



General Assembly

A/RES/42/232
13 May 1988

42/232. Report of the Committee on Relations with the Host Country

The General Assembly,

Having requested, in its resolution 42/229 B of 2 March 1988, an advisory opinion from the International Court of Justice regarding the applicability of the obligation to arbitrate under section 21 of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, dated 26 June 1947,^{1/}

Having noted that, in its advisory opinion of 26 April 1988,^{2/} the Court was unanimously of the opinion that "the United States of America, as a party to the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations of 26 June 1947, is under an obligation, in accordance with section 21 of that Agreement, to enter into arbitration for the settlement of the dispute between itself and the United Nations",^{3/}

Having noted also that the Court pointed out that "the purpose of the arbitration procedure envisaged by that Agreement is precisely the settlement of such disputes as may arise between the Organization and the host country without any prior recourse to municipal courts, and it would be against both the letter and the spirit of the Agreement for the implementation of that procedure to be subjected to such prior recourse",^{4/}

Having noted also that the Court recalled "the fundamental principle of international law that international law prevails over domestic law",^{5/}

1. *Expresses its appreciation* to the International Court of Justice for having "found that an early answer to the request" submitted by the General Assembly on 2 March 1988 "for advisory opinion would be desirable" and for having accelerated its procedure on the said request;

2. *Takes note of and endorses* the advisory opinion of the International Court of Justice, of 26 April 1988,^{2/} concerning the applicability of the obligation to arbitrate under section 21 of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, dated 26 June 1947;

3. *Urges* the host country to abide by its international legal obligations and to act consistently with the advisory opinion of the International Court of Justice, of 26 April 1988, and accordingly to name its arbitrator to the arbitral tribunal provided for under section 21 of the Agreement;

4. *Requests* the Secretary-General to continue his efforts to ensure the constitution of the arbitral tribunal provided for under section 21 of the Agreement;

5. *Further requests* the Secretary-General to report to the General Assembly without delay on developments in this matter;

6. *Decides* to keep the matter under active review.

* * *

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, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, 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, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Rwanda, Samoa, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Somalia, Spain, Sri Lanka, Sudan, 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, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: Israel, United States of America.

**Later the delegations of India, Niger, Suriname and Vanuatu advised the Secretariat that they had intended to vote in favour.*