

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,  
ADVISORY OPINIONS AND ORDERS

APPLICABILITY OF THE OBLIGATION  
TO ARBITRATE UNDER SECTION 21 OF THE  
UNITED NATIONS HEADQUARTERS  
AGREEMENT OF 26 JUNE 1947

(REQUEST FOR ADVISORY OPINION)

ORDER OF 9 MARCH 1988

**1988**

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,  
AVIS CONSULTATIFS ET ORDONNANCES

APPLICABILITÉ DE L'OBLIGATION D'ARBITRAGE  
EN VERTU DE LA SECTION 21 DE L'ACCORD  
DU 26 JUIN 1947 RELATIF AU SIÈGE  
DE L'ORGANISATION DES NATIONS UNIES

(REQUÊTE POUR AVIS CONSULTATIF)

ORDONNANCE DU 9 MARS 1988

Official citation :

*Applicability of the Obligation to Arbitrate  
under Section 21 of the United Nations Headquarters Agreement  
of 26 June 1947, Order of 9 March 1988, I.C.J. Reports 1988, p. 3.*

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Mode officiel de citation :

*Applicabilité de l'obligation d'arbitrage en vertu de la section 21 de l'accord  
du 26 juin 1947 relatif au siège de l'Organisation des Nations Unies,  
ordonnance du 9 mars 1988, C.I.J. Recueil 1988, p. 3.*

Sales number

N° de vente :

**541**

## INTERNATIONAL COURT OF JUSTICE

YEAR 1988

9 March 1988

APPLICABILITY OF THE OBLIGATION  
TO ARBITRATE UNDER SECTION 21 OF THE  
UNITED NATIONS HEADQUARTERS  
AGREEMENT OF 26 JUNE 1947

(REQUEST FOR ADVISORY OPINION)

## ORDER

*Present: President* RUDA; *Vice-President* MBAYE; *Judges* LACHS, NAGENDRA SINGH, ELIAS, ODA, AGO, SCHWEBEL, Sir Robert JENNINGS, BEDJAOU, NI, EVENSEN, TARASSOV, GUILLAUME, SHAHABUDDEEN; *Registrar* VALENCIA-OSPINA.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Articles 41, 48, 65, 66 and 68 of the Statute of the Court and to Articles 73, 103, 104 and 105 of the Rules of Court,

*Makes the following Order:*

Whereas on 2 March 1988 the General Assembly of the United Nations adopted resolution 42/229 B whereby it requested the International Court of Justice to give an advisory opinion on the following question:

“In the light of facts reflected in the reports of the Secretary-General [A/42/915 and Add.1], is the United States of America, as a party to the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations [resolution 169 (II)], under an obligation to enter into arbitration in accordance with section 21 of the Agreement?”

Whereas on the same day the Legal Counsel of the United Nations transmitted to the Court by facsimile the English and French texts of the said resolution, received in the Registry on 3 March 1988;

Whereas the Secretary-General transmitted to the Court the request for advisory opinion and certified copies of the English and French texts of the said resolution by a letter dated 2 March 1988, received in the Registry by facsimile on 4 March 1988 and by post on 7 March 1988, and indicated in that letter that, in accordance with Article 65 of the Statute, all relevant documents likely to throw light upon the question would be transmitted to the Court as soon as possible;

Whereas from the reports of the Secretary-General referred to in the said resolution (the texts of which have been supplied to the Court) it appears that the dispute settlement procedure set out in section 21 of the Headquarters Agreement mentioned in the resolution has been formally invoked by the Secretary-General of the United Nations in respect of an alleged dispute concerning the United States Anti-Terrorism Act of 1987 (Title X of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989), and its application to the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations;

Whereas it appears further from the said reports that the legislation in question was signed into law by the President of the United States on 22 December 1987, and will take effect, according to its terms, ninety days after its enactment;

Whereas the preambular paragraphs of resolution 42/229 B indicated (*inter alia*) that “the constraints of time . . . require the immediate implementation of the dispute settlement procedure in accordance with section 21 of the Agreement”, that account should be taken of “the provisions of the Statute of the International Court of Justice, in particular Articles 41 and 68 thereof”, and the decision to request an advisory opinion was made “taking into account the time constraint”;

Whereas resolution 42/229 B, while it contains in its preamble a reference to Articles 41 and 68 of the Statute, does not constitute a formal request for the indication of provisional measures;

Whereas it is not appropriate, in the circumstances of the case, for the Court to consider whether or not provisional measures may be indicated in proceedings on a request for advisory opinion;

Whereas the Court takes note that the General Assembly, at the meeting at which it adopted resolution 42/229 B requesting an advisory opinion of the Court also adopted resolution 42/229 A, by which it

“Calls upon the host country to abide by its treaty obligations under the Agreement and to provide assurance that no action will be taken that would infringe on the current arrangements for the official func-

tions of the Permanent Observer Mission of the Palestine Liberation Organization to the United Nations in New York”;

Whereas in the light of the indications given by the General Assembly in the resolution the Court finds that an early answer to the request would be desirable, as contemplated by Article 103 of the Rules of Court, and that accordingly all necessary steps should be taken to accelerate the procedure;

THE COURT,

Unanimously,

1. *Invites* the Secretary-General of the United Nations to supply the documents contemplated by Article 65, paragraph 2, of the Statute at the earliest date possible;

2. *Decides* that the United Nations and the United States of America are, pursuant to Article 66, paragraph 2, of the Statute, considered likely to be able to furnish information on the question submitted to the Court for advisory opinion and fixes 25 March 1988 as the time-limit within which the Court will be prepared to receive written statements from them on the question;

3. *Decides* further that any other State party to the Statute of the Court which desires to do so may submit to the Court a written statement on the question not later than 25 March 1988;

4. *Decides* to hold hearings, opening on 11 April 1988, at which oral comments on written statements may be submitted to the Court by the United Nations, the United States, and such other States as have presented written statements; and

Reserves the subsequent procedure for further decision.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this ninth day of March, one thousand nine hundred and eighty-eight.

(*Signed*) José Maria RUDA,  
President.

(*Signed*) Eduardo VALENCIA-OSPINA,  
Registrar.

Judge SCHWEBEL appends a separate opinion to the Order of the Court.

(*Initialed*) J.M.R.

(*Initialed*) E.V.O.