and Caribbean Group, I extend to her family and friends, her people and her Government, our deepest condolences.

The PRESIDENT: I now call on the representative of New Zealand, who will speak on behalf of the Group of Western European and Other States.

Mr. McDOWELL (New Zealand): I speak on behalf of the Group of Western European and Other States in paying tribute to the memory of Mr. Sean MacBride and Ms. Nora Astorga-Gadea. Both were known to us all. Both were revolutionaries in their own very different ways.

Sean MacBride has been called a revolutionary humanist. If there was a thread running through his remarkable career, it was a commitment to justice and equity for his fellow human beings and a compassion for the oppressed, not least in southern Africa.

He was one of those all too rare people who believe passionately in the importance of fostering understanding between the unlike and in bridging the gap between ideologies, cultures and ethnic groups. As Foreign Minister of Ireland, as co-founder of Amnesty International, as Secretary-General of the International Commission of Jurists, as United Nations Commissioner for Namibia, and in a host of other roles, Sean MacBride worked for the peaceful resolution of conflict and for respect for human rights.

It has been said of Sean MacBride that if he was occasionally a figure of controversy then this may have been because "his thinking was too challenging, his perspective too broad for conventional wisdom". It is not difficult to imagine that Sean MacBride himself might have found that an acceptable epitaph.

We extend to his family and to the Government and people of the brother country of Ireland our condolences on the loss of a great son, but also our gratitude for Sean MacBride's personal contribution to the cause of human reconciliation and justice.

(Mr. McDowell, New Zealand)

My delegation is suffering from a particular sense of loss at the untimely death of our colleague and bench-mate in this Hall, Ambassador Nora Astorga-Gadea, Permanent Representative of Nicaragua to the United Nations.

There is always a particular poignance in the cutting down of a person in the full flower of her professional skills. Nora had earned the admiration of us all for the dedication, distinction and courage she brought to her demanding task here.

She came to New York with an already illustrious background as lawyer, revolutionary, widely travelled diplomat and Deputy Minister of Foreign Affairs of Nicaragua. Her quiet professionalism was immediately apparent. But it was as a warm and gracious colleague that she also made her mark here. We shall greatly miss her.

On behalf of the Group of Western European and Other States, I extend our condolences to the Nicaraguan delegation, to the members of Nora Astorga's family and to the Government and people of Nicaragua on this sad and premature loss.

The PRESIDENT: I now call on the representative of Bahrain who will speak on behalf of the Arab States.

Mr. AL-SHAKAR (Bahrain) (interpretation from Arabic): On behalf of the Arab Group, over which my delegation has the honour to preside this month, and on behalf of my delegation, it is a great honour for me to express to the people and Government of Ireland, and to the family of the late Sean MacBride, the former United Nations Commissioner for Namibia, our sincere and heartfelt condolences on this tragic loss.

With his death the United Nations has lost a prominent and active international personality, after a life full of giving spent in the service of peace, justice, freedom, respect for fundamental human rights and the non-use of force in the settlement of international disputes; and with his death Ireland has lost an illustrious son, a seasoned diplomat and a first-rate statesman.

(Mr. Al-Shakar, Bahrain)

The international community cannot but recall the great contributions he made during his service as United Nations Commissioner for Namibia from 1973 to 1977, and his prominent role in mobilizing concerted international efforts to achieve full and complete Namibian independence. Mr. MacBride's contributions will remain in our minds an example for us to follow, a source of inspiration to us all to do more in the service of peace and justice, human rights and the peaceful settlement of disputes, and to be tireless in our continued sincere efforts to achieve an independent, free and united Namibia.

The Arab Group requests the friendly delegation of Ireland to convey our sincere condolences to the bereaved family and to the people and Government of Ireland on this great loss.

The Arab Group also shares in the sorrow that you, Mr. President, and the Chairmen of regional groups have expressed on the untimely death of our dear departed colleague Ambassador Nora Astorga-Gadea, the Permanent Representative of Nicaragua to the United Nations. She commanded our great admiration and full respect. She was a beautiful and attractive young woman who possessed great diplomatic skill. We have often heard her in this Hall, enthusiastically defending, with devotion and sincerity, the interests of her country and the issues of world peace, justice and equality.

(Mr. Al-Shakar, Bahrain)

The passing of Ambassador Nora Astorga Gadea is a great loss that will be felt for a long time to come. We will always remember her as a talented and brave representative of Nicaragua and a good friend of the Arab Group.

Nora Astorga Gadea remained a brave fighter in both word and deed until the very end of her great life. The Assembly will long remember her - not only as a very competent, talented and prominent representative of her country in the Organization, but also as an illustrious and gifted human being whose unique human qualities earned her the sympathy of all in the Organization. She will certainly be missed by all her colleagues at the United Nations. We of the Arab Group cherish her memory and take pride in our long friendship with her.

On behalf of the Arab Group and the delegation of Bahrain, I extend to the friendly delegation of Nicaragua, to the Nicaraguan people and Government and to Ambassador Astorga Gadea's bereaved family our sincere and heartfelt condolences on her untimely death.

May her soul rest in peace. Unto God we all return.

The PRESIDENT: I now call on the representative of the United States, the host country.

Mr. WALTERS (United States of America): We have recently lost two distinguished former colleagues.

On behalf of the United States I wish to note with deep sorrow the death of Mr. Sean MacBride. We pay a tribute to him as a world renowned crusader for human rights and as a co-founder of Amnesty International. He was in the forefront of the campaigning on behalf of political prisoners all around the world. As Foreign Minister of Ireland he carried out his duties with dignity and imagination. His lifelong advocacy of human rights earned him a Nobel Prize in 1974. As an Assistant Secretary-General of the United Nations and as United Nations Commissioner for Namibia, Mr. MacBride exhibited the same selfless dedication that

(Mr. Walters, United States)

marked his endeavours on behalf of the Government of Ireland and international humanitarian organizations. I wish on behalf of my country to convey sincere condolences to the family of this extraordinary man.

On behalf of the United States I also wish to express sorrow at the untimely death of Ambassador Nora Astorga Gadea, Permanent Representative of Nicaragua to the United Nations. Ambassador Astorga was a dedicated representative of her country. She defended its interests and carried out her duties with dignity and spirit. Her ability to represent her country effectively in spite of her illness was a tribute to her character, grace and courage. She worked among us almost to the end. I also wish to express sincere condolences to the children and family of Ambassador Astorga and to the Government and delegation she served so ably with such dedication, brilliance and courage.

Mr. McDONAGH (Ireland): On behalf of the Irish delegation, Sir, I wish to express appreciation for your words of sympathy and condolence on the passing of Mr. Sean MacBride.

As Minister for External Affairs from 1948 to 1951, and in many other capacities, Sean MacBride played a prominent part in the political development of his country. He lived through demanding and testing years which posed difficult choices for so many of his generation. Although no stranger to controversy, he showed courage in following the tradition of his great parents, Maud Gonne and John MacBride. Across most of a century we can recall the verse of Yeats:

"McDonagh and MacBride
And Connolly and Pearse
Now and in time to come
Wherever green is worn
Are changed, changed utterly".

In international affairs Sean MacBride was perceptive in his awareness of the position of newly independent countries, his efforts to bridge the gap between the East and the West and his belief in the force of justice in international

(Mr. McDonagh, Ireland)

relations. He won regard as Chairman of Amnesty International, Secretary-General of the International Commission of Jurists, and United Nations Commissioner for Namibia. His contributions earned him the Nobel Peace Prize, the Lenin Peace Prize and other major international awards. He will indeed be remembered not only wherever green is worn but in every continent.

We are grateful to you, Mr. President, for your words and we appreciate the tributes paid to the memory of Sean MacBride by speakers representing all parts of the world at this meeting.

The Irish delegation would wish, too, to add their regrets to those expressed here today in connection with the passing of our respected Nicaraguan colleague, Nora Astorga Gadea. Her dedication and sincerity and the warmth of her personality became very clear to us during her relatively short time among us. She will be remembered not least for the courage and good cheer with which she faced the final challenge. May she rest in peace.

Mr. SEVILLA BOZA (Nicaragua) (interpretation from Spanish): On behalf of the people and Government of Nicaragua, and also on behalf of her family and her colleagues in the Nicaraguan Mission to the United Nations, I should like to thank you, Sir, the Secretary-General and the representatives of the different regional groups for the tributes paid in the General Assembly this morning to the memory of our dear colleague and leader Ambassador Nora Astorga Gadea. Her physical passing is an irreparable loss to our country, but her example will always remain in the minds and hearts of present and future generations in our beloved Nicaragua.

(Mr. Sevilla Boza, Nicaragua)

For those of us who had the honour and privilege to know her and to work under her leadership, her life leaves us with vivid memories of a person who was an exemplar of dignity, sacrifice, strength, struggle, hard work, revolutionary consistency and an enormous love of her people, for which she wanted, above all else, peace and economic and social progress.

Nora Astorga was and shall remain always a heroine of the homeland and the revolution. Upon her death, the Government of Nicaragua granted her that honour in tribute to her work and her example.

In the diplomatic sphere her efforts were always aimed at preserving unity and achieving lasting peace in our long-suffering Central American region. The highest tribute we can pay to her memory is to continue to fight for that peace which she so dearly wanted for our peoples.

Nora had an infinite capacity to love, not only her Nicaraguan brothers and sisters, but everyone: Last December we saw this at the Christmas dinner at her home.

We wish once again to convey our deep thanks to all for this tribute to the memory of Ambassador Nora Astorga. Nora, our dear colleague and leader at Nicaragua's seat in the General Assembly: You will always be with us.

We should like in conclusion to extend our solidarity and condolences to the friendly delegation of Ireland in connection with the passing of Mr. Sean MacBride. As previous speakers have already said, he was one of the finest sons of that fraternal country.

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): Before turning to the item on our agenda for this morning, I should like, in keeping with the established

(The President)

practice, to invite the attention of the General Assembly to document A/42/925, which contains a letter addressed to me by the Secretary-General, in which he informs the General Assembly that 13 Member States are in arrears in the payment of their financial contributions to the United Nations within the terms of Article 19 of the Charter.

I should like to remind delegations that, under Article 19 of the Charter,

"A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years."

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

It was so decided.

AGENDA ITEM 136 (continued)

REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY: REPORTS OF THE SECRETARY-GENERAL (A/42/915 and Add.1)

The PRESIDENT (interpretation from Russian): In connection with this item, the General Assembly has before it two reports of the Secretary-General, issued in documents A/42/915 and A/42/915/Add.1.

As members are aware, on 18 February 1988 I received a letter (A/42/919) from the Permanent Representative of Bahrain who, in his capacity as Chairman of the Group of Arab States, transmitted to me on behalf of the Arab States a request to resume the forty-second session of the General Assembly in order to consider further agenda item 136. On 22 February 1988 I received a letter (A/42/921) from the Permanent Representative of Zimbabwe who, in his capacity as Chairman of the Co-ordinating Bureau of the Movement of Non-Aligned Countries, transmitted to me on behalf of the Movement of Non-Aligned Countries a request along the same lines as the request of the Arab States. I have also received two letters of support for this request, one from the Permanent Representative of Kuwait, on behalf of the

(The President)

members of the Organization of the Islamic Conference in New York (A/42/922), and one from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, on behalf of the members of that Committee (A/42/924).

Following consultations with the Chairmen of the regional groups and taking into account the concurrence of the overwhelming majority of members, I decided to resume today the forty-second session of the General Assembly.

I should like to recall that on the recommendation of the Sixth Committee the General Assembly adopted resolution 42/210 B, and by paragraph 4 of that resolution decided "to keep this matter under active review".

In the light of the consultations held before this resumption, it is my understanding that the Assembly wishes to proceed with the consideration of this item in plenary meeting. If I hear no objection, the Assembly will proceed accordingly.

It was so decided.

The PRESIDENT (interpretation from Russian): I call first on the Secretary-General.

The SECRETARY-GENERAL: In two reports that I have made to the General Assembly on the matter before it, dated 10 and 25 February 1988 respectively, I have provided a factual and full account of the efforts I have undertaken as the chief custodian of the United Nations Headquarters Agreement to ensure that the present arrangements in New York for the Palestine Liberation Organization (PLO), which was granted Permanent Observer status by the General Assembly in 1974, are maintained.

(The Secretary-General)

As Member States will be aware, I and my colleagues have been deeply involved in such efforts since well before the adoption of General Assembly resolution 42/210 B on 17 December last. Our efforts were redoubled following the adoption of that resolution and have been undertaken at every level of the Government of the United States. It is a matter of considerable regret to me that these efforts have thus far failed to bring about a solution to the problem and that it has proved necessary to reconvene the General Assembly for this purpose.

I believe that the reports I have issued are self-explanatory. I should like, however, to take this occasion to state once again the position of substance I have taken in my contacts and communications with the host country.

The Palestine Liberation Organization (PLO) is an invitee of the United Nations by virtue of General Assembly resolution 3237 (XXIX) of 22 November 1974 and the United States is, 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. This is the position I have taken from the very beginning, and it is endorsed in resolution 42/210 B. It is my hope that even now it will prove 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.

However, should the host country consider that it must give effect to the legislation, then I trust that it will recognize the existence of a dispute between the United States and the United Nations and agree to the utilization of the dispute settlement procedure provided for in section 21 of the Headquarters Agreement, so that the dispute can be definitively settled in a reasoned and lawful manner.

(The Secretary-General)

Let me say in closing that the question the General Assembly is taking up today has immediate and profound importance for the United Nations as a party, together with the United States of America, to the Headquarters Agreement, which governs the functioning of the Organization in the United States. The integrity and viability of the Headquarters Agreement, I should recall, has until now withstood the test of more than 40 years of practice.

That being said, I should like to urge that attention remain focused on the particular issue which has led to the reconvening of this session of the General Assembly. That issue relates to the substantive and procedural obligations of the host country under the Headquarters Agreement. It is my hope that the debate in this Assembly will be conducted having regard to this specific issue and with the measured deliberation that the subject-matter warrants.

The PRESIDENT (interpretation from Russian): Before calling on the next speaker, I should like to propose that the list of speakers in the debate be closed today at 5 p.m. If I hear no objection, it will be so decided.

It was so decided.

The PRESIDENT (interpretation from Russian): I therefore request representatives wishing to participate in the debate to inscribe their names as soon as possible.

I now call on the representative of Bahrain in his capacity as Chairman of the Group of Arab States.

Mr. AL-SHAKAR (Bahrain) (interpretation from Arabic): At the request of the Group of Arab States, over which my delegation has the honour to preside for this month, I should like at the outset to express our sincere thanks and deep appreciation to you, Mr. President, for your immediate response to treat this vital question of utmost importance to us; your personal presence here has added special importance to the convening of the General Assembly. The Group of Arab States owes

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you a debt of gratitude and appreciation for the efforts you made, the inconvenience incurred in your having to travel and the time you spent in order to conduct immediate negotiations and consultations to reconvene this session. It is a pleasure to see you once again presiding, at the beginning of 1988, over the work of the General Assembly at its resumed forty-second session after your huge success during last year's proceedings. During your presidency you have given proof of your able and wise leadership in guiding the work of the General Assembly. We are confident that, thanks to your wealth of knowledge, expertise and proverbial diplomatic skills, you will guide the work of our resumed session successfully.

On behalf of the Group of Arab States I should like to express to the Secretary-General, Mr. Javier Pérez de Cuéllar, our sincere appreciation for his valuable and full report. We would like sincerely to thank him, as well as Mr. Carl-August Fleischhauer, Under-Secretary-General of the Office of Legal Affairs and the Legal Counsel of the United Nations, for their efforts aimed at a satisfactory resolution of this question according to the provisions of the Headquarters Agreement.

Out of concern for the need to maintain the integrity and independence of the Organization and because of our fear of any direct or indirect interference by any branch of the Government or authorities of the host country, the members of the Group of Arab States submitted a request that the forty-second session of the General Assembly be reconvened in order to resume consideration of agenda item 136, entitled "Report of the Committee on Relations with the Host Country". The Islamic Group and the Committee on the Exercise of the Inalienable Rights of the Palestinian People, as well as regional groups, have supported our request; the non-aligned countries have submitted a similar request to the General Assembly. This attests to the utmost importance given by the international community to this

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question, which represents a standing dispute between the United Nations and the country in which the Headquarters of this Organization is located.

On 10 January 1946 the General Assembly opened its first session in London and adopted numerous important resolutions, among which was resolution 22 A and B (I) of 13 February 1946. That resolution concerns the privileges and immunities of the United Nations, as well as the negotiations conducted with the United States authorities on the establishment of a permanent Headquarters for the United Nations in that country. At its second session the General Assembly adopted resolution 169 (II) of 31 December 1947 on the "Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations", signed on 26 June 1947.

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The purpose of that Agreement was to organize relations between the international Organization and the host country, including the details of the functioning of the Organization in the host country. But, equally, it is a beacon that shows the way to deal with many possible disputes and differences between the United Nations and the Permanent and Observer Missions accredited to the Organization over the past 40 years.

Because of that Agreement, or through the Committee on Relations with the Host Country, the United Nations and the Permanent and Observer Missions accredited to the United Nations have been able to conclude conventions in accordance with its letter and spirit. Those conventions have made it possible for the Organization and the representatives of the Permanent and Observer Member States accredited to the Organization to overcome, in co-ordination with authorities of the United States of America, many difficulties faced by those representatives.

Headquarters agreements are not innovations in international relations. Indeed, they are much more common than international treaties so far as the establishment of the headquarters of an international organization in a certain country is concerned. The purpose of headquarters agreements concluded between host countries and international organizations, including the Headquarters Agreement concluded between the United Nations and the United States, is to define the legal status of the international organization in the territory of the host country.

The Headquarters Agreement concluded between the United Nations and the host country - the United States of America - was drafted in order to organize the relations between, on the one hand, United Nations and the Member States, non-Member States, bodies, authorities and organizations invited by the United Nations to participate in its work and, on the other hand, host country. Thus, it

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is a crucial agreement, of utmost importance for the independence and integrity of the United Nations.

The legal status of the United Nations in the territory of any country in which it has a headquarters, in accordance with an agreement, precludes any unilateral action by the host country, such as enacting legislation or using excuses to put pressure on the Organization or its Member States or observer States because of controversial political questions, bilateral or otherwise, between the host country and the countries and organizations represented in the United Nations. If anything like that were to be allowed, it would act to the detriment of and be at the expense of good relations within the framework of agreements between the host country and the United Nations. It is inadmissible for the legislative, judicial or executive authorities of the host country to adopt any measures infringing in any degree or to any extent that host country's obligations under the Headquarters Agreement.

We must repeat that the legal capacity of the United Nations has been recognized de facto. The United Nations acquired that capacity under Articles of the Charter and various agreements concluded with several States and other organizations. Article 104 of the Charter stipulates that

"The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes".

Paragraph 1 of Article 105 of the Charter confirms that

"The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes".

(Mr. Al-Shakar, Bahrain)

Paragraph 2 of Article 105 states that

"Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization".

And paragraph 3 of Article 105 reads:

"The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose".

The International Court of Justice stressed that the United Nations has that legal capacity. It did so in its well-known advisory opinion of 11 April 1949 concerning reparation for injuries suffered by officials of the United Nations during the exercise of their functions. The Court issued that opinion upon the request of the General Assembly following the assassination in 1948 of Count Folke Bernadotte, the United Nations Mediator in Palestine, at the hands of a Zionist gang. That advisory opinion recognized that the United Nations has legal capacity vis-à-vis Member States and non-Member States, and that that capacity is not contingent on recognition by Member States and non-Member States of that capacity. In another part of the advisory opinion, the Court affirmed that, under the rules of international law, the Organization must be deemed to have powers which, though not expressly provided in the Charter, are essential to the performance of its duties.

There is no doubt but that the States Members of the Organization play an important part that cannot be disregarded. It was those States that founded the United Nations. They participate in the formulation of its collective will. They bear the responsibility of ensuring a climate propitious to the effective

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functioning of the Organization. Hence, it is inadmissible for the host country - regardless of the degree of the support, including financial support, it provides to the Organization - to exercise pressure on the Organization and on other parties accredited to it to induce them to deviate from the framework of the collective will.

(Mr. Al-Shakar, Bahrain)

It is unacceptable for the host country to impose any legislation or law contravening the goals and purposes of the United Nations. The host country has no right to close the permanent mission of a Member State, of a non-member State having observer status or of a national liberation movement accredited to the United Nations, invoking the requirements of its own national security, particularly since many States Members, non-members of the United Nations and organizations are not represented in the host country, the United States of America, but are represented at United Nations Headquarters.

According to the Headquarters Agreement, therefore, the law recently enacted does not give the host country the right to close any observer or permanent mission or to prevent it from exercising its representative role in the United Nations, including its establishing a permanent headquarters in the host country. The Agreement makes it incumbent upon the host country to facilitate the entry into and residence in the United States of those authorized to participate in meetings of bodies of the Organization, to facilitate their departure from the country, and to refrain from erecting obstacles that affect the independence of the United Nations or the representatives of States and organizations and hamper the smooth and easy exercise of their functions.

It is unacceptable for the relationship between the Organization and the States or bodies accredited to it to be dependent upon the whims and caprices of the host country. Here, it is of the utmost important to reaffirm the independence of the United Nations and its integrity and to oppose by all means the host country's attempt to use to its own ends the Charter, the Headquarters Agreement and other international conventions and instruments - in particular the Vienna Convention on the Law of Treaties of 1969 and the 1975 Vienna Convention concerning the representation of States in relations with international organizations. It is

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inadmissible under any circumstances to allow the host country unilaterally to change the legal status of the international Organization. If that should happen, the very nature of the Organization would be made subject to the legislation of the host country and would be continuously at the mercy of political changes and currents in the host country and that country's public opinion. Certainly the United Nations cannot be subjected to such pressures and cannot, as an independent Organization, accept or bear such pressures and influences, which would undermine its performance and activities and the purposes and principles of the Charter.

Therefore, in the present instance, we believe that the United Nations must protest and have recourse to the International Court of Justice because of the pressure and unilateral actions of the host country, which would weaken or disrupt the United Nations ability independently and neutrally to exercise its functions, to carry out its activities and to fulfil its goals and purposes in accordance with the Headquarters Agreement.

Agreements and treaties are concluded with the consent of the parties to them. It is therefore important to note that the host country entered into an agreement to respect its obligations under the articles of the Headquarters Agreement. That applies to all its various authorities - executive, legislative and judicial. The host country must fully and strictly respect the spirit and letter of the Agreement and avoid taking any measures that would disrupt or undermine its legal obligations under the Headquarters Agreement.

The current dispute between the United Nations and the host country must therefore be viewed within the framework of General Assembly resolution 42/210 B. Section 27 of the Headquarters Agreement states:

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"This agreement shall be construed in the light of its primary purpose to enable the United Nations ... fully and efficiently to discharge its responsibilities and fulfil its purposes."

It is therefore natural that, in the full and efficient discharge of its responsibilities and purposes, the United Nations should enjoy the privileges and immunities that guarantee its independence and the smooth exercise of its international functions. This can be achieved primarily by non-application of national legislation enacted by any Member State - in particular the legislation of the host country that now confronts us - that would undermine the functioning of the United Nations and its independence and integrity as an international Organization and damage the rule of equality that must prevail in relations between Member States.

The Headquarters Agreement provides that missions and officials accredited to the United Nations are not subject to the national legislation of the host country with regard to monetary, customs and other regulations concerning the entry of aliens, freedom of movement and the right to residency in its national territory, and that it is responsible for the convening of meetings and the establishment of headquarters for those missions, whether they are permanent or observer missions. The 1969 Vienna Convention reaffirmed this in its articles 26, 27 and 46.

It will be useful to state here some agreed principles of international law. First, pacta sunt servanda, that is, agreements must be observed. The contractual nature and character of the Headquarters Agreement must be respected. Secondly, no party to a treaty shall invoke its own national laws as an excuse to fail to implement it. Thus, the United Nations and the United States of America, the host country, as parties to the Headquarters Agreement, must fulfil their obligations under that Agreement in good faith. Thus the host country cannot shirk the

(Mr. Al-Shakar, Bahrain)

obligations enshrined in the Agreement in the event that those obligations run counter to current or earlier legislation. Thirdly, one of the accepted principles of international law and the law of treaties is the fulfilment of obligations deriving from respect for international conventions. No host country may commit itself to a national law that would alter those obligations.

(Mr. Al-Shakar, Bahrain)

Therefore, an international convention is above national law. International treaties and conventions and international law are sovereign and have primacy over national law. That is internationally accepted.

It should be recalled that when the General Assembly examined the matter last December in a search for a solution or to take preventive action - at a time when the legislative branch of the United States Government was pursuing legislation that would prohibit the PLO's having an Observer Mission here at Headquarters, thus impeding its carrying out of its official tasks as an invitee of the United Nations, including participation in sessions of the General Assembly and the work of the United Nations on the question of Palestine and the situation in the Middle East - it was said that we were putting the cart before the horse. The General Assembly was requested to take no action; it was asked to be patient and wait instead of rushing to adopt a resolution, because the legislation had not yet become effective. But today it is almost certain that it will be enforced by 21 March this year, unless the United Nations faces up to it. In addition to being interference in the affairs of the United Nations, the legislation infringes upon the independence and freedom of the United Nations.

The Arab Group looks forward to the Member States' fulfilling their responsibilities in reaffirming the need for the host country, the United States, fully to respect the Headquarters Agreement, to meet its international obligations under the Agreement and to take all the necessary steps to prevent the enactment of any law that would affect the status of the PLO's Observer Mission to the United Nations in New York, because that Mission is covered by the Headquarters Agreement, which provides for the enjoyment by the PLO of freedom, privileges and immunities as a representative organization to the United Nations.

(Mr. Al-Shakar, Bahrain)

Last December the Arab Group expressed the hope that the Government of the host country, the United States, would reconsider its legislation, so that it would be in conformity with the position of the majority of Member States and the international community, reflected in General Assembly resolution 42/210 B, adopted by a majority of 145, with only one vote against, that of Israel. The Arab Group has no desire to enter into a discussion and analysis of the American position in all its details, as put forward by the Secretary-General in his report, but we wonder about the credibility of the host country in fulfilling its responsibilities and obligations under the Headquarters Agreement. Indeed, it is no exaggeration to say that we very much question the host country's credibility.

It is true that the United States, the host country, has not yet rejected international arbitration on the closing of the PLO Observer Mission to the United Nations. I repeat that that Mission is covered by the Headquarters Agreement. The United States has not yet decided to close the Mission, according to American law. But the facts lead us to question the American Administration's sincerity and firmness in making serious efforts to find a satisfactory and acceptable solution under the Headquarters Agreement.

We would have hoped that resolution 42/210 B would be a stimulus and incentive to the executive branch of the Government of the host country to make efforts to nullify the legislation adopted by the United States Congress and signed by the President. We would have hoped that in these circumstances the host country would refer the dispute to arbitration, in accordance with section 21 of the Headquarters Agreement.

(Mr. Al-Shakar, Bahrain)

It is true that the United States Administration has responded positively to the Secretary-General's efforts to resolve the question satisfactorily, but it did not give the matter the necessary priority and the urgency it deserves after the signing of the law on 22 December 1987, and it was not sincere in using the 90-day grace period before the law's enactment to rectify the situation.

The Arab Group knows very well that the death sentence handed down on the PLO Observer Mission in the host country is part of a feverish Zionist campaign against the Palestinian people and its sole, legitimate representative. The campaign, which started with the prohibition of any contact between representatives of the PLO and officials of the United States, is aimed at discrediting the just right of the Palestinian people to resist the Zionist settler colonialism and the foreign occupation of its land and the exercise of its right to self-determination, a legitimate right of all peoples, enshrined in the United Nations Charter and numerous United Nations resolutions.

It is very surprising and strange that the law was passed by the host country, which has often upheld the right to freedom and self-determination of colonial peoples suffering under the yoke of foreign occupation. At the same time, it denies the Palestinian people its right to continue the struggle for its freedom and the exercise of its right to self-determination, under the leadership of its sole, legitimate representative, the PLO, doing so by making the bogus accusation that the PLO encourages terrorism. It has not given the accused, the PLO, the right to defend its cause and to defend itself against that charge.

The law aims at thwarting the successes of the Palestinian people in its just struggle to regain its legitimate rights, repeatedly recognized by the General Assembly.

(Mr. Al-Shakar, Bahrain)

By resolution 3237 (XXIX) of 22 November 1974 and other resolutions, the General Assembly has invited the representative of the PLO to participate in all the efforts, deliberations and conferences convened under United Nations auspices on the question of Palestine and the situation in the Middle East, on an equal footing with other concerned parties, in order to achieve a comprehensive, lasting and just peace in the Middle East.

(Mr. Al-Shakar, Bahrain)

The ongoing popular uprising in occupied Palestinian territories is a strong response in defence of the PLO; it is rallying firm support for the PLO as the sole, legitimate representative of the Palestinian people. In speaking on behalf of the Arab Group, I cannot but hail and bless this massive popular uprising, this epic struggle which is now in its third month, fueled by children throwing stones and by an unlimited number of martyrs who sacrifice themselves for the soil of occupied Palestine. This immortal epic of resistance against an army of occupation is the creation of a helpless people armed only with its will and its resolve to resist the bloody hand of the occupier in order to achieve its legitimate rights to freedom, independence and self-determination and the establishment of its own independent State.

The events now taking place in the Palestinian territories reflect a legitimate struggle; they are in response to the American law aimed at discrediting the legitimate struggle waged by the Palestinian people, under the leadership of its sole and legitimate representative, the PLO.

Many representatives have raised doubts on the probability of success in resolving the dispute amicably, having discovered the real reason behind the enactment of that law. We have been told in the corridors of the United Nations that the weak response of the United States Administration to that law is due to the requirements of the presidential campaign, to the frenzied race between the candidates. Thus, we the Member States in this Organization are asked to subject ourselves to the influences of the host country and to accept that the resolutions and independence of the United Nations be subordinated to political currents and tendencies in the host country.

(Mr. Al-Shakar, Bahrain)

The Secretary-General's reports in documents A/42/915 and A/42/915/Add.1 have been drafted with meticulous care. They are not confined merely to a faithful and realistic analysis of the various aspects of the dispute and its origins; they also provide the optimal methods to arrive at a satisfactory, acceptable solution in keeping with section 21 of the Headquarters Agreement and in conformity with international practices and instruments agreed by all. The points made in the Secretary-General's reports and its contents are crystal clear because they are based on legal foundations enshrined in the Headquarters Agreement concluded between the United States of America, the host country, and the United Nations more than 40 years ago.

The fact is that a dispute has arisen and that the host country must do a great deal to fulfil its obligations and resolve it. This will be achieved only if the United States of America abrogates the law and adopts a logical policy in conformity with its international obligations under the Headquarters Agreement.

The reports' contents indicate to us that there is an urgent need to find an acceptable solution, all the more so since the date of enforcement of that law draws near. The Arab Group has no doubt that the General Assembly will resolve this important question in an objective and unbiased manner in keeping with the provisions of the Headquarters Agreement. The Arab Group believes that the ideal way to solve this dispute is through the mechanism proposed by the Secretary-General in paragraph 9 of his report (A/42/915), namely, for both parties to accept arbitration provided for in section 21 of the Headquarters Agreement.

Out of its sincere desire to settle the dispute amicably and to avoid any confrontation between the United Nations and the host country, the Arab Group feels that the General Assembly would be wise, at its resumed session, to adopt a resolution calling upon the host country to accept settlement of the dispute

(Mr. Al-Shakar, Bahrain)

as provided for in section 21 of the Headquarters Agreement and requesting the Secretary-General to continue his valuable efforts, take the necessary measures to initiate settlement of the dispute in accordance with section 21 of the Headquarters Agreement and submit a report to the General Assembly on developments at the earliest date possible before enactment of the law.

On that basis, we call upon the Government of the United States of America, the host country, to heed the international will and accept the resolution of that dispute, according to its obligations, by nominating an arbitrator on its behalf as soon as possible following upon the constructive step of the Secretary-General of the United Nations in appointing an arbitrator on behalf of the United Nations. Failure by the host country to accept that amicable settlement would be an act towards undermining, frustrating and aborting the Headquarters Agreement.

The Arab Group believes that, in order to maintain the independence and the integrity of the United Nations, it is important to have recourse to the International Court of Justice and seek to obtain a legal opinion defining the character and nature of the current dispute in order to settle it according to the provisions of the Headquarters Agreement and international norms. We must seek an advisory opinion from the International Court of Justice as far as the applicability of the Headquarters Agreement in this dispute, in particular as far as the arbitration process is concerned, and about the measures necessary to maintain the status quo while awaiting a final judgement from the Court, in the hope that those measures would expedite a satisfactory settlement of the dispute.

We hope that the host country will express its readiness to accept an advisory opinion of the International Court of Justice on this question and on the dispute, which has now reached a critical stage. The Arab Group looks forward to the General Assembly's shouldering its responsibilities and taking a common and unified stand, in the same way as it did when adopting resolution 42/210 B.

(Mr. Al-Shakar, Bahrain)

Thus the General Assembly might wish to adopt the reasonable solution for the dispute proposed by the Secretary-General, which would be ideal. Let us follow the path he has defined. Will the host country agree to do so?

The Arab countries will spare no effort to work jointly with all the other Member States of the Organization to follow that path and arrive at an acceptable solution to this important and vital question.

The PRESIDENT (interpretation from Russian): In accordance with General Assembly resolution 3237 (XXIX) of 22 November 1974, I now call on the Observer for the Palestine Liberation Organization.

Mr. TERZI (Palestine Liberation Organization (PLO)): At the outset, Sir, permit me to thank you for having convened this resumed session of the General Assembly to address developments affecting relations of the United Nations with the host country, the United States of America.

I wish to extend our thanks and great appreciation to the Secretary-General for his efforts as demonstrated in his reports in documents A/42/915, dated 10 February 1988 and A/42/915/Add.1 of 27 February 1988. Both reports reveal the perseverance of the Secretary-General, as true custodian, and his determination to preserve the Headquarters Agreement and to seek assurances that the Organization will be free and independent to carry out its smooth functioning, free from domination by the host country. His keen interest and concern that the provisions of the Headquarters Agreement be respected and adhered to is very clear.

The General Assembly is meeting not in a vacuum or in isolation from the events and visitations inflicted upon the Palestinian people inside occupied Palestinian territory and even here. The Assembly is meeting at a time when Israel, the occupying Power, has been condemned for its brutal practices against our people but still persists in its policy of breaking bones, causing pregnant

(Mr. Terzi, PLO)

Palestinian women to abort involuntarily through beatings and/or the inhaling of gas, and the shooting, killing and injuring of hundreds of unarmed Palestinian civilians. The repressive fascist methods of the Israeli armed forces and the colonial settlers are brought to us by the hour through the television screen, radio announcements and the printed media. The aim is the realization of Israel's wish to "transfer" the Palestinians from their homes into the wilderness, into the desert. The term "transfer" is a misnomer applied here to mean the elimination of the Palestinian people. The Security Council has addressed the grave situation, but no concrete action was taken in response to the recommendations made by the Secretary-General in pursuance of Security Council resolution 605 (1987).

The negative vote of the United States, a permanent member of the Council, proved to be the obstacle, and our peoples' request for protection against the brutal repressive measures of the occupying Power, Israel, was turned down despite the almost unanimous support of the international community. The Government of the United States thought it was not timely. A few more hundred innocent and unarmed Palestinian civilians could be sacrificed while the United States is engaged in attempting to enforce its Pax Americana-Pax Israeli on the area. Our heroic people, in their uprising, led the way and signalled a clear-cut rejection of the plan, which attempts to replace self-determination by self-administration - a plan to ensure the near-perpetuation of Israeli occupation of our homeland. What our people rejected was a plan also aimed at fragmenting the Palestinian people into two categories: those on Palestinian soil under occupation, and those denied entry into their homeland, namely those in dispersion.

Let me make it clear here that the Palestine Liberation Organization has repeatedly expressed its willingness to meet with the representatives of the

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Government of the United States in any Arab or foreign capital, including Washington, D.C., to address the issue of a comprehensive and just peace that will guarantee the attainment and exercise of our national rights of freedom and independence based on the principles of the Charter and all the relevant resolutions of the United Nations and under the auspices of the United Nations. The Palestine Liberation Organization has reiterated that any Palestinian delegation will be comprised of both Palestinians from the occupied Palestinian territory and Palestinians from the "Dispersion". We are simply one people, with one destiny, one aim, one leadership and one will.

The Assembly has convened at a time when the Secretary of State, Mr. George Shultz, has read out a statement in Jerusalem "extending a hand to the Palestinians". The media reported that Mr. Shultz said, "I had hoped to hear firsthand from leading Palestinians about your aspirations and your point of view." Mr. Shultz is on a mission pontificating. But Mr. Shultz could not recall that on 27 January 1988, exactly one month earlier, he did receive an appeal - hand delivered to him - asking for his personal active involvement, and that of the United States Government, in the peace process. I shall quote from that appeal. It says:

"Our people are in urgent need of immediate international protection from the brutality of Israel's military authorities which have been unleashed against our unarmed civilian population to kill, maim and terrorize our women and children. To this end, we hope the international community will immediately authorize the provision of an international force to intervene in the occupied territories, to whose trusteeship our population can be delivered as a first step towards the convening of an International Peace Conference.

(Mr. Terzi, PLO)

This conference is to be held under the auspices of the United Nations and will be attended by all concerned parties to the conflict, including, foremost, the Palestinian nation through its legitimate representative, the PLO."

(Mr. Terzi, PLO)

The appeal continues,

"During the past few weeks the occupied territories have witnessed a popular uprising against Israel's occupation and its oppressive measures. This uprising has so far resulted in the martyrdom of tens of our people, the wounding of hundreds more and the imprisonment of thousands of unarmed civilians.

"This uprising has come to affirm further our people's unbreakable commitment to its national aspirations. These aspirations include our people's firm national rights to self-determination and to the establishment of an independent State on our national soil, under the leadership of the Palestine Liberation Organization as our sole, legitimate representative. The uprising also comes as further proof of our indefatigable spirit and our rejection of the sense of despair which has begun to creep into the minds of some who claim that the uprising is the result of despair".

That appeal was signed by Palestinian nationalist institutions and personalities from the West Bank and Gaza.

Certainly, the appeal was ignored, and the efforts to impose the Pax Americana-Pax Israeliana on our people continue.

But the Assembly has reconvened with a specific purpose, namely to consider action by the United States, the host country, targeting as its first victim the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York. Members will recall that on 17 December 1987, by its resolution 42/210 B, adopted almost unanimously, the General Assembly reiterated 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

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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.

In adopting that resolution the General Assembly was guided by the purposes and principles of the Charter of the United Nations and the relevant provisions of the Charter. In particular, the General Assembly was guided by the miscellaneous provisions of Chapter XVI. Thus, with the adoption of resolution 42/210 B, and in conformity with the provisions of the Headquarters Agreement of 26 June 1947, the host country - the United States - is under obligation to abide by its treaty obligations under the Agreement. In our opinion, the question is one of compliance with the provisions of the Agreement and international law, and not a question of a domestic law, namely Title X of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

In his report, the Secretary-General tells the Assembly that he had informed the host country - the other party to the Agreement - that

"it had to be concluded that a dispute existed between the United Nations and the United States concerning the interpretation and application of the Headquarters Agreement". (A/42/915, para. 5)

We are cognizant of the fact that the United States has neither denied nor confirmed the existence of a dispute. But we are informed by the Secretary-General that

"the United States was not in a position and not willing to enter formally into the dispute settlement procedure under section 21 of the Headquarters Agreement [and that] the United States was still evaluating the situation and had not yet concluded that a dispute existed ... at the present time".

(para. 6)

(Mr. Terzi, PLO)

The information provided by the Secretary-General indicated that the United States was postponing or delaying admission both of the existence of a dispute and of the need to invoke operation of the provisions of section 21 of the Agreement, their reason being that the legislation in question had not yet been implemented.

The Secretary-General further informs the Assembly that

"The Executive Branch was still examining the possibility of interpreting the law in conformity with the United States obligations under the Headquarters Agreement regarding the PLO Observer Mission, as reflected in the arrangements currently made for that Mission, or alternatively of providing assurances that would set aside the ninety-day period for the coming into force of the legislation". (para. 6)

Permit me to state here that we fully concur with the position of the United Nations, that the question was one of compliance with international law. The Headquarters Agreement is a binding international instrument, and the United States is under an obligation to abide by it. The legislation which has been enacted violates that obligation.

Let us recall that on 30 March 1950 the International Court of Justice stated that

"whether there exists an international dispute is a matter for objective determination. The mere denial of the existence of a dispute does not prove its non-existence."

Moreover, the Court held that

"Either party is obligated, at the request of the other party, to co-operate in constituting the Commission, in particular by approving its representative. Otherwise the method of settlement by Commissions provided for in the Treaties would completely fail in its purpose."

(Mr. Terzi, PLO)

In the case under review - namely the position of the Government of the United States vis-à-vis the applicability of the Headquarters Agreement - the decision of the Court explicitly places the United States under obligation to put into operation the dispute settlement procedure, in conformity with section 21 of the Agreement, and to constitute the tribunal of arbitration. It is natural that this should become the case as the United States Government has not shown any inclination to resolve the problem in an amicable way.

The late Professor James Garner wrote in 1935 that "A treaty is to be interpreted in the light of the general purpose it is intended to serve". The central purpose or objective of the Headquarters Agreement is clearly to ensure the independence of the United Nations, as a public body representing the world community, from domination by the host country, subject only to the legitimate security interests of the host country, while providing an appropriate Headquarters area. It is in the context of that objective that section 21 must be interpreted.

Let me digress for a moment to address this legislation: the Act. His Excellency the President of the United States said the following on 22 December 1987, when he signed the Act:

"Certain issues raised by its provisions, however, require comment. Section 1003 of the Act prohibits the establishment anywhere within the jurisdiction of the United States of an office 'to further the interests' of the Palestine Liberation Organization. The effect of this provision is to prohibit diplomatic contact with the PLO. I am signing this Act only because I have no intention of establishing diplomatic relations with the PLO, as a consequence of which no actual constitutional conflict is created by this provision."

(Mr. Terzi, PLO)

On 23 December 1987, a spokesman for the Secretary of State of the United States stated that the provisions of the Act concerning the Palestine Liberation Organization 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".

(Mr. Terzi, PLO)

A bona fide interpretation of the Act in conformity with the interpretation and intention of the President of the United States will of necessity lead us to believe that the Act is not applicable to the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York and consequently has no effect whatsoever on the Headquarters Agreement.

However, this simplistic and honest-to-God interpretation would have spared the General Assembly and the Secretary-General and the parties concerned - namely, the host country, the United States, and the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York - all this concern and these efforts. This same interpretation would have also exempted the Headquarters Agreement and the parties covered by the Agreement from applicability of the Act. This same interpretation would have also asserted good faith in international relations on the part of the host country.

Regrettably, on 27 January 1988 the Legal Counsel of the United Nations was informed that

"the United States was not in a position and not willing to enter ... into the dispute settlement procedure under section 21 of the Headquarters Agreement ... because the legislation in question [the Act] had not yet been implemented". (A/42/915, para. 6)

This position by the host country revealed the total disregard for the interpretation and intention of the President of the United States as expressed on 22 December 1987, and it also revealed some not-so-honest intentions of the Administration. So the question now is more than just one of compliance with international law; it is one of the absence of good faith as well.

Let us diverge once again.

When we read through the so-called Grassley Amendment, which became Amendment No. 940, which is numbered 1003 under the Act - and here I shall refrain from

(Mr. Terzi, PLO)

recalling the legislative history and how the amendment was passed in the Senate without going through due process and against the opposition of specifically the Chairman of the Foreign Relations Committee, Mr. Pell, who expressed his will that the Congressional Record show on that voice vote "that I voted in the negative". Mr. Pell has also declared in the Senate, "I think the PLO office in New York had the right to be there because of a treaty we have with the United Nations". I should think that Mr. Pell, when speaking about the right of the PLO to have an office in New York, knew exactly what he was talking about.

Moreover, the draft or bill was, to our knowledge, never considered in the House. Again this is a matter of domestic concern, but we thought it might be of help to know the facts concerning the Grassley Amendment that eventually was signed into law.

A campaign of slander was being launched against the Palestine Liberation Organization to eliminate its presence in the ranks of representatives of the international community, thus facilitating the way for a settlement at the price of the rights of the Palestinian people, the principal party to the conflict, as the General Assembly declared in its resolution 3210 (XXIX).

It is a fact that some members of the United States Government are determined to maintain and escalate this campaign of slander based on falsehoods.

On the other hand, it is to be admitted that other members of the United States Government were and are more responsible. The Congressional Record of the Senate includes a letter from the Secretary of State addressed to an honourable Senator and dated 29 January 1987 in which he says,

"The PLO Observer Mission in New York was established as a consequence of General Assembly resolution 3237 (XXIX) of November 22, 1974, which invited the PLO to participate as an observer in the sessions and work of the General Assembly. The PLO Observer Mission represents the PLO in the United Nations.

(Mr. Terzi, PLO)

It is in no sense accredited to the United States. The United States has made clear that PLO Observer Mission personnel are present in the United States solely in their capacity as 'invitees' of the United Nations within the meaning of the Headquarters Agreement. While we therefore are 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, we retain the right to deny entry to, or expel, any individual PLO representative directly implicated in terrorist acts. It is moreover the policy of the United States to restrict the travel of members of the PLO Observer Mission to within a 25-mile radius of Columbus Circle".

On 5 November 1987 the Department of State addressed a memorandum to the honourable Chairman of the Committee on Foreign Affairs in the House of Representatives. It reads in part as follows:

"The proposed legislation would also effectively require closure of the PLO Observer Mission in New York. Such a move would break a forty-year practice regarding observer missions by nations hosting United Nations bodies and could legitimately be viewed as inconsistent with our responsibilities under Sections 11-13 of the United Nations Headquarters Agreement. We could expect strong criticism in the United Nations, including from our friends. The United Nations could moreover refer the issue to the World Court, where we would probably lose and the PLO would reap a propaganda gain.

"The United States considered the fulfilment of its obligations under the Headquarters Agreement important to its relationship to the United Nations and its Member States. We believe it would be unwise to violate those obligations even with respect to organizations such as the PLO ...".

(Mr. Terzi, PLO)

Thus it is clear that the host country was very much aware of the legislation and its consequences. The General Assembly, on 17 December 1987, reiterated that the Headquarters Agreement covers the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York and upheld the arrangement "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". (General Assembly resolution 42/210 B)

Thus we see that the host country does admit that a dispute exists, even in its own recorded analysis of the situation. The Secretary-General, with his prudence and his concern for the smooth functioning of the United Nations in New York, sought from the host country an admission that a dispute exists arising from the applicability of the Act as against the applicability of the Headquarters Agreement. Such an admission was not forthcoming. This failure led to the invoking of the dispute settlement procedure under section 21 of the Agreement. Again the United States, the other party to the Agreement, failed to respond.

(Mr. Terzi, PLO)

The General Assembly is now faced with a major issue. When one of the two parties to the Headquarters Agreement fails to honour its obligations - and specifically as stated in the remedial section, section 21 - the status of the Agreement should be considered.

Should it be decided that the Agreement should be preserved, the status of and current arrangements for the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York will also be preserved and assured.

In the event that the host country, the United States, maintains its position of waiting until after "the implementation of the Act", the General Assembly is called upon now to take preventive steps and, in our opinion, to refer the matter to the International Court of Justice in any form it deems fit, with a view to seeking endorsement of the position of the General Assembly and that of the Secretary-General, obligating the host country to put into operation the remedial procedure in conformity with section 21 of the Agreement. In our opinion, the General Assembly should be prepared to resume once again to consider the situation in the event the threat of violation of the Agreement persists, and, as we hope, in the light of an advisory opinion from the International Court of Justice on the eve of 21 March 1988 - and the closest time to that date is 18 March 1988.

In conclusion, the Assembly will also have to consider the fate of the Agreement and the consequences resulting from the failure of the host country to abide by it. Will the United Nations Headquarters in New York be in a position to continue operating in the absence of a respected and adhered-to Headquarters Agreement?

Mr. ABULHASAN (Kuwait) (interpretation from Arabic): On behalf of the members of the Organization of the Islamic Conference, over which Kuwait has the honour of presiding, I extend our deep thanks to you, Mr. President, and to all those who supported the resumption of this session of the General Assembly to consider the decision of the United States of America to close the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations. In all objectivity and impartiality, that decision must be regarded as a serious precedent in the annals of international agreements, because, for the first time, we are witnessing a threat to the Agreement concluded by the United Nations with the host country, the United States of America.

I extend thanks also to the Secretary-General for his report in document A/42/915 of 10 February 1988, and the subsequent report in document A/42/915/Add.1 of 25 February 1988, in which he has truthfully and candidly stated the magnitude of the problem and informed us of the parties to it and the developments that have taken place in connection with it, and has outlined the only possible method of solving the problem.*

I hasten to say that I agree with the Secretary-General that the problem now before us - for the consideration of which we have called upon the General Assembly to resume this session - is a problem between the United Nations and the United States of America as the host country. Hence, it is a problem that concerns every Member, every observer, and every invitee to the United Nations. The seriousness of the problem is obvious from that fact.

* Mr. Legwaila (Botswana), Vice-President, took the Chair.

(Mr. Abulhasan, Kuwait)

The PLO, which occupies a legitimate position in the United Nations, is of course the direct victim. But the real victim is the principle of membership of the United Nations, in all its forms and manifestations. The real victim, also, is the established concept in international relations that international agreements take precedence over all national legislation of States parties to such international agreements.

The question before us today takes on even greater magnitude when we recognize that it has a political dimension in addition to its legal dimension. Hence, the consequences of the implementation of the United States decision to close down the office of the Permanent Observer Mission of the PLO is not only a breach of a binding legal undertaking, but also a violation of the inalienable political rights of an entire people: the Palestinian people.

The General Assembly has resumed this session because of a clear, flagrant violation of the international agreement concluded by the United States with the United Nations in 1947 - known as the Headquarters Agreement. That Agreement affirms that the international Organization alone has the right to define those who participate in its work, and that there must be no interference in this regard.

To give credit where credit is due, it must be said that our task in defending the rights of the international Organization and in demonstrating the illegality of the decision to close the office of the PLO has not been difficult, thanks to the explicit and clear nature of the provisions of the Headquarters Agreement. Above all, our task has been made easier by the acknowledgement of that fact by the State Department of the United States itself and its public opposition to the procedure in question in the letter from the Acting Permanent Representative of the United States of 5 January 1988, in which he indicated that the implementation of the provisions regarding the Observer Mission of the PLO in the legislation signed by

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the President of the United States on 22 December 1987 would be contrary to the international obligations of the United States under the Headquarters Agreement. Indeed, the position of the mass media of the United States in general - which are not known for their sympathy with Arab causes - has been a position of opposition to, and in some cases highly critical of, this illegal action that is contrary to the most elementary principles of the United States Constitution itself, in which the host country takes pride as a bastion and citadel of fundamental freedoms, foremost of which are freedom of expression and freedom of opinion. Those are purposes pursued specifically by the PLO Mission in New York and its Information Office in Washington - and the latter was the first victim of the decision by the legislative branch of the United States Government.

(Mr. Abulhasan, Kuwait)

If we concede, for the sake of argument, that the United States Congress today, after all these years, has the right to reinterpret the provisions of the Headquarters Agreement, we nevertheless believe that the United States Administration, which is entrusted with the implementation of legislation and which knows and states publicly, as I have just mentioned, that the recent Act is in violation of the Headquarters Agreement, must then resort to the arbitral procedure set forth in the Agreement or to the International Court of Justice. The United States accepted that procedure when it framed, approved and adopted the Headquarters Agreement, which sets forth the methods for settling any dispute concerning the interpretation or application of the agreement that cannot be settled by negotiation or otherwise.

World public opinion is amazed, and advocates of human rights and champions of democratic principles await to see how one of the foremost models of freedom and democracy - the United States of America - will act vis-à-vis a legitimate Mission whose only guilt is to explain the cause of an entire nation whose homeland has been usurped, a nation that enjoys the complete support and sympathy of the entire world, with the exception of the United States and Israel.

The United States authorities admit that no violation of law and no illegal practices have been proved against the Office of the Palestine Liberation Organization (PLO) or any of its staff. The situation we are facing today is a totally new episode in a long series of dichotomous positions the United States has adopted with regard to the legitimate rights of the Palestinian people. In this connection I cannot resist citing the analogy drawn by a writer in The New York Times between the position of one of the better-known United States Senators opposed to the closing down of the Rhodesian Information Office in 1977 and his

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position in support of shutting the Palestinian Office under the same circumstances 10 years later. Needless to say, the result of the analogy requires no comment.

The Secretary-General, whose noble position in favour of a just cause we once again applaud, has stated that the action of the United States Congress is a clear and flagrant violation of the Headquarters Agreement. The Legal Counsel has found the legislation to be in violation of sections 11, 12 and 13 of the Agreement. Section 11 provides that the United States shall not impose any impediments to transit to or from the headquarters district of persons invited to the Headquarters district by the United Nations. Section 13 states that the privileges referred to in section 11 apply, regardless of the nature of relations between the United States and such persons or Governments. Last December the General Assembly reiterated this in resolution 42/210 B and noted the Secretary-General's statement that members of the Palestine Liberation Organization (PLO) Observer Mission are invitees to the United Nations and covered by sections 11, 12 and 13 of the Headquarters Agreement. They must 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.

As for the political dimensions of the question for which we resumed this session of the General Assembly, they make it one of the most important of our time. We all know the origins of this question and the facts surrounding it, just as we are all alarmed by its tragedies and paradoxes. The organization targeted by the closing of the offices of its Mission speaks for the Palestinian people and for their legitimate aspirations, and it is supported by the overwhelming majority of the international community, as has been often proved. However, in our age's greatest paradox, that organization and its valiant people have been branded with

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terrorism, while the Zionist entity and its Fascist forces are favoured and given preferential treatment. Recently we have witnessed the campaign waged by those forces and the brutal terrorism against the population of the occupied territories. Every member of the international community knows that, no matter how brutal, oppression cannot force the people of Palestine to submit to occupation because that is against the nature of things in a world longing for freedom and decolonization. The uprising of the Palestinian people in the West Bank and Gaza and the other Palestinian territories occupied since 1948 is a revolution of a land in the strict sense of the word "revolution" and in the original sense of the word "land". It is the historic culmination of the revolutionary phase of the struggle of that small and steadfast people. Today, we see the revolutionary law crystallized by human experience entering the phase of action and implementation, as the revolutionary action by the vanguard organization, launched by the PLO in the recent past, has now been embraced by the ordinary citizen to release the genie of the masses from the bottle of occupation.

As Western journalists and observers have noted, the Palestinians, from seven years of age to 70, armed with nothing but stones, have been resisting their Zionist executioners, the murderers of women and children, beating against the gates of history. Those are the events that accompany the present move to close the offices of the oppressed Palestinian people; hence the international community's wholehearted support for resuming the session of the General Assembly. On behalf of the Islamic countries, Kuwait feels that at this session the General Assembly should seek an advisory opinion from the International Court of Justice on whether the arbitral procedure set forth in section 21 of the Headquarters Agreement between the United States of America and the United Nations is a binding means for solving any dispute over the interpretation of the Agreement. Through

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that advisory opinion the world's loftiest legal body would legitimize and formalize the unanimous international position, which rejects the United States decision to shut the PLO Mission to the United Nations.

In view of what I have said, we are confident of the General Assembly's support for this legitimate request, just as we are confident that the Assembly will vote in favour of it when it is placed before us.

The meeting rose at 1 p.m.