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PROVISIONAL VERBATIM RECORD OF THE ONE HUNDRED AND FIFTH MEETING

Held at Headquarters, New York,
on Friday, 18 March 1988, at 10 a.m.

President: Mr. FLORIN (German Democratic Republic)
later: Mr. MAHBUBANI (Singapore)
(Vice-President)

- Resumption of the forty-second session
- Tribute to the memory of His Excellency Mr. Pham Hung, Chairman of the Council of Ministers of the Socialist Republic of Viet Nam
- Appeal to commute the sentences of the Sharpeville Six in South Africa
- Scale of assessments for the apportionment of the expenses of the United Nations [121] (continued)
- Report of the Committee on Relations with the Host Country: Reports of the Secretary-General [136] (continued)

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The meeting was called to order at 10.35 a.m.

RESUMPTION OF THE FORTY-SECOND SESSION

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

As members are aware, the Assembly is being reconvened to consider agenda item 136, Report of the Committee on Relations with the Host Country, in accordance with General Assembly resolutions 42/210 B of 17 December 1987 and 42/229 A of 2 March 1988, and decision 42/461 of 2 March 1988.

TRIBUTE TO THE MEMORY OF HIS EXCELLENCY MR. PHAM HUNG, CHAIRMAN OF THE COUNCIL OF MINISTERS OF THE SOCIALIST REPUBLIC OF VIET NAM

The PRESIDENT (interpretation from Russian): Before taking up the agenda for this morning I should like to invite the Assembly to join in a tribute to His Excellency Mr. Pham Hung, Chairman of the Council of Ministers of the Socialist Republic of Viet Nam, who passed away on 10 March 1988. His long and distinguished career in the service of his country was characterized by his devotion to the cause of national liberation and development.

On behalf of members of the General Assembly I extend to the members of Mr. Pham Hung's family and to the Government and people of Viet Nam our profound and sincere condolences.

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

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

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

The SECRETARY-GENERAL (interpretation from French): We have learned with sadness of the passing of His Excellency Mr. Pham Hung, Chairman of the Council of Ministers of the Socialist Republic of Viet Nam, which occurred on 10 March, at the end of a long career in the service of his country.

(The Secretary-General)

Before assuming high Government office Mr. Pham Hung fought side by side with President Ho Chi Minh and played an important role in the struggle for national liberation and independence. He was Minister of the Interior after the reunification of Viet Nam and then Deputy Chairman of the Council of Ministers. Mr. Pham Hung was elected Chairman of the Council of Ministers in June 1987.

He was thus entrusted with the responsibility to conduct the business of his Government in the implementation of an important programme of reforms to promote the recovery of Viet Nam's economy. There is no doubt that the efforts and energies he deployed in that task will be a source of inspiration for his successor.

I join in the tribute the General Assembly is now paying to the memory of Mr. Pham Hung. I should like, in these sad circumstances, to express sincere condolences to the Government and people of Viet Nam and extend to the bereaved family the expression of my deepest sympathy.

The PRESIDENT: I call upon the representative of Sierra Leone, who will speak on behalf of the Group of African States.

Mr. KARGBO (Sierra Leone): The passing away of Mr. Pham Hung, Chairman of the Council of Ministers of the Socialist Republic of Viet Nam, robs the people of Viet Nam and the international community of a statesman of exceptional ability.

We are all familiar with the distinction with which he accomplished the awesome task of holding his country together in the face of overwhelming internal and external challenges.

We realize that a tragedy such as the one currently faced by Viet Nam can easily paralyse a nation for generations. However, our knowledge of the enormous capacities of the Vietnamese people assures us of their quick recovery from this trauma.

With these words, we pay tribute to the memory of Mr. Pham Hung and offer our condolences to his family and the Government and people of the Socialist Republic of Viet Nam.

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

Mrs. DIAMATARIS (Cyprus): On behalf of the Group of Asian States, I wish to join other speakers in paying tribute to the memory of a distinguished son of Asia, Mr. Pham Hung, Chairman of the Council of Ministers of the Socialist Republic of Viet Nam and Political Bureau Member of the Central Committee of the Communist Party of Viet Nam.

Mr. Pham Hung devoted his entire life to the struggle of his people, and distinguished himself in service to his country. His long and outstanding involvement in the political life of Viet Nam, ranging from his early revolutionary activities, and imprisonment for one and a half decades, to the assumption of the high posts of Vice-Premier of the Government, Vice-Chairman of the Council of Ministers, Minister of the Interior and, recently, Chairman of the Council of Ministers of Viet Nam, was characterized by his dedication to the interests of his

(Mrs. Diamataris, Cyprus)

people and to national liberation and the national reconstruction of his country. For his devotion to these noble causes and principles, Mr. Pham Hung was awarded the Sao Vang (Gold Star) order, the highest order of the Socialist Republic of Viet Nam, as well as other orders, both by Viet Nam and a number of other countries.

On behalf of the Asian Group, I extend to his family, the Government, the people and the delegation of the Socialist Republic of Viet Nam our sincere and deep condolences on the loss of a great leader and son of a fellow Asian State.

The PRESIDENT: I now call on the representative of Bulgaria, who will speak on behalf of the Eastern European States.

Mr. GARVALOV (Bulgaria): On behalf of the Group of Eastern European States, I wish to convey to the delegation of the Socialist Republic of Viet Nam and the entire Vietnamese people our sincerest condolences and deepest sympathy on the occasion of the passing away of Comrade Pham Hung, Member of the Political Bureau of the Central Committee of the Communist Party of Viet Nam and Chairman of the Council of Ministers of the Socialist Republic of Viet Nam.

The name of Comrade Pham Hung will remain indelibly linked with the heroic struggle of the people of Viet Nam for national and social liberation, and with the successful advance of his country to socialism. A steadfast revolutionary and a dedicated Communist, Comrade Pham Hung was an active participant in the national liberation and unification struggles of the people of Viet Nam, as well as in the post-war peaceful reconstruction of the Socialist Republic of Viet Nam.

Throughout his life, from his early participation in the battlefields of the national liberation struggle to his subsequent promotions to highly responsible posts in the State and party organs of the Socialist Republic of Viet Nam, Comrade Pham Hung was noted for his enormous political popularity, and was greatly respected for his wisdom and selfless dedication to the noble ideals of freedom,

(Mr. Garvalov, Bulgaria)

progress, equality and socialism. Until his last breath he remained a courageous and staunch champion of these lofty ideals and an untiring fighter for national independence and social justice. His death is a grievous loss for the Government and Communist Party of Viet Nam and the entire Vietnamese people. His memory will live forever in the hearts of his comrades and compatriots, as well as of all honest and progressive-minded people throughout the world. We pay homage to his memory.

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

Mr. NAVAJAS MOGRO (Bolivia) (interpretation from Spanish): This is the first time I have had the honour to speak in the Assembly. Although I do so representing the Latin American and Caribbean Group, may I as representative of my country express to you, Sir, our congratulations on the excellent manner in which you have been discharging your duties. At the same time, I pay tribute to the Secretary-General, Mr. Javier Perez de Cuellar, a distinguished Latin American statesman to whom Bolivia is particularly grateful and whom it strongly supports.

It is with deep regret that I express on behalf of the Latin American and Caribbean Group to the Government and people of Vietnam our heartfelt condolences on the passing of one of their most outstanding statesmen, a distinguished member of the Political Bureau of the Central Committee of the Communist Party of Viet Nam and Chairman of the Council of Ministers of the Socialist Republic of Viet Nam, Mr. Pham Hung. His passing on 10 March constitutes a regrettable and irreparable loss for the Government and the noble people of Viet Nam. The loss is also felt by the international community, which today is paying tribute to his memory.

Mr. Pham Hung dedicated his life to his country, to the noble cause of liberation and the national reunification of his country. His life was an example

(Mr. Navajas Mogro, Bolivia)

of sacrifice and determination; it was a continuing struggle for the building and consolidation of the Socialist Republic of Viet Nam. It will doubtless serve as an inspiration to future generations of Vietnamese, and his memory will inspire those fighting and making sacrifices for peace and the well-being of the courageous people of Viet Nam.

The Latin American and Caribbean Group also extends its condolences to the members of Mr. Pham Hung's family.

The PRESIDENT: I now call on the representative of the Netherlands, who will speak on behalf of the Western European and other States.

Mr. JACOBOVITS DE SZEGED (Netherlands): On behalf on the Group of Western European and Other States, I am speaking to pay tribute to the memory of Mr. Pham Hung, the late Chairman of the Council of Ministers of the Socialist Republic of Viet Nam.

Mr. Pham Hung played a key role in the history of his country over the past decades. From the beginning of his political career in the 1920s he devoted his life to the realization of the revolutionary ideals he believed in. He has served his country in a great number of different capacities, among others as Vice-Chairman of the Council of Ministers and Minister of the Interior, before he was elected Chairman of the Council of Ministers by the National Assembly last year. Mr. Pham Hung will be commemorated as a dedicated politician who was able to make a significant contribution to the developments in his country over more than half a century. On behalf of the Group of Western European and Other States, I wish to extend our condolences to the Government and people of Viet Nam and to the Vietnamese delegation on the loss their country has suffered.

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

Mr. GHEZAL (Tunisia) (interpretation from Arabic): On behalf of the Arab Group, over which Tunisia has the honour to preside this month, I wish to express our condolences to the people and Government of the Socialist Republic of Viet Nam and to the family of the deceased. Mr. Pham Hung was Chairman of the Council of Ministers of the Socialist Republic of Viet Nam at the time of his death on the tenth of this month as the result of a heart attack. We wish to express our deepest sympathy and sincerest condolences at the passing of Mr. Pham Hung, who died at the age of 76. The Socialist Republic of Viet Nam has lost a glorious son as well as an experienced leader and statesman, one who had devoted almost six decades of his life to his country and people. He began the struggle for his

(Mr. Ghezal, Tunisia)

country at a very young age and fought alongside Ho Chi Minh. Therefore, the life of this great man was a very rich and active one devoted to the long struggle for the liberation of his country and for ensuring its progress and prosperity.

The Arab Group would request the delegation of Viet Nam to convey our sincere condolences to the people and Government of Viet Nam and to the family of the deceased on its great loss at the passing of its leader.

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

Mr. ROSENSTOCK (United States of America): Like others who have spoken before us, we, as host country, wish to express our regret at the unexpected death of Mr. Pham Hung, Chairman of the Council of Ministers of the Socialist Republic of Viet Nam. Premier Pham Hung served his Government faithfully for many decades in positions of great responsibility. Our condolences are extended to the Vietnamese people, their Government and the family of the former Premier.

The PRESIDENT (interpretation from Russian): I call on the representative of Viet Nam.

Mrs. NGUYEN BINH THANH (Viet Nam) (interpretation from French):

Mr. President, the delegation of Viet Nam is deeply moved as we convey, on behalf of our Government and people, our sincere thanks to you, to the Secretary-General as well as to the representatives of the various regional groups for the tribute that the General Assembly has paid this morning to the memory of the Chairman of the Council of Ministers of the Socialist Republic of Viet Nam, the late lamented Comrade Pham Hung.

Viet Nam has just lost one of its best sons, an outstanding and revered leader, one who had been in the forefront in the bitter struggle waged for nearly half a century by our people for its independence.

(Mrs. Nguyen Binh Thanh,
Viet Nam)

The life of Chairman Pham Hung, one of the best disciples of President Ho Chi Minh, was typical of all freedom fighters in the world, a life filled with self-denial.

After 16 years of untold suffering endured in the colonialist gaol of Poulo-Condor, the notorious "ANH HAI HUNG" - the "elder brother", as our combatants called it affectionately - he took up the struggle once again and was present in key posts on all fronts in the long and bitter struggle conducted by our people against successive foreign occupation, for national salvation and the happiness of future generations.

In view of the outstanding services rendered to the nation, the Vietnamese party and State posthumously awarded to Chairman Pham Hung the Order of the Golden Star, the highest distinction of our State. Because of his commendable contribution to the cause of the freedom of peoples, Chairman Pham Hung was awarded the highest honours by fraternal countries: the Order of the October Revolution, by the Government of the Union of Soviet Socialist Republics; the Order of Ernesto "Che" Gueverra First Class, by the Republic of Cuba; the National Defence Order First Class, by the Socialist Republic of Czechoslovakia; and the George Dimitrov Order by the People's Republic of Bulgaria.

Chairman Pham Hung fell fighting on the field of honour. That great heart, inspired by the noble ideals of freedom, equality, fraternity and social justice, which is shared by the whole of humanity, beats no more. But those ideals, which are also shared by the great human family of the United Nations, are still alive, and for us, the people of Viet Nam, as well as for all peace- and justice-loving peoples represented in this Assembly, the struggle continues so that, finally, the light of dawn of a humanity totally delivered from all oppression and social injustice can shine on the earth once again.

(Mrs. Nguyen Binh Thanh,
Viet Nam)

I should like to renew the expression of our sincere and profound gratitude for the tribute paid this morning by the General Assembly to the memory of our late lamented Chairman of the Council of Ministers, Comrade Pham Hung.

APPEAL TO COMMUTE THE SENTENCES OF THE SHARPEVILLE SIX IN SOUTH AFRICA

The PRESIDENT (interpretation from Russian): I should like to draw the General Assembly's attention to a disturbing development in South Africa.

The international community has been gravely concerned at the intention of the South African authorities to execute the six young South Africans known as the Sharpeville Six. The world has responded to that intention by addressing to South Africa protests and pleas for clemency, including my own as President of the General Assembly and those of the Secretary-General of the United Nations.

On 16 March 1988 the Security Council unanimously called upon the South African authorities to stay the execution and commute the death sentences imposed on the Sharpeville Six, and urged all States and organizations to use their influence and take urgent measures to save the lives of the six young South Africans. I take it that the General Assembly fully shares and supports the Security Council's appeal - all the more since the threat to the lives of the young South Africans is not over.

AGENDA ITEM 121 (continued)SCALE OF ASSESSMENTS FOR THE APPORTIONMENT OF THE EXPENSES OF THE UNITED NATIONS
(A/42/925/Add.2)

The PRESIDENT (interpretation from Russian): I should like to draw the Assembly's attention to document A/42/925/Add.2, which contains a letter addressed to me by the Secretary-General informing me that since the issuance of his communications dated 29 February and 1 March 1988 Benin, the Central African Republic and the Congo have made the necessary payments to reduce their arrears below the amount specified in Article 19 of the Charter.

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

It was so decided.

AGENDA ITEM 136 (continued)

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

The PRESIDENT (interpretation from Russian): At the current session, the General Assembly has adopted on this item resolutions 42/210 A and B of 17 December 1987 and 42/229 A and B of 2 March 1988. In addition, the Assembly has before it the reports by the Secretary-General issued as documents A/42/915 and Addenda 1 to 3.

As members may recall, the Assembly at its 104th meeting took a decision to keep the matter under active review, which clearly would permit resumption of expeditious consideration of the item if developments so required, upon receipt of the report by the Secretary-General requested in paragraph 6 of resolution 42/229 A. Two reports of the Secretary-General have now been received and are available in documents A/42/915/Add.2 and 3. Therefore, in the light of consultations held prior to this resumption of the session; it is my understanding that the Assembly wishes to proceed with the consideration of this item and to do so in plenary meetings.

It was so decided.

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

The SECRETARY-GENERAL: Since the last meeting of the General Assembly I have made two further reports, on 11 and 16 March 1988, respectively, in which I have provided information concerning the evolution of the situation arising from the implementation by the United States of the legislation contained in the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as it affects the maintenance of the present arrangements in New York for the Palestine Liberation Organization Observer Mission. The two reports are factual in nature and speak for themselves.

(The Secretary-General)

In the light of these latest developments, I feel it is my duty to reiterate my strong conviction that the dispute which has been engendered by the legislation in question is one that must be resolved within the framework of the Headquarters Agreement. My concern in this regard goes well beyond the present legislation and relates to the integrity and viability of international agreements in general and the Headquarters Agreement in particular. The approach which I have taken is, in my view, the only one that is consistent with the purposes and principles of the United Nations Charter and resolutions 42/210 B and 42/229 B, which were adopted by the General Assembly on 17 December 1987 and 2 March 1988, respectively.

The International Court of Justice has been requested by the General Assembly to give an advisory opinion on the procedural obligations of the United States under the Headquarters Agreement. As members of the General Assembly know, the Court has fixed time limits for the presentation of written statements and oral hearings which are clearly designed to accelerate the Court procedure. For my part, I fully intend to meet these accelerated time limits. The opinion of the Court will clarify the legal issues as regards the applicability of the Headquarters Agreement to this dispute and the relevance of section 21 of that Agreement to its resolution.

As we reconvene today, I trust that our deliberations will once again be marked by the seriousness which characterized our last discussion of this item. I trust also that the message of the General Assembly will be clear and that it will contribute to a solution of the problem before us in a manner that is consistent with international law, and the Headquarters Agreement in particular.

The PRESIDENT (interpretation from Russian): At this point I should like to inform the General Assembly about our programme of work.

(The President)

I have received a request from a number of delegations that the Assembly should not meet this afternoon and should continue its consideration of this item on Monday, 21 March, at 10 a.m. and 3 p.m. and on Tuesday, 22 March, as well.

I should like to propose that the list of speakers in the debate be closed today at 5 p.m.

It was so decided.

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

Mr. GHEZAL (Tunisia) (interpretation from Arabic): On behalf of the Tunisian delegation and of the group of Arab States, over which it is my honour to preside this month, I wish to express to you, Mr. President, our appreciation for your enlightened decision to convene this resumed session of the General Assembly for the second time in a three-week period to continue consideration of agenda item 136, entitled "Report of the Committee on Relations with the Host Country". The resumed sessions were convened following the host country's adoption of the Anti-Terrorism Act of 1987, which called for the closing of the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations in New York. The competence and effectiveness with which you have guided the work of the many meetings of the General Assembly guarantee the success of our future work and of our achievement of the expected results at this resumed session.

I wish also to thank the Secretary-General for the two reports before the Assembly: A/42/915/Add.2 and Add.3 of 11 March 1988 and 16 March 1988 respectively. We appreciate his constant effort in the service of the noble purposes of the United Nations and to ensure respect for those who bear the standard of those principles.

The General Assembly is meeting today pursuant to resolution 42/229 A, by which the Assembly decided to keep under active review the item entitled "Report of the Committee on Relations with the Host Country". It is thus that the Assembly has been reconvened to resume consideration of that item in the light of the information contained in the reports of the Secretary-General.

Members will have read in the report of the Secretary-General (A/42/915/Add.2) that the Acting Permanent Representative of the United States handed to the Secretary-General a letter stating that the Attorney General of the United States had determined that he was required by the Anti-Terrorism Act of 1987 to close the

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office of the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York irrespective of any obligations the United States might have under the Agreement between the United Nations and the United States regarding the Headquarters of the United Nations. The letter went on to say that if the Palestine Liberation Organization did not comply with the Act, the Attorney General would initiate legal action to close the Permanent Observer Mission of the Palestine Liberation Organization on or about 21 March 1988, the effective date of the Act. Finally, the letter stated that the United States believed that submission of this matter to arbitration would serve no useful purpose.

In an appendix, the report also contains the text of a letter dated 11 March 1988 from the Attorney General of the United States to the Permanent Observer of the Palestine Liberation Organization to the United Nations. That letter indicates that as of 21 March 1988 maintaining the Palestine Liberation Organization Observer Mission to the United Nations in the United States will be unlawful and that should the Palestine Liberation Organization fail to comply with the Act the Attorney General would take action in United States federal court to ensure compliance.

I would note that, as reported in The New York Times of 12 March 1988, Mr. Charles J. Cooper, an Assistant Attorney General of the United States, commented on this matter, saying on 11 March that the United States would not take part in proceedings before an arbitration panel or the International Court of Justice.

Those are the developments that led to this resumption of the current General Assembly session. No one is unaware of the threat they pose to the credibility of the United Nations and its Charter, and to respect for accredited Observers.

(Mr. Ghezal, Tunisia)

A protest has been lodged with the host country, since closing the offices of the Permanent Observer of the Palestine Liberation Organization to the United Nations constitutes a flagrant, premeditated violation of the Headquarters Agreement concluded between the United States as host country and the United Nations. Moreover, it constitutes a violation of international law.

(Mr. Ghezal, Tunisia)

That decision of the host country came at a time when everyone was hoping that the United States would finally agree to respect its international obligations vis-à-vis the United Nations under the Headquarters Agreement and the Charter. Everybody was hoping that the host country would respond to the relevant General Assembly resolutions on this subject - resolutions 42/210 B of 17 December 1987 and 42/229 A of 2 March 1988.

In the first of those resolutions the General Assembly reiterated that the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations was covered by the provisions of the Headquarters Agreement and should be enabled to establish and maintain premises and adequate functional facilities, and that the personnel of the Mission should be enabled to enter and remain in the United States to carry out their official functions. It also requested the host country to abide by its treaty obligations under the United Nations Headquarters Agreement and in that connection to refrain from taking any action that would prevent the discharge of the official functions of the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations.

In resolution 42/229 A the General Assembly affirmed that implementation of the Anti-Terrorism Act of 1987 would be contrary to the international obligations of the host country under the Headquarters Agreement; it also called on the host country to abide by its treaty obligations under that Agreement and to provide assurance that no action would be taken that would infringe on the current arrangements for the official functions of the Permanent Observer Mission of the Palestine Liberation Organization in New York.

The first resolution was adopted by 145 votes and the second by 143. Everyone hoped that the host country would heed the repeated urgent appeals addressed to it from this rostrum by all 63 delegations which spoke in the General Assembly debate

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less than three weeks ago. It was also hoped that the efforts of the Secretary-General and his assistants would be appreciated by the host country and lead to the latter's reconsidering its decision and deciding not to implement that Act; or that it would take action under section 21 of the Headquarters Agreement. However, the Government of the host country insisted on implementing that unjust Act.

Here we should like to reaffirm that the host country has not responded favourably to those appeals; it has not taken into account the near-unanimous appeals of the General Assembly; it has not lived up to its international obligations, although those obligations were entered into in complete freedom; and it has defiled the sacred nature of international law.

At the end of the last meeting of the General Assembly on 2 March 1988, the delegation of the host country declared that its Government considered the resumed session of the General Assembly useless and premature; that it would consider the opinions expressed by Governments in the course of this resumed session; and that it would try to arrive at an appropriate solution of this question on the basis of the United Nations Charter, the Headquarters Agreement and American law. However the United States decision, as expressed in the letter of 11 March from the Permanent Representative of the United States addressed to the Secretary-General relating to the implementation of that Act and statements that have been made all indicate that the United States does not accept its obligations.

The host country is a great State which assumes vast responsibility for the maintenance of international peace and security and says it is proud of being a law-abiding country which implements international law. What has happened? Why has that country adopted this attitude?

(Mr. Ghezal, Tunisia)

I wish representatives to recall the statement of the Secretary of State of the United States Department of State, but no initiative has yet been taken indicating that the law to close the office of the Permanent Observer Mission has been set aside. The Government of the host country does not question the legitimacy of the presence of the Permanent Observer Mission of the PLO in New York, which came after an invitation was addressed to the PLO by the General Assembly in its resolution 3237 (XXIX) of 22 November 1974, at its twenty-ninth session, to participate as an Observer in sessions of the General Assembly and all international conferences held under the auspices of the General Assembly and other United Nations bodies.

The General Assembly reaffirmed the legitimacy of the PLO as the sole, legitimate representative of the Palestinian people in its resolutions 3375 (XXX) and 42/209, guaranteeing participation by the PLO on an equal footing with all other members, in all deliberations and conferences held on the question of the Middle East, including the international peace conference, under United Nation auspices. The host country has not questioned and cannot question the fact that the PLO Mission in New York is covered by the provisions of the Headquarters Agreement, in particular articles 11, 12 and 13; neither has the host country called into question the fact that implementation of the Anti-Terrorism Act will not curb terrorism or help the Middle East cause.

(Mr. Ghezal, Tunisia)

Terrorism has not been caused by the PLO or the Palestinian people, but it has been caused specifically by Israel's forces in occupied territories. The fact is that the PLO has an inalienable right, representing as it does the people of a generation whose aspirations will not be broken by any kind of manoeuvring and which will win out over injustice and colonialism.

The aim of the Headquarters Agreement is to govern relations between the United Nations and the host country and to preserve the independence of the Organization with a view to ensuring the free accomplishment of its international mission and, further, adequate working conditions for the Secretariat and for those accredited to the United Nations, whether Missions or various delegations. Hence any measure aimed at preventing a Member or an Observer from accomplishing its official tasks is a flagrant intervention in the functioning of the Organization that cannot be tolerated.

The Anti-Terrorism Act of 1987 has given rise to a legal dispute between the United Nations and the United States of America. That law, and its implementation, constitute a flagrant violation of the Headquarters Agreement concluded between the Organization and the United States. Should the United States refuse to accept the means for a solution in keeping with section 21 of the Headquarters Agreement - that is, arbitration - the General Assembly must then fully assume its responsibilities with a view to ensuring that the PLO is able to carry out its official functions at the United Nations under normal conditions and to have access to the offices and services it requires.

The General Assembly must also authorize the Secretary-General, who is responsible for ensuring respect of the Headquarters Agreement, to take the necessary measures to meet this goal. The Group of Arab States is concerned that, regrettably, the Organization should be faced - through the action of a great

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Power, the United States of America - with this violation of the Headquarters Agreement. In so doing the United States of America is flouting international law and obligations. If this great Power, which is a member of the Security Council, openly proceeds to such a violation, who will be to blame if others follow suit? And what would the United States do if others also violated international law?

In fact, the host country's letters addressed to the Secretary-General and to the Observer of the PLO constitute a dangerous development and precedent that threatens the Organization and the immunity of its Member States. This action is also a dangerous precedent vis-à-vis the Headquarters Agreement and the Charter itself; it also poses a threat to other international and regional organizations in various parts of the world governed by headquarters agreements. Hence it also sets a dangerous precedent that undermines the inviolability of international law and the foundations on which international relations rest.

This episode brings to mind the attitude of a hunter pursuing his quarry armed with a rifle who is determined to achieve a kill at whatever cost, even to the extent of burning down the forest although the forest is as vital to him as it is to others. Is it possible that, driven by hatred, those who are hunting down the Palestinian people are capable of pursuing the host country into violating the United Nations Charter and international law?

The United Nations is the hope of all weak and oppressed peoples; they look to the United Nations to win their freedom and join others in international co-operation. In it is vested mankind's aspiration for international peace and security, for a life free from wars and conflicts. The United Nations is the indispensable framework for all constructive dialogue among nations, civilizations and cultures. In order for the Organizations to remain a forum for international understanding and co-operation, it is necessary that it be endowed with all

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necessary guarantees for its viability and progress and that everyone act in good faith to ensure respect for its independence.

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)): The General Assembly has reconvened for the second time in two weeks. We believe that it would be appropriate to recall the developments relating to the item under consideration since the Assembly suspended its work on 2 March 1988.

In his closing statement on that day the representative of the United States said:

"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."

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

He gave us the following assurance:

"I assure those countries which have approached this debate, and the subject at issue, seriously, that my Government approaches it with equal seriousness."

(ibid.)

During the debate on both occasions - in December 1987 and in March 1988 - the United States adopted an escapist policy and behaviour. We all know that escapism is always fraught with ill-intentions and malice aforethought. On both occasions the United States regarded the debate and the resumed session as premature and inappropriate. Through its representative in this Hall the United States has informed us that

"the United States has again chosen not to participate in the vote on the resolutions which have just been adopted." (ibid.)

(Mr. Terzi, Palestine
Liberation Organization)

Why did the United States view the resumed session as unnecessary and premature? To explain its escapism, it alleged that

"The United States has not yet taken action affecting the functioning of any Mission or invitee." (A/42/PV.104, p. 59)

However, to add a sugar-coating of sweet talk, he said:

"The debate of the past three days has dealt with a subject to which the United States Government has given a great deal of attention. We regard this as a serious issue, since it involves important questions of United States law and international law, and we have been in regular and frequent contact with the United Nations Secretariat over the past several months concerning an appropriate resolution of this matter." (A.42/PV.104, p. 58 et seq.)

That in itself constitutes a testimony, a testimony by the representative of the United States that clearly admits that a dispute exists. For otherwise, why should the United States, the host country, be in regular and frequent contact with the Secretariat of the United Nations, the other party to the Agreement and thus the other indispensable party to the dispute? The host country has refused to respond to all the calls by the Secretariat to put in motion the agreed-upon procedure to settle disputes in conformity with the provisions of section 21 of the Agreement.

At last, on 11 March 1988 the United States came out with a clear position, and it can no longer claim that

"the United States Government has made no final decision concerning the application or enforcement of recently passed United States legislation".

(Ibid.)

Thus, the escapist route reached a dead end.

(Mr. Terzi, Palestine
Liberation Organization)

To his report of 11 March 1988 (A/42/915/Add.2) the Secretary-General annexes a letter dated the same day from the Permanent Mission of the United States. We need not elaborate; we need not elaborate further on the position of the Secretary-General as it appears in document A/42/915/Add.3, issued on 16 March. We strongly support the courageous stand of the Secretary-General in defence of the United Nations, of its dignity and of its integrity.

Somehow, by previous planning, the Attorney General of the United States, on the same day, 11 March, addressed a letter to the Permanent Observer Mission of the Palestine Liberation Organization (PLO), which is also annexed to the report of the Secretary-General in document A/42/915/Add.2. We in the Palestine Liberation Organization Permanent Observer Mission thought it would be only polite to send the following to the Attorney General of the United States. I quote from our letter to him dated 14 March, which was hand delivered to the assistant to the Attorney General in Washington D.C. since his letter to us had also been hand delivered. The letter read as follows:

"Dear Mr. Attorney General:

"I am writing to acknowledge receipt of your letter hand delivered to me on 11 March 1988. I am, at the same time, forwarding copy of same to His Excellency the Secretary-General of the United Nations. The attached copy of your letter indicates that you intended to include 'enclosure', but such 'enclosure' was not enclosed. We received only the original of the attached copy. You may still wish to send me the 'enclosure'."

I really do not know what he was supposed to have put in that letter, but, taking it at face value, I take it that he meant to send me something nice which, at the last minute, he refrained from doing. I continue reading from our letter:

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"You are notifying me of Title X of the Foreign Relations Authorization Act of 1988-1989, Public Law No. 100-204 enacted by the Congress of the United States and approved on 22 December 1987, referred to as 'Act'. You further wrote to notify me that the Act prohibits, among other things, 'the Palestine Liberation Organization (PLO) from establishing or maintaining an office within the jurisdiction of the United States', and you add, 'Accordingly, as of 21 March 1988 maintaining the PLO Observer Mission to the United Nations in the United States will be unlawful.'

"I wish to inform you that the Palestine Liberation Organization has established and is currently maintaining its PLO Permanent Observer Mission to the United Nations in New York since 1974.

"The PLO has maintained this arrangement in pursuance of the relevant resolutions of the General Assembly of the United Nations (3237 (XXIX), 42/210 and 42/229). The PLO Observer Mission is in no sense accredited to the United States. The United States Government has made clear that PLO Observer Mission personnel are present in the United States solely in their capacity as invitees of the United Nations within the meaning of the Headquarters Agreement."

That statement is derived from a letter by Secretary of State Shultz to Senator Dole in January 1987. My letter continues:

"The General Assembly was guided by the relevant principles of the United Nations Charter, Chapter XVI. I should like, at this point, to remind you that the Government of the United States has agreed to the Charter of the United Nations and to the establishment of an international organization to be known as the United Nations. The Government of the United States, among the other founding fathers, resolved to establish the United Nations to accomplish

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aims, amongst which is the aim 'to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.' It should become clear from the above that the United States Government is obligated to respect the provisions of the Headquarters Agreement and the principles of the Charter.

"In light of the above, I trust to hear from Your Excellency, informing precisely what requirements of the Act I should comply with."

The letter is signed by the Permanent Observer. So far we have not heard from His Excellency the Attorney General the requirements with which we should comply.

Immediately prior to the letters from the Government of the United States on 11 March 1988 the Registry of the International Court of Justice made available, on 9 March, the following information:

"On 9 March 1988 the International Court of Justice unanimously adopted an Order accelerating its procedure on the request just submitted by the General Assembly of the United Nations for its advisory opinion on a question concerning the applicability of section 21 of the United Nations Headquarters Agreement."

The information also included the following:

"In the present instance, the Court has decided that the United States of America and the United Nations shall receive a direct notification of that kind, and has fixed 25 March 1988 as the time-limit for the receipt of their written statements and those of any other State party to the Statute wishing to participate in the proceedings. The Court has further decided to open a hearing on 11 April 1988 for the purpose of enabling the participants to comment on each other's written statements."

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In total disregard of all that, the United States Government informed the United Nations that, irrespective of any obligations the United States might have under the Agreement, the United States was determined to close the office of the PLO Mission to the United Nations, and that

"submission of this matter to arbitration would not serve a useful purpose". The letter should also say "irrespective of the opinion of the International Court of Justice", or irrespective of any other opinion.

The letter of the Permanent Mission of the United States to the United Nations announces another determination, namely:

"The United States will not take other actions to close the Observer Mission pending a decision in such litigation".

That litigation is described as

"action to be taken forthwith by the United States Department of Justice, in the United States federal court."

Thus the United States Government is informing the United Nations, the Secretariat and the General Assembly that it will simply take no action and will subject all action by the international community on this matter to United States domestic law. The dispute is of an international nature and can be settled only through the instrument that the host country, the United States, has agreed to, namely, the provisions of section 21 of the Agreement.

The United States cannot simply ignore or disregard the method for settling disputes it agreed to on signing the Agreement. There is a minimum requirement of good faith and respect for such agreements; otherwise, how can any international agreement be respected and trusted, unless the parties to that agreement abide by their obligations and maintain good faith? Such negation of responsibilities and obligations will shatter all good faith and hope in international relations. I

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might add that it is not really becoming for the host country to disregard its obligations.

The United Nations was established to accomplish certain purposes. One specific purpose is

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

The Charter of the United Nations is a source of international law, and the Headquarters Agreement is premised on Article 105 of the Charter.

The General Assembly has determined that the PLO Observer Mission to the United Nations in New York is covered by the Agreement. On 4 March 1988 a United Nations spokesman, following a check with the United Nations Legal Counsel, said:

"The PLO has entitlements under the Agreement spelled out in sections 11, 12 and 13 in their capacity as invitees of the United Nations. Section 11, in particular, gives them the right to enter and remain in the United States and, therefore, to maintain offices and living accommodations. The United Nations takes the position that Article 105 of the Charter dealing with privileges and immunities applies to the PLO and gives it functional privileges and immunities".

Legal Counsel apparently was asked about some mysterious document dated 1962 which was used in Congress as misinformation fed to Congressmen. They were told that in 1962 the Secretary-General or Legal Counsel had informed the Government of the United States in a secret document that Observers had no privileges or immunities. Legal Counsel's reply was as I have just stated it. The misinformation was fed into Congress to encourage the passing of that law. But, naturally, this is not a matter that we have to discuss in the Assembly.

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Upon signing the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, on 22 December 1987, the President of the United States said:

"Under our constitutional system of separation of powers, the President has special responsibilities in the area of foreign affairs. Certain provisions in HR 1777, however, could be construed so as to interfere with the discharge of these responsibilities."

On 23 December 1987 the Department of State announced that

"... the provisions concerning the PLO Observer Mission may infringe on the President's constitutional authority, and, if implemented, would be contrary to our international legal obligations under the United Nations Headquarters Agreement".

As a sign of good faith and good intentions by the Department of State, why was it not really proper to advise the President of the United States to say, among other things: "Consistent with my constitutional responsibility, I am signing the Act without prejudice to international legal obligations under the United Nations Headquarters Agreement and the Charter of the United Nations"? Had such a suggestion been made to the President of the United States when he put his signature to the Act, I am sure he would have considered that.

But, irrespective of the sweet talk of the representatives of the Government of the United States and statements by the Department of State, the true intentions are now pronounced loud and clear. The Government of the United States is frustrating the operation of the provisions of the Agreement; it is attempting to frustrate and undermine the role of the International Court of Justice. The United States is determined to stifle the voice of the Palestinian people and deny us, the PLO, the representative of the Palestinian people, the right to express their aspirations, to defend their rights, to enable them to attain and exercise their

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inalienable rights in their own country and to contribute towards the achievement of a just and comprehensive settlement of the Arab-Israeli conflict and the attainment of peace in the region, notwithstanding all the sweet talk we hear about peace in the Middle East.

The prohibition to be imposed by the host country, denying the PLO its Permanent Observer Mission to the United Nations in New York, will of necessity create serious problems for the Assembly. For how could the Assembly address issues concerning the Palestinian people in the forced absence of their representative? How could the Assembly permit the representative of the aggressor, the occupying Power, the party to the Arab-Israeli conflict - Israel - to discharge its functions at the United Nations while the PLO is prohibited by the host country from discharging its functions? In fairness and justice, the General Assembly should also address this aspect, which would be one of the results of the determination of the United States to violate its obligations and the Charter.*

* Mr. Mahbubani (Singapore), Vice-President, took the Chair.

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Liberation Organization)

We deem it proper that the General Assembly should ask the Secretary-General, the custodian of this Organization, to take all steps, including legal steps, should that also prove to be needed, in order to ensure that the PLO Permanent Observer Mission to the United Nations in New York be enabled to discharge its official functions without hindrance and that that right and those arrangements followed since 1974 should be maintained and continued. Let us hope against hope that the host country will inform us before 21 March that the law is not meant to infringe on and violate the obligations of the United States under the Charter and the Headquarters Agreement.

Mr. ABULHASAN (Kuwait) (interpretation from Arabic): It gives me great pleasure to address the General Assembly today on behalf of the Organization of the Islamic Conference, over whose fifth session Kuwait has the honour to preside. Today the General Assembly resumes its forty-second session for the second time in less than a month. The reason for doing so, in the unanimous view of the international community, is a compelling one, one which threatens the very fabric of the international system of international relations, the norms and conventions which govern it. I am referring to the decision taken by the United States, as the host country, to close the office of the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations in clear and blatant violation of the Headquarters Agreement, thus posing a direct threat to the foundations of international law and the principles of the United Nations Charter.

Two weeks ago at its resumed session, the General Assembly, in resolution 42/229, reaffirmed the applicability of the provisions of the Headquarters Agreement concluded between the United Nations and the United States to the

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Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York. At that time we heard some voices from the host country that sought to argue that observer missions were not covered by the provisions of the Headquarters Agreement. Those attempts evolved to the point of declaring the precedence of national legislation and the view that such legislation invalidates any legislation that runs counter to the obligations of the host country under international agreements. The international community has been unanimous in this matter and many public and official circles in the United States have expressed the view that the United States is legally bound, as the host country and under the provisions of the 1947 Agreement, to allow the Permanent Observer Mission of the PLO to establish and maintain offices sufficient to discharge its tasks and to enable the staff of the mission to enter and remain in the United States and to carry out its official functions. That is a right guaranteed under Article 105 of the Charter.

We all know that it was agreed more than 40 years ago to establish the United Nations Headquarters in New York on the basis of certain guarantees included in the 1947 Agreement. Those guarantees are binding and are intended first and foremost to protect the Organization and the principle of its membership from the whims of States and from any violations that could undermine the universality of the United Nations. What is now happening to the Permanent Observer Mission of the PLO, which represents a national liberation movement and which is recognized by 140 States in Europe, Asia, Africa and Latin America, constitutes a very serious precedent that poses a threat to every State, to every Member and to every observer group in our international Organization and prompts us all to wonder about the fate of international law and the future of international relations and organizations. The concept of the United States which is presented to the international community

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today in this case throws the door wide open to single out any State or organization and to level the same accusations against it and thus to close its offices. In view of that, how can anyone take the pains of formulating and concluding international agreements when the United States seeks to impose the concept of the precedence of national legislation over international agreements?

As stated in The New York Times of 16 March 1988 by Michael Reisman, a professor at Yale Law School, there are no precedents in which the executive of the host country has upheld a congressional competence to violate a commitment to the operation of an international organization for which the United States agreed to be host. Professor Reisman affirmed what we have stressed for years, namely, the view that without guaranteeing precedence for international law in an increasingly inter-dependent international political system, any international law would become a purely scholastic exercise.

Since the Secretary-General, who assumes responsibility for the protection of the Charter and international peace and security, has decided that there is a violation in the decision of the Government of the host country, then this must preoccupy us all and the situation must be remedied through a binding collective responsibility assumed by the international community. As we have always known the Secretary-General as a champion of justice, he has taken an honourable stand commensurate with his position and responsibilities. That stand was recently reflected in his report issued last year and in his subsequent report, A/42/915/Add.3, dated 16 March 1988. We can only express our full support for the Secretary-General in that position and our great appreciation for it.

We take this opportunity to appeal to him once more to take all the necessary legal and political measures to ensure the discharge by the Permanent Observer Mission of the PLO of its official functions and to protect the Headquarters Agreement.

(Mr. Abulhasan, Kuwait)

It is deeply regrettable that the United States not only has violated the Headquarters Agreement but also has rejected that Agreement and refuses to submit this dispute between it and the international Organization to another impartial international body: the International Court of Justice. The United States claims that arbitration will not serve a useful purpose. But that is the mechanism provided for in the Headquarters Agreement itself and, therefore, it is the proper legal framework for settling this dispute. That would be in conformity with section 21 of the Headquarters Agreement, concerning disputes arising in regard to the interpretation or application of the Agreement.

It is all the more regrettable that the host country takes this position vis-à-vis the Headquarters Agreement - in the adoption of which it played a pioneering role - when we realize that its refusal to submit the case to the International Court of Justice in The Hague comes in the very year when we are commemorating the seventy-fifth anniversary of that august, impartial legal body.

Before concluding, I should like to refer briefly to a statement issued by the Kuwaiti Government following a meeting of the Council of Ministers at which this question was discussed. The spokesman for the Government stated that the Council considered that the United States decision was contrary to the international legal obligations of the host country and constituted a flagrant challenge to the feelings of the entire Arab nation. The Kuwaiti Council of Ministers deplored the decision and expressed surprise that it had been taken at a time when the overwhelming uprising of the Palestinian people was continuing in the occupied territories, when international solidarity with and support for the inalienable national and legitimate rights of the Palestinian people, under the Palestine Liberation Organization, was increasing, and when the international community was condemning ever more strongly the inhuman, oppressive practices of the Zionist occupation forces against defenceless, innocent Palestinians.

(Mr. Abulhasan, Kuwait)

The problem before us must be placed in its proper context. It is a problem between the United States as the host country and the United Nations, first and foremost. The international community, through the General Assembly, and the United Nations, through the Secretary-General, have the responsibility to confront this blatant breach of the Headquarters Agreement. The problem is also the responsibility of the United Nations, through its Secretary-General. We have every confidence that the General Assembly will take a strong decision that will ensure the continued discharge of all its functions by the Palestine Liberation Organization, as guaranteed by the Headquarters Agreement.

We also have full confidence in the Secretary-General, since he has assumed the primary responsibility for the protection of the Charter and the Headquarters Agreement.

Mr. GARVALOV (Bulgaria): Speaking in my capacity as Chairman of the Group of Eastern European States for this month, I should like to join in other Member States' expressions of grave concern over the decision of the United States Administration to close the Permanent Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations, as conveyed by the Acting Permanent Representative of the United States in his letter dated 11 March 1988 to the Secretary-General.

That decision is contrary to the will of the international community, as set forth explicitly and unequivocally in General Assembly resolutions 42/210 B and 42/229. Two weeks ago, during the first resumption of the forty-second session of the General Assembly, the Member States of the United Nations clearly expressed their position concerning this issue.

(Mr. Garvalov, Bulgaria)

We fully share and endorse the conclusion contained in the report of the Secretary-General in document A/42/915/Add.2 which emphasizes that

"the decision taken by the United States Government as outlined in the letter [of 11 March 1988] was a clear violation of the Headquarters Agreement between the United Nations and the United States". (A/42/915/Add.2, para. 5)

There is no doubt that this is a dangerous precedent, which not only constitutes a patent breach of international law and the international obligations of the host country, but above all undermines the authority of the world Organization.

As is well known, the issue now under consideration arose following the adoption by the United States Congress and the subsequent signing into law by the President of the United States, on 22 December 1987, of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, Title X. In anticipation of this Act of the United States Congress, the General Assembly adopted resolution 42/210 B, reaffirming its position that the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York was covered by the provisions of the Headquarters Agreement and should be enabled to establish and maintain premises and adequate functional facilities. Therefore, the General Assembly requested the host country to abide by its treaty obligations under the United Nations Headquarters Agreement and, in this connection, to refrain from taking any action that would prevent the discharge of the Permanent Observer Mission of the PLO to the United Nations from discharging its official functions.

The PLO has been invited to participate as an observer in the work of the General Assembly by virtue of General Assembly resolution 3237 (XXIX). That resolution, together with the relevant provisions of the United Nations Headquarters Agreement, constitutes the international legal basis for the

(Mr. Garvalov, Bulgaria)

establishment and maintenance by the PLO of a permanent observer mission. Hence, the United States is under an obligation to permit the PLO Observer Mission personnel to enter and remain in the United States to carry out their official functions at United Nations Headquarters. The legislation in question and the subsequent action are thus in contravention of the provisions of the United Nations Headquarters Agreement.

Since a dispute clearly exists between the United Nations and the United States concerning the implementation of the United Nations Headquarters Agreement, the dispute-settlement procedure set out in section 21 in article VIII of the Agreement is applicable and is the only action to which there can be recourse.

Regrettably, as stated in the letter dated 11 March 1988 from the Acting Permanent Representative of the United States to the United Nations to the Secretary-General, the United States is of the opinion that

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

(A/42/915/Add.2, annex I)

We disagree.

We are hopeful that the principal judicial organ of the United Nations, the International Court of Justice, will rule on this matter at the earliest possible date.

(Mr. Garvalov, Bulgaria)

It is clear that this question is not just a legal one. It is above all a political issue. There can be no doubt that this action makes it difficult for the Palestine Liberation Organization to participate in the peace process in the Middle East. The Palestine Liberation Organization enjoys enormous, almost unanimous, support and recognition among the Member States of the United Nations as the sole, legitimate representative of the Palestinian people. Past experience has unequivocally shown that any decision made without taking into account the position of the Palestine Liberation Organization is inevitably doomed to failure.

It is universally recognized that the unresolved Palestinian problem is at the heart of the explosive situation in the Middle East and that without a solution to this problem and without the restoration of the inalienable national rights of the Palestinian people there can be no peace in that part of the world. Due to the tireless efforts of the international community there are now, more than ever before, genuine prospects and an extremely broad international consensus concerning ways to reverse the dangerous turn of events in the Middle East and achieve a comprehensive and just settlement of the Middle East conflict.

The overwhelming majority of Member States are convinced that the only possible and practical way of achieving a comprehensive settlement of the Middle East crisis is to convene an international conference under the auspices of the United Nations with the participation on an equal footing of all parties concerned, including the Palestine Liberation Organization, and all permanent members of the Security Council.

We therefore view the participation of the Palestine Liberation Organization Permanent Observer Mission in the work of the General Assembly as an indispensable element in the process of seeking and finding just and comprehensive solutions within the United Nations. For that reason it is our belief that any attempt to

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restrict or exclude the participation of the Palestine Liberation Organization Permanent Observer Mission in that process will have an adverse effect upon the political prospects for resolving the Middle East problem as a whole.

In conclusion, I should like to stress that we support wholeheartedly the sincere and unrelenting efforts of the Secretary-General aimed at arriving at an equitable settlement of this dispute in accordance with international law and the provisions of the United Nations Headquarters Agreement.

Mr. SALAH (Jordan) (interpretation from Arabic): I wish first of all to thank Ambassador Florin for having acted immediately to convene this resumed forty-second session of the General Assembly. We hope that under his wise guidance we shall this time also achieve the results for which we all hope.

It gives me pleasure also to convey to the Secretary-General, Mr. Javier Pérez de Cuéllar, our gratitude for his tireless efforts to find a solution to the dispute we are still discussing today. I thank him too for his valuable reports (A/42/915/Add.2 and Add.3) and for his firm and clear position on this dispute.

The General Assembly has been convened once more to continue its consideration of the agenda item entitled "Report of the Committee on Relations with the Host Country". It would have been preferable for this to have been unnecessary, but in the light of recent developments with respect to the Permanent Observer Mission of the Palestine Liberation Organization (PLO) we are forced once again to reiterate our position and state our fears about this very important issue.

In resolution 42/210 B of 17 December 1987, the General Assembly reiterated that the Mission of the Palestine Liberation Organization is covered by the provisions of the Headquarters Agreement and should be enabled to establish and maintain premises and adequate functional facilities and that the personnel of the Mission should be enabled to enter and remain in the United States to carry out

(Mr. Salah, Jordan)

their official functions. The General Assembly requested the host country to abide by its treaty obligations under the United Nations Headquarters Agreement concluded between that country and the United Nations.

Since subsequent contacts between the Secretary-General and the host country did not achieve the results for which we had hoped, and since the host country did not provide guarantees that the Mission would be maintained as is, the General Assembly was obliged to reconvene from 29 February to 2 March and adopted resolutions 42/229 A and 42/229 B. After the voting on those resolutions, the representative of the United States stated that the United States would give careful attention to the views expressed during the resumed session and that it was still determined to arrive at a proper solution to the problem on the basis of the United Nations Charter and the Headquarters Agreement, as well as United States law.

We had hoped that, before the effective date of the Act, the host country would remind the appropriate authorities of the international obligations of the United States, consistent with the wishes of the international community and with the clear position taken by the Secretary of State of the host country, which was in conformity with that taken by the United Nations. But it appeared that those hopes were not vindicated.

On 11 March 1988 the Acting Permanent Representative of the United States of America handed a letter to the Secretary-General informing him that the Attorney General of the United States had determined that he was 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 in New York, irrespective of any obligations the United States might have under the Headquarters Agreement, and that if the PLO did not comply with the Act the Attorney General would initiate legal action to close the Mission.

(Mr. Salah, Jordan)

On the same day, the Permanent Observer of the Palestine Liberation Organization received a letter from the Attorney General of the United States to the effect that as of 21 March 1988 the maintenance of a Palestine Liberation Organization Mission in New York would be unlawful and that should the PLO fail to comply with the requirements of the Anti-Terrorism Act of 1987 the Attorney General would take action in the United States federal court to ensure compliance.

(Mr. Salah, Jordan)

This position reveals the host country's determination to take prior action, even before the resumed session of the General Assembly from 29 February to 2 March 1988. In fact, the Government of the host country made no genuine effort to find an appropriate solution to this problem on the basis of accommodation of its domestic legislation and its international obligations, and this apparently, owing to the fact that the host country believes that a local law take precedence over international law.

That has been made clear by the United States Deputy Attorney General, Mr. Charles Cooper in his reply to journalists last Friday evening, 3 March 1988. In answer to a question he pointed out that the position of the Justice Department vis-à-vis this issue is that since the Headquarters Agreement became part of the laws of the host country, it has become equal to any other legislation of domestic law of the host country, therefore a subsequently enacted domestic law may take precedence and abrogate an international obligation as a result.

That is a dangerous situation for the General Assembly to ponder and evaluate. We all know that international organizations base themselves on principles the most important of which is independence vis-à-vis host countries; that the relations between these organizations and the host countries are governed by the respective headquarters agreements; and that relations between a host country and a member or observer of an international organization should have no bearing on the matter. Section 12 of the Headquarters Agreement between the United Nations and the United States of America refers to that. The attitude is dangerous to international organizations and is a threat to relations between those organizations and host countries. Imagine the situation that would face international organizations if that attitude became well-established practice.

(Mr. Salah, Jordan)

Let us recall that in his press conference Mr. Cooper stated that the United States Congress had approved that law, irrespective of international law and the provisions of the Headquarters Agreement. That attitude cannot serve the purpose of international law or international relations. It is a threat to international convention, which is a basic source of international law. That applies also to the host country's attitude of rejection of the arbitration tribunal provided for in article 21 of the Headquarters Agreement and its refusal to appear before an international tribunal saying there would be no point to that exercise. We think that the machinery provided in section 21 of the Headquarters Agreement is the appropriate way to resolve this dispute; it would serve the goal of the Headquarters Agreement to resolve any conflict that might arise in this respect.

We are convinced that the International Court of Justice is competent to decide this dispute and that its decision - which we hope will not be too long in coming - will resolve this matter in an appropriate way. We hope that the United States, a Founding Member of this international Organization and a permanent member of the Security Council, will bring to bear all its political weight to shoulder its very important responsibilities to strengthen international law. The United States would do better to set an example for others with regard to compliance with international obligations.

After the adoption by the General Assembly of resolutions 42/229 A and B, of 2 March 1988, the representative of the United States said that his country believed that the resumption of the forty-second session of the General Assembly served no purpose and was premature. Convening the resumed session was very important; it was not premature at all. That is why steps to implement that law have been taking their course, as requested by the host country, and it would be unavoidable for that law to be implemented on 21 March - despite the clear position

(Mr. Salah, Jordan)

of the General Assembly and the Secretary-General affirming that the law constituted an explicit violation of the Headquarters Agreement. Thus the General Assembly was obliged to resume its forty-second session today.

Since we cannot hope that the host country will review that law, we deem it necessary to make clear or repeat some facts. The Palestinian people is the primary party in one of the most important causes of great concern to the world today - I am referring to the Palestinian cause. From its inception, the United Nations has constantly assumed responsibility for its consideration so as to find a peaceful solution. The Palestinian people has chosen the Palestine Liberation Organization as its representative. Thus the United Nations, which represents peoples of the world, had to listen to the PLO's view; and for that reason the General Assembly in its resolution 3237 (XXIX), of 22 November 1974, invited that Organization to participate in its work as an Observer. In that invitation the General Assembly based itself on the provisions of the Charter covering in particular the principle of the right of peoples to self-determination, as well as the principle of equality between peoples. In so doing, the Assembly was pursuing the goal of ensuring friendly co-operation between peoples.

(Mr. Salah, Jordan)

Since then the PLO has been participating in the work of the United Nations; this participation has always been marked by a high level of competence and a deep sense of diplomacy, thereby earning the respect and support of all Missions accredited to the United Nations.

Secondly, this Mission has been accredited to the United Nations and not to the host country. The presence of the PLO in New York is because the Organization is located here. The host country's national legislation is in violation of the rights of the United Nations as an independent international Organization and not only in violation of the rights of the Mission in question

The United Nations must defend its rights, and we are now seeking the necessary measures to protect the United Nations as an independent international Organization and all Missions accredited to it, including the Permanent Observer Mission of the PLO.

We therefore believe that the General Assembly must reaffirm the provisions of resolutions 42/210 B and 42/229 A, and that the Secretary-General must take the necessary steps to guarantee continued representation of the Permanent Observer Mission of the PLO so that it can discharge its official functions.

We hope that all Missions of Member States and all Observer Missions can continue to attend future sessions of the General Assembly.

In view of the importance of this matter, the General Assembly could at its next session include this item on its agenda to ensure compliance by host countries with their obligations vis-à-vis the members of various organizations under the terms of headquarters agreements.

(Mr. Salah, Jordan)

We believe that the present problem is one of the most acute the Organization has faced since its inception. The General Assembly must take the appropriate measures to face up to this situation and guarantee the independence of the United Nations and other international organizations and to strengthen international law and ensure the stability of current and future international relations.

Mr. GHAREKHAN (India): When the General Assembly met in resumed session three weeks ago, we hoped that the United States Government would not proceed with any action directed at closing the Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations. Indeed, the Assembly decided, with near unanimity, that by doing so the United States would be acting contrary to its international legal obligations under the Headquarters Agreement. The Assembly called upon the United States to have recourse to the mechanism for dispute settlement set out in section 21 of that Agreement. The Assembly also referred the matter to the International Court of Justice to seek an advisory opinion as to whether the United States, as a party to the Agreement with the United Nations, was under an obligation to enter into arbitration in accordance with section 21 of the Agreement. We noted in this context the statement of the representative of the United States that his Government would carefully consider the views expressed in the resumed session and that it remained the intention of his Government to find an appropriate resolution of the problem in the light of the Charter of the United Nations, the Headquarters Agreement and the laws of the United States.

Regrettably, however, matters have taken a different and serious turn.

On 11 March the Secretary-General was informed by the Acting Permanent Representative of the United States that the Attorney General of the United States had determined that he was required by the Anti-Terrorism Act of 1987 to close the office of the PLO Observer Mission to the United Nations in New York

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"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 letter of the United States Mission went on to say that:

"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." (ibid.)

In his reply the Secretary-General gave expression to the deep concern that we all feel regarding the position taken by the United States. The Secretary-General categorically stated that he

"cannot accept the statement contained in the letter that the United States may act irrespective of its obligations under the Headquarters Agreement".

(A/42/915/Add.3, annex I)

The Secretary-General urged the United States

"to reconsider the serious implications of this statement given the responsibilities of the United States as the host country." (ibid.)

My delegation entirely agrees with the Secretary-General. We reaffirm our position on this extremely serious and unfortunate episode. Any move to close the PLO Observer Mission would be a clear violation by the United States of its obligations under the Headquarters Agreement.

The present dispute is about the implementation of an international agreement solemnly entered into by the United States Government with the United Nations. As such, it is primarily between the United States and the United Nations. It poses a challenge to the capacity of the United Nations to carry out effectively its functions, and to the system of international law and international relations that

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has been so painstakingly built up. This dispute, unless satisfactorily resolved, can have incalculable consequences which none of us seek, not even perhaps the United States.

Even at this late hour, we once again call upon the United States to desist from its declared course of action which would cause irreparable damage to the United Nations and which would be unworthy of a founding Member of the Organization. Once again we commend to the United States to have recourse to the dispute settlement procedure laid down in the Headquarters Agreement.

My delegation is deeply appreciative of all that our Secretary-General has done so far. He has been forthright in defending the position of the United Nations on this critical issue. He will have, as always, the full support of my delegation for whatever steps he takes to ensure the full and effective functioning of the Headquarters Agreement.

Mr. AL-SHAKAR (Bahrain) (interpretation from Arabic): The General

Assembly has resumed its forty-second session to consider the law being enforced by the United States, the host country, which provides for the closure of the Observer Mission of the Palestine Liberation Organization (PLO) to the United Nations seventeen days after the General Assembly's nearly unanimous decision - in which the negative vote of Israel was the only discordant note. The reason is that the host country has insisted on swimming against the international current embodied in the position adopted by the vast majority of Members of the United Nations in two General Assembly resolutions, 42/229 A and B of 2 March 1988.

In resolution 42/229 A, the General Assembly called upon the United States of America, the host country, to abide by its treaty obligations under the Headquarters Agreement and to take no action that would infringe upon the current arrangements for the official functions of the Permanent Observer Mission of the PLO to the United Nations in New York. The General Assembly again requested the Secretary-General to continue in his efforts in pursuance of the provisions of the Agreement, particularly section 21, with a view to reaching a settlement to the dispute that has arisen between the host country and the United Nations. The Assembly did so because it felt that it was important to settle the dispute with the host country and to deal with it in a diplomatic, friendly and calm manner.

On 2 March 1988 many delegations were filled with hope as they listened with keen interest to the statement by the representative of the United States of America, Ambassador Okun, following the voting on the two resolutions. In that statement, he emphasized that the Government of the United States would carefully consider the views expressed during the resumed session. He also said that it was still the intention of the United States to reach an appropriate resolution of the problem in the light of the Charter of the United Nations, the Headquarters Agreement and the laws of the United States.

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The countries that voted in favour of the resolutions hoped that the host country would abide by the unanimous desire of the international community and settle the dispute pursuant to the provisions of the Headquarters Agreement and the advisory opinion of the International Court of Justice. Such a course would have enhanced the dignity of both the United Nations and the host country and would have augmented hopes of reaching a satisfactory solution to the dispute.

And what is the reaction of the host country and the solution it has chosen to pursue? The answer to those questions is contained in the report of the Secretary-General (A/42/915/Add.2). Instead of abiding by the unanimous desire of the international community and instead of following the rules of international law as a means of settling its dispute with the United Nations the United States Government has chosen to give its own domestic legislation supremacy over its international obligations, in violation of the norms of internationally recognized law, according to which the legislature of the host country is bound to give supremacy to the international agreement to which the Government is a party. The host country cannot, unilaterally, give its own domestic legislation supremacy over its international obligations. The so-called Anti-Terrorism Act of 1987 does not supersede the obligations undertaken by the United States under the Headquarters Agreement.

In international law the provisions of domestic law cannot have supremacy in application over the provisions of international agreements concluded between the United Nations and the host country. The fact that, notwithstanding its obligations under the Headquarters Agreement, the host country has chosen to do so is a strong blow to the United Nations and an insult to it, as well as an attempt to frustrate the sincere efforts made by States Members to settle the dispute and maintain the independence of the Organization, its dignity and its integrity.

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The solution chosen by the host country does not coincide with the letter and spirit of the United Nations Charter and the Headquarters Agreement, nor with General Assembly resolutions 42/210 B and 42/229 A and B, all of which ask that the dispute settlement procedure set out in section 21 of the Agreement should be set in operation.

Many disputes between the host country and the United Nations have been settled in some way or other under the provisions of the Headquarters Agreement. The good offices of the Secretary-General or of the Committee on Relations with the Host Country have greatly contributed to the solution of many disputes. However, the present dispute is still without any settlement consonant with the principles of the Charter and the provisions of the Headquarters Agreement.

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The host country's failure to abide by General Assembly resolutions 42/229 A and 42/229 B has one particularly noteworthy feature - its unjustified refusal to resort to arbitration under section 21 of the Headquarters Agreement or to reach an international legal settlement, on the pretext that that would serve no useful purpose. Arbitration and an international legal settlement through the International Court of Justice are the ideal means of settling legal disputes. Why does the host country not resort to such means in accordance with its obligations under the Headquarters Agreement, which did not give the host country the choice of how any dispute between it and the United Nations was to be settled? The Agreement says that the course of consultation and negotiation between the United Nations and the host country should be followed in order to settle any dispute and that if these do not succeed in settling it the two countries should resort to arbitration. On the basis of that provision, the Agreement contains no right for the host country to settle the dispute with the United Nations in the way that it deems appropriate.

When the Agreement specified arbitration as a means of settling any dispute between the United Nations and the host country, it did not do so for no reason. That legal means was designed to safeguard and maintain the independence and integrity of the United Nations. We wonder about the wisdom of departing from the customary, agreed means of settling disputes between the host country and the United Nations, so long as arbitration is specified by the Headquarters Agreement as the appropriate means. The means of settling the dispute chosen by the host country not only contradicts the provisions of the Agreement, but also constitutes a big departure from the purposes and principles of the Charter. Its application constitutes an undermining by the host country of the authority, independence and integrity of the United Nations. Moreover, it violates the essence of the

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Headquarters Agreement and frustrates the joint efforts of the member countries and the Secretary-General to settle the dispute amicably.

The Charter established the International Court of Justice as the principal legal instrument of the United Nations and the whole world. Its Statute is an integral part of the Charter, and it is clear that the purpose of establishing the Court was that it should contribute effectively to safeguarding the United Nations its independence and its integrity. Therefore, the Charter has entrusted the Court with the interpretation of the Charter and international conventions and agreements, intending that the Court should contribute greatly to the settlement of legal disputes, especially those relating to interpretation of the Charter and international agreements, including the Headquarters Agreement.

The fact that the host country has not accepted the arbitration provided for by the Headquarters Agreement as the most appropriate way of settling the dispute means that it will not comply with the advisory opinion that the International Court of Justice may give in response to the request in resolution 42/229 B. That negative position by the host country, which serves no useful or friendly purpose, is unacceptable.

It is surprising that the United States should reject the idea that the International Court of Justice may help find a solution to the dispute, when it is a country of democracy, a country in which the law reigns supreme and a country on whose national soil the Charter and the Statute of the International Court of Justice were signed. It is surprising that the host country should choose a way which means rejecting the jurisdiction of the International Court of Justice in a dispute to which it is a party.

No one can doubt the legal value of an advisory opinion of the Court in solving the dispute, especially as the only reason for our resorting to it is to

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find an amicable settlement. The purpose behind resorting to the Court was to show the nature of the dispute and facilitate the appropriate solution.

We appreciate the efforts made by the Secretary-General, Mr. Javier Perez de Cuéllar, and the Legal Counsel, Mr. Carl-August Fleischhauer. My delegation strongly supports the position taken by the Secretary-General, in document A/42/915/Add.2. We particularly support the position clearly expressed in his letter to the Acting Permanent Representative of the United States (A/42/915/Add.3). That is a true expression of the contents of resolutions 42/210 B and 42/229 A and 42/229 B. We join the Secretary-General in his protest, which is very timely, and in not agreeing with the arguments included in the letter from the Acting Permanent Representative of the United States.

The dispute between the United Nations and the host country may have negative repercussions and effects on relations between the host country and the United Nations. If it continues, it may also lead to impeding, if not paralysing, the work of the United Nations. The first purpose of the United Nations, as expressed in the preamble to the Charter, is:

"to save succeeding generations from the scourge of war".

Today the General Assembly faces a more serious problem, that is, saving the United Nations, ensuring that it continues and that it discharges all its functions in an independent, integral and unbiased way.

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If interference in the affairs of the United Nations by any member or non-member country is prohibited, it becomes self-evident that in the case of a dispute between the United Nations and the host country, it should be settled in accordance with the provisions of the Headquarters Agreement.

We cannot agree that the PLO should go to the courts of the United States, according to the solution proposed by the host country. The PLO did not come to us at the invitation of the Government of the host country. It has come here in accordance with General Assembly resolution 3237 (XXIX) of 22 November 1974. That resolution gave the PLO the status of Permanent Observer to the United Nations, with a right to establish an office. Its members are invited to the United Nations in that capacity. Therefore, the mission and its members are covered by sections 11, 12 and 13 of the Headquarters Agreement, which provide that the members of the Permanent Observer Mission of the PLO may enter and remain in the United States in order to discharge their official functions at the Headquarters of the United Nations. The so-called Anti-Terrorism Act, which the United States insists on applying to the Permanent Observer Mission of the PLO, does not include any charge that the Mission or any of its members have violated any of the regulations of the host country, something which might necessitate its going to court. Therefore, we deem it important that the member countries should adhere to their unanimous position with respect to this question in view of the fact that this is a dispute between the United Nations and the host country. This position should be the corner-stone of any solution that may be reached through the United Nations, represented by the Secretary-General, as being the body to negotiate in order to solve this dispute and to take all legal remedies to reach a settlement.

We should like to warn against the danger of keeping this dispute unresolved, since it may lead to the deterioration of the situation and an aggravation of the

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problem. It could become something that would go beyond the original dispute in a way that might impair the existence and legitimacy of our Organization. Hence the need to reach a satisfactory solution.

In his report to the General Assembly the Secretary-General has emphasized the need to revive the provisions of the Headquarters Agreement, particularly section 21, in order to settle any dispute concerning the interpretation or application of the Agreement. However, the instrument provided for by the Agreement which could lead to an amicable solution has, regrettably, not been resorted to. In our opinion, the Headquarters Agreement recognizes the importance of settling any dispute and it makes it the duty of the two parties to any dispute, when they fail to reach an agreement under section 21, to go to the International Court of Justice. Here we may wonder to what extent the host country has followed this correct path since the beginning of the dispute, which has been a source of concern to the majority of the States Members of our Organization.

The Government of my country, Bahrain, has denounced the United States Act and decision. Bahrain has objected to the way chosen by the United States Government to settle this dispute. At its twenty-sixth session held at Riyadh from 5 to 16 March 1988, the Ministerial Council of the Gulf Cooperation Council of which Bahrain is a member, carefully studied the United States Act and its decision to close the office of the PLO Mission in New York. In their statement on 16 March 1988, the Foreign Ministers of the six member countries of the Gulf Council denounced the American decision. The Council also expressed its support for the actions taken by the United Nations in this respect. It called upon the United States to reconsider its decision. Hence, we deem it appropriate for the Secretary-General, who represents the United Nations and who is the depositary and custodian of the Headquarters Agreement, to exercise his good offices with the hos

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country to settle the present dispute, which is unique and unprecedented. This is important if we are to ward off any threat to our Organization, to promote its principles and to save it from paralysis and collapse. If we allow the host country to dictate the means of settlement of disputes concerning the representation of Member States and Observer countries and organizations in the United Nations, it would impede the progress of the United Nations and undermine its independence. The host country may not choose the ways and means of settling the dispute. To accept the solution and position taken by the United States would give the host country a veto, which would enable it to control the United Nations in case of any future dispute. This cannot be accepted in the diplomacy of international organizations.

My delegation believes that it is in the general interest and within the competence of the United Nations, represented by the Secretary-General, to protect the representatives and Observers invited to discharge their duties within the framework of the United Nations. Members of the PLO mission have for more than 15 years promoted the principles and objectives of the United Nations and its activities and role in reaching a just and durable settlement of the Palestinian question, which has been before the United Nations for more than four decades. No fair person can doubt the important role played by the PLO within the framework of this international Organization and its deliberations to reach a just, durable and comprehensive settlement of the question of Palestine and the situation in the Middle East.

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In the light of the aforementioned conclusion, it is important - indeed absolutely necessary - to settle this unique dispute without prejudice to the competence of the International Court of Justice, which is now considering the issue, or to the privileges and immunities of the United Nations under the Headquarters Agreement.

This is an urgent task that brooks no delay. The United Nations, represented in its Secretary-General, should be the body to undertake all the legal procedures, steps and remedies to settle this dispute with the host country.

The popular uprising of the Palestinian people, which has gone on for four months now, is a true expression of their categorical rejection of occupation and their unshakeable belief in their legitimate right to restore their usurped land and exercise all their rights.

Despite the blackout imposed by the racist Zionist occupying authorities on the developments in the occupied territories, despite the repressive measures and brutal force used to suppress the uprising, despite the increasing, unprecedented, inhuman crimes of the racist Zionist occupying authorities, the Palestinian resistance is gaining momentum. The world has come to know the truth very well. The world is now an eye-witness to the crimes of mass murder committed by the occupying Zionist authorities against the Palestinian people, who use no weapons other than chants and stones. Needless to say, neither women nor children nor the elderly have been spared in these acts.

This popular uprising has made the world aware of the truth of the just resistance waged by the Palestinian people. Israel can no longer distort the struggle of the Palestinians as being a struggle by terrorists. Developments in the occupied territories have confirmed the true nature of racist Israel and its terrorist and oppressive policies against the resistance of the defenceless Palestinian people. The ugly, racist, terrorist face of Israel has been exposed,

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as well as the fact that its image as an oasis of democracy and civilization is a false image.

The heroic uprising in the occupied territories has deepened the conviction of the international community that it is important to maintain the presence of the Palestine Liberation Organization within the United Nations as the sole and legitimate representative of the Palestinian people, because of the significant role it plays in the establishment of a just, durable and comprehensive peace in the Middle East region.

True peace can be based only on justice and on granting the Palestinian people their just and inalienable rights, undiminished in any way. The historical lesson of this uprising confirms the uncontested historical fact that fatherlands cannot be usurped indefinitely and that peoples cannot surrender to occupation forever, whatever sacrifices they must make. Oppression must one day come to an end.

The meeting rose at 1.25 p.m.