



General Assembly

MAR 25 1988

PROVISIONAL

A/42/PV.106
22 March 1988

ENGLISH

Forty-second session

GENERAL ASSEMBLY

PROVISIONAL VERBATIM RECORD OF THE ONE HUNDRED AND SIXTH MEETING

Held at Headquarters, New York,
on Monday, 21 March 1988, at 10 a.m.

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

- Report of the Committee on Relations with the Host Country: Report of the Secretary-General [136] (continued)

This record contains the original text of speeches delivered in English and interpretations of speeches in the other languages. The final text will be printed in the Official Records of the General Assembly.

Corrections should be submitted to original speeches only. They should be sent under the signature of a member of the delegation concerned, within one week, to the Chief, Official Records Editing Section, Department of Conference Services, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

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

AGENDA ITEM 136 (continued)

REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY: REPORT OF THE SECRETARY-GENERAL (A/42/915/Add.1-3)

The PRESIDENT (interpretation from Russian): The Assembly will now resume its consideration of agenda item 136, "Report of the Committee on Relations with the Host Country."

I call upon the first speaker for this morning, the representative of Cuba, as Acting Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People.

Mr. ORAMAS OLIVA (Cuba) Acting Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (interpretation from Spanish): I should like to thank you, Sir, for giving me this opportunity as Acting Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People to speak in the General Assembly on a question of the utmost seriousness, not only for our Committee but also for the Organization as a whole.

It is regrettable that the Assembly has had to meet for the second time in less than two weeks to consider the decision of the host country to shut the Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations. Now, at a time when the situation in the occupied territories is worsening; now, when it is more urgent than ever before to reach a negotiated settlement, such a measure will be counter-productive and will jeopardize the cause of peace. More than 13 years ago, when General Assembly resolution 3237 (XXIX) was adopted, the Assembly invited the PLO to participate in the sessions and work of the General Assembly and in all international conferences convened under the auspices of the General Assembly. In resolution 3375 (XXX) the Assembly expressed

(Mr. Oramas Oliva, Acting Chairman,
Committee on the Exercise of the
Inalienable Rights of the Palestinian
People)

its conviction that the invitation of the Palestine Liberation Organization, the representative of the Palestinian people, to participate in all efforts, deliberations and conferences on the Middle East, was essential for the solution of the question of Palestine, the crux of the conflict in the Middle East.

That is the position of the overwhelming majority of the States Members of the United Nations, one that has repeatedly been reaffirmed in recent years. The magnitude and strength of the Palestinian uprising in the occupied territories has made it clear that that position is even more justified today than ever before. Therefore, to shut the Observer Mission of the PLO to the United Nations would be to deprive one of the parties to the conflict of the right to participate in United Nations efforts to bring about a comprehensive, just and lasting settlement of the question. Such a decision would further obstruct such efforts.

Our Committee regrets this decision taken by the host country, in particular because of the statement made on 2 March by that country's representative of the General Assembly, in which he said that the Government of the United States

"will consider carefully the views expressed during this resumed session,"

(A/42/PV.104, p. 59)

and went on to state:

"It remains the intention of this Government to find an appropriate resolution of this problem in the light of the Charter of the United Nations, the Headquarters Agreement and the laws of the United States." (Ibid.)

As we know, every country that participated in the debate on this question expressed opposition to the proposed measure, considering it a violation of the Headquarters Agreement. They expressed their concern at the consequences such a decision might have for the future of the Organization and they urged the

(Mr. Oramas Oliva, Acting Chairman,
Committee on the Exercise of the
Inalienable Rights of the Palestinian
People)

host country to respect the obligations it had undertaken under the Agreement. Resolution 42/229 A reaffirmed that the provisions of the Headquarters Agreement were applicable to the Observer Mission of the PLO and urged the host country to abide by the Agreement. That resolution was adopted by the overwhelming majority of 143 to 1.

(Mr. Oramas Oliva, Acting
Chairman, Committee on the
Exercise of the Inalienable
Rights of the Palestinian
People)

However, as is stated in the Secretary-General's report (A/42/915/Add.2), the Attorney General of the United States has determined that he is required by the Anti-Terrorism Act of 1987 to close the office of the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations

"irrespective of any obligations the United States may have under the Agreement between the United Nations and the United States regarding the Headquarters of the United Nations". (A/42/915/Add.2, para. 4)

The Attorney General also informed the Secretary-General that his Government believed that

"submission of this matter to arbitration would not serve a useful purpose".

(Ibid.)

In those circumstances, our Committee vigorously echoes the protest made by the Secretary-General in his report, and we sincerely thank him for, and support, the efforts he has made, as the main custodian of the Headquarters Agreement, to resolve this regrettable controversy.

As has been repeatedly stated in the debate in the regular session and the resumed session, the host country's decision goes beyond the status of the Observer Mission of the PLO, threatening the independence and integrity of the Organization itself. Under the Headquarters Agreement, the Organization's legal status in the territory of the host country is defined. The Agreement allows the United Nations to carry out its functions and achieve its purposes without any interference, irrespective of any national interests or considerations of the host country. The Agreement is based on Articles 104 and 105 of the Charter, which governs the legal capacity and privileges and immunities of our Organization.

(Mr. Oramas Oliva, Acting
Chairman, Committee on the
Exercise of the Inalienable
Rights of the Palestinian
People)

By signing the Agreement the host country entered into a commitment to the entire international community. The decision of the United States Government unilaterally to modify the Headquarters Agreement, which is an international treaty, makes the Organization subject to domestic legislation, in violation of the general principles of international law. The measure is also a violation of the purposes and principles of the Organization and would obstruct its unimpeded functioning.

On behalf of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, I wish to reiterate our position, which is that the host country is obliged to respect fully and strictly the letter and spirit of the Agreement. Any dispute about its interpretation or applicability should be resolved through the arbitration machinery provided for in it. If either party feels that its rights are being violated and that a dispute exists, the other cannot simply cancel the procedures and deny the existence of the dispute. On the contrary, the dispute must be acknowledged and must be resolved through the procedures provided for in the Agreement.

In the light of that clear obligation, which the representative of the host country has repeatedly recognized in the Committee on Relations with the Host Country, in the General Assembly and in other bodies, our Committee once again urges the Government of the host country to refrain from implementing the proposed measure and urgently to take steps to resolve the dispute through the machinery provided for in the Headquarters Agreement. We firmly believe that this question can and must be resolved amicably, avoiding a confrontation, which would only undermine the host country's international position, the Organization itself and,

(Mr. Oramas Oliva, Acting
Chairman, Committee on the
Exercise of the Inalienable
Rights of the Palestinian
People)

in the end, the cause of peace in the Middle East and the attainment of the purposes of the Charter, of which the host country was one of the principal architects.

Mr. SHIHABI (Saudi Arabia) (interpretation from Arabic): Once again we welcome you, Mr. President, as we gather for the second time this month in a resumed session of the General Assembly to face an attempt to annihilate the Palestinians in their country and to silence the voice of Palestine everywhere, including its voice in this Assembly.

When the host country wished this international Organization to be established on its soil and to have the privilege of hosting it, a wish to which the world agreed and a privilege that the host country acknowledged, it knew that being a host, with everything that goes with that position, involves the embodiment of civilized and moral values. It involves respect for and commitment to noble principles which the host country fosters in its own land, and which it calls on others to respect beyond its borders, and, at a certain level, values and norms which its scientific, social and political institutions continue to exalt and call upon others to uphold. The establishment of the Headquarters here was considered by other States and peoples as representing in itself a certain civilized and moral reality in a country upon which one can depend and which one can trust. It was also seen as possibly constituting an additional means to enhance the work of the international Organization and setting an example to be followed in the journey of nations towards constructive international co-operation.

But that should not lead us to forget that in every nation there is a deviant minority, hurting its country's reputation in order to obtain the cheapest of victories by the quickest of means. We have heard in this great country some

(Mr. Shihabi, Saudi Arabia)

calling for the departure of the United Nations. Why? Because the United Nations, as it realized its universal character, began to condemn zionism and deplore its crimes and became no longer an obedient tool of a small group or of a few States, as some people had thought it would be.

We are not now addressing those deviant minorities, including the Zionist minority which created the present problem to serve its evil objectives. We are addressing the wise majority, which represents the conscience of the people and which calls for the supremacy of law, including the sanctity of commitment to conventions. Without this prevailing conscience, which respects the law, no law could have existed, just as there would have been no relations at the level of human civilization, which deserves care, consideration and respect. We tell that majority today: "The Zionist instrument is harming you, the values you represent and the moral principles you advocate. It projects you as a country which does not respect its commitments or uphold its pledges."

(Mr. Shihabi, Saudi Arabia)

As the Assembly knows, the office of the Observer delegation of the Palestine Liberation Organization, in continuing to exercise its functions, does not affect the host country either positively or negatively, whatever pretexts may be advanced. It also has no direct relations with it. Its closure will not end the Palestine Liberation Organization or diminish its functions or weaken its position. But Zionism thinks it is scoring a victory by its closure even at the expense of the host country's commitments and the dignity of its obligations. We still hope the United States of America will not commit such a violation and that it will review it for its own sake first.

This superfluous Zionist victory, at the expense of the host country, is a small goal towards which the United States should take a greater stand compatible with its great moral and political weight, and not with the size of the Zionist entity. The infringement of the Headquarters Agreement is a violation against the United Nations; rather, it is a violation against the whole world. The different, incompatible and illegal rationale which we have heard will not change this.

To prohibit the Observer Mission of the Palestine Liberation Organization to carry out its functions in the United Nations is a violation of a high moral principle in international relations. We had hoped that the host country would have been one of its foremost defenders, especially on its own soil.

We note the statements of certain high officials who have condemned this decision. But deploring it is not enough: we hope to see effective action, which is the character of the great when they have the determination to deal with such a matter.

One hundred forty-three States rejected the host country's decision against the United Nations. This is a condemnation that bears on certain values and principles, and relates to a level of civilized co-operation that the host country

(Mr. Shihabi, Saudi Arabia)

should look into in all seriousness. It is not a condemnation of an act of violating a traffic rule. It is a condemnation of an act that contravenes the highest legal standards. A State like the United States should consider it with the seriousness it deserves.

The Assembly has heard the communiqué issued a few days ago by the Council of Ministers of the Arab Gulf Co-operation Council rejecting the legislation closing the office of the delegation of the Observer Mission of the Palestine Liberation Organization in New York. It expressed its concern over this action which contradicts international norms, voiced its support for the measures undertaken by the United Nations in this context, and called on the United States of America to reconsider this decision which violates the Headquarters Agreement.

As for the vote and voice of Israel, the sole deviant vote against the resolution, it merits no attention because Israel is not qualified in principle to take a moral stance; rather, it would have harmed the moral content of the resolution had it supported it.

When we say that the Israeli authorities are not qualified to take a moral stance, we remember its 40-year history and observe the massacres taking place in Palestine today. We call upon you, fellow representatives of the peoples and the States of the world, to stand as one in resisting the crimes which are being committed in broad daylight, before your eyes, in the land of Palestine, despite all the cover-up efforts. We are living today at the end of the twentieth century, we are not in the Middle Ages.

We wish now to hear the loud voices that one raised in defence of human rights and in the cause of human freedom whenever a person has been detained in a particular country or has been prohibited from leaving his own country to go to another. We look to the General Assembly, as well as other United Nations

(Mr. Shihabi, Saudi Arabia)

bodies, to fulfil its role and carry out its duty in the face of the massacres taking place today, by disclosing, exposing and judging the acts of genocide being undertaken by the Israeli army gangs and groups of armed settlers in an attempt to annihilate a people in its own country. We demand an investigation of the gases being used against the Palestinian people under the pretext that they are tear-gases - manufactured in the month of February - but which are an organic health hazard.

The torture and killing of women and children, as well as of the young and the elderly in Palestine - occurring every day in the streets and within the walls of terror, unknown even to the Middle Ages and to the law of the jungle - is a matter about which this Assembly cannot keep silent. No doubt, Israel and the Zionist gangs will fail in the face of the steadfastness and the struggle of the people of Palestine, and in the face of the determination of the entire Arab and Islamic nation, until right is restored to its people.

The Kingdom of Saudi Arabia, under the leadership of the custodian of the two Holy Places, King Fahd, stands with all its potential in an unyielding determination to support the jihad of the Palestinian people and shares with them their pains and aspirations. We in the Kingdom of Saudi Arabia have declared a clear position and have asked for the annulment of the decision which bears upon the heart of the relationship between the United Nations and the host country. It is a decision conflicting with the host country's international commitments towards the greatest international institution in the history of mankind.

We hope, today, that the General Assembly will take a stand consistent with the supremacy of law and with the sanctity of commitments.

Mr. OTT (German Democratic Republic): In its statement of 1 March the delegation of the German Democratic Republic already explained its principled position on the serious dispute that has arisen between the United Nations and the host country. Our views are also expressed in the statement of the Chairman of the Group of Eastern European Socialist countries delivered on Friday of last week.

When we, nevertheless, take the floor in this debate, we do so out of concern over an attitude which represents a complete disregard and negation of decisions adopted by the General Assembly, as well as an affront to the recommendations and well-meant proposals of many Member States.*

With the official announcement of the decision taken by the authorities of the host country to close the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations, a situation was deliberately created where the conflict has reached a new level, with far-reaching consequences.

The German Democratic Republic, therefore, strongly reaffirms its view that the decision to close the PLO office constitutes a serious attack against the United Nations as a whole. This arbitrary step is a further escalation of the futile attempts to discredit the world Organization, to undermine its status and independence and to hinder it from implementing its tasks as they are enshrined in the Charter.

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

(Mr. Ott, German Democratic
Republic)

Like the overwhelming majority of representatives, my delegation wishes to state clearly that the PLO, like every other Member State of, or Observer to, the United Nations, has the right to unrestricted and equal participation in the activities of the world Organization. This includes the right to maintain an Observer Mission. Any restriction or denial of that right violates obligations clearly stipulated in the Headquarters Agreement and is at the same time incompatible with the United Nations Charter and international law.

After all, our delegation cannot overlook the fact that the host country's measures are being taken at a time when the uprising by the Palestinian people in the territories occupied by Israel has gained further momentum. While on the one hand interest in a settlement of the conflict is declared, there are on the other hand persistent attempts to evade the central issue of a settlement of the Middle East conflict, namely the implementation of the inalienable rights of the Palestinian people, including its right to self-determination and independence and to establish a State of its own. Such a double-standard approach becomes obvious in the statements of certain States, and, not least, finds expression in the decision to close the PLO Observer Mission to the United Nations.

As is recognized worldwide, there cannot be a comprehensive and just settlement with the exclusion of the PLO. The sole, legitimate representative of the Palestinian people, as recognized by the United Nations, must not be deprived of the political means for implementing the inalienable rights of its people, and must not be hindered in its participation in a settlement of the conflict.

For all those reasons - which amount to a precedent with dangerous consequences for international co-operation and the further improvement of international relations - the German Democratic Republic expresses its strong

(Mr. Ott, German Democratic Republic)

protest against the unlawful action taken by the host country vis-à-vis the Permanent Observer Mission of the PLO. We call upon the authorities of that country to observe strictly their obligations under international law and the Headquarters Agreement and immediately to withdraw their decision to close the PLO office.

We highly appreciate and support the efforts made by the Secretary-General to secure, by all available means, full observance of the Headquarters Agreement and, thus, the proper functioning of the world Organization, and to do the utmost to guarantee that the PLO Observer Mission can continue its work without hindrance.

In that connection, the German Democratic Republic reaffirms its solidarity with the just cause of the Palestinian people under the leadership of the Palestine Liberation Organization.

Mr. MANSOUR (Yemen) (interpretation from Arabic): It is my honour to make a further statement during the presidency of Ambassador Florin.

The General Assembly would never have reconvened less than three weeks after its last meetings had the host country not decided to implement its domestic Act calling for the closing of the office of the Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations. I note that the Mission is accredited to the United Nations itself, and not to the United States of America.

The announcement by the United States Department of Justice that it would close the PLO office on the effective date of the Act - today, 21 March 1988 - exposed the truth about the United States Administration's false claim that it did not support the congressional decision because it contravened the 1947 Headquarters Agreement between the United States as host country and the United Nations.

(Mr. Mansour, Yemen)

We are not so naive as to take that Reagan Administration claim seriously; we know very well the position of this Administration and previous Administrations concerning the PLO. Anyone familiar with United States policy in the Middle East knows that it is based on a double standard: the Administration hastens to support Israel while taking a hostile position against the PLO, claiming that it is a terrorist organization.

When it receives Israeli leaders, Washington forgets that it is receiving individuals who have committed all kinds of terrorism. Some were the leaders of infamous murderous gangs; others committed the Deir Yassin massacre; others blew up the King David Hotel; still others assassinated Count Bernadotte in Palestine while he was on a United Nations mission. There is an Arab saying that if something pleases you, you will see only the good in it, while if it displeases you, you will see only the bad.

We do not believe that the PLO has abused its privileges. The United States press itself, a few days ago, divulged the advice given by a former United States Secretary of State to the rulers of Israel not to permit press and television correspondents to be present at the sites of the Palestinian demonstrations which have been raging for more than three months and to attack the defenceless Palestinians using every possible means of suppression with a view to quelling the uprising in the occupied territories as quickly as possible. He also advised them to avoid exposing Israeli terrorism.

That same former Secretary of State had earlier urged his country not to have any dealings with the PLO unless it first recognized Israel, mentioning even making that condition a reciprocal one. I do not even wonder why he did not make Israel's recognition of the rights of the Palestinian people and its leadership, the PLO, a pre-condition for any dealings by the United States with Israel.

(Mr. Mansour, Yemen)

The United States decision to close the office of the Palestine Liberation Organization (PLO) Observer Mission is action taken against the United Nations and therefore against all of us. Hence, legal measures against the United States, which is a party to the Headquarters Agreement, should be taken by the United Nations, not by the PLO. In taking such measures, the United Nations would be acting on behalf of all of us, on behalf of all Member States.

This is the first time that the United States, as the host country, has taken such action which contravenes the Headquarters Agreement and all international rules of law, including the United Nations Charter, and amounts to aggression against the independence of the international organization and its rights. But this will not be the last time that the United States takes such action, if we condone it now. We do not know who will be next.

This question comes to our mind immediately: Do the powers of the judicial and executive branches of the United States Administration in Washington extend beyond the United States now to include the United Nations - only because the Organization has its Headquarters in New York? Does the presence of the United Nations on the territory of the United States mean that the United Nations should receive instructions from the United States Congress, accepting whatever the Congress accepts and rejecting whatever the Congress rejects? That would indeed be the effect of the implementation of the decision in question. It would turn the United Nations into a United States organization, which would thereby lose its status as an international organization.

We all have the duty of protecting the independence of the international Organization. Therefore, we must make the host country choose between keeping the United Nations on its territory, as has been the case since 1947, as an independent and dignified Organization governed only by the will of its Member States and the

(Mr. Mansour, Yemen)

decisions of the majority of the Members or deciding that the United Nations should leave and make its Headquarters in some other country. I think that the United Nations will be able to find a Headquarters in some other country. Indeed, that could be in the interest of many of the poor countries that are Members and their delegations. The cost of living in this city, where prices rise every day, has become a burden on the budgets of many Member States. Furthermore, international norms are not observed in the dealings with the diplomats accredited to the United Nations.

The United States must understand - and understand very well - that the presence of the United Nations on its territory is an honour done to it as a super-Power with uncontested importance and authority. If it wants to continue enjoying the fruits of this honour, it must abrogate the decision in question and refrain from implementing any such decision in the future. In doing that, it will save us and itself the trouble of a dispute. We hope that the United States will decide to act in that way.

Mr. AL-MASRI (Syrian Arab Republic) (interpretation from Arabic): In less than a month the General Assembly has twice resumed the forty-second session in order to consider a problem that has extremely dangerous implications not only for the future and effectiveness of the United Nations and its relations with the host country, but also for international relations and obligations arising from international agreements in the future. I have in mind the question of the closing of the Palestine Liberation Organization (PLO) Observer Mission's office, in conformity with a national law that is in contravention of international law as well as the host country's international legal obligations.

The dangers entailed in this problem are clear from the official statement appearing in the letter sent by the Attorney General to the Permanent Observer of

(Mr. Al-Masri, Syrian
Arab Republic)

the PLO and the letter sent to the Secretary-General by the Acting Permanent Representative of the United States. Those letters state that, despite the obligations of the United States under the Headquarters Agreement, the Attorney General is required to close down the office of the PLO Observer Mission in accordance with the provisions of the "Anti-Terrorism Act of 1987". That statement can in fact create an extremely dangerous precedent violating the whole system of law on which international relations are based, particularly the principle of respect for international conventions to which Member States have willingly subscribed. That is a principle that is indispensable to the safeguarding of an international environment in which a state of law prevails.

That is why the international community, represented in this Organization, absolutely must take steps to prevent the implementation of this new United States legislation, or any other national legislation concerning the United Nations or the permanent missions accredited to it. That must be done in order to strengthen confidence in international law and the validity of international agreements and conventions that are concluded.

It is impossible to analyse this insistence by the authorities of the host country on closing down the PLO office, in complete disregard of that country's obligations under the Headquarters Agreement. We can only conclude that this decision constitutes a serious blow to the United Nations and its Charter and violates both the peaceful principles under which national laws are adopted and the principles of international law.

(Mr. Al-Masri, Syrian
Arab Republic)

When it resumed its forty-second session last month, the General Assembly adopted resolution 42/229, of 2 March 1988. It based itself on the purposes and principles of the United Nations Charter and its relevant provisions as well as the principles of international law in regard to differences of opinion or disputes between the United Nations and the host country concerning compliance with the Headquarters Agreement.

(Mr. Al-Masri, Syrian Arab Republic)

The host country should have abided by that resolution that was adopted and rescinded the law that violates its legal obligations as the host country.

Unfortunately that host country chose to disregard the international will, to implement that act and close down the PLO office.

The United States has continually stated that there was no dispute between the United States and the United Nations, but it has now become clear that there is, which is why the General Assembly has adopted urgent measures to resolve this dangerous problem and safeguard the United Nations as well as missions accredited to the Organization. There is no doubt that there is a second aspect to the United States decision we are now considering, namely, a political aspect. This political dimension is just as important as the legal dimension because efforts have been made to eliminate the Palestine people and its just cause. The law enacted against the Permanent Mission of the PLO to the United Nations was adopted, by a strange coincidence, at the same time that savage, repressive measures were being carried out by the Zionists against the Palestinian people in occupied Palestine. It is no mere happenstance: in fact, the Palestinians have been subjected to harassment and torture to an extent not exceeded even in the darkest ages. Yet it is precisely at this time that the United States authorities have decided to close down the PLO office, in violation of the legal obligations stemming from the Headquarters Agreement. Hence we can speak of a similarity of goal here: to eliminate the Palestinian people, whether in the United Nations or in the occupied territories.

The United Nations is now being sorely tested. It must defend itself and it must support the struggle of people for freedom in keeping with the Charter of the United Nations and principles of international law. We highly appreciate the steps taken by the Secretary-General, Mr. Javier Pérez de Cuéllar, to enable the Organization to overcome this difficulty; we are sure that they will be successful and that he will manage to see to it that the PLO office remains open and be able

(Mr. Al-Masri, Syrian Arab Republic)

to carry out the tasks entrusted to it in a normal manner. Indeed, protecting the PLO office - or any other mission accredited to the United Nations, for that matter - is tantamount to protecting the United Nations, the validity of the Headquarters Agreement and the principles of international law.

Mr. DJOUDI (Algeria) (interpretation from French): What the international community feared when the United States Congress adopted the Foreign Relations Authorization Act was confirmed in recent days. In defiance of the nearly unanimous appeal contained in General Assembly resolutions 42/210 B and 42/229 A and B, and just when the International Court of Justice decided to hand down, with the least possible delay, an advisory opinion as requested by the General Assembly, the host country has deliberately chosen to ignore its international obligations and to close the office of the Permanent Observer Mission of the PLO to the United Nations.

This measure was adopted in flagrant violation of the norms of international law and the obligations of the United States as a host country linked to the United Nations by the Treaty. At the same time that decision calls into question the sovereign decision of the General Assembly whereby it granted the PLO the status of Observer to the United Nations, with all the legal and practical implications flowing therefrom for the host country.

As a signatory to the Vienna Convention on the Law of Treaties of 1969, which unequivocally establishes the primacy of international law over domestic law, the United States, by deeming in this particular case that national legislation takes precedence over its obligations deriving from an international treaty, has deliberately called into question an essential principle of law without which there can be no guarantee that obligations duly contracted by States will be properly honoured - a principle without which inter-State relations can no longer be based on law or organized international society.

(Mr. Djoudi, Algeria)

By declaring in its letter of 11 March addressed to the Secretary-General that the closing of the office would take place

"irrespective of any obligations the United States may have under the Agreement between the United Nations and the United States" (A/42/915/Add.2, p. 4),

the host country denies the obligations imposed on it under the Headquarters Agreement and is in serious violation of the letter and spirit of that Agreement. It is the rule of law that is in fact being challenged. By openly refusing the procedure of arbitration as provided in section 21 of the Headquarters Agreement, as it was invited to do by the General Assembly, the host country is guilty of an additional violation of the Headquarters Agreement and of international law.

Despite 14 years of compliance with the sovereign decision of the General Assembly, during which time the Observer Mission of the PLO has exercised its functions with scrupulous respect for the laws of the host country, the United States has now ignored its obligations under that resolution. This is a serious blow to the authority and integrity of the Organization and, indeed, to multilateralism, the basis of relations among nations.

The United States decision to close the Office of the PLO, even if its objective is clear - in that by this arbitrary act it wishes to deny the PLO the right to represent the Palestinian people and thereby obscure the personality of that people - does not constitute a conflict between the PLO and the United States. As the Secretary-General has made clear in this Assembly, it has been established that this is a dispute between our Organization and the host country.

What is at issue today is not just the status of the PLO to the United Nations, but the status of any State, organization, liberation movement, Member or Observer accredited to this Organization.

(Mr. Djoudi, Algeria)

This dangerous precedent against the PLO Mission seriously threatens not only the right of any State, organization or national liberation movement to participate, on a regular and permanent basis, in the work of this Organization but also the right of this international Organization to carry out its noble mission in independence and dignity and without any interference.

Faced with this threat, the Organization is duty-bound to react with the determination and swiftness dictated by the gravity of the circumstances.

In meeting to discuss the position to be adopted on this crucial question the General Assembly must, first and foremost, denounce this unacceptable violation of the Headquarters Agreement and the norms of international law resulting from the arbitrary action taken by the host country. It must then reiterate its conviction that this is a dispute between the United States and the United Nations, one which must be submitted to arbitration, in keeping with the relevant provisions of the Headquarters Agreement.

The General Assembly must also strongly reaffirm the right of the PLO to maintain the necessary premises to carry out its representative functions in the United Nations. Lastly, the Assembly must renew its support of the actions already taken by the Secretary-General and request him to consider all measures likely to allow the PLO Mission to continue without hindrance to discharge its mandate as representative and to enjoy the protection afforded by sections 11, 12 and 13 of the Headquarters Agreement.

We are convinced that our Organization will succeed in dealing with this grave challenge and will emerge strengthened from the new trials it faces as a result - need I recall - of the premeditated step whose aim is to destabilize the Organization and to undermine its functioning and authority precisely as it is emerging as an irreplaceable universal forum.

(Mr. Djoudi, Algeria)

In confronting the problems to which the closing of the PLO Observer Mission to the United Nations have given rise, our Assembly is in fact facing a triple challenge: a challenge to the authority and independence of the Organization in that it has become the only instrument for the promotion of the Charter's ideals; a challenge to the Palestinian nation which, in its heroic uprising, has proclaimed the PLO as its sole representative; and a challenge to the genuine peace process in the Middle East in that any attempt to exclude the PLO from the United Nations would constitute a fresh obstacle to the proposed international peace conference on the Middle East, which requires the participation of the PLO on an equal footing.

We are convinced that our Organization will be able effectively to deal with these challenges and that it will emerge strengthened, thereby reaffirming its universality and bolstering its integrity and authority.

Mr. ZAPOTOCKY (Czechoslovakia): Like all those who have preceded me at this rostrum, I should like to express deep concern over the latest steps taken by the United States with the aim of closing the Palestine Liberation Organization (PLO) Observer Mission to the United Nations.

The General Assembly has already twice confirmed that the PLO, which was invited by General Assembly resolution 3237 (XXIX) of 22 November 1974 to participate with observer status in the work of the United Nations, has the right, on the basis of the Agreement between the United Nations and the United States, the host country, to set up and maintain an Observer Mission in the territory of the host country and is entitled to have its representatives enter and remain in the host country for the full and unimpeded discharge of their functions. It is beyond any doubt that in this respect the host country has international legal obligations towards the United Nations itself and that any non-compliance with these obligations directly affects the United Nations.

(Mr. Zapotocky, Czechoslovakia)

In this context the Secretary-General deserves full credit for the patience with which he has been continuing his efforts, in pursuance of General Assembly resolutions 42/210 B of 17 December 1987 and 42/229 A and B of 2 March 1988, to resolve this serious dispute with the host country on the basis of law and justice, as demonstrated by his last report of March this year.

The Czechoslovak delegation regards as unacceptable the ultimatum set by the host country as contained in the letters of 11 March 1988 from the Acting Permanent Representative of the United States to the PLO Permanent Observer and to the United Nations Secretary-General, which aims at a unilateral solution of this problem regardless of the international legal obligations of the host country concerning the substance of the matter, as well as the obligatory procedures of settlement of disputes under paragraph 21 of the Headquarters Agreement.

We are shocked especially by the unveiled resolve of the United States to enforce its own will and close the PLO Observer Mission to the United Nations

"irrespective of any obligations the United States may have under the Agreement between the United Nations and the United States regarding the Headquarters of the United Nations." (A/42/915/Add.2, annex I)

Such a manifestation of nihilism with respect to international law can hardly be passed over in silence. A country that has received the honour and the trust to be host country of the United Nations - one holding a permanent seat in the Security Council that bears the main responsibility for the preservation of international peace and security and one which has an important role to play in all legal bodies of the Organization - cannot be quietly tolerated when making such arrogant gestures. The primacy of international law over national legislation and interests, as well as compliance in good faith with international obligations, are

(Mr. Zapotocky, Czechoslovakia)

the mainstays of democratic international order and international morality, to which all of us together have already subscribed in the Charter.

We are all aware that his question has political roots. Recent developments have but once again proved that the persisting occupation by Israel of the West Bank and the Gaza Strip, as well as Israel's arrogant disrespect of the human and political rights of the Palestinian population, are the true causes of the Middle East crisis. This cannot be denied by efforts to describe the just struggle of the Palestinian people, headed by the PLO as its sole, legitimate representative, as an expression of international terrorism.

Israeli reluctance to give consent to negotiations in the framework of an international Middle East conference under United Nations auspices and with the participation of all parties concerned, including the permanent members of the Security Council, as well as attempts to make the PLO presence in the international forum impossible, cannot lead to a just solution of the question of Palestine.

Therefore, the closure of the PLO Mission to the United Nations creates yet another obstacle to the efforts of the United Nations to settle the Middle East situation, is in direct contradiction with the aims and contents of the Charter and disrupts in an extremely serious manner the proper functioning of the entire Organization.

(Mr. Zapotocky, Czechoslovakia)

It is necessary for the General Assembly to call once again upon the host country with all urgency to abide strictly by its obligations arising from respect for the Charter as well as under the Headquarters Agreement and to accept the honest and just solution of the existing dispute through international arbitration as provided in section 21 of the Headquarters Agreement and, pending the arbitral decision, to refrain from all unilateral steps regarding the further status of the Palestine Liberation Organization (PLO) Observer Mission.

Mr. BELONOGOV (Union of Soviet Socialist Republics) (interpretation from Russian): For the third time in a row during its forty-second session the General Assembly is forced to deal with a problem that would not even have arisen had the authorities of the country acting as host to United Nations Headquarters not taken actions in violation of the 1947 Agreement between the United Nations and the United States. Despite all the efforts of the Secretary-General and the United Nations General Assembly, the abnormal situation that has resulted from the unlawful actions of the host country against the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations still remains unresolved. Moreover, the latest report of the Secretary-General (A/42/915/Add.2) shows that the situation has become even more threatening.

I am sure that everyone sitting in this Hall has fresh memories of the extensive debates in the General Assembly that concluded with the adoption of resolution 42/229 of 2 March. That resolution has reaffirmed that the Permanent Observer Mission of the PLO to the United Nations in New York is covered by the provisions of the 1947 Agreement between the United Nations and the United States regarding the United Nations Headquarters and that it should be provided with adequate functional facilities.

(Mr. Belonogov, USSR)

That resolution clearly states that in this regard the application of Title X of the Foreign Relations Authorization Act for Fiscal Years 1988 and 1989, adopted by the United States, would be contrary to the international legal obligations of the host country under the Headquarters Agreement between the United Nations and the United States. The General Assembly called upon the host country to provide assurance that no action would be taken that would infringe upon the current arrangements for the official functions of the Permanent Observer Mission of the PLO to the United Nations.

At a meeting of the General Assembly the representative of the United States assured States Members of the United Nations that it was premature to discuss the question and take a decision on it. At the same meeting he stated that the Government of the United States of America would give careful consideration to the views expressed at the resumed session of the Assembly and that the United States was seeking an appropriate solution to the problem.

It thus seemed that the United States would take into account decisions adopted by the Assembly and would not take any unlawful action against the PLO Observer Mission. However, despite the decisions taken and the appeals by the United Nations Secretary-General, the United States took steps that were quite to the contrary. On 11 March the representatives of the host country informed us of the United States intention to shut the PLO Observer Mission in New York on or about 21 March, despite the international obligations of the United States under the United Nations Charter and the 1947 Agreement.

Those arbitrary and unlawful actions cannot help but arouse perplexity and a most serious concern.

(Mr. Belonogov, USSR)

The Secretary-General of the United Nations, in accordance with the requests of the General Assembly, has repeatedly taken steps to settle the dispute that has arisen, and we fully support his efforts.

As is clear from his report the United Nations Secretary-General has lodged protests with regard to the United States actions with the Acting Permanent Representative of the United States and has stated that the decision taken by the United States Government is

"a clear violation of the Headquarters Agreement between the United Nations and the United States." (A/42/915/Add.2, p. 2)

The position of the Secretary-General is fully in keeping with the decisions of the United Nations General Assembly and is aimed at strict observance of the 1947 Agreement and the United Nations Charter.

The debates and decisions adopted by the Assembly on this issue are extremely significant. Literally all United Nations Members are shaken by the arbitrariness and impudence of the host country's authorities. In addition many speakers warned that connivance in such a matter would establish a sui generis precedent of lawlessness, the next victim of which might in the future be any other Mission. That warning was very pertinent. Those who had earlier drawn our attention to the dangerous implications of the unlawful actions taken by the American authorities for all other Missions to the United Nations and for the Organization as a whole have been proved right. By defending the inviolability of the PLO Observer Mission the States Members of the United Nations are thus helping to consolidate international law and order and to ensure the stability of the legal status of all missions accredited to the United Nations.

(Mr. Belonogov, USSR)

The General Assembly has thoroughly considered the legal aspect of the issue, which is perfectly clear. The PLO Mission to the United Nations is maintained in New York in accordance with United Nations decisions and the United Nations Headquarters Agreement. The United States law aimed at the closure of the PLO Mission so clearly contradicts the host country's international obligations under the Charter and the 1947 Agreement that that has even been admitted by certain members of the United States Administration.

The dispute could be resolved quite easily. A country's international treaty obligations - if that country does not denounce them in accordance with international law - enjoy primacy, that is, priority. That is one of the fundamentals of civilized relations between States, which in this case implies that national legislation cannot be enacted or implemented in violation of the host country's international obligations. That is generally accepted. Otherwise, inter-State relations would reflect not law and order, but, rather, chaos and confusion.

Since the United States is a party to the Headquarters Agreement of 1947 and the Charter, and, as we know, it has not withdrawn its adherence to those documents, the United States authorities have no right to adopt a law that violates host country obligations under those basic agreements. The United States should have taken all the necessary measures to ensure compliance with its international obligations and to prevent implementation of the domestic legal measure in question, which is contrary to them.

It should be clearly pointed out that the reluctance of the United States to resolve this clash with its international obligations, and to do so by itself, at the national level, has put the problem outside United States national jurisdiction and created a dispute between the United States and the United Nations over the

(Mr. Belonogov, USSR)

application and interpretation of the 1947 Headquarters Agreement. The dispute can and indeed must be resolved only under the procedure provided for in section 21 of the Agreement.

There would seem to be room for no other opinion on the matter, yet the host country does not wish to agree even to that. To say the least, it presents rather a strange picture. The United Nations points to the violation by the United States side of its treaty obligations and insists that the violation be remedied. But the United States representatives refuse to comply with that request and allege that no dispute exists between the two sides about the application and interpretation of the Agreement. They declare that:

"the United States believes that submission of this matter to arbitration would not serve a useful purpose". (A/42/915/Add.2, annex I)

If one could find any logic in that declaration, it would be of a kind unknown so far. Even the famous Sophists of the past might have envied such ingenuity. Had those concerned known that respect for international treaties was at stake, they might have felt otherwise.

Can the United States question that a dispute exists? Under section 21 of the Agreement, the host country has no right to question that. The Agreement provides for an automatic arbitration procedure to settle disputes. It makes no mention of the parties' consent to it. Thus the machinery of mandatory arbitration comes into play at the request of either party. Even if it shows no particular interest in arbitration and objects to the statement that a dispute exists, as is the case with the United States, the other party cannot prevent a tribunal of arbitrators being set up and making a decision. Section 21 of the Agreement does not allow the host country to refuse to take part in the tribunal's work or to name one of the

(Mr. Belonogov, USSR)

arbitrators. Those are the specific provisions of the Agreement, and the host country has no choice but to comply with them.

Of course, if the host country respects international law and its own international obligations to the United Nations, it has a simpler way out of the abnormal situation created by its own actions, and that is to stop the unlawful action against the Permanent Observer Mission of the PLO in New York and to rescind the domestic law that violates the Headquarters Agreement and the United Nations Charter.

Nothing less than open defiance of the very foundations of the legal order is shown in the statement of the Attorney General of the United States that he is required by the Anti-Terrorism Act of 1987 to close the PLO Observer Mission to the United Nations in New York

"irrespective of its [the host country's] obligations under the Headquarters Agreement". (A/42/915/Add.2, annex I)

It is well known that 200 years ago the deservedly esteemed founding fathers of the United States Constitution, rejecting the medieval chaos of the law of the jungle, specifically provided for in the Constitution that duly concluded international treaties became

"the supreme law of the land". (United States Constitution, article VI)

Is it not paradoxical that in insisting upon compliance with an international treaty concluded with the United Nations the world community is thus showing more respect for one of the key provisions of the United States Constitution than are those in the United States who are bound strictly to observe it in the performance of their official duties?

(Mr. Belonogov, USSR)

We have dwelt rather thoroughly on the legal side of this matter and on ways to resolve the dispute. We are convinced that compliance with international law and the settlement of this dispute by applying procedures envisaged in the Headquarters Agreement of 1947 would provide the best possible solution in the interests of strengthening the United Nations, the participation by the Palestine Liberation Organization in its work, and the role of the host country of the Headquarters. We hope that reason and the rule of international law will prevail.

The arbitrary actions against the Palestine Liberation Organization Mission are politically motivated. That has been quite convincingly pointed out by many delegations. In the light of the present Palestinian uprising and the savage reprisals against Palestinians by the Israeli occupationists, attempts to hamper the functioning of the PLO Mission to the United Nations are evidently playing into the hands of those of who do not want the solution of the Arab-Israeli conflict, the keystone of which is the Palestinian problem. They want, by any means possible, to undermine the role of the Palestine Liberation Organization, which is the sole, legal representative of the Palestinian people, and its participation in the just settlement of the Middle East conflict.

It is impossible to achieve genuine peace in the region without the withdrawal of the Israeli troops from the occupied Arab territories, without the recognition of the legitimate rights of the Arab people of Palestine. The proposal to convene an international conference on the Middle East is enjoying practically total support. The future should be determined not by force but by diplomatic efforts. That is why we advocate the convening, in keeping with the well-known United Nations decisions, of an authoritative international conference, with the participation of the five permanent members of the Security Council and other interested parties, including the Palestine Liberation Organization.

(Mr. Belonogov, USSR)

The Soviet delegation believes that the General Assembly should take all necessary steps to stop the unlawful actions against the PLO Permanent Observer Mission to the United Nations and ensure proper conditions for its normal functioning. We venture to hope that the authorities of the host country will demonstrate a responsible approach to their treaty obligations vis-à-vis the United Nations, and that once and for all they will remove the artificial problem created by them which unnecessarily jeopardizes the work of this world Organization.

Mr. YUSOF (Malaysia): In my statement before this Assembly on 1 March I expressed my delegation's position of principle on the item still before us.

We urged the host country not to diminish its obligations under the United Nations Headquarters Agreement to provide for the unhindered exercise of all official functions of the Palestine Liberation Organization as a duly recognized Observer of the United Nations. We stated that closure of the PLO Mission would be a violation of the United States treaty obligations to the United Nations. We also urged the host Government to reconsider its objections to the PLO within the ambit of its domestic laws. Additionally, we urged the host country to accept the invoking of the dispute settlement procedures provided for under section 21 of the Headquarters Agreement.

Consequently, the Malaysian delegation joined the sponsors of General Assembly resolution 42/229 not only to express our solidarity with the just and rightful position of the PLO but also to express our firm commitment to the integrity of the United Nations.

The Assembly has now been reconvened for a second time, as a result of the insistence of the United States Attorney General to close the PLO Mission to the United Nations by today, 21 March 1988.

(Mr. Yusof, Malaysia)

In his letter of 11 March 1988, conveying the decision to the Secretary-General, the United States Acting Permanent representative, Ambassador Herbert Okun, said that the United States Attorney General had determined that he is required by the United States Anti-Terrorism Act of 1987 to close the office of the PLO Mission

"irrespective of any obligations the United States may have under the Agreement between the United Nations and the United States regarding the Headquarters of the United Nations". (A/42/915/Add.3, para. 1)

This determination by the United States Attorney General and the host country to disregard the Headquarters Agreement and putting it into effect cannot but raise deeply disturbing questions in member countries, including my own.*

We are alarmed by this repudiation of international obligations by the United States Government, not only because it is host to the United Nations Headquarters, but also because it is a major supporter and one of the original authors of the United Nations Charter. More importantly, it is also a super-Power whose actions and omissions have a profound impact on world peace and development.

For the smaller member countries, like Malaysia, the assertion by the United States raises deep concerns as to whether there are two sets of obligations or understanding of international law: one for super-Powers and another for small States. If this is so, then the harmonization process taking place in the United Nations has been misled by cynicism.

What, then, is to be expected of the United States future intentions regarding its obligations under all the treaties it has entered into with other countries and multilateral institutions if these can be overridden by congressional action at

* Mr. Moumin (Comoros), Vice-President, took the Chair.

(Mr. Yusof, Malaysia)

any time or by the Government's inability to obtain a national consensus in the satisfaction of its international obligations?

What is to be the worth of United States commitments if the legal principles by which the rest of the international community live - that is, the supremacy of international treaties over domestic legislations, are unilaterally rejected by the United States? In this instance the United States is in effect abrogating its obligations under the United Nations Headquarters Agreement, to which it is a principal party. But these obligations flow from the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946, to which the United States has also acceded. Will the United States Government continue to diminish these obligations each time the United States Congress considers them no longer convenient?

(Mr. Yusof, Malaysia)

Malaysia strongly believes it is wrong for the United States unilaterally to reinterpret or abrogate its obligations under international agreements. Neither is it right for the United States to superimpose its domestic laws upon international laws to which it is a party. Irrespective of any attempt at justification, the United States congressional action is a contravention of the principles and spirit of the Headquarters Agreement and an about turn on its own undertakings, and it should not have been done without the concurrence of the United Nations and recourse to the dispute-settlement provisions of section 21 of the Headquarters Agreement.

The United States action also raises other fundamental questions about continuing commitment to the United Nations Charter. What are we now to make of the United States commitment "to reaffirm faith in fundamental human rights", which clearly includes the right of the PLO, which has been accepted by the United Nations as an Observer, freely to argue its case before the international community? What are we now to make of the United States commitment

"to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained"?

Those are but two of the fundamental purposes of the United Nations Charter.

For a country that was founded on very fundamental beliefs - one of which is freedom of expression - which were translated into the founding principles of the United Nations, the United States action is a self-betrayal. Such an act can only have painful results. It will certainly open painful soul-searching among friends and supporters concerning the United States commitment to the United Nations and to world peace and security. It will worry others who have found collective security in the United Nations Charter and have looked to the United Nations as its final

(Mr. Yusof, Malaysia)

protector: a United Nations that had been strongly supported hitherto by the United States. We cannot but be reminded that in the annals of the United Nations one transgression of international law has encouraged another. The action of a super-Power and host to United Nations Headquarters is therefore even more critical.

All the dearly-held beliefs and principles so eloquently drafted and solemnly enshrined in the Charter will be eroded if the United States is perceived as abandoning those principles - for the congressional action can be seen only in that light. The United States abandoning the Charter cannot but lead to the weakening of the United Nations, and that could mean the possible disintegration of the system. By not being faithful to the letter and spirit of the Headquarters Agreement, the United States is encouraging the forces that are working against the United Nations. Those forces are found everywhere, particularly in countries where United Nations decisions have consistently been disregarded. Should the worst happen to the Organization, history can only judge the United States for having facilitated it.

My delegation, therefore, would like once again strongly to urge the United States Government not to persist with its attempt to impose United States domestic law upon the United Nations. We would also ask the United States to state categorically that it will not allow the disintegration of the United Nations and its system, which over the past four decades have provided a collective umbrella for international peace, and an environment for the development of human rights. We would also urge the United States to declare clearly that no Member or other entity will be deprived of the forum of the United Nations when that forum has been granted in accordance with the Organization's decisions. We should like to obtain assurances that the host country will conform to the provisions of the Convention

(Mr. Yusof, Malaysia)

on the Privileges and Immunities of the United Nations, to which it is a party, and to the Headquarters Agreement.

Finally, my delegation wishes to reiterate its support to the Secretary-General in his search for a just solution to the problem caused by the United States with respect to the PLO and the United Nations. The Headquarters Agreement must be upheld by this Organization, and the PLO Mission must be provided with every facility to conduct its official functions as an Observer Mission.

Mr. PASHKEVICH (Byelorussian Soviet Socialist Republic) (interpretation from Russian): Just over 40 years ago the General Assembly adopted resolution 169 (II), entitled "Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations". That Agreement long served as a legal guidepost for the resolution of disputes with respect to relations between the Organization and the Permanent Missions and Observer Missions accredited to it. It is therefore inadmissible for the host country authorities wilfully to take steps that run counter to the spirit and letter of that Agreement, which is based on the United Nations Charter.

I believe that members will clearly recall the events of a fortnight ago, when the General Assembly, virtually unanimously, condemned action by the host country to close the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations, and called upon the host country to comply with its treaty obligations under the Agreement.

Unfortunately, the host country responded to the General Assembly's appeal by informing us that on 21 March 1988 its own domestic law would come into effect: it disregarded the decision taken by the United Nations. That domestic law violates the international obligations of the host country under the United Nations Charter

(Mr. Pashkevich, Byelorussian SSR)

and the 1947 Headquarters Agreement: That is so clear that even the United States Administration has not attempted to conceal it.

The clash between domestic legislation and international obligations can be resolved on the basis of the 1969 Vienna Convention on the Law of Treaties, which clearly states that

"A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty". (A/CONF.39/27, article 27)

This situation, where the host country has given priority to its domestic legislation to the detriment of prior international obligations, must constitute a dispute between the United States and the United Nations on the question of the application and interpretation of the 1947 Headquarters Agreement. That dispute must be resolved according to the procedure described in section 21 of the Agreement.

The fact that the United States challenges the existence of a dispute does not alter the meaning of section 21 of the Agreement: that binding arbitration machinery should be set in motion to resolve the case and provide a final solution. That would lead the parties to a decision ensuring meeting the legitimate interests of the Permanent Observer Mission of the PLO to the United Nations and would be a demonstration of the prevalence of common sense over arbitrary attitudes.

To be sure, the door remains open to a resolution of the problem by rescission of the unlawful action taken by the host country legislature.

(Mr. Pashkevich, Byelorussian SSR)

My delegation supports the Secretary-General's efforts to resolve the dispute on the basis of negotiations. We are grateful to him for the steps he has taken to implement General Assembly resolution 42/229 A.

The events now taking place in the Middle East demonstrate once again how urgent the problem of Palestine is and how futile and dangerous are the attempts to resolve the conflict in that region by keeping the Palestine Liberation Organization (PLO) out of the process. It is clearer than ever before that the PLO has an important role to play in the work of the United Nations designed to find a solution to the Middle East problem on the basis of the well-known resolutions of the Security Council and the General Assembly.

In the light of what I have said, the delegation of the Byelorussian SSR associates itself with the demand already made from this rostrum that an end be put to the action taken by the United States authorities to close down the Permanent Observer Mission of the PLO to the United Nations - action that can create a dangerous precedent - and that strict compliance with the Headquarters Agreement of 1947 be ensured, and that the normal functioning in New York of the Permanent Observer Mission of the PLO to the United Nations should be guaranteed.

Ms. NGUYEN BINH THANH (Viet Nam): For the second time in a month the General Assembly is seized of the item "Report of the Committee on Relations with the Host Country". The session has been resumed with ever-greater urgency and gravity as the host country is determined to enforce today, 21 March, the closure of the Palestine Liberation Organization (PLO) Observer Mission to the United Nations.

Since the question was raised in 1987, the General Assembly, the Secretary-General and the Members of the United Nations have determined that the PLO Mission is covered by the Headquarters Agreement, under which the United States

(Ms. Nguyen Binh Thanh, Viet Nam)

is obligated to facilitate and safeguard the official functions of all missions accredited to the United Nations, including the PLO Mission. The United Nations, especially the Secretary-General, has made patient and tireless efforts to find a satisfactory solution to the problem emerging between the United States and the United Nations concerning the interpretation and application of the Headquarters Agreement. To that end, the General Assembly earlier this month by its resolution 42/229 A endorsed the invoking of the dispute-settlement procedure - section 21 - of that Agreement. It also decided to seek an advisory opinion of the International Court of Justice. That has been universally agreed to be the only remedy to the problem that is available.

For its part, the United States stated on 2 March that it remained its intention to find an appropriate resolution of the problem in the light of the United Nations Charter, the Headquarters Agreement and the laws of the United States; and that it would take into careful consideration the views expressed during the last resumption of the session. However, that has not been the case.

The United States has taken a negative position towards the appeals and efforts made by the United Nations, the Secretary-General and the international community. It maintains its determination to close the PLO Mission,

"irrespective of any obligations the United States may have under the Agreement between the United Nations and the United States regarding the Headquarters Agreement of the United Nations", (A/42/915/Add.2, annex I) as we are informed in the Secretary-General's report. It also excludes any submission of the matter to arbitration.

My delegation joins in the universal protest, as the decision taken by the host country is an outright violation of the Headquarters Agreement and an open challenge to the United Nations and the international community. It entails

(Ms. Nguyen Binh Thanh, Viet Nam)

serious consequences. The matter at issue is not confined to the PLO Mission. It is the Headquarters Agreement under which the United Nations operates in this country. Once the host country, as one of the parties to the Agreement, chooses not to respect it, that raises a question about the Agreement's very status, especially its efficacy in protecting the independence and integrity of the United Nations. This also can constitute a dangerous precedent in multilateral diplomacy. With its hostile policy towards the PLO, the host country has sought to impose its will and position upon this universal body, despite the commitments it has undertaken.

The dispute in question is of an international nature and must be settled through the provisions of section 21 of the Agreement which the United States signed with the United Nations. We share the continued belief of the United Nations, as expressed in the Secretary-General's letter of 15 March, that

"the machinery provided for in the Headquarters Agreement is the proper framework for the settlement of this dispute". (A/42/915/Add.3, annex I)

In this regard, we urge the host country to engage in constructive co-operation with the United Nations and the Secretary-General in the search for a satisfactory solution to the problem. The host country should reconsider its position, taking into careful account all the serious consequences arising therefrom, and should fully comply with the Headquarters Agreement.

My delegation wishes to express its deep appreciation to the Secretary-General and would like to assure him of its full support for his sustained efforts and staunch position regarding this question.

We take this opportunity to reaffirm our strong support for the just struggle of the Palestinian people and their sole, legitimate representative - the PLO. Any impediment to the official functioning of the PLO Mission at the United Nations

(Ms. Nguyen Binh Thanh, Viet Nam)

constitutes a denial of the Palestinian people's inalienable right to have their views and aspirations heard from this universal rostrum, and interference in the integrity of this august body. This resumed session, therefore, should do its utmost to safeguard full respect for the Headquarters Agreement and to ensure that the current arrangements for the PLO Mission are continued without any infringement. The General Assembly should request the Secretary-General to continue his efforts and to take the steps necessary to ensure the official functioning of the PLO Mission, in accordance with the arrangements in effect since 1974.

Mr. KORHONEN (Finland): I have the honour to speak on behalf of the five Nordic countries - Denmark, Iceland, Norway, Sweden and my own country, Finland.

During the discussion of this item in the previous meetings of the resumed session, the Permanent Representative of Denmark expressed the hope of the Nordic countries that, subsequent to the adoption of General Assembly resolution 42/210 B, the question of the presence of the PLO Observer Mission to the United Nations would find a solution in accordance with the Headquarters Agreement.

The Nordic countries regret that this question has not been resolved in a satisfactory manner after the adoption by the General Assembly of its latest resolution on 2 March.

We deplore the decision of the host country's authorities in this matter. The host country is under a Treaty obligation, in accordance with the Headquarters Agreement, to permit the PLO to maintain its Observer Mission at the United Nations. The dispute has now become acute and the situation is extremely serious. Unless a remedy is found, the United Nations as an organization could suffer great damage.

The Nordic delegations ask the United States to agree to settle the dispute in accordance with the Headquarters agreement. We also urge the host country to desist from taking any action against the PLO Observer Mission that would impair its functioning.

Mr. BARNETT (Jamaica): When we considered this matter some two weeks ago the General Assembly adopted two resolutions. In the first the Assembly affirmed the status of the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations and considered that a dispute existed between the United States and the United Nations concerning the application of the Headquarters Agreement. In the second the General Assembly requested the International Court of Justice to give an advisory opinion on whether the

(Mr. Barnett, Jamaica)

United States, as party to the Headquarters Agreement, was under an obligation to enter into arbitration in accordance with section 21 of that Agreement. Since then matters have evolved in a way we feared they would. Obviously the resumed session had been neither premature nor inappropriate.

The Secretary-General's latest report (A/42/915/Add.2 and Add.3) informs us that the Attorney-General of the United States had determined that he is required by Title X of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, to close the office of the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations

"irrespective of any obligations the United States may have under the Agreement between the United Nations and the United States regarding the Headquarters of the United Nations". (A/42/915/Add.2, p. 4)

The full text of the letter from the Acting Permanent Representative of the United States from which this quotation is taken is contained in Annex I of Add.2 of the Secretary-General's report. Herein lies the nub of the issue. Not having admitted to the existence of a dispute, the United States is not prepared to go to international arbitration or to the International Court of Justice.

The question now is: what is to be done?

We reiterate the view that any action taken by United States authorities to comply with Title X, as outlined by the Secretary-General, would be in violation of the Headquarters Agreement and of international law. If carried out, irreparable harm would be done not only to the Headquarters Agreement but to the body of international treaty law. It is clear that the advisory opinion of the International Court of Justice will not be available today, 21 March; and even if it were, given the position of the United States Department of Justice, it would be of little use. The reported statement by the Assistant Attorney-General is of ominous import. It bodes ill for international legal obligations. We had earlier

(Mr. Barnett, Jamaica)

referred to the competition between branches of government, but this statement prompts the question whether it is now the settled policy of the United States that treaty obligations can be unilaterally jettisoned at will and that such action is not subject to any international legal review or recourse. The issue is not between the Permanent Observer Mission of the Palestine Liberation Organization and the United States: the issue is between the United Nations and the host country, the United States, and is encompassed in the larger question of the structure of the international legal system.

In the instant case we start from the assumption that it would be completely undesirable for the PLO Observer Mission to be even momentarily closed. Consequently, the important thing is to avoid that happening. That necessity demands immediate and practical steps.

It would appear that the letter from the Acting Permanent Representative of the United States offers or suggests a course of action. The last four sentences state:

"If the PLO does not comply with the Act, the Attorney General will initiate legal action to close the PLO Observer Mission on or about March 21, 1988, the effective date of the Act. This course of action will allow the orderly enforcement of the Act. The United States will not take other actions to close the Observer Mission pending a decision in such litigation. Under the circumstances, the United States believes that submission of this matter to arbitration would not serve a useful purpose." (ibid.)

In other words, legal action is being invited in domestic courts. If legal proceedings are going on, the United States will not take action to close the PLO Mission. These two essential points could be made use of, but the propriety or advisability of such recourse is in question. That aside, by whom? The points suggest that either the Secretary-General, acting on behalf of the United Nations,

(Mr. Barnett, Jamaica)

or the PLO Observer Mission, or both, should pursue actions in the Federal courts to seek a stay of the action of the Department of Justice, and while these proceedings are under way ineluctable time or negotiations may settle the matter.

The possibility here opened up is, unfortunately, only superficially attractive. The implication of the "opening" is that a precedent would be set for subjecting international treaties - such as the Headquarters Agreement - no matter what their own provisions, to the sole review of United States domestic courts. Are we to assume that this should be generally applicable to all countries?

It will be to the advantage of the international community and to the United States that the integrity of the Headquarters Agreement remain intact, that international law is seen to be respected by all involved and that there be neither unnecessary confrontation nor an exacerbation of the situation.

Mr. PEJIC (Yugoslavia): It is regrettable that the General Assembly of the United Nations has to meet again less than three weeks after it adopted almost unanimously resolution 42/229, reaffirming the right of the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations to establish and maintain premises and adequate functional facilities whereby the personnel of the Mission should be enabled to enter and remain in the United States to carry out their official functions.

My delegation pointed out on that occasion that that was essentially a political question, a constructive solution of which would be of great importance for the present as well as future work of the world Organization.

The latest developments, however, have shown that, despite the clear provisions of General Assembly resolutions and the constructive efforts of the Secretary-General, which we appreciate, the host country, the United States, has demonstrated no readiness to comply with the provisions of the Headquarters Agreement. Deploing such an attitude, my delegation wishes to point out once again that the carrying out of the decision by the host country to close the PLO Permanent Observer Mission to the United Nations in New York would constitute a dangerous precedent with unforeseeable consequences for the functioning of the Organization.

What is involved here is not only the normal functioning of the PLO Permanent Observer Mission to the United Nations, which is of understandable importance in the overall efforts of the international community for the opening of the process of a peaceful and just solution of the question of Palestine. What is involved is the right of liberation movements recognized by the world Organization to participate actively as legitimate representatives of their peoples in the work of the United Nations, particularly regarding the questions that concern the realization of their legitimate aspirations.

(Mr. Pejic, Yugoslavia)

Proceeding from this position and guided by the purposes and principles of the United Nations Charter, and particularly by the principle of fulfilment in good faith of obligations assumed in accordance with international law, the Yugoslav delegation rejects the unilateral measures taken by the host country aimed at denying the PLO Permanent Observer Mission to the United Nations the rights it enjoys under the Headquarters Agreement and relevant resolutions and decisions of the General Assembly.

By its decision to close the PLO Permanent Observer Mission to the United Nations in New York, which is politically unacceptable and legally untenable, the Government of the host country will bear great responsibility for the consequences that may arise therefrom and affect the functioning of the United Nations, its future work as well as the further development of overall co-operation.

We call upon the host country to invalidate and rescind all measures it has taken to this effect and to enable the PLO Permanent Observer Mission to the United Nations to carry out its functions normally and without obstruction in accordance with the Headquarters Agreement and relevant resolutions and decisions of the General Assembly.

The Yugoslav delegation earnestly hopes that the host country will seriously consider all political and legal aspects of this issue so as to avoid the violation of international obligations and the creation of a serious and lasting disruption in the work of the world Organization, particularly in the resolution of outstanding international problems, among which the question of Palestine and the Middle East is one of the most serious.

My delegation supports all measures that can lead to a just and lasting solution of this question and expects that the Secretary-General will also take the necessary steps to ensure the discharge of the official functions of the Permanent Mission of the Palestine Liberation Organization to the United Nations.

Mr. KARGBO (Sierra Leone): Two weeks ago when the Sierra Leone delegation addressed the resumed session of the Assembly on this item, we had hoped, despite our deep disappointment over the unfortunate decision of the host country, that the long and distinguished record the United States had established in honouring its treaty obligations would impel a diversion from its intended course of action.

Today, as we meet again to debate this issue, we are dismayed that our worst fears are about to be confirmed: we are witnessing the disintegration of accepted legal principles which are the corner-stone of international relations. As a small country, Sierra Leone's respect for treaty obligations arises from the realization that when the legal principles governing our relations with others are cut down and violated, if only in part, the common protection they provide against abuse is destroyed.

We have asked ourselves repeatedly what can be gained from pursuing such action that clearly undermines the host country's international credibility. We have also agonized over what must surely be a dark day for our Organization. We have not been able to come up with answers to what must be the fate of each and every one of its delegations here, in the light of the renunciation of the host country's obligations under the Headquarters Agreement, that is, that the closure of the Palestine Liberation Organization (PLO) Observer Mission will take place, in the words of the Attorney General of the United States

"irrespective of any obligations the United States may have under the Agreement between the United Nations and the United States regarding the Headquarters of the United Nations." (A/42/915/Add.2, annex I)

The time for criticism or condemnation may be over. Our appeals for reason appear to have fallen on deaf ears, as a major Power continues to retreat from its responsibilities. The Assembly must now consider what measures are open to it other

(Mr. Kargbo, Sierra Leone)

than those agreed upon on 2 March, this month. The Sierra Leone delegation will support whatever this Assembly may decide in its wisdom. Given the fact of the short time frame in which the host country's action is to be expected, we would not consider it inappropriate if the Secretary-General were to be mandated to institute legal action in United States courts, praying for an injunction against the implementation of the host country's decision until the advisory opinion of the International Court of Justice sought by this Assembly is received.

While it may be felt that this procedure is unusual, we are mindful of the fact that in persisting in its course of action the host country is itself creating a conflict of its own domestic legislation as the Headquarters Agreement is part of United States law and, in our view, section 25 of the Agreement is clear with regard to the fulfilment of the host country's obligations under it. We feel, therefore, that such legal action as we have suggested can be pursued under that provision of the Agreement. It must be fully understood, however, that such action should be without prejudice to the outcome of the deliberations of the International Court of Justice on the matter.

In closing, let me once again express my delegation's appreciation for the relentless efforts the Secretary-General has exerted to resolve this issue without rancour, while maintaining the dignity of the United Nations.

Mr. NYAMDOO (Mongolia) (interpretation from Russian): Just two weeks ago the General Assembly adopted a resolution with regard to the law adopted by the United States Congress to shut the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations. The overwhelming majority of States Members appealed to the United States, as host country, to eschew that action and to fulfil its international obligations in good faith. That request was just and lawful. It was based on international law. In addition, the international community expressed the hope that the United States would take into consideration its opinion and its request.

However, to our great regret, the United States, by its decision of 11 March completely disregarded the opinion of the international community as to the Permanent Observer Mission of the PLO to the United Nations and violated its international obligations under the Headquarters Agreement. The United States decision to shut the Mission is an act of open defiance to the Organization and to its Members and has set a dangerous precedent, the harmful consequences of which are hard to predict.

The Mongolian People's Republic, like other members of the international community, cannot help but be concerned about such unlawful actions by the United States. We strongly condemn the decision taken by the United States as well as the cynical statement that the United States would act irrespective of any obligations the United States may have under the Headquarters Agreement. As is well known, the decision to shut the PLO Observer Mission constitutes an inadmissible abuse by the United States of its status as host country. It seeks to stifle the voice of the sole, legitimate representative of the Palestinian people in the United Nations. We believe that that attempt to prevent the PLO from participating in the work of the universal international Organization, to which it has been invited on the basis of appropriate and generally recognized international principles and United Nations

(Mr. Nyamdo, Mongolia)

resolutions, is unjustified and absolutely inadmissible. If that is not the case, the authority, independence and integrity of the Organization could be seriously undermined.

PLO participation in the work of the United Nations must be ensured in order to promote a solution of many crucial international problems, in particular the problem of the Middle East. The need for the PLO Observer Mission to the United Nations is even more acutely felt in the light of the recent continuing and widespread protests by Palestinians in the Israeli-occupied Arab territories. The mass uprising by the Palestinian people is a natural protest against the policy of occupation, oppression and aggression. Those and other recent events that have occurred in the Middle East have once again shown that a comprehensive, just and lasting peace in the region may be established only if the Palestinian people can exercise their inalienable right to self-determination.

Today Mongolia reaffirms its position of principle with respect to the unlawful decision taken by the United States. The United States should revise its decision to shut the PLO Observer Mission to the United Nations. It should fulfil in good faith its obligations under international law stemming from the Headquarters Agreement.

The Mongolian delegation, like other delegations, supports the appeal of the United Nations to have recourse to the dispute-settlement machinery set forth in section 21 of the Headquarters Agreement. We believe that recourse to that procedure would make it possible to resolve the dispute between the United Nations and the host country. Mongolia commends and fully supports the efforts of the United Nations Secretary-General to ensure that the necessary conditions will prevail so that the PLO Observer Mission can discharge its functions in the United Nations.

Mr. PELAEZ (Philippines): This assemblage of nations has convened once again to consider the plight of the Observer Mission of the Palestine Liberation Organization (PLO) at United Nations Headquarters. The worst has come to pass. Not all the exhortations to the host country at two series of discussions by the General Assembly have washed out a word of its transgressing legislation. The chorus of voices raised at the resumed session barely three weeks ago - that of the Philippines included - was an exercise in futility.

Instead of the solution the United States augured then, the stark possibility that the voice of the PLO in this Assembly will presently be stilled now confronts us. Moreover, we are told that submission of this matter to arbitration would not serve a useful purpose, perhaps a suggestion that we should not waste our breath debating the legality of a matter which is actually political.

Along with the vast majority of the United Nations membership the Philippines has long considered the PLO as the sole, legitimate representative of the Palestinian people and has advocated the latter's free exercise of their inalienable right to self-determination. As the voice of a people reduced to fighting with rocks and stones for what is rightfully theirs and incurring deaths, beatings and live burials for their trouble, the United Nations presence of the new diaspora, the PLO Observer Mission to the United Nations, has every legal and moral right to be in our midst.

(Mr. Pelaez, Philippines)

If the dictates of right and justice had their way, the PLO Observer Mission would continue to fill its seat in the Assembly, as it has done without question or incident for the past decade or so.

My delegation is deeply saddened that any country can say, with no apparent compunction, that it will close down the office of a United Nations invitee on its territory, and that it will do so "irrespective of its obligations" (A/42/915/Add.3, annex I) under an Agreement between itself and the United Nations on the matter.

We agree with the Secretary-General that the host country's declared intention is fraught with serious implications. As notice of a deliberate and conscious decision to breach international law and the host country's obligations to the United Nations, that declaration strikes at the very underpinnings of international society, the legal infrastructure keeping together this family of nations.

To the very best of our knowledge, the PLO Observer Mission has done nothing in the host country inconsistent with its status as a United Nations invitee; it has done only that which the 159 Permanent Missions of full Members have themselves essayed to do. It has not been charged with any illegal act, much less convicted in any court of law of the host country. Yet that country's legislature has determined that the Mission should be barred from its territory.

Recitals in the pertinent legislation of the host country leave no doubt that the PLO has fallen victim to a legislative indictment, trial and conviction, contrary to constitutional guarantees enshrined in the legal system of the host country itself. Thus the closing of the PLO Office has been mandated without affording it an opportunity to speak for itself, much less a prior judicial hearing with elementary safeguards or the other elements of due process that would accompany such a hearing.

(Mr. Pelaez, Philippines)

Moreover, that closing is sought through legislation in the image of a bill of attainder, a type of statute that inflicts punishment without a judicial trial, a throwback to sixteenth-century, seventeenth-century and eighteenth-century England and the American Revolution, and a process odious to contemporary notions of legal rights. In the words of the Supreme Court of the United States,

"Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment upon them without a judicial trial, are bills of attainder prohibited by the Constitution."

My delegation had been under the impression that bills of attainder had long since gone out of fashion. Yet an incarnation of that nefarious device faces us today in the form of United States legislation on the PLO.

The host country has overreached the proper limits of its constitutional rights and powers by attempting in effect to decide who shall have the privilege of participating in the work of the United Nations. My delegation has yet to hear of some valid legal basis consistent with those rights and the host country's international obligations for its efforts to padlock the offices of the PLO Observer Mission to the United Nations.

The host country thus stands in violation of international law and the Charter, its obligations to the United Nations as host country, the precepts of its own fundamental law, current principles of civil rights and the counsel of its own Secretary of State. It has gone to great lengths, for unspoken political reasons of doubtful advantage, even to itself.

One may be excused for wondering what this portends for the United Nations in general and each of our Permanent Missions at Headquarters in particular. Are we now shorn of a right we had all taken for granted for the past 42 years? What can

(Mr. Pelaez, Philippines)

we count on? When will the other shoe drop, and where? With these preoccupations, can we ever again carry on as before?

Virtually all speakers in the two debates on the matter have stressed that the effectiveness of the United Nations, and indeed its very existence, cannot depend on the bounty of a single Member State. Whether for the PLO Observer Mission or for others, the international community cannot permit the situation to remain this way.

We therefore urge the Secretary-General and his very competent Legal Counsel to pursue with their characteristic acumen, energy and vigour any and all legitimate steps to counter this assault on the PLO's right to participate in our work and on the United Nations right to exist. They should not confine their efforts to international arbitration, but should make limited appearances in any proceeding against the PLO in the courts of the host country to assert at least functional immunity for the PLO, thereby shielding it from local legal process. They should also seize every opportunity to assert the invalidity of the legislation in question in national as well as in international tribunals. In short, this encroachment on United Nations prerogatives, which is what it is, must be fought on all fronts. The principle at issue is sufficiently important to warrant such a course of action.

Mr. DELPECH (Argentina) (interpretation from Spanish): It is a pleasure to have the President presiding over our work once again. However, we regret the circumstances in which the Assembly has had to reconvene.

It was only a few days ago that we spoke on the subject. We hoped then that a solution would be found. We referred at the time to the uncertainty that had existed in November, when the Assembly considered the position of the Permanent Observer Mission of the Palestine Liberation Organization (PLO). That uncertainty

(Mr. Delpech, Argentina)

has developed into the situation we face today. Despite the urgings of the General Assembly and the appeals of the overwhelming majority of Member States, the Government of the host country has decided to apply the legislation calling for the closure of the Observer Mission.

The reports submitted to us by the Secretary-General since the adoption of resolution 42/229 on the subject show that, regrettably, no attention has been paid to the Assembly's appeals for respect for obligations arising out of the Headquarters Agreement. My delegation once again thanks the Secretary-General for his efforts. We fully share the opinion stated in his letter to the Acting Permanent Representative of the United States. As he says there, the statement that the host country can act without regard for its obligations under the Headquarters Agreement and the conclusion that submission of the matter to arbitration would serve no useful purpose are unacceptable.

(Mr. Delpech, Argentina)

As already stated, we believe that here there can be no difference of opinion. A dispute has arisen here and the appropriate machinery to resolve it is the machinery set forth in the Headquarters Agreement. For this reason, we would appeal once again to the host country to reconsider its decision and accept the system for settling disputes that has been provided. Not to do so would introduce a serious precedent and would directly affect the ability of the United Nations to continue functioning independently.

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

Mr. MAKSOU (League of Arab States): The General Assembly of the United Nations is called upon once more to deal with the issue of the PLO Observer Mission and the status of the United Nations. When on 2 March 1988 the General Assembly adopted resolutions 42/229 A and 42/229 B, we surmised that reason would prevail and that the United States commitment to its treaty obligations and to international law would be upheld. We were aware, of course, that the political motives for the enactment of this reckless legislation would give way to the policy considerations that were clearly spelled out by other branches of the United States Administration, particularly the State Department. No sooner had we begun to anticipate, in view of the near unanimous vote of the Assembly, that a possible repeal might be considered by a jolted Congress or an exercise of presidential prerogative might be undertaken, the Justice Department declared, on 11 March 1988, its decision to close the PLO Observer Mission to the United Nations.

While in my earlier statement on 1 March to this Assembly I sought to give a legislative history of this statute, and while it was urged in the first instance to eschew the politics of this Act, I think that what must be urgently addressed - in light of the United States Attorney General's decision - are the legal

(Mr. Maksoud, League of Arab States)

implications of this decision, the dangerous precedent it sets, the jurisprudence that puts into jeopardy the United States interpretation of its treaty obligation towards the United Nations, the threat it poses to the various Missions accredited to the United Nations, and the implicit downgrading of international law.

The Attorney General's decision therefore puts the future relations between the host country and the United Nations in jeopardy, and that is why we are now convinced that a crisis situation has arisen that has to be openly and frankly addressed. The decision of the Department of Justice and the jurisprudence of its reasoning leaves no option for the General Assembly and the United Nations Secretary-General but to confront the issue headlong and without any equivocation.

I would like to take this opportunity to express our deeply felt appreciation for the genuine efforts of the Secretary-General in his pursuit of shielding the integrity and the independence of the United Nations. In his reports the Secretary-General clearly indicated that he would explore expeditiously all necessary and available legal avenues to the United Nations in order to shield the integrity and viability of international agreements in general and the Headquarters Agreement in particular. We are sure that with a renewed United Nations General Assembly mandate the Secretary-General will spare no effort in averting this critical development. In his courageous endeavours the Secretary-General of the United Nations will undoubtedly act not only as the chief custodian of the United Nations but also as the conscience of this Organization and its Member States.

Of course we are cognizant of the difficulties inherent in any pursuit of a collision course with a super-Power such as the United States. We are very much aware of the need for restraint in rushing to a rash conclusion. We are conscious of the need for the United Nations to be deferential to the host country. We are, furthermore, well informed about the power of the United States to defy the

(Mr. Maksoud, League of Arab States)

international consensus if it so determines. We are clear that we must avoid, if it can be avoided, this issue as a test of will. We must seek all avenues to prevent this crisis from inflicting any irreparable damage on United Nations-United States relations; we must by all means avoid even the semblance of a collision course.

Yet, on the other hand, 143 votes of this Assembly cannot be readily dismissed and ignored by the host country. Resolutions 42/229 A and 42/229 B, adopted on 2 March 1988, cannot be treated as if they were the result of verbalizing frustrations. The pleas, the appeals, the urgings of the United Nations Secretary-General and of the United Nations General Assembly should not be treated with disdain or readily reduced to irrelevance. The United States in this Organization of course plays a pivotal role; it is not, however, a unilateral Power in this respect. The sovereignty of the United States is highly regarded not only as a matter of principle but as a matter of course. But sovereignty even in its absolute manifestation should never reach the point of rupture with the international consensus or community. Otherwise the whole fabric of the United Nations is put to a severe test which can strain its texture to the breaking-point.

Let me assure members that what I am submitting is not an attempt at drama. It is a consequence of reading carefully the structured jurisprudential reasoning of the Department of Justice on this problem.

Let us go through the Attorney General's reasoning to get an insight into the gravity of the situation that arises as a result of his decision to close the PLO's Permanent Observer Mission.

On Friday, 11 March 1988, the Assistant Attorney General, Charles Cooper, who is in charge of the Office of the Legal Counsel at the Justice Department,

(Mr. Maksoud, League of Arab States)

announced the decision and read out the letter Mr. Edwin Meese, the Attorney General, sent to Mr. Zehdi Terzi, Permanent Observer of the PLO to the United Nations.

In explaining the decision during the press conference, Mr. Cooper stated:

"Congress clearly and unambiguously stated its intention. The Anti-Terrorism Act of 1987 prohibits the PLO from maintaining an office in the United States. The plain language of this provision directly applies to the PLO's Observer Mission to the United Nations."

He added that

"Congress' express purpose in passing this Act was to close the Observer Mission in New York".

The United Nations and the General Assembly considered this to be the issue and in equal unambiguous terms decided that this was a violation of the Headquarters Agreement and of United States obligations under international law.

Let us listen carefully to what Mr. Cooper states in his rebuttal to the universally accepted view as represented in the 143 votes in the General Assembly on 2 March 1988:

"The Supreme Court has held that Congress has the authority to abrogate treaties and international law for the purpose of domestic law. Here Congress has chosen, irrespective of international law, to ban the presence of all PLO offices in this country, including the presence of the PLO Observer Mission to the United Nations."

Mr. Cooper then proceeds to state, as to whether the decision violates international law or the treaty, that:

(Mr. Maksoud, League of Arab States)

"It really isn't necessary to inquire into these legal points, because Congress has decided that, without regard to what international law or what the United Nations Headquarters Agreement may provide, the PLO Observer Mission to the United Nations shall be closed."

In other words, Mr. Cooper concludes, international law, to the extent it is contrary, "has been superseded by this Statute".

(Mr. Maksoud, League of Arab States)

Furthermore, this is inconsistent with the basic principle of customary law, also included in the Vienna Convention on the Law of Treaties, that domestic law is never a valid defence against the charge of violation of international law.

What does this imply, not only for the PLO Observer Mission to the United Nations but for the United Nations itself? In our view, it means that the Headquarters Agreement is binding on a selective basis and that it is subordinate to any legislative initiative that might be undertaken against any other target or Mission in the United Nations. It means that the United Nations has to hire or create a professional lobby in Congress to monitor the situation as a protective measure, instead of being shielded by the Headquarters treaty itself. It means that the vulnerability, rather than the immunity, of the Headquarters Agreement must be assumed. It means that the independence of the United Nations has become hostage to the legislative whims of Congress. It means that the reliability of the United States in being bound by its agreements and treaty obligations is questionable. It means the absence of any guarantee that the United States can be trusted on an ongoing basis to uphold its responsibilities as the host country to the United Nations.

If every country that hosts United Nations agencies, institutions or offices were to interpret the United States action as a license for it to do the same, the ensuing confusion and anarchy would be disheartening, as well as debilitating to the very foundations of the United Nations.

When the Charter of the United Nations was drawn up, nations voluntarily entrusted the United Nations with ensuring that sovereign prerogatives did not collapse into deliberate violations of international law and treaty obligations. It can admittedly be argued that nations might under some circumstances - and

(Mr. Maksoud, League of Arab States)

rarely at that - find it necessary to violate agreements, but I submit that this should become even more restricted and a rarer occurrence when a nation is host to the United Nations and its agencies and institutions.

Yet when, as in this case, the host country declares a priori that it will not abide by its treaty obligations, it is signalling to the nations of the world and to the United Nations itself that they should not expect fulfilment of any obligation if the United Nations has unilaterally decided to abrogate it. Again, I quote Mr. Cooper:

"We have determined that we would not participate in any forum, either the arbitral tribunal that might be constituted under article 21 of the United Nations Headquarters Agreement or the International Court of Justice. The Statute has superseded the requirements of the United Nations Headquarters Agreement to the extent that these requirements are inconsistent with the Statute ... The Statute's mandate governs and we have no choice but to enforce it."

Is Mr. Cooper - is the United States Administration - telling us here that the reckless Israeli-lobby-inspired legislation leaves no recourse but the mechanical execution of the statute? Does the United States Administration want us to believe that it is helpless to find ways and means to exclude accredited Missions to the United Nations from this statute's application? Are we to believe that in the domain of foreign affairs the President - the Executive branch - cannot shield United States commitments to the United Nations from the intrusion of the Congress into its near-exclusive domain?

(Mr. Maksoud, League of Arab States)

We are aware that interdepartmental debates on this issue have taken place. We read with astonishment Secretary of State Shultz's description of the congressional legislation as "dumb". Then what? We read further the Chairman of the Senate Foreign Relations Committee, Senator Claiborne Pell, stating that the bill's language

"does not necessarily require the closure of the PLO Mission, since it is an established rule of statutory interpretation that United States courts will construe congressional statutes as consistent with United States obligations under international law if such construction is at all plausible".

Senator Pell concluded that

"If the United States is under a legal obligation as the host country of the United Nations to allow Observer Missions recognized by the General Assembly, then the language in this bill cannot be construed, in my opinion, as requiring the closure of the PLO Observer Mission. The bill makes no mention of the PLO Mission to the United Nations and the proponents never indicated an intent to violate United States obligations under international law".

Suffice it to say that those two references - the Secretary of State and the Chairman of the Senate Foreign Relations Committee - should logically have been adequate restraints on the Attorney General and an incentive for the Department of Justice to be more circumspect in its approach.

Faced with this unprecedented dilemma, the United States Administration is steering the United States to the brink of a crisis which must be avoided. Hence, the General Assembly, in pursuit of shielding its independence, its integrity and its ability to function freely, independently and consistently, must decide on how best to face this critical situation. If we are here expected to face recklessness with reason, then the host country must try once more, even at this late date, to

(Mr. Maksoud, League of Arab States)

help the United Nations rather than impede it. There is too much at stake, foremost the quality of the United States commitment to the United Nations and to international law and obligations: United States credibility.

The issue as to whether treaty obligations supersede or are superseded by domestic statutes, however debatable within the United States, is thoroughly clear to the other nations of the world, which have honoured the United States by making it the home of the United Nations. Do the United States Congress and the United States Administration no longer consider this to be a tribute to them? Or is congressional submissiveness to the Israeli lobby agenda a more honourable pursuit? No wonder Secretary Shultz gave the legislation its most precise description.

The collective wisdom of this Assembly must empower the Secretary-General with the political and legal tools that would enable reason to defeat recklessness. In this endeavour I am sure the United Nations will have more supporters within the host country, who will be more assertive.

The meeting rose at 1.15 p.m.