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GENERAL ASSEMBLY

PROVISIONAL VERBATIM RECORD OF THE ONE HUNDRED AND NINTH MEETING

Held at Headquarters, New York,  
on Wednesday, 23 March 1988, at 10.30 a.m.

President: Mr. FLORIN (German Democratic Republic)

- Report of the Committee on Relations with the Host Country [136] (continued)
  - (a) Reports of the Secretary-General
  - (b) Draft resolution
- Suspension of the forty-second session

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The meeting was called to order at 11.25 a.m.

AGENDA ITEM 136 (continued)

REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY

(a) REPORTS OF THE SECRETARY-GENERAL (A/42/915 and Add.1-3)

(b) DRAFT RESOLUTION (A/42/L.48)

The PRESIDENT: I call on the last speaker in the debate, the representative of Zimbabwe in his capacity as Chairman of the Co-ordinating Bureau of the Movement of Non-Aligned Countries.

Mr. MUDENGE (Zimbabwe): Mr. President, we are all greatly indebted to you for reconvening the resumed forty-second session of the General Assembly to consider the serious dispute between the United States and the United Nations over the threatened illegal closure of the PLO Observer Mission to the United Nations. As we have now come to expect from you, based on many previous occasions, your response to the latest developments was not only quite correct and proper but also adequate and appropriate. We thank you and look forward to your continued wise and effective guidance.

On 2 March - this month - the Assembly, considering that a dispute existed between the United Nations and the host country concerning the interpretation or application of the Headquarters Agreement, unanimously through resolution 42/229 B, set into motion the appropriate legal dispute settlement procedure stipulated in the Headquarters Agreement. The Assembly also, through resolution 42/229 A, mandated the Secretary-General to pursue his efforts to apply the remedy contained in section 21 of the Headquarters Agreement. Following this action by the Assembly, the representative of the host country told this body that his Government would consider carefully the views expressed during the resumed session and that it was the intention of the host country to find an appropriate resolution of the problem in the light of the United Nations Charter and the Headquarters Agreement.

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From the letters in annexes I and II of the Secretary-General's report - document A/42/915/Add.2 - sent to the Secretary-General and the Mission of the Palestine Liberation Organization (PLO), respectively, it is clear that, contrary to the assurances of the representative of the host country of 2 March, none of the views expressed at that resumed session seemed to have been taken into consideration by the Government of the United States. The "solution" offered is not appropriate either; neither is the contempt for international legal obligations manifested by the host country.

The host country has told the Secretary-General that it will close the PLO Observer Mission, irrespective of any obligations the United States may have under the Headquarters Agreement. That the host country has chosen to ban the presence of the PLO Mission in New York, irrespective of international law, and has openly told the Secretary-General that it will disregard its international obligations are matters of grave concern to the international community.

The New York Times of last Sunday, 13 March, quoted Mr. Charles J. Cooper, a United States Assistant Attorney General, as saying that the host country will not take part in proceedings on the issues of the PLO Mission before an arbitration panel or the International Court of Justice. That is also confirmed in a letter sent to the Secretary-General by the Permanent Mission of the host country which states 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).

The deliberate defiance expressed in the host country's letter to the Secretary-General is most unfortunate. It reminds us of the deplorable statement in the Security Council by the Pretoria representative the other day daring the Organization to do its "damndest". One cannot help but wonder what the host country expects the Secretary-General to make of its letter and of such an

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attitude. We expect the host country to show some respect for the Secretary-General as the Chief Executive Officer of this Organization. We for our part fully support the position taken by the Secretary-General and his protest to the host country as reported in document A/42/915/Add.2.

The Movement of Non-Aligned Countries is grateful for the efforts exerted by the Secretary-General in trying to find a just solution to this dispute. We all know that as Chief Administrator of this Organization his has not been an easy task since he has had to weigh and balance individual interests and rights against the overall good of the Organization. The non-aligned countries have full confidence in his ability to carry out his arduous responsibilities with courage and wisdom. We therefore appeal to the host country to help him discharge his difficult duties with the honour and dignity befitting his office. Let us all in our communications with him always remember that that is the least we owe to him.

In the letter in annex II of the Secretary-General's report, the host country informed the PLO that, if it did not close its mission by last Monday, 21 March, "the Department of Justice will forthwith take action in United States federal court" to ensure the PLO's compliance. As we all know, the host country has made good its threat. However, for our part, we cannot accept the use of any other dispute settlement procedures other than those prescribed by the Headquarters Agreement. The host country has not informed anyone that the Headquarters Agreement is no longer in force. That treaty stipulates the procedures to be followed when a dispute arises, as in the present case. As part of a treaty which is still in force, those procedures must be complied with. This august Assembly has already set in motion those procedures through resolutions 42/229 A and B adopted earlier this month. Since the host country has not yet abrogated the treaty, it is under obligation to comply with the procedures prescribed in that

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treaty. That is our stance, and the Assembly has no alternative but to restate it today.

As we have stated in the past, the issue remains one of compliance with international law. This august body must therefore demand that the host country should meet its obligations arising from the Charter and the Headquarters Agreement. The host country surely knows that its courts have no jurisdiction over this dispute arising from the intended breach of the Headquarters Agreement; this is matter for international courts and arbitration. The proposed course of action by the host country is a retrograde step in the evolution of international law. If other States were to adopt similar postures, then international law would be set back to the jungle days of Neanderthal man. We appeal to the host country - even at this eleventh hour - to notify the Secretary-General without delay of its choice of an arbitrator, as required by the relevant procedure under the Headquarters Agreement.

The forty-second session of the General Assembly has now been convened on three separate occasions to discuss the subject under consideration. It has already adopted four resolutions and now has two more before it to bring the total to six. My delegation will not be at all surprised if the session is reconvened yet again in the not-too-distant future to adopt yet another set of resolutions.

These meetings of the General Assembly are of course absolutely essential, as so many Members have made clear in their contributions from this rostrum. The meetings have provided the international community with the opportunity to state its clear, unequivocal stand that the host country's proposed action against the PLO Mission to the United Nations is in violation of the host country's international obligations. Member States have been able to appeal to the United States to face up to its obligations responsibly. But it has not escaped the

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observation of many that these meetings, forced on us by actions of the host country, are bleeding the Organization financially. How painfully ironic it all is that the same Member which has deliberately engineered the present financial crisis of the United Nations by withholding its assessed and, therefore, legally binding contributions is also the very same Member which through its actions is now forcing the Organization to fritter away its limited resources on these meetings.

Many Members - good friends of the United States at that - are desperately trying to fathom why the United States has chosen to behave in such an unhelpful way. Is this just another incidence of anti-multilateralism that the international community has come to expect from the host country as evidence of its unwillingness to pay its assessed contributions to the United Nations, its refusal to comply with the judgement of the International Court of Justice concerning its military and paramilitary activities against Nicaragua, and its various arbitrary actions taken against United Nations Missions and their personnel?

The alternative is to see the actions of the host country on this occasion as a result, not of policy, but of accident. This is no cause for comfort either, for erratic and unpredictable behaviour by any major Power is a disturbing phenomenon in international relations. And when that Power happens to be the United States, the most powerful nation on Earth, then the effect is most destabilizing indeed.

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Therefore, it is most important to all of us to know why the United States is acting in such a reprehensible manner. Why is it working so hard to damage its prestige and influence internationally? What obtuse national interest can it possibly be serving? A knowledge of any such hidden interest, even when it does not necessarily justify its illegal behaviour, might at least give us the comfort of knowing that there is, after all, some form of rationality behind its strange behaviour.

Most of us can neither decipher nor divine the logic behind such extraordinary behaviour. Is it simply that the United States legislators wanted to please Israel in an election year? If so, then why did the Secretary of State not grab the lifeline the Assembly threw to him on 2 March 1988 by inviting the United States to resort to arbitration procedure over the matter? We all thought that by offering to go to arbitration we were providing everyone with valuable time to cool the situation, as well as an honourable way out for the host country.

But for some inexplicable reason the host country is resisting the road of arbitration. Secretary of State Shultz has described the action taken by Congress as the "dumbest" thing that could have happened, and he is absolutely right in so saying. But why is the Secretary of State not allowing the World Court and the specified arbitration procedure to confirm his very sound judgement? Could it be that he himself fears that his countrymen would accuse him - quite unjustly, in our opinion - of having allowed the United States of America to be humiliated by the International Court of Justice during his watch? If that were so, it would be the sad story of a tragic fault compounding the original folly by pandering to petty nationalistic egotism.

Such considerations are not worthy of the mighty United States of America, and history will be less kind in judging those who allowed an international crisis to

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develop and escalate when honourable remedies were all along available to them. We all have a heavy responsibility not to allow ourselves to be auto-piloted into disaster. We plead for common sense. Let us have the courage to do what is right. As a world leader, the United States owes this to itself and to all of us. Its history, traditions, beliefs and Constitution have led many to expect something different from the behaviour we have witnessed so far. We therefore call on the United States to be true unto itself by allowing the PLO Observer Mission at the United Nations to continue.

The PRESIDENT (interpretation from Russian): We have heard the last speaker in the present debate.

I should like to inform members that the Islamic Republic of Iran has become a sponsor of draft resolution A/42/L.48.

I shall now call on those representatives who have asked to speak in explanation of vote before the voting on draft resolution A/42/L.48. May I remind members that, in accordance with General Assembly decision 34/401, statements in explanation of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. BEIN (Israel): The real question before the General Assembly is the integrity of the Organization. Before the vote on 2 March my delegation clearly stated its position. I shall briefly reiterate its main points.

The PLO since its inception has been the principal terrorist organization of our time. It has systematically targeted and murdered innocent civilians. It has armed and trained terrorists from over 20 countries and launched them on their missions of violence across the globe.

These acts of terror are not incidental. They are a matter of policy enshrined in the PLO Covenant. The PLO rejects the central tenet of the United



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Nations: the resolution of international conflicts and disputes by peaceful means. The Covenant of the PLO clearly states in article 9:

"Armed struggle is the only way to liberate Palestine."

No negotiations, no compromise, no peaceful means: force, terror and bloodshed are the only means used in pursuit of the PLO's objective. And precisely what that objective is is spelt out in article 19 of the PLO charter, which reads:

"The establishment of the State of Israel is fundamentally null and void, no matter what time has elapsed".

That is an open call for the liquidation of a Member State. The PLO's solution is the dissolution of Israel.

The PLO cannot invoke the United Nations Charter for its protection when its own avowed principles contradict that very Charter. The delegation of Israel, therefore, shall vote against draft resolution A/42/L.48.

Mr. OKUN (United States of America): The debate and the draft resolution raise a number of important issues. The United States is proud to be host to the United Nations, and we have always taken our obligations under the Headquarters Agreement most seriously. The United States will continue to do so.

Last December the United States Congress enacted the Anti-Terrorism Act of 1987, over the objection of the Executive Branch of the Government. After thorough consideration of the legal issues involved the Attorney General of the United States determined that the Act required him, as a matter of United States law, to take action to close the office of the Permanent Observer Mission of the Palestine Liberation Organization (PLO), whether or not the Headquarters Agreements imposed any obligations on the United States in this regard. Accordingly, since the PLO has not closed its office the Attorney General has initiated litigation in the Federal District Court to require it to do so. The United States will take no

(Mr. Okun, United States)

further steps to close the PLO office until the Court has reached a decision on the Attorney General's position that the Act requires closure.

The United States is proudly a country of laws and well-defined legal process. The United States legal system has obliged the Attorney General to move to close the PLO office. It provides the PLO every opportunity to raise relevant legal defences before final action is taken. Until the United States courts have determined whether that law requires closure of the PLO Observer Mission the United States Government believes that it would be premature to consider the appropriateness of arbitration.

(Mr. Okun, United States)

The United States understands the concerns raised in the debate and reflected in the draft resolution before us. The United States further believes that paragraph 7, which is a markedly unhelpful departure from previous General Assembly resolutions on the matter, adds nothing useful to the draft resolution. Consequently, the United States will vote against the draft resolution.

The United States is currently engaged in intensive efforts to bring about peace negotiations in the Middle East. The President and the Secretary of State have personally committed themselves to these efforts. The United States has long recognized that the achievement of the legitimate rights of the Palestinian people is an essential goal in this process. Let us not be diverted from the important and historic goal of peace in the Middle East by the current dispute over the status of the PLO Observer Mission. My delegation hopes that attention will not be diverted from the overriding interest of all Members of the Organization in achieving a genuine and comprehensive peace settlement in the Middle East.

The PRESIDENT (interpretation from Russian): We have heard the last speaker in explanation of vote before the vote.

We shall now begin the voting process. The Assembly will take a decision on draft resolution A/42/L.48.

A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Denmark, Djibouti, Ecuador, Egypt, Ethiopia, Fiji, Finland, France, Gabon, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe

Against: Israel, United States of America

Draft resolution A/42/L.48 was adopted by 148 votes to 2 (resolution 42/230).

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

Mr. TERZI (Palestine Liberation Organization (PLO)): I really cannot understand the double-talk we hear in this Hall. The General Assembly has affirmed the crucial importance of the agreement between the United Nations and the United States, as host country, and consequently the arrangements mentioned earlier

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concerning the functioning of the organs of the United Nations. It has urged the host country to abide by its international legal obligations and to desist from taking any action inconsistent with paragraph 2 of the resolution. With the exception of the two red lights that stop the traffic towards peace - the lights of the United States, the host country, and Israel, the occupying Power - the totality of the international community has reaffirmed in paragraph 2:

"that the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York is covered by the provisions of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations and that the Palestine Liberation Organization has the right" -

I emphasize "the right" -

"to establish and maintain premises and adequate functional facilities and that the personnel of the Mission should be enabled to enter and remain in the United States to carry out their official functions".

While the General Assembly was approving all that, we received a summons from the United States District Court addressed to the Mission of the Palestine Liberation Organization to the United Nations, giving us 20 days to respond, failing which the Court will order that the maintenance of the townhouse at 115 East 65th Street, New York, or of any other offices or premises within the jurisdiction of the United States as an office or headquarters of the PLO and the PLO Observer Mission to the United Nations is a violation of section 1003 of the Anti-Terrorism Act.

That townhouse happens also to house some human beings. It is where people live. Apparently the Government of the United States now wants to increase directly the number of Palestinian refugees, by throwing people into the streets

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Organization)

by what it calls a legislative Act. Yes, the Government of the United States is asking the court to declare that no one may receive funds from the PLO or any of its constituent groups to maintain telephone and utility services. So the United States Government is asking the telephone company to cut us off. Of course, we shall use message-carrying pigeons or perhaps send smoke signals.

What is even more shameful is that the United States Government is asking the court to declare that even maintaining an insurance policy will be a violation. We all know that insurance policies are a sine qua non for living in this country.

So while we hear talk in this Hall, we receive a summons, preceded by a letter from the Attorney General, who tells us that he is aware that the closure of the PLO Observer Mission is a violation of the obligations of the United States under international law. But, to cover himself, the Attorney General asks "What can I do?". He says:

"Here Congress has chosen, irrespective of international law, to ban the presence of all PLO offices ... including the presence of the PLO Observer Mission to the UN."

(Mr. Terzi, Palestine  
Liberation Organization)

Now, what can the poor Attorney General do when, irrespective of obligations under international law, the United States is determined to take action?

We have just heard the representative of the United States, the host country, tell us that the United States is proud to be host to the United Nations. What pride do they have in throwing their guests out? That is what I would like to know. We are not the guests of the United States: We are the guests of the United Nations. Is this the message the United States delegation wants to bring to the world: That guests deserve no respect; that the United Nations deserves no respect; that international law deserves no respect; that the International Court of Justice deserves no respect? Is that what the United States Congress feels? Is that why the hospitable people of the United States elected this Administration: to go around the world and say, "We do not care; irrespective of our obligations, we will do it our way"?

This is no longer the era of gunboat policies. We are living at a time of the human approach, when obligations are respected. After all, the aim of establishing the United Nations was to create conditions that would ensure respect for obligations arising from international treaties. We do not question the sovereignty of the United States with respect to revoking or abrogating the treaty with the United Nations. That is its sovereign right. But it only remains for the General Assembly to be told that the United States does not want to honour the Agreement any further.

Then we are told that the United States is currently engaged in intensive efforts to bring about peace negotiations in the Middle East. What peace is it bringing to the Middle East by arming the Israelis with the most sophisticated lethal weapons to eliminate physically the Palestinians by crushing their bones?

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Liberation Organization)

What peace is it bringing to the Middle East by trying to stifle the voice of the Palestinians in the United States? The law we have been talking about also has its other aspect: the one that makes it unlawful to further the interests of the Palestinian people.

What democracy is this, when this country, which claims to be the bastion of freedom and democracy, feels afraid to permit the voice of the Palestinians to be heard and would adopt legislation to stifle the voice of supporters of the Palestinian cause?

What "intensive" efforts is the United States bringing to the Middle East by trying to throw out the representative of that people from this Hall, where since 1974 the Palestine Liberation Organization has been contributing to the greatest possible extent to the efforts for peace in the Middle East?

The issue is not what the representative of the United States said. It is not the status of the PLO Observer Mission. The issue and the dispute concern the applicability of the Headquarters Agreement and the commitment of the host country, a party to that Agreement, to a process, to an instrument that was so far as I recall suggested in the first place by the United States: Should there be a dispute, then we go through a procedure. That procedure is spelled out in section 21 of the Agreement. Yet all of a sudden, the United States, which chose that procedure, is now trying to undermine and frustrate that procedure.

When are we supposed to abide by the summons we have received? Exactly on the day the International Court of Justice has assigned for a hearing on the request by this Assembly that the International Court of Justice determine whether the United States is obligated to go through the arbitration process. To frustrate that, and to place mines in the path of justice, the United States has chosen to undermine everything by requesting the closure of the PLO office.



(Mr. Terzi, Palestine  
Liberation Organization)

I assure the Assembly that we shall not disregard the summons from the United States district court; far be it from us to do that. But we shall tell the court that this is a dispute between the United Nations and the United States, and that the only forum where such a dispute can be settled is that found in section 21 of the Headquarters Agreement. That is the only jurisdiction that can really solve the problem.

We are approaching 11 April, and we are sure that the General Assembly is alert to the eventuality - nay, the inevitability - that one of the invitees will be prohibited from discharging its official functions. In that case, what will be the role of the General Assembly in defending the Agreement, in defending its integrity, in defending its status? Beyond all that, what will be the role of the Assembly in protecting the process it has undertaken to achieve a comprehensive and just peace in the Middle East?

STATEMENT BY THE PRESIDENT

The PRESIDENT (interpretation from Russian): In the light of paragraph 7 of resolution 42/229 A of 2 March 1988 and of paragraph 12 of resolution 42/230, just adopted, as well as in view of recent developments, it has been proposed to proceed with consultations with a view to reconvening the General Assembly before 11 April 1988 to continue consideration of agenda item 136.

If I hear no objection, it will be so decided.

It was so decided.

SUSPENSION OF THE FORTY-SECOND SESSION

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

The meeting rose at 12.10 p.m.