



General Assembly

PROVISIONAL

A/42/PV.103
4 March 1988

ENGLISH

Forty-second session

GENERAL ASSEMBLY

PROVISIONAL VERBATIM RECORD OF THE ONE HUNDRED AND THIRD MEETING

Held at Headquarters, New York,
on Tuesday, 1 March 1988, at 3 p.m.

President: Mr. FLORIN (German Democratic Republic)
later: Mr. PERERA (Sri Lanka)
(Vice-President)

- 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 3.25 p.m.

AGENDA ITEM 121 (continued)

SCALE OF ASSESSMENTS FOR THE APPORTIONMENT OF THE EXPENSES OF THE UNITED NATIONS
(A/42/925/Add.1)

The PRESIDENT (interpretation from Russian): Before continuing the debate on the item on our agenda, I should like to draw the Assembly's attention to document A/42/995/Add.1, which contains a letter addressed to me by the Secretary-General informing me that, since the issuance of his communication dated 29 February 1988, Nicaragua has made the necessary payment to reduce its arrears below the amount specified in Article 19 of the Charter.

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

It was so decided.

AGENDA ITEM 136 (continued)

REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY

- (a) REPORTS OF THE SECRETARY-GENERAL (A/42/195 and Add.1)
- (b) DRAFT RESOLUTIONS (A/42/L.46 and A/42/L.47)

Mr. DOST (Afghanistan): It is a great pleasure to see you, Sir, in the Chair of this body. The brilliant competence with which you recently steered the work of the forty-second session of the General Assembly gives us every reason to be confident that under your able guidance our present deliberations will also be crowned with success. Allow me to assure you of the fullest co-operation of my delegation towards achieving such an end.

Less than three months ago the General Assembly concluded a comprehensive discussion of the various aspects of the situation in the Middle East and what constitutes the core of the problem, namely, the question of Palestine. A number of important resolutions were adopted, including resolution 42/210 B of 17 December 1987 concerning actions considered by the host country, the United

(Mr. Dost, Afghanistan)

States, aimed at impeding the functioning of the Permanent Observer Mission of the Palestine Liberation Organization at United Nations Headquarters in New York. Developments since that decision have further complicated the situation and require the full attention and appropriate action of the General Assembly.

On 22 December 1987 the President of the United States signed into law the Foreign Authorization Act for Fiscal Years 1988 and 1989. The prohibitions with regard to the Permanent Observer Mission of the Palestine Liberation Organization stipulated in Title X of that Act, which is to be implemented on 21 March this year, run contrary to and are a gross violation of the provisions of the Headquarters Agreement between the United Nations and the United States.

The hostile act against the Palestine Liberation Organization (PLO), the legitimate representative of the Palestinian people, has been taken at a time when the need for the solution of the question of Palestine has become more pressing than ever. The general uprising in the occupied territories against the brutal repression and iron-fist policy of the Israeli Zionists is demonstrating to the whole world the reinforced determination of the Palestinian people to liberate their homeland, no matter what the price. At the same time universal consensus on convening an international peace conference on the Middle East with the participation of all parties concerned, which naturally includes the PLO on an equal footing, has never been stronger. At such a juncture the co-operation of the PLO and the exercise of its undisputed rights through its Mission at the United Nations is of special importance. Therefore, an arbitrary decision to impede the normal discharge of the official duties of the PLO Mission cannot be anything but biased and politically motivated.

(Mr. Dost, Afghanistan)

We commend and fully support the appropriate measures so far taken by the Secretary-General in accordance with General Assembly resolution 42/210 B to ensure full respect for the provisions of the Headquarters Agreement. The position adopted by the host country, however, is not conducive to a resolution of the question that will preserve the integrity of the Agreement. Therefore, a dispute between the United Nations and the United States clearly exists, and the time has arrived for the provisions of section 21 of the Headquarters Agreement to be invoked.

(Mr. Dost, Afghanistan)

What is important is the fact that the situation which has arisen is a question not only of the continuity of the functions of the PLO Permanent Observer Mission to the United Nations, but of preserving the integrity, prestige and rights of the United Nations itself. The PLO Permanent Observer Mission is a United Nations invitee by virtue of General Assembly resolution 3237 (XXIX), adopted 13 years ago, which the host country did not find legally objectionable when it was adopted. The present United States stand, therefore, is clearly a violation of its obligations under international law, which it freely assumed.

Moreover, the United States action, if unchecked, will establish a very dangerous precedent concerning missions to the United Nations of similar status. The Headquarters Agreement constitutes the only safeguard for the normal discharge of the duties of the Member and Observer Missions at the United Nations. Everything must be done to preserve its validity.

In our view, resolution of the existing dispute between the United Nations and the United States falls under the provisions of section 21 of the Headquarters Agreement. We strongly recommend agreement between the two sides concerning the establishment of an arbitral tribunal, and also recommend that if the question is still unresolved the Secretary-General should seek the advisory opinion of the International Court of Justice.

In conclusion, Mr. President, allow me to reiterate the full support and solidarity of the Government and the people of the Republic of Afghanistan for the just struggle of the fraternal Palestinian people under the leadership of their sole, legitimate representative, the PLO. My delegation will support any course of action which the General Assembly finds it necessary to adopt to ensure full respect for the rights of the United Nations and the continuity of the functions of the PLO Permanent Observer Mission. The Republic of Afghanistan, in fact, has sponsored the two draft resolutions before the General Assembly.

Mr. PAOLILLO (Uruguay) (interpretation from Spanish): Uruguay has not officially recognized the Palestine Liberation Organization (PLO). No relations of any kind exist between the Government of Uruguay and the PLO, and there are no PLO offices or representatives accredited to the Uruguayan Government.

However, that does not prevent Uruguay's recognizing the grave damage that could be done to the United Nations as an institution and to its Members in the event of the implementation of the provisions of Title X of the Foreign Relations Authorization Act, signed into law by the President of the United States on 22 December 1987. The situation involves principles and norms respect for which ranks higher than the position that may be adopted by any country on the recognition of the PLO, its representation, objectives or procedures.

The presence of the PLO at the United Nations results from a decision taken by the most representative body of the international community, whereby the PLO was invited to participate as an Observer in the work of the General Assembly and international conferences held under United Nations auspices. That resolution imposed on all Members of the United Nations - even those which, like Uruguay, abstained in the vote - the obligation to accept the presence of the PLO at the United Nations as an Observer and to refrain from any act that might impede or make difficult the discharge of those observer functions by the PLO or its representatives. In particular, resolution 3237 (XXIX) created obligations for the host country, which in that capacity shall not prevent persons invited by the United Nations to the Headquarters district on official business from entering, remaining or leaving, as provided for in the Headquarters Agreement between the United Nations and the host country.

(Mr. Paolillo, Uruguay)

There can be no doubt that the provisions of that Agreement apply to any entity, such as the PLO, that the General Assembly has invited to participate as a Permanent Observer. That is the only possible conclusion from a cursory reading of the Agreement. It is also the logical conclusion reached by the Assembly in adopting resolution 42/210 B almost unanimously.

The declaration in the December 1987 law that the presence of the PLO offices is illegal is itself illegal, since it violates international law, including provisions of the United Nations Charter, infringes the rights of the General Assembly, which is supposed to have the power to decide which entities may take part in its work, and creates a very dangerous precedent for all Members and all Observer Missions with accredited representatives at the United Nations. If it were to be implemented, it would gravely undermine the fundamental principle of the independence of the United Nations in the discharge of its functions and the attainment of its purposes.

There is no need to put forward legal arguments to show the incompatibility of the United States law with international norms. There is no difference of opinion on this, because all the parties, including high officials of the host country, have reached the same conclusion. It is reassuring that some of those officials have publicly declared the illegality of the measure and warned about the adverse consequences of implementing it.

My delegation trusts that in the brief time left to remedy the error the wise opinion of those officials of the host country will prevail and that a way will be found to leave the law unimplemented, thus preventing a clear violation of international law and of the rights of the General Assembly. If that is not possible, the compulsory arbitration mechanism provided for in section 21 of the Headquarters Agreement in the event of disputes between the parties on the implementation or interpretation of the Agreement should be put into effect.

(Mr. Paolillo, Uruguay)

There can be no doubt that there already exist the objective conditions required by international doctrine and jurisprudence to consider that a dispute has arisen between the United Nations and the host country. On the one hand, the Secretary-General's report clearly shows that we are not dealing with a mere difference of opinion between the parties, but that both parties hold positions with respect to the application of a treaty that are clearly opposed. The United Nations position is being opposed by the host country through the actions of its Congress and its Administration. On the other hand, for a dispute to be said to have occurred doctrine requires that diplomatic negotiations should have taken place in an attempt to reach an agreement on the point in dispute, and that they should have failed. As has been argued by, among others, the distinguished Israeli jurist Shabbtai Rosenne, diplomatic negotiations must have taken place before the initiation of the procedures for a harmonious settlement, during which matters of fact and law with regard to which the parties are in disagreement have been identified.

(Mr. Paolillo, Uruguay)

The efforts made by the Secretary-General more than meet that condition. Arbitration is therefore the remedy which should be used. Not only is it a procedure which the parties are obliged to use should disputes occur but, moreover, in general it has been the procedure preferred by the host country, a procedure which it has invoked frequently in the past.

The Secretary-General tells us that the United Nations has already appointed an arbiter to serve on the arbitral tribunal.

The Uruguayan delegation hopes that the United States will in due course fulfil its international obligations by abiding by the procedures set forth in the Headquarters Agreement and appointing an arbiter.

Mr. NYAMDOO (Mongolia) (interpretation from Russian): The delegation of the Mongolian People's Republic fully shares the profound concern reflected both in the report of the Secretary-General (A/42/915) of 10 February 1988 and in the addendum to it (A/42/915/Add.1) of 25 February 1988, and also in the statements made by previous speakers about the illegal actions taken by the United States against the Office of the Permanent Observer of the Palestine Liberation Organization to the United Nations.

As has been repeatedly pointed out here, the PLO Office to the United Nations was set up in accordance with General Assembly resolution 3237 (XXIX) of 22 November 1974, which invited the PLO to participate as an Observer in meetings and in the work of the General Assembly, and also in meetings and the work of all international conferences convened under the aegis of the United Nations. The Office of the Permanent Representative of the PLO is accredited to the United Nations. It is therefore covered by the Headquarters Agreement of 26 June 1947, whereby the United States is bound to observe its role as the host country.

(Mr. Nyamdoo, Mongolia)

The legal status of the Office of the PLO Observer and the obligations of the United States as the host country were confirmed, inter alia, in General Assembly resolution 42/210 B of 17 December 1987. The resolution confirmed that the Office of the Permanent Observer of the PLO to the United Nations in New York is covered by the provisions of the Headquarters Agreement and that it must thereby be able to establish and maintain premises and the necessary means of functioning, and that the personnel of the Office must be guaranteed the possibility of entering and remaining in the United States in order to carry out their official functions.

The legitimacy of the location of the PLO Observer Office in New York, and also the legal status of the PLO, cannot possibly give rise to any doubts. They have been unambiguously laid down and confirmed in numerous international legal documents. Only those who are ill-disposed to the struggle of the Palestinian people for the implementation of their inalienable right to self-determination can possibly fail to see this; and it is in the interest of the Palestinian people, which are worthily represented by the Office of the PLO Observer and have been for 14 years now.

The United States knew this and recognized the obligation of the United States under the Headquarters Agreement vis-à-vis the PLO Observer Office. Nevertheless the President of the United States signed into law the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, Title X of which, the Anti-Terrorism Act of 1987, established certain prohibitions regarding the PLO, inter alia, a prohibition

"to establish or maintain an office, headquarters premises or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the PLO or any of its constituent groups, any successor, to any of those, or any agents thereof".

(Mr. Nyamdoo, Mongolia)

The decision of the United States to close the Office of the PLO Observer, adopted under a spurious pretext, is a clear and flagrant violation of the Headquarters Agreement and the United Nations Charter, its decisions and of international law. It poses a direct challenge to the United Nations and its other Members. But many other delegations perceive a far-reaching political goal behind this decision.

It can only be viewed as yet one more campaign against the PLO and as an attempt to remove it from the ranks of representatives of the international community. The unilateral illegal action of the United States is flagrant interference in the normal functioning of the United Nations and the Missions of sovereign States and national liberation movements duly accredited to it.

Like all other Members of the United Nations, the Mongolian People's Republic believes that the United States must abide by its international legal obligations flowing, inter alia, from the Headquarters Agreement and that it should revise its decision and refrain from any further steps which would make the working conditions of the United Nations and its Members more difficult.

(Mr. Nyamdoo, Mongolia)

In the last few days the world community has once again been focusing its attention on events in the Middle East. Mass demonstrations in the Arab territories occupied by Israel have once again highlighted the gravity of the Middle East problem. These events are a direct consequence of the repressive actions of the Israeli occupiers and a demonstration of the growing determination of the Arab people of Palestine to win their right to self-determination. Once again these events highlight the need for the urgent convening of an international conference on the Middle East in which the permanent members of the Security Council and all interested parties, including the PLO, would participate.

The Mongolian People's Republic has always warmly supported the Palestinian people from the very beginning of their just struggle for the implementation of their inalienable right to self-determination. We expect that this session of the General Assembly will come out strongly in favour of the just cause of the Office of the Observer of the PLO and will take a clear-cut decision calling upon the United States as the host country of the United Nations strictly to comply with its international obligations flowing, in particular, from the Headquarters Agreement.

There remains very little time until 21 March, the date on which the decision to close the Office of the Observer of the PLO comes into force. If in that time the United States, as the host country, does not respond to the demands and proposals of the international community, and fails to comply with its international obligations, then the United Nations must have recourse to section 21, article VIII, of the Headquarters Agreement.

We also support the proposal that the United Nations should seek an advisory opinion from the International Court of Justice.

Mr. ESZTERGALYOS (Hungary): It is with deep concern that the Hungarian delegation feels compelled to participate in the deliberations of the resumed session of the General Assembly.

Resolution 42/210 B of 17 December 1987 dealt with a fundamental issue, namely, respect for the rule of law in international relations. The unilateral action by the host country to impede the maintenance of facilities of the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations in New York legitimately prompted the adoption of the above-mentioned resolution in the General Assembly. We strongly supported that resolution.

In light of the developments on this issue the Hungarian delegation wishes to place on record its position as follows:

First, any attempt by the host country to prevent the PLO from maintaining offices in New York is to be considered at variance with the Charter of the United Nations, as well as with the spirit and the relevant provisions of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations; secondly, it is incompatible with General Assembly resolution 3237 (XXIX), by which the PLO has been invited to participate as an Observer in the sessions and the work of the General Assembly; thirdly, we urge the host country to refrain from any action which would hinder or impede the discharge of the official functions of the Permanent Observer Mission of the PLO to the United Nations in New York.

We note with regret that the rule of law was not respected and that due process was not observed by the host country. We should like to take this opportunity to associate ourselves with the Secretary-General's position on this issue, as reflected also in resolution 42/210 B:

"The members of the Palestine Liberation Organization Observer Mission are, by virtue of resolution 3237 (XXIX), invitees to the United Nations. As such,

(Mr. Esztergalyos, Hungary)

they are covered by sections 11, 12 and 13 of the Headquarters Agreement of 26 June 1947." (resolution 42/210 B)

In my delegation's view this position is legitimate and correct and stands very solidly on the rule of law.

The Hungarian delegation wishes to reaffirm its faith in the scrupulous implementation of the Headquarters Agreement. We continue to believe that any violation of the provisions of this Agreement would have most serious repercussions and far-reaching implications on the functioning of the United Nations.

We could not better sum up our position on the issue before the General Assembly than the representative of Canada did in the Sixth Committee last December

"The combined effect of the Headquarters Agreement, Article 105 of the Charter, General Assembly resolution 3237 (XXIX) and State practice imposed a legal obligation on the host Government to allow the PLO to maintain offices in New York." (A/C.6/42/SR.62)

We expect that the General Assembly will adopt appropriate measures and take action accordingly to ensure respect for and implementation of the relevant rules of international law.

In the light of our position, we support the two draft resolutions before us.

Mr. OUDOVENKO (Ukrainian Soviet Socialist Republic) (interpretation from Russian): Once again, Sir, we are pleased to see you occupying the presidential chair at the resumed forty-second session of the General Assembly. The delegation of the Ukrainian SSR associates itself with the words of gratitude that have been uttered from this rostrum for your speedy reaction to the request to reconvene this session of the General Assembly to continue consideration of agenda item 136, entitled, "Report of the Committee on Relations with the Host Country", in connection with the violation by the United States of the 1947 Headquarters Agreement.

(Mr. Oudovenko, Ukrainian SSR)

This is not the first time the United Nations has had to deal with this question. In the past few years the host country, contrary to its obligations under the 1947 Headquarters Agreement, has taken a whole series of illegal actions with respect to the Permanent Missions of a number of States Members of the United Nations, the staff of the United Nations Secretariat, and indeed the Organization itself. The Ukrainian delegation has stated often in various forums that the host country's actions attempting without legal foundation to place numerical restrictions on the staffing of certain Permanent Missions to the United Nations - including the Mission of the Ukrainian SSR - set a dangerous precedent whose consequences could well spread beyond the Missions directly concerned. Subsequent events confirm that the ultimate target of such action is the United Nations as a whole.

But the immediate target of the host country's illegal actions is the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations. Despite the international community's appeal, contained in General Assembly resolution 42/210 B, the United States has adopted a law, entering into force on 21 March 1988, intended to close the Permanent Observer Mission of the PLO to the United Nations in New York.

That law is in complete violation of resolution 3237 (XXIX), under which it is not the United States Government but the United Nations which

"Invites the Palestine Liberation Organization to participate in the sessions and the work of the General Assembly in the capacity of observer".

(resolution 3237 (XXIX), para. 1)

It also ignores resolution 3375 (XXX), which invites the PLO to participate in all efforts, deliberations and conferences on the Middle East held under the auspices of the United Nations, on an equal footing with other participants.

(Mr. Oudovenko, Ukrainian SSR)

This law is in flagrant contravention of the 1947 Headquarters Agreement. In that connection, I call attention to the Secretary-General's authoritative opinion, who stated on 22 October 1987 that

"The members of the Observer Mission of the Palestine Liberation Organization are, by virtue of General Assembly resolution 3237 (XXIX), invitees to the United Nations. As such, they are covered by sections 11, 12 and 13 of the Headquarters Agreement of 26 June 1947. There is therefore a treaty obligation on the host country to permit Palestine Liberation Organization Observer Mission personnel to enter and remain in the United States to carry out their official functions at United Nations Headquarters".

Pursuant to the decision of the General Assembly, the Secretary-General has made considerable efforts to avert action by the host country which would threaten the normal functioning or even the existence of the Permanent Observer Mission of the PLO to the United Nations. My delegation wholeheartedly supports the Secretary-General's position in this matter. Unfortunately, as we can see from his reports (A/42/915 and Add.1), the United States has been unwilling, despite repeated appeals, to guarantee repeal of this law, which is in contravention of its international obligations. Indeed, as reported in The New York Times of 27 February 1988 United States Administration officials have stated their determination to comply with the provisions of this law and close the PLO Mission in New York, despite the fact that this would violate international law. Accordingly, the threat to the PLO Mission to the United Nations continues.

This debate testifies to the alarm and concern of the international community about the illegal actions of the host country, actions which are in essence designed to prevent the PLO from joining in the work of the United Nations. The adoption of the law was an unfriendly act towards the Palestinian people, which has

(Mr. Oudovenko, Ukrainian SSR)

chosen the PLO as its sole, legitimate representative. The law is a clear indication that the United States continues to ignore the inalienable rights of the Palestinian people. The actions of the host country run counter to the Middle East settlement process, which has been gaining momentum recently; they come at the very moment when active efforts are being made in the United Nations framework to establish a just and lasting peace in the Middle East.

The Middle East conflict and its core, the Palestinian question, must be resolved under the auspices of the United Nations, with the participation on an equal footing of all parties concerned, including the PLO, the sole, legitimate representative of the Palestinian people. It is inappropriate and inadmissible to attempt to prevent the PLO from participating in the settlement process, a process which presupposes and requires the convening of an international conference on the Middle East. Virtually the entire world now supports the proposed convening of such a conference; that proposal has been before us for some years now. Of late, the level of that support has been rising. As the situation in the region deteriorates the need for such a conference has become all the more urgent. Present events in the occupied Palestinian territories - mass demonstrations by Palestinians, which have grown into a virtual popular uprising - amply confirm this. In the opinion of the Ukrainian delegation, it is important in view of these circumstances that the international community make a concerted effort to take practical steps to prepare for the conference, beginning, for example, with the necessary preparatory work in the Security Council. We consider that the foundation for that work has already been laid.

(Mr. Oudovenko, Ukrainian SSR)

In that connection, we view as extremely important the recent initiative of the Soviet Union outlined in the letter dated 19 January 1988 from the Minister for Foreign Affairs of the Union of Soviet Socialist Republics addressed to the Secretary-General. That letter states that

"the Security Council, as the primary United Nations body responsible for the maintenance of universal peace, should be immediately involved in the practical process of setting up and putting in motion the mechanism of the international conference on the Middle East, which should be designed to find, on the basis of multilateral efforts, a reasonable balance among the interests of all the parties and to ensure lasting peace and security in the region".

(A/43/96, annex)

The process of searching for mutually acceptable solutions to the Middle East conflict is an extremely complex and delicate one. Attempts to remove the Palestine Liberation Organization from that process will only make United Nations efforts to that end more difficult.

(Mr. Oudovenko, Ukrainian SSR)

The delegation of the Ukrainian SSR believes that the General Assembly must once again confirm its opposition to the arbitrary lawless acts on the part of the host country against the Permanent Observer Mission of the PLO and call upon the host country strictly to comply with its treaty obligations. The Ukrainian SSR supports draft resolutions A/42/L.46 and L.47 and has joined in sponsoring them. We expect that the United States will take the necessary measures to comply with its obligations under the 1947 Agreement, including its obligations under section 21.

Mr. TANASIE (Romania) (interpretation from French): Mr. President, it is a great pleasure for me to join my colleagues in welcoming you among us again as you conduct, with your customary skills, the work of the forty-second session of the Assembly.

Romania has followed with concern developments in the dispute between the United Nations and the United States over the applicability of the Headquarters Agreement of 26 June 1947 to the Permanent Observer Mission of the Palestine Liberation Organization (PLO).

The Romanian delegation has listened attentively to the statements made by various delegations on this question. We wish to associate ourselves with those delegations which have expressed their gratitude to the Secretary-General for his efforts to guarantee full compliance with the Headquarters Agreement between the United Nations and the host country. Under resolution 42/210 B of 17 December 1987 the Secretary-General has reported to us all the latest developments relating to the measures contemplated by the United States in order to prevent the maintenance of an office or any other premises or facility for the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York that would enable it to perform its official functions. Romania, which has recognized

(Mr. Tanasie, Romania)

the PLO as the legitimate representative of the Palestinian people, has always advocated the establishment of conditions conducive to the proper work of observers of national liberation movements at the United Nations. My Government has long expressed this view. Let me refer in this connection to document A/C.6/437 of 3 November 1975, which was distributed as an official document stating the Romanian position on the strengthening of the role of the United Nations in international affairs.

Romania has always supported United Nations resolutions calling on the host country to do its utmost to guarantee the existence and normal functioning of all the permanent missions, in particular by taking practicable measures to prohibit illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts and activities against the security and safety of missions and representatives.

My delegation has always shared the view that the Permanent Observer Mission of the Palestine Liberation Organization at the United Nations is covered by the provisions of the Headquarters Agreement between the United Nations and the United States and that, consequently, it should be able to establish and maintain appropriate premises and facilities and that the Mission's personnel should be able to enter and remain in the United States in order to carry out their official duties.

We regret that this position, which is fully in keeping with the international obligations assumed by the United States under the Headquarters Agreement of 1947, has been disregarded.

All legal arguments support the positions stated by the Secretary-General in his report A/42/915 on the basis of the Headquarters Agreement and relevant General Assembly resolutions.

(Mr. Tanasie, Romania)

It should be emphasized from the start that the status of the Permanent Observer Mission of the Palestine Liberation Organization derives from its capacity as a mission invited to the United Nations under resolution 3237 (XXIX), adopted by the General Assembly on 22 November 1974. In addition its Mission status is at the same time covered from a legal point of view by the provisions of the 1947 Headquarters Agreement. Under that Agreement, the federal, state and local authorities of the United States should not cause any impediment to be placed in the way of transit to or from the Headquarters district of the United Nations of representatives of organizations admitted to the United Nations. Similarly, the competent United States authorities should provide the necessary protection for those representatives. We should emphasize also that the provisions of the Headquarters Agreement apply without regard to the relations that may exist between the United States Administration and the State or organization represented by whatever permanent mission may be involved.

It should also be noted that, as regards the establishment and maintenance of an observer mission at the United Nations, the policy of the United States as host country is quite beside the point. The presence of the Palestine Liberation Organization at the United Nations constitutes a relationship established exclusively between the two organizations. That is why intervention by the United States in relations that are of concern exclusively to those two organizations cannot go beyond the provisions of the Headquarters Agreement.

My delegation therefore feels that the position stated by the Secretary-General in his report (A/42/915) of 10 February 1988 is perfectly well founded from a legal point of view. That is why, by virtue of the emergence of a dispute between the United Nations and the United States over the application or interpretation of the Headquarters Agreement, it is necessary to resort to the dispute settlement procedure provided for in section 21 of the Headquarters

(Mr. Tanasie, Romania)

Agreement. Meanwhile the host country is obliged to meet its obligations under the Headquarters Agreement and to refrain from taking any measure that would prevent the Permanent Observer Mission of the Palestine Liberation Organization from discharging its official functions.

In conclusion my delegation wishes to reiterate its full support for the efforts made by the Secretary-General to prevent any action or measure that might be detrimental to the normal functioning of the Permanent Observer Mission of the Palestine Liberation Organization. We fully support the draft resolutions that have been prepared on this item. Our support is based on Romania's belief in the need for strict respect for international law and the treaty obligations of States. Strict compliance with international law and the implementation in good faith of obligations assumed by States are of the highest importance for the maintenance of international peace and security, the realization of the objectives of the United Nations and the promotion of friendly relations and co-operation among States.

(Mr. Tanasie, Romania)

My delegation expresses once again Romania's firm belief that, if international security and co-operation are to be strengthened, there is an ever-more-urgent need to find a comprehensive, just and lasting solution to the Middle East conflict. Preventing the Palestine Liberation Organization from carrying out its mission at the United Nations cannot bring about such a solution; on the contrary, what is required is recognition by all States of the Palestinian people's right to self-determination and the prompt convening of an international conference under United Nations auspices. All the parties concerned, including the PLO, the permanent members of the Security Council and all other States that wish to and can make a contribution to the solution of this problem should take part in that conference.

Mr. ALATAS (Indonesia): The forty-second session of the General Assembly has been resumed to consider an issue of far-reaching import and implications for the functioning of our Organization as well as for the principle of the inviolability of treaty obligations.

Indonesia has followed with deepening concern the developments surrounding the enactment of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, Title X - the so-called Anti-Terrorism Act - by the United States. If implemented later this month, that Act would, inter alia, prohibit the establishment or maintenance of an office, headquarters premises or other facilities of the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations within the jurisdiction of the United States.

In anticipation of such action by the United States, the General Assembly, on 17 December last, already moved to adopt resolution 42/210 B. Indonesia co-sponsored that resolution, which essentially called on the host country to refrain from taking any action that would prevent the PLO Mission to the United

(Mr. Alatas, Indonesia)

Nations from discharging its official functions and mandated the Secretary-General to take all necessary measures to ensure full compliance with the 1947 Headquarters Agreement. The United States Congress, however, persisted in its obsessive pursuit of the removal of all legitimate PLO representation from this world body, in flagrant breach of international law and of United States treaty obligations. With the signing into law of this so-called Anti-Terrorism Act by the President of the United States on 22 December 1987, our Organization has thus been presented with the gravest challenge yet to its authority and integrity.

In his lucid report to the Assembly the Secretary-General has detailed the steps he has undertaken in pursuance of resolution 42/210 B. We should like to pay a tribute to the Secretary-General for the patience and perseverance with which he has sought to resolve this issue through negotiation and arbitration. We particularly support his determination to defend the rights of the United Nations under the Headquarters Agreement and to impress upon the host country its legal obligation to continue the existing arrangements governing the functioning of the PLO Observer Mission. In this connection, it is pertinent to recall that by virtue of resolution 3237 (XXIX) the PLO is an invitee of the United Nations and as such is covered by sections 11, 12 and 13 in article IV of that Agreement. These sections, inter alia, prohibit the host country from imposing any impediments on access to and from United Nations Headquarters or on the performance of official functions by anyone invited to the Organization, irrespective of the relations existing between them and the United States.

This solemn responsibility was explicitly acknowledged even by the United States Secretary of State when he said in his letter to the United States Senate dated 29 January 1988 that his Government is indeed under an obligation to permit

(Mr. Alatas, Indonesia)

the PLO Observer Mission personnel to enter and remain in the United States. None the less, the Secretary-General has been constrained to report that the United States has yet to provide an answer as to whether the Act in question is applicable to the PLO personnel accredited to the United Nations. Consequently, the Secretary-General has determined that a dispute exists between the host country and the United Nations concerning the interpretation and application of the Headquarters Agreement and accordingly has invoked the dispute-settlement procedure under section 21 of the Agreement. But on this aspect as well the United States has been less than forthcoming, asserting that the situation is still under review by the Administration and that it would therefore be premature and inappropriate to resort to the procedure. It is profoundly disturbing to my delegation that the resulting impasse appears to have blocked the only legal remedy available to the United Nations. Meanwhile, the time left before the Act is to take effect is quickly running out.

My delegation believes that, in the circumstances, for the Assembly to equivocate will inevitably entail serious and undesirable consequences. For what is at stake is not only the right of the PLO Observer Mission to legitimate and unimpeded representation but, equally, the integrity and credibility of the United Nations itself.

The PLO remains to this day the supreme political embodiment of the valiant Palestinian people, who even at this moment are engaged in a massive uprising against the Israeli oppressor, signaling a new phase in their just struggle to regain their usurped national rights. The PLO is also recognized by the international community as the sole and legitimate representative of the Palestinian people, fully entitled to participate on an equal footing in all efforts and negotiations to achieve a just and comprehensive solution to one of

(Mr. Alatas, Indonesia)

the most explosive conflicts of our time. These fundamental facts cannot be changed - least of all by arbitrary recourse to legalistic contrivance. Neither can we remain impassive while the United Nations is subjected to further insidious assaults on the authority of its decisions.

We believe there is still time for the United States Administration seriously to rethink its position on the issues involved and their wide-ranging ramifications. It can do so by providing the Secretary-General with a clear and unambiguous response to his repeated requests, by either reaffirming its international treaty obligations or acknowledging that a dispute exists between the United Nations and the United States concerning the interpretation and application of the Headquarters Agreement. In the latter case the dispute-settlement procedure contained in section 21 of the Agreement can be set in motion with a view to achieving an equitable and mutually acceptable solution to the problem.

Failing that, however, if the host country persists in procrastination and obfuscation of the issue, then resort to the International Court of Justice for an advisory opinion on this question, in accordance with Article 96 of the Charter and pursuant to Article 65 of the Statute of the Court, can no longer be postponed. We should like to believe - indeed, we sincerely hope - that the prospect for a non-confrontational, lawful solution is still within reach. But that can be assured only if the United States is persuaded to abandon its present course and to refrain from invoking the provisions of its domestic law as justification for its failure or unwillingness to implement its international treaty obligations.

Mr. HOHENFELLNER (Austria): Since this is the first time I have spoken as Permanent Representative of Austria, it is a great pleasure for me to extend my warmest congratulations to you, Sir, in your capacity as President of the forty-second session of the General Assembly.

The item under consideration relates to the question of whether a domestic law passed by the legislative body of the host country of the United Nations would, in its practical application, be compatible with the obligations under international law entered into by the host country in relation to the Organization. This being a question of law, I shall confine myself to commenting briefly on some of the legal aspects of the item under consideration.

The Austrian delegation has taken note of the Secretary-General's position on the status of the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations. We share the Secretary-General's view that the members of the Observer Mission of the PLO are, by virtue of General Assembly resolution 3237 (XXIX), invitees to the United Nations and therefore come within the ambit of section 11 of the Headquarters Agreement of 26 June 1947. That section, together with the subsequent sections 12 and 13, and taking into consideration the Convention on the Privileges and Immunities of the United Nations based on Article 104 of the Charter of the United Nations, which was adopted by the General Assembly on 13 February 1946, leads us to the conclusion that PLO Observer Mission personnel must be permitted to enter and remain in the United States to carry out their official functions at United Nations Headquarters.

It is our understanding from the discussion of the matter during the work of the Sixth Committee that the applicability of the relevant provisions of the Headquarters Agreement to the PLO Observer Mission and its personnel is not being disputed by any delegation, including the delegation of the host country. We regret that the consultations that have taken place since the question was raised

(Mr. Hohenfellner, Austria)

during the debates in the Sixth Committee have not led to a satisfactory solution of the problem.

Sharing the concern of those who have spoken earlier that the absence of a clear commitment by the host country to apply the domestic law in question in a way compatible with the provisions of the Headquarters Agreement would lead to an unacceptable situation, we take note with appreciation of the efforts of the Secretary-General to settle the problem through consultations. Since those consultations have not led to a satisfactory result, we agree that a dispute exists between the United States and the United Nations relating to the interpretation and application of the Headquarters Agreement that should be settled in accordance with the dispute-settlement procedure laid down in section 21 of that Agreement.

In the view of my delegation, therefore, the dispute-settlement procedure in section 21 of the Headquarters Agreement should come into play as soon as possible if no other solution to the problem can be found. Pending the decision of the arbitral tribunal provided for in the Agreement, in accordance with the provisions of the Headquarters Agreement no action on the part of the host country Government should be undertaken to curtail the rights of the PLO Observer Mission.

We trust that the problem under discussion can be settled in accordance with existing obligations under international law.

Mr. DIAKITE (Mali) (interpretation from French): My delegation is pleased to see you, Sir, once more presiding over the work of the forty-second session of the General Assembly, which is now considering agenda item 136, "Report of the Committee on Relations with the Host Country".

The General Assembly, by adopting resolution 42/210 B on 17 December 1987, with its customary wisdom did its utmost to avoid a pointless confrontation between the United Nations and the host country. Resolution 42/210 B requested the host country to abide by its treaty obligations under the Headquarters Agreement and in

(Mr. Diakite, Mali)

this connection to refrain from taking any action that would prevent the discharge of the official functions of the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations. It also requested the Secretary-General to take effective measures to ensure full respect for the Headquarters Agreement and to report, without delay, to the General Assembly on any further development.

In this connection, we should like to pay a tribute to the Secretary-General for his constant efforts since then. The various reports before us are eloquent evidence of those efforts.

While we welcome the work of the Secretary-General in his quest for a successful outcome to the problem now before us, we must nevertheless draw attention to the serious decisions taken by the host country only a week after the adoption of resolution 42/210 B. On 22 December 1987 the measures envisaged by the host country became law when the President of the United States signed and enacted the Foreign Relations Authorization Act for fiscal years 1988 and 1989, Title X of which, containing the 1987 Anti-Terrorism Act, contains certain prohibitions affecting the PLO, inter alia, a prohibition to establish or maintain an office, headquarters premises or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the PLO or any of its constituent groups, any successor, to any of those, or any agents thereof. That decision is fraught with grave consequences. It is a breach of the Headquarters Agreement of 26 June 1947 and creates a disturbing precedent.

The situation that has thus been brought about calls for diligent action by us. After all, it was the General Assembly that, in resolution 3237 (XXIX) of 22 November 1974, invited the Palestine Liberation Organization to participate in

(Mr. Diakite, Mali)

its work with observer status. In that capacity the PLO enjoys the benefit of the provisions of sections 11, 12 and 13 of the Headquarters Agreement. George Shultz, the Secretary of State, placed the problem in its true context in a letter to the United States Senate dated 29 January of this year, in which he stated:

(Mr. Diakite, Mali)

"The Permanent Observer Mission of the PLO represents the PLO at the United Nations. It is not in any sense accredited to the United States. The United States has clearly stated that the personnel of the PLO Permanent Observer Mission are present in the United States solely as invitees of the United Nations within the framework of the Headquarters Agreement. That is why we are under an obligation to permit PLO Permanent Observer Mission personnel to enter and remain in the United States to carry out their official functions at United Nations Headquarters."

Notwithstanding that statement, we now find deadlock prevailing. That is why my Government endorses the Secretary-General's efforts to reach a settlement. His actions are based on section 21 of the Headquarters Agreement, which provides, inter alia:

"Any dispute between the United Nations and the United States concerning the interpretation or application of this agreement ... which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators".

Clearly, a problem of applicability of the Agreement has arisen, and the negotiations that have taken place informally should now be given formal status. Designation by the Secretary-General of an arbiter, if there is to be arbitration, should have a prompt response from the United States Government, because time is running out.

The International Court of Justice should also be seized of the matter, so that it may give an advisory opinion on the matter causing us concern.

My delegation does not want dialogue with the host country to be broken off. Therefore, we appeal to the United States to reconsider its position in order to enable the PLO to carry out its official functions. The measure of which the PLO is a victim has been condemned by people everywhere, at various levels.

(Mr. Diakite, Mali)

Such an attitude will lend support to the many initiatives now under way to find a solution to the Middle East problem, the core of which is the problem of Palestine. My delegation cannot state too often that no definitive, lasting solution will ever be found without the involvement of the Palestinian people in any negotiations and without recognition of the Palestine Liberation Organization as its sole, legitimate representative.

The PRESIDENT (interpretation from Russian): Before I call on the next speaker I should like to make an announcement regarding our programme of work. In view of the large number of speakers who have inscribed their names to speak this afternoon, and with a view to avoiding the extra expense of overtime for the Organization, it is my intention to adjourn this afternoon's meeting at about 6 p.m. and hear the remainder of the speakers in the debate on this item tomorrow morning. The General Assembly will also take action tomorrow on the draft resolutions before it.

It seems to me that this would be the best way to make rational and economic use of the services available for this resumed session.

Mr. TREIKI (Libyan Arab Jamahiriya) (interpretation from Arabic): First, Sir, on behalf of my delegation I congratulate you on your prompt decision to convene this resumed session to consider agenda item 136, in keeping with resolution 42/210 of 17 December 1987. My delegation was very pleased to see you presiding over our deliberations last year, as many advances were made under your presidency, which augurs well for the results of this resumed session.

The United States decision to close the Palestine Liberation Organization (PLO) Permanent Observer Mission to the United Nations is a flagrant violation of international law and custom as well as of the Headquarters Agreement concluded between the United Nations and the United States in 1947. It is also -

(Mr. Treiki, Libyan Arab
Jamahiriya)

and primarily - a political decision, a very dangerous political decision, designed to sweep the Palestinian people out of sight, to reduce them to silence. That is why it is just another facet of what is happening in occupied Palestine and the other occupied Arab territories. Here I refer to the attempts to eliminate the Palestinian people physically and politically.

The decision should be seen in the context of a policy pursued for many years by successive United States Administrations, a policy hostile to the Arab nation and the Palestinian people. The United States Congress has been trying to justify the decision, which was taken after pressure on Congress by the Zionist lobby. However, its justifications are laughable; indeed, terrorism has been invoked. How would Congress describe the massacre of women and children whose bones are broken and who are buried alive under rubble? Is such conduct that of a civilized nation or a democratic State?

The United States Administration's decision is also designed to weaken - indeed, paralyse - the United Nations and prevent it from playing its role. We are all well aware of the virulent criticism regularly made of this international Organization and its Members.

Measures contrary to international law and the Headquarters Agreement have previously been taken against many Member States. To start with there were discriminatory measures, such as staff reductions, provocations of all sorts and the denial or delaying of visas to many Member States. Now a new step has been taken with the adoption of a legally unfounded, illicit decision to close the PLO Office at the United Nations. The previous apathy of the United Nations faced with past abuses has perhaps encouraged the dangerous excesses which we are now witnessing.

(Mr. Treiki, Libyan Arab
Jamahiriya)

The present problem goes beyond the closing of the PLO Office; it is a problem affecting the United Nations as a whole - indeed, the very existence of the United Nations on American soil. After the financial restrictions imposed on the Organization to paralyse its work, its very existence is now threatened.

(Mr. Treiki, Libyan Arab
Jamahiriya)

Should this attempt to close down the PLO Office succeed, and the Act were implemented, it would set in motion a cascade of reactions: other Observer Missions, or those of Member States accredited to the United Nations would be affected.

While we praise the efforts of the Secretary-General and Mr. Fleischhauer, the Legal Counsel, to get us out of this deadlock, and while we pay tribute to the Secretary-General for his report, we cannot over-emphasize the need for a firmer stand against the abuses committed by the host country in respect of the implementation of the Headquarters Agreement to Member States and Observers.

A special session of the General Assembly might well be necessary in order to debate this question in all its aspects, and to consider also its implications for the future of the United Nations.

We reiterate the illegal nature of this decision. We repudiate it. At the same time we call upon the United States to suspend its implementation and to honour its international obligations under the Headquarters Agreement.

Implementation of the United States decision cannot be fought through another decision, and an advisory opinion from the International Court of Justice is not enough either. The true remedy would be to consider the very status of the United Nations in the United States, which continues to commit such abuses and to turn its back on international obligations and the terms of the Headquarters Agreement. This matter should be studied thoroughly should that law be implemented and the host country persist in violating the terms of the Headquarters Agreement.

Mr. GARBA (Nigeria): Mr. President, the Nigerian delegation is pleased that you are able to preside over the resumed session of the forty-second General Assembly of the United Nations. The suspended session was difficult enough and

(Mr. Garba, Nigeria)

rose very late. After that I am sure that you deserved some rest. We would have wished for good counsel to prevail so that it would not have been necessary to recall this Assembly. May I assure you, Mr. President, of the good wishes and co-operation of the Nigerian delegation.

I wish to associate my delegation with the tributes to the late personalities who were associated with and distinguished themselves in the Organization: namely, Mrs. Nora Astorga Gadea, the late Permanent Representative of Nicaragua to the United Nations, and Mr. Sean MacBride, former Commissioner for Namibia. May their souls rest in peace.

The issue before us was considered at earlier meetings of this forty-second session, during the months of September to December, 1987. At that time the Organization clearly expressed its position in the unambiguous resolution 42/210 B. At the heart of the issue is the integrity of the Headquarters Agreement and, by implication, the legal integrity of all Permanent Missions, be they Member States or Observers. A breach of this Agreement in spirit or in letter subverts the United Nations and is a painful violation of the abiding principles of participation in the work of our Organization. The position of the Nigerian delegation is congruent with that reiterated by the Secretary-General in document A/42/915 of 10 February 1988, in which he said:

"... members of the PLO Observer Mission are by virtue of General Assembly resolution 3237 (XXIX) invitees of the United Nations and that the United States is under an obligation to permit PLO personnel to enter and remain in the United States to carry out their official functions at the United Nations under the Headquarters Agreement".

The Palestine Liberation Organization is entitled, by this enabling General Assembly resolution and the Headquarters Agreement, to maintain offices and

(Mr. Garba, Nigeria)

facilities necessary for its effective and unimpeded participation in the affairs of the Organization. We do not think that it should suffer any pressure or harassment from the host Government.

My delegation is not aware of any legal argument by the United States to justify the imminent repudiation of an Agreement it freely entered into. The Headquarters Agreement is a binding international instrument, and this Organization must defend its right under that Agreement, which was freely entered into by the Government of the United States. On both legal and political grounds, the action of the United States Government is not justifiable. Whilst the political argument is well known, and Nigeria firmly and unequivocally supports the Palestinian cause, it is the primacy of the Headquarters Agreement that is of immediate concern here.

It appears to my delegation, from the documents the Secretary-General has made available, that his efforts to have this dispute resolved calmly and with dignity have been delicately and subtly spurned. Our position is that a dispute exists, and we think that the least the host State should do is to allow section 11 of the Headquarters Agreement to prevail. We ask the United States to submit to arbitration as provided in section 21 and we urge that while this is on it should adhere to the Headquarters Agreement by not impairing in any way the functioning of the PIO Office in New York.

Further, we call on the United States to let alone the Palestine Liberation Organization Office and all other bona fide Missions to the United Nations. By doing so it would honour its international obligations and demonstrate its commitment to this Organization. It would also have reassured other Members, Permanent Missions as well as Observers, that they are under no threat.

(Mr. Garba, Nigeria)

Many Missions are beginning to feel that they are under siege, and they do not want to spend their time anticipating what the host Government will do next. We are all aware that in the last two years the United Nations had been put under severe pressure. First, it was financial pressure through the tactic of withholding dues, and now there is a threat to the Headquarters Agreement. The United States should honour its commitment as a Member of the United Nations and fulfil its obligation as our host.

The PRESIDENT (interpretation from Russian): Before calling on the next speaker, I should like to call on the representative of Tunisia, who will introduce the draft resolutions.

Mr. GHEZAL (Tunisia) (interpretation from Arabic): We are convinced of the need to safeguard the inviolability of the United Nations, its independence and Charter, and the Headquarters Agreement concluded between the United Nations and the host country, the United States.

We are also convinced of the need to safeguard the primary role played by the Organization, which provides a unique international framework within which the nations of the world can meet to maintain international peace and security and resolve the disputes and conflicts that may arise and pose a threat. It is also a forum for deliberations and dialogue within the family of nations, with the participation of all parties to a conflict.

On the basis of the foregoing and in keeping with international law and customs, regulating the conduct of States and nations, it is my privilege to introduce the two draft resolutions contained in documents A/42/L.46 and L.47 on behalf of my delegation and the following countries: Afghanistan, Algeria, Bahrain, Bangladesh, Brunei Darussalam, Bulgaria, Burkina Faso, the Byelorussian Soviet Socialist Republic, the Comoros, Cuba, Czechoslovakia, Democratic Yemen, Djibouti, the German Democratic Republic, Ghana, Guyana, India, Indonesia, the Islamic Republic of Iran, Iraq, Jordan, Kuwait, the Lao People's Democratic Republic, Lebanon, the Libyan Arab Jamahiriya, Madagascar, Malaysia, Mali, Malta, Mauritania, Mongolia, Morocco, Nicaragua, Oman, Pakistan, Poland, Qatar, Saudi Arabia, Senegal, Sierra Leone, Somalia, the Sudan, the Syrian Arab Republic, Turkey, Uganda, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United Arab Emirates, Vanuatu, Viet Nam, Yemen, Yugoslavia, Zambia and Zimbabwe.

The General Assembly has resumed its forty-second session in order to continue its consideration of agenda item 136, entitled "Report of the Committee on

(Mr. Ghezal, Tunisia)

Relations with the Host Country". This decision to resume the session because of the Act adopted by the United States Government on 22 December 1987 for the Fiscal Years 1988 and 1989, Title X of which imposes a series of prohibitions on the Palestine Liberation Organization (PLO), particularly the Permanent Observer Mission of the PLO to the United Nations in New York. This demonstrates the host country's total disregard for its obligations under the Headquarters Agreement it concluded with the United Nations.

The two draft resolutions I am introducing were made necessary by the fact that the host country has deliberately turned its back on the praiseworthy efforts of the Secretary-General with the authorities of the host country to reach a settlement of the dispute under the provisions of section 21 of the Headquarters Agreement, and the fact that the host country has turned a deaf ear to the appeal of the Secretary-General to enter into arbitration and appoint their representative to the arbitration tribunal after all attempts to bring about an amicable solution had failed. The first draft resolution, A/42/L.46, states in its operative paragraphs:

"Supports the efforts of the Secretary-General and expresses its great appreciation for his reports;

"Reaffirms that the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York is covered by the provisions of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations and that it 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 of America to carry out their official functions;

(Mr. Ghezal, Tunisia)

"Considers that the application of Title X of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, in a manner inconsistent with paragraph 2 above would be contrary to the international legal obligations of the host country under the Headquarters Agreement;

"Considers that a dispute exists between the United Nations and the United States of America, the host country, concerning the interpretation or application of the Headquarters Agreement, and that the dispute settlement procedure set out in section 21 of the Agreement should be set in operation;

"Calls upon the host country to abide by its treaty obligations under the Agreement and to provide assurance that no action will be taken that would infringe on the current arrangements for the official functions of the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York;"

"Requests the Secretary-General to continue in his efforts in pursuance of the provisions of the Agreement, in particular section 21 thereof, and to report without delay to the Assembly;

"Decides to keep the matter under active review."

(Mr. Ghezal, Tunisia)

We believe that we must bear in mind the date of entry into force of the legislation; for that reason we would request that the present session not be suspended until it is decided that the work of the forty-second session will be resumed should there be new developments that make that necessary.

I turn now to draft resolution A/42/L.47. It is mainly concerned with placing this matter before the International Court of Justice, the highest international legal body, as provided for in the Headquarters Agreement, and requesting the Court to render an advisory opinion. The draft resolution considers the two reports of the Secretary-General and recalls other General Assembly resolutions. It takes into account the provisions of the Statute of the International Court of Justice, in particular Articles 41 and 68 thereof. By the operative part, the General Assembly would decide, in accordance with Article 96 of the Charter, to request the International Court of Justice, in pursuance of Article 65 of the Statute of the Court, for an advisory opinion on the following question, taking into account the time constraint: Is the United States of America, as a party to the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, under an obligation to enter into arbitration in accordance with section 21 of the Agreement?

I wish in conclusion to express the hope that the host country, the United States, will provide the United Nations with guarantees sufficient to show that it will not put into effect its decision, which would hamper the work of the PLO Mission to the United Nations.

Mr. CHAGULA (United Republic of Tanzania): First of all, Mr. President I should like to express our appreciation to you personally and to the Secretary-General for reconvening the forty-second session of the General Assembly to continue deliberations on agenda item 136, entitled "Report of the Committee on Relations with the Host Country".

(Mr. Chagula, United Republic
of Tanzania)

It cannot be denied by anyone that there now exists a dispute between the United Nations and the United States of America as host country concerning the interpretation and application of the Headquarters Agreement of 26 June 1947. Tanzania believes that the dispute can be settled amicably through the procedures set out in section 21 of the Headquarters Agreement. All facts cited by the Secretary-General in his reports of 10 and 25 February 1988 (A/42/915 and Add.1) indicate that it is the host country which is delaying the search for a quick solution to this problem. *

Tanzania holds the view that the Permanent Observer Mission of the Palestine Liberation Organization (PLO) is covered by the Headquarters Agreement of 26 June 1947 between the United Nations and the United States of America and that therefore the host country is legally obliged to accord to the PLO all necessary facilities so it can carry out its official functions. It will be recalled that the PLO Observer Mission in New York was established by General Assembly resolution 3237 (XXIX) of 22 November 1974, which invited the PLO to participate as an Observer in the sessions and work of the General Assembly. Thus, the PLO is accredited not to the United States of America but to the United Nations. That fact was acknowledged by the letter sent by the United States Secretary of State to the United States Senate, which stated that the "PLO Observer Mission represents the PLO in the United Nations. It is in no sense accredited to the United States". As it is also covered by Article 105 of the United Nations Charter, the PLO may in addition enjoy such privileges and immunities as are necessary for it to carry out its official functions in connection with the Organization.

*Mr. Perera (Sri Lanka), Vice-President, took the Chair.

(Mr. Chagula, United Republic
of Tanzania)

By granting permanent observer status to the PLO, the international community, through the United Nations, recognized the inalienable rights of the Palestinian people. Therefore, preventing the PLO from carrying out its functions in the United States through its Permanent Observer Mission to the United Nations would be tantamount to withdrawing that recognition and would make even more difficult the negotiations for convening the proposed international peace conference to settle the Middle East conflict.

Tanzania reiterates its firm support for a just, lasting and comprehensive solution to the Palestinian problem. We still firmly believe that the only way left to solve this vexing problem is an international conference on the Middle East question, under the auspices of the United Nations, with the participation on an equal footing of all the parties concerned, including the five permanent members of the Security Council, the countries of the region and the PLO itself.

While we had thought that the conference would make a solution to the Middle East problem imminent, we are now facing yet another problem: that of the offices of the PLO Mission to the United Nations being threatened with closure by the host country. That means that the PLO is being deprived of its association with the United Nations, which is the main forum for its struggle to regain its lost homeland - ironically, at a time when the end of the struggle appears to be in sight.

The issue here is simply that the host country is violating the established principles of international law by undermining an international agreement. Since the host country entered into the Headquarters Agreement of its own free will, it is obliged to fulfil its obligations under that Agreement in good faith.

(Mr. Chagula, United Republic
of Tanzania)

The issue becomes more complicated when a party to the dispute denies the existence of the dispute and thus refuses to comply with relevant settlement procedures. In this particular case, the host country refuses even to enter into the settlement procedures provided for under section 21 of the Agreement. However, section 21 of the Headquarters Agreement does also provide for a mandatory referral to arbitration where negotiation or other agreed mode of settlement has failed.

In this regard we call upon the host country to review its position and take the necessary steps to prevent the implementation of its law, which aims at outlawing the PLO Observer Mission to the United Nations in the United States. The host country should abide by its treaty obligations so as to implement General Assembly resolution 42/210 B of 17 December 1987, which was opposed by only one Member State. We also reaffirm our full support for the struggle of the Palestinians for their inalienable right to self-determination and independence and reiterate that their cause is a legitimate one and should be upheld. In the meantime we fully support the view that an advisory opinion of the International Court of Justice on the matter should be sought urgently and the dispute settled by arbitration. We therefore call upon the host country to co-operate in this matter in the appointment of its arbitrator in accordance with section 21 of the Headquarters Agreement.

It will indeed be a very dark and sad day for the international community and for multilateralism when the host country ignores the pleas and arguments presented in this Assembly and proceeds to close the PLO Observer Mission to the United Nations. However, even at this late hour my delegation is still optimistic that the people of the United States of America will not permit this to happen.

Mr. PEÑALOSA (Colombia) (interpretation from Spanish): First of all I wish to express the gratitude of my delegation for the Secretary-General's report to the Assembly.

(Mr. Peñalosa, Colombia)

Colombia wishes to take part in the debate that has arisen with regard to the interpretation and application of the Agreement concluded in 1947 between the United Nations and the United States of America, the host country to this Organization.

Undoubtedly this is a juridical dispute which goes to the very foundations of the world Organization, because what is being discussed, as has been so well pointed out by several representatives, including this morning by the representative of Poland, in essence is the validity of the principle pacta sunt servanda, or the good faith compliance with treaties or international commitments.

Our country took the initiative in proposing this principle at the San Francisco Conference and today it is enshrined in the Preamble and Article 2 of the Charter. It is undoubtedly one of the fundamental pillars of international law and coexistence.

That is why Colombia is concerned about the fate of this Agreement, particularly when, in order to avoid complying with it, domestic legislation is invoked, such as for example the law of 22 December 1987 passed by the United States as host country to the United Nations. It is a law that would simply deny the right of the Palestine Liberation Organization (PLO) to maintain a permanent mission and to participate in the proceedings of all United Nations bodies. Colombia cannot agree with this position since the force of international law can never be subject to the caprices of States; still less can it agree when the Vienna Convention of 1969 on the Law of Treaties itself states quite clearly that no State may invoke domestic legislation to justify failure to comply with an international treaty.

The delegation of Colombia supports the efforts of the Group of Arab States and other nations to find a just and reasonable solution to the impasse that has arisen between the United Nations and the United States.

(Mr. Peñalosa, Colombia)

However, Colombia would draw attention to the provision in section 21 of the 1947 Agreement, which states that any dispute concerning its interpretation or application should be referred to arbitration and that if juridical doubts exist with regard to the application of that procedure an advisory opinion of the International Court of Justice may be sought. In our view this is an appropriate way to solve disputes and gives the parties viable and concrete options.

Mr. MENDEZ (Philippines): I should at the very outset like to say how gratified the Philippine delegation has been to see the President again presiding over this body. We are confident that the membership will continue to benefit at this resumed session from his vast experience, finely honed diplomatic skills and leadership exemplified by his prompt response to the needs of the present moment. We have no doubt that he will leave a distinctive and distinguished imprint on this resumed session much as he did at our earlier one.

The views of the Philippines on the question of Palestine itself are well known and need no elaboration here. Suffice it to say that the Philippines recognizes the PLO as the sole legitimate representative of the Palestinian people and favours the free exercise of their inalienable right to self-determination. We deplore the unabated violence and violations of human rights in the Israeli-occupied Arab territories of the West Bank and Gaza.

(Mr. Mendez, Philippines)

On the agenda item at hand, the Philippine delegation, like those of most if not all United Nations Members, is deeply concerned over recent developments relating to the status of the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations. In common with others, we were apprehensive last year of the probable outcome of legislative action the host country was then considering, and of the lot which might befall the PLO Observer Mission in New York as a result. The Philippines therefore voted together with 144 other Member States in favour of resolution 42/210 B, which the General Assembly adopted on 17 December 1987. My delegation hoped then that the host country would heed the General Assembly's request

"to refrain from taking any action that would prevent the discharge of the official functions of the Permanent Observer Mission of the Palestine

Liberation Organization to the United Nations". (resolution 42/210 B, para. 2)

Unfortunately, that request has gone unheeded, and our worst fears have been realized.

The Philippine delegation regrets the totally unnecessary and unwarranted disturbance in arrangements which have been in force without question or incident for nearly a decade and a half. We believe the imminent closing of the PLO Observer Mission evokes first and foremost a fundamental and significant question of principle having to do with the prerogatives of the United Nations and with far-reaching implications for its long-term effectiveness and viability. In addition, it poses a technical legal question involving treaty rights and obligations of the United Nations and the host country.

As regards the issue of principle, the question is whether the United Nations should have the right to invite to its Headquarters, for such transactions or ongoing relationships as it considers necessary or desirable, any entities or

persons of its choice, be they Government representatives, observers, staff, technical assistance experts, consultants, contractors, or others. To ask the question is to answer it: Very obviously, the Organization must have such a right. A United Nations without it is inconceivable and unthinkable.

The necessary corollary of that right is that no Member or even non-Member State, whether a host country or not, should have a veto power, external to the United Nations itself, as to any decision the United Nations may take to deal with any entities or persons, or the places or duration of its transactions with them. Moreover, the practice at United Nations Headquarters in New York should set a high standard, the example for other locations.

In the case of the PLO and other observer missions, they are accredited to the United Nations no less for purposes of discussion than are full Members. The lines of relationships flow to the Organization itself, not to the host country, and the United Nations must have every facility necessary to maintain and carry on those relationships.

My delegation believes those to be self-evident truths, essential to the Organization's very survival, and the *raison d'être* of Articles 104 and 105 of the Charter as well as the United Nations Convention on Privileges and Immunities, the Headquarters Agreement with the host country, and like provisions in agreements covering United Nations offices away from Headquarters. The Organization's rights in this respect, deriving as they do from its very being, would exist even without the Privileges and Immunities Convention or those Headquarters and other agreements.

The second question is a technical legal one of whether a violation would in fact be committed if the PLO Observer Mission to the United Nations were to be prevented from maintaining its premises in New York. Again we submit that the answer is in the affirmative.

That the Palestine Liberation Organization has a legal right to maintain an Observer Mission in New York is beyond doubt. As we all know, the Mission's

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establishment was a consequence of Assembly resolution 3237 (XXIX) of 22 November 1974, which invited the Palestine Liberation Organization to participate, in the capacity of observer, in the sessions and work of the General Assembly and all international conferences convened under the auspices of other organs.

As invitees to the United Nations, the PLO Observer Mission is covered by the Headquarters Agreement of 26 June 1947 between the United Nations and the United States, section 11 (5) of which enjoins authorities of the United States not to impose impediments on transit by such invitees to United Nations Headquarters. It bears repeating that even if such an agreement with that stipulation did not exist, the PLO would have the same legal right to an office in New York directly under Article 105 (1) of the Charter, which confers on the Organization such privileges and immunities in the territory of each of its Members as are necessary for the fulfilment of its purposes. The Headquarters Agreement, the General Convention on United Nations Privileges and Immunities, and other international instruments on privileges and immunities do not circumscribe or negate Article 105 of the Charter, which remains legally capable of direct application.

The Philippine delegation is therefore at one with the Secretary-General and the General Assembly in the position that there exists a treaty obligation on the host country to permit PLO Observer Mission personnel to enter and remain in the United States to carry out their official functions at United Nations Headquarters. Equally, we share the view that any action of the host country which curtails the PLO Observer Mission in the performance of its official functions would be a breach of the Headquarters Agreement, in particular its sections 11, 12 and 13, as well as the United Nations Charter itself.

Those legal conclusions have commanded virtually unanimous support from our membership, including, as we understand it, authorities of the host country

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itself. No less than the Secretary of State of the United States, Mr. George Shultz, came to the same conclusion in his letter of 29 January 1987 to the United States Senate, in which he recognized that the United States is

"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". (A/42/26, para. 46)

To argue these conclusions at great length is thus unnecessary. While my delegation appreciates the forthright and responsible attitude of the Executive Branch of the host country, it is not for us to look beyond it and engage others in discussion.

As we consider the item before us, let us remind ourselves of the obligations of Member States based on the purposes and principles of the Organization as embodied in the United Nations Charter. More important by far than a mere routine legal instrument, it constitutes an international social contract, the hoops of steel which bind together this august gathering of nations. No valid and existing treaty obligation should be rendered sterile - much less one with the United Nations designed to give effect to the Charter.

The Philippine Government therefore declares its unequivocal support for any measure the Secretary-General and the General Assembly may take towards legal and judicial affirmation of a decade-and-a-half-old arrangement on PLO representation, and the legal foundation underlying that arrangement. This includes a resort to section 21 of the Headquarters Agreement - that is, arbitration or a request for an advisory opinion from the International Court of Justice on the basic legal question or any of its elements. With time running out, we believe, moreover, that the Secretary-General is fully justified in invoking the arbitration clause and playing out his role under it, notwithstanding the other party's omission to do so.

(Mr. Mendez, Philippines)

I cannot end this statement without voicing the Philippine delegation's deep appreciation to the guardians and custodians of the privileges, immunities, and legal facilities of the United Nations - the Secretary-General, the Legal Counsel and the capable United Nations legal staff, my former colleagues. Their unrelenting efforts to head off the slings and arrows launched against the PLO Observer Mission, to safeguard the integrity of the United Nations régime on privileges and immunities, and press ahead towards a judicial, definitive settlement of this matter, all the while keeping us closely informed, truly deserve our recognition and acclaim.

Let us move forward with optimism and hope that the PLO will remain able to maintain its Observer Mission at Headquarters, and that the outcome of the forthcoming arbitration will be accepted as final and honoured by the other party concerned, to the end that this matter may be resolved without consequences beyond the contemplation of those who instigated it.

Ms. NGUYEN BINH THANH (Viet Nam): The delegation of Viet Nam wishes to express to the President its deep appreciation for the timely reconvening of this session of the General Assembly. I believe that his outstanding experience, talent and dedication, clearly exemplified during the current session, will help us achieve concrete, practical results.

Since last fall the General Assembly has voiced its great concern about steps taken by the host country towards making unlawful in this country the establishment and maintenance of the Palestine Liberation Organization (PLO) Permanent Observer Mission to the United Nations. The General Assembly, by its resolution 42/210 B, consequently requested the host country to abide by its treaty obligations under the Headquarters Agreement and to refrain from taking any action that would prevent the discharge of the official functions of that Mission.

(Ms. Nguyen Binh Thanh, Viet Nam)

With the authorization given by resolution 42/210 B, the Secretary-General has made patient and tireless efforts to ensure full respect for the Headquarters Agreement and the discharge by the PLO Mission of its official functions without impediment. In this regard, we wish to convey our appreciation to the Secretary-General. We are in full agreement with his views and his position on the question as expressed in his report (A/42/915) of 10 February.

However, despite appeals by the United Nations, the proposed legislation was signed into law on 22 December 1987, which will mean closure on 21 March this year of the PLO Mission in New York. Such action by the host country constitutes a serious violation of the Headquarters Agreement it signed in 1947 with the United Nations, under which the host country is obliged to ensure the discharge by that Mission of its official functions without any impediment.

The PLO Mission has been in New York for 13 years, in accordance with resolution 3237 (XXIX) of 22 November 1974 and the Headquarters Agreement, as it is within the authority of the United Nations under that Agreement to invite to Headquarters on official business persons who will be entitled to the privileges provided for in the Agreement. We support the views of the Secretary-General, expressed in the following statement by a spokesman on 22 October 1987:

"The members of the PLO Observer Mission are, by virtue of resolution 3237 (XXIX), invitees to the United Nations. As such, they are covered by sections 11, 12 and 13 of the Headquarters Agreement of 26 June 1947. There is therefore a treaty obligation on the host country to permit PLO Observer Mission personnel to enter and remain in the United States to carry out their official functions at United Nations Headquarters".

This was further reaffirmed when the General Assembly last December adopted resolution 42/210 B almost unanimously.

(Ms. Nguyen Binh Thanh, Viet Nam)

While we support the tireless efforts of the Secretary-General to find a satisfactory solution to the problem, we share his conclusion that there exists a dispute between the United Nations and the United States concerning the interpretation and application of the Headquarters Agreement. It is therefore necessary to proceed without delay to the dispute settlement procedure set out in section 21 of the Agreement. While noting with concern that the host country is still evaluating the situation, we urge it immediately to enter formally into negotiations with the United Nations, as provided for in the dispute settlement procedure.

The PLO has long been recognized by the United Nations as the sole, legitimate representative of the Palestinian people. Implementation of the decision to close the PLO Observer Mission to the United Nations will demonstrate an unfriendly attitude towards the just struggle of the Palestinian people and at the same time create a dangerous precedent with regard to the presence of other national liberation movements at this universal body. The General Assembly should at this session seek every effort and measure to ensure that the PLO's right to establish and maintain its Mission to the United Nations shall be safeguarded. Viet Nam reiterates its constant, full support for and solidarity with the heroic Palestinian people and its representative, the PLO. We therefore decided to sponsor draft resolutions A/42/L.46 and L.47 now before the Assembly. Our Organization, while making every effort to find a satisfactory solution, must see assurances that the present arrangements for the PLO Mission will not be curtailed or otherwise affected.

Mr. JAYA (Brunei Darussalam): My delegation wishes to thank the President for his wisdom in responding to the request by Members that he convene and resume the forty-second session. It was a request on an urgent matter, one which we must decide the viability of the Headquarters Agreement.

(Mr. Jaya, Brunei Darussalam)

We meet in the resumed session under unusual circumstances of having to call on the host country to abide by its international obligations in respect of the Headquarters Agreement signed between the United States, as the host country, and the United Nations.

In this regard, Brunei Darussalam believes that the Act passed by Congress, which seeks to close the PLO Permanent Observer Mission to the United Nations, if implemented, is in violation of the specific provisions in the Headquarters Agreement.

The United Nations, as an international organization that works for the promotion and maintenance of international peace and security, must not be impeded in its work. The Headquarters Agreement of 26 June 1947 is, in general, to ensure that the United Nations will be able to function without impediment from the host country. It is regrettable, however, that the United States, a permanent member of the Security Council and one of the original signatories of this august body, should be responsible in any way for undermining the authority and independence of the United Nations by its violation of the Headquarters Agreement.

The PLO is an invitee of the United Nations by virtue of resolution 3237 (XXIX) of 22 November 1974 and shall therefore remain an invitee until the General Assembly decides otherwise. As such, under the Headquarters Agreement, the United States is under an obligation to allow the PLO personnel to discharge their official functions without infringement from the host country, as provided for by sections 11, 12 and 13 of the Headquarters Agreement.

Brunei Darussalam truly regrets the planned move by the United States to close the PLO Permanent Observer Mission to the United Nations just at the time when Secretary of State Mr. George Shultz is currently embarking on a Middle East peace plan. We have long contended that the PLO, as the legitimate and sole

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representative of the Palestinian people, must be included in any negotiation leading to a peaceful settlement. In my delegation's view it is not possible to envisage a settlement without the participation of the PLO. We therefore regard the move by the host country to close the PLO Office as counter-productive to any effort pursued by Secretary Shultz with a view to achieving a durable peace in the Middle East. The PLO Office in New York has made immense contributions not only in finding a peaceful settlement to the Arab-Israeli conflict but also in others. In our reckoning, the PLO Office has discharged its functions faithfully within those defined by the United Nations Charter.

While the future of the PLO Office in New York hangs in the balance as a result of the Act signed by the President of the United States, we ponder on the implication of the implementation of such an Act on the status of the Headquarters Agreement. The Headquarters Agreement is an internationally binding treaty which must be respectfully complied with by the host country. Non-compliance by the host country with certain provisions of the Agreement is indeed a violation of the Agreement. This will set an unhealthy precedent in relations between the host country and the United Nations and may adversely affect the effectiveness of the United Nations as a whole.

My delegation is of the view that, if there is a dispute between the United Nations and the United States concerning the interpretation or application of the Headquarters Agreement over the status of the PLO Observer Mission, the procedure set out in section 21 of the Headquarters Agreement must be accordingly invoked. We therefore fully support the effort of the Secretary-General in his endeavour to find an amicable settlement and to refer it to the International Court of Justice, if necessary.

(Mr. Jaya, Brunei Darussalam)

My delegation would like to conclude its statement on a hopeful note, hopeful because Secretary Shultz himself, in his letter to the United States Senate on 29 January 1987, has pointed out that the United States

"... is 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".

Let us therefore hope that much weight will be given to the views of Secretary Shultz, as the ramifications of rejecting such views may be far-reaching.

Mr. DELPECH (Argentina) (interpretation from Spanish): First of all, I wish to say how very pleased we are to see the President of the Assembly back with us after the break in our work. This prompts us to renew our gratitude to him for his performance during the first part of the session.

Last December the Assembly viewed with concern the situation which had arisen in connection with a measure being considered by the host country, which could impede the discharge of the official function of the Permanent Observer Mission of the PLO at the United Nations. At the time, resolution 42/210 B reiterated that the PLO Observer Mission was covered by the terms of the Headquarters Agreement and that that Mission 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. Consequently, the host country was also asked to refrain in this connection from taking any action contrary to its obligations.

In the light of the uncertainty prevailing at the time of the adoption of that resolution, the General Assembly decided to continue to keep the matter under active review. Unfortunately, a few days later its concern proved to be well

(Mr. Delpech, Argentina)

founded. On 22 December 1987 the Act establishing prohibitions regarding the PLO was signed into law by the President of the United States.

From the Secretary-General's report it becomes evident that his efforts have proved fruitless. We wish to express special thanks to Secretary-General Perez de Cuellar and the Legal Counsel for the dedication and determination with which they carried out their mission.

We regret that so far no satisfactory response has been received from the hos Government and, as the latest report indicates, "there have been no substantive developments which could be reported". (A/42/915/Add.1, para. 1)

There can be no doubt that a dispute exists and that the procedure provided for in section 21 of the Headquarters Agreement should be entered into to resolve it. We are pleased to see that the United Nations has appointed its arbitrator, Mr. Eduardo Jimenez de Arechaga, an eminent jurist. Our Government and the Chilea Government have already shown their confidence in his abilities by inviting him to preside over the Argentine-Chilean Permanent Conciliation Commission, established in the Treaty of Friendship and Peace, signed in the Vatican at the end of 1984.

(Mr. Delpech, Argentina)

Our delegation shares the concern expressed here by the international community, and our position in this regard is quite clear. The members of the PLO Observer Mission have been invited by the General Assembly under resolution 3237 (XXIX), and accordingly they are protected by the terms of the Headquarters Agreement. Failure to recognize that situation from a legal point of view would mean disregarding the existence of a contractual obligation. This would constitute a precedent with grave implications for the rights of all the Missions accredited to the Organization. From a political point of view, closing down the Permanent Observer Mission would mean denying this forum a crucial voice at a time when a just and lasting solution is being sought to the question of Palestine and when, perhaps more than ever before, tension and repression are on the rise in the occupied Arab territories.

We have taken note of the most encouraging statements made by the Secretary of State of the host country. Nevertheless, the news these days seems to suggest that the new provisions could, in fact, be implemented. We urge the Government of the United States to continue to live up to its responsibilities as host country for the United Nations and that in this respect it refrain from implementing the new legislation regarding the Permanent Observer Mission of the PLO, or that it agree to the procedure for settling disputes laid down in the Headquarters Agreement. Hence we support the draft resolutions just introduced by the representative of Tunisia in documents A/42/L.46 and L.47.

Mrs. DIAMATARIS (Cyprus): The issue being considered during this resumed forty-second session of the General Assembly is of paramount importance, having a direct effect on the United Nations as a whole and constituting a serious impediment to the capacity of the United Nations to perform its responsibilities and functions.

(Mrs. Diamataris, Cyprus)

The legislation adopted by the host country - by virtue of which the Palestine Liberation Organization (PLO) is prohibited "to establish or maintain an office, headquarters, premises or other facilities or establishments within the jurisdiction of the United States" is in clear violation of its obligations under the Headquarters Agreement entered into in 1947 by the United Nations and the United States of America.

By its resolution 42/210 B of 17 December 1987, adopted with near unanimity, the General Assembly clearly defined the position of the United Nations as regards the issue, by stipulating, inter alia, that:

"The members of the Palestine Liberation Organization Observer Mission are, by virtue of resolution 3237 (XXIX), invitees to the United Nations. As such, they are covered by sections 11, 12 and 13 of the Headquarters Agreement... There is therefore a treaty obligation on the host country to permit Palestine Liberation Organization Observer Mission personnel to enter and remain in the United States to carry out their official functions at United Nations Headquarters."

Furthermore, the Permanent Observer Mission of the PLO to the United Nations in New York, being covered by the provisions of the Headquarters Agreement, should be enabled to establish and maintain premises and adequate functional facilities. In this connection the host country was requested to abide by its treaty obligations and refrain from taking any action that would prevent the discharge of the official functions of the PLO Permanent Observer Mission.

Recent developments on the issue, as outlined in the Secretary-General's reports contained in documents A/42/915 and Add.1 of 10 and 25 February 1988, point to the fact that, regrettably, no satisfactory solution to the problem has so far been found, despite a series of consultations between the United Nations and the host country.

(Mrs. Diamataris, Cyprus)

We therefore fully share the Secretary-General's position that under the present circumstances a dispute exists between the United Nations and the United States concerning the interpretation and application of the Headquarters Agreement. The Secretary-General, therefore, has appropriately invoked the dispute settlement procedure set out in section 21 of the Agreement, informed the Legal Adviser of the State Department of the United Nations choice of Mr. Eduardo Jimenez de Arechaga, as arbitrator, in the event of an arbitration under that Agreement, and requested the host country to nominate its own arbitrator.

In the absence of an immediate indication by the host country of its intentions, and bearing in mind the constraints of time which require the immediate operation of the dispute settlement procedure, in accordance with section 21 of the Agreement, we find it necessary, and indeed entirely appropriate, for the General Assembly to seek from the International Court of Justice an advisory opinion on the question. We therefore fully subscribe to the provisions of the draft resolutions before us.

In conclusion, we join with the Secretary-General and all previous speakers who expressed the hope that, even at this late stage, a way could be found for the host country to reconcile its domestic legislation with its international obligations by ensuring full respect for the spirit and letter of the Headquarters Agreement; however, should circumstances require, the host country should agree to the utilization of the dispute settlement procedure provided in section 21 of the Agreement so that the existing dispute can be settled through strict adherence to the principle of the rule of law in international relations.

Mr. ALZAMORA (Peru) (interpretation from Spanish): Respect for treaties is the very basis of international coexistence and unrestricted observance of the

(Mr. Alzamora, Peru)

Headquarters Agreement is a sine qua non for the existence of the United Nations as the institution which represents this international coexistence.

As we were reminded yesterday by the representative of Zimbabwe, speaking as Chairman of the Non-Aligned Movement, the cardinal principle of international law is that of pacta sunt servanda. Treaties must be observed and international obligations must be met in good faith, because respect for law is the ultimate guarantee of international order.

If we were to accept in any way the claim that the membership of the United Nations is subject to the discretion of one State, we would be setting a very bad precedent which could be used in future to lead to a further disqualification and inexorably to the disappearance of the United Nations as an independent and autonomous institution.

Hence what is at stake here are the fundamental values of the Organization, as the Secretary-General, whose firm and timely action we support wholeheartedly, gave us clearly to understand. We similarly support the decision of the General Assembly, to resume this session to consider the situation and adopt the necessary measures on the basis of the proposals we have before us.

If from the juridical standpoint the position of the United Nations is unassailable, from the political standpoint the dramatic events of recent weeks have demonstrated to us that what is more indispensable than ever now is the presence in this forum and the participation in its debates of the organization that represents one of the parties to the conflict.

(Mr. Alzamora, Peru)

In these circumstances, it is not only illegal but counter-productive to attempt to silence the voice of the Palestinian people in this Organization. There is an old political saying in my country: "When you close the door on legality you open the door to violence". And, as history teaches us, attempting to silence a voice by force has always led to a clamour of many other voices intensifying and proliferating the message.

Even so, we must preserve the essentially juridical character of today's debate in order clearly and firmly to stress the legal basis for the impregnable position of the United Nations and for the action of the Secretary-General to safeguard the values and principles that are at stake.

We see the interaction of forces in the host country and the constructive efforts to reach a positive solution to this problem, which affects the international legality that provides the basis and guarantee on which this Organization was conceived and established. But we cannot shirk our own responsibility. We must speedily adopt all the preventive measures necessary for the effective defence of the United Nations.

For those imperative reasons of principle, and because of our unswerving position of respect for treaties and our commitment to the international legal order this Organization must embody, the delegation of Peru will support the draft resolutions before the Assembly.

The meeting rose at 6.15 p.m.