

Exhibit

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PALESTINE INFORMATION OFFICE,
et al.,

Plaintiffs,

v.

GEORGE P. SHULTZ,
et al.,

Defendants.

CIVIL ACTION

NO. 87-3085

Judge Stanley Sporkin

BRIEF OF AMICI CURIAE CONGRESSMEN JACK KEMP,
TOM BLILEY, DAN BURTON, D.E. "BUZ" LUKENS,
RAYMOND J. McGRATH, ELTON GALLEGLY,
JACK FIELDS, GEORGE C. WORTLEY,
TOM LEWIS, JACK DAVIS, JOE-SKEEN, —
BILL SCHUETTE, DON SUNDQUIST;
SENATORS CHARLES E. GRASSLEY,
ALPHONSE D'AMATO, JESSE HELMS;
RICHARD L. STETHEM, PATRICIA
STETHEM, SHERYL STETHEM; AND
THE WASHINGTON LEGAL FOUNDATION

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Date: November 23, 1987

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IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION

INTERESTS OF AMICI

The interests of amici curiae Congressmen Jack Kemp, et al., are set forth fully in the accompanying motion and are incorporated herein.

STATEMENT OF THE CASE

On November 13, 1987, the plaintiffs filed a complaint and motion for a preliminary injunction seeking to prevent the December 1, 1987 closing of the Palestinian Information Office (PIO). On November 20, the defendants filed their opposition to that motion. In the interests of judicial economy, amici adopt by reference the Statement of the Case in the defendants' brief.

It is amici's position that the Foreign Mission's Act authorizes the designation and the closing of the PIO as a "foreign mission" by the Secretary of State. In addition, such closing does not violate the plaintiffs' First Amendment rights. Finally, amici submit that the plaintiffs' are not entitled to a preliminary injunction.

ARGUMENT

I. THE FOREIGN MISSIONS ACT AUTHORIZES THE DESIGNATION OF THE PIO AS A "FOREIGN MISSION."

In enacting the Foreign Missions Act (FMA), 22 U.S.C. §§ 4301, et seq., Congress clearly has authorized the Secretary of State to use his discretion in designating and regulating foreign missions. 22 U.S.C. §§ 4302(b), 4308(g). The statute broadly defines what entities can be considered a "foreign mission." 22 U.S.C. § 4302(a). Contrary to the plaintiffs' assertions, the PIO is well within the definition of a "foreign mission."

Congress defined a "foreign mission" under FMA as:

any mission to or agency or entity in the United States which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by --

(A) a foreign government, or

(B) an organization...representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States or which engages in some aspect of the conduct of the international affairs of such territory or political entity....

22 U.S.C. § 4302(a)(4) (emphasis added.)

Initially, the PIO takes exception to being designated as a "foreign mission" because the State Department did not track all of the definitional elements of "foreign mission" in its notification to the PIO. The PIO particularly faults the State Department for omitting the phrase "political entity" found in § 4302(a)(4)(B) in describing the PIO which the State Department states controls the PIO. (PIO Mem. at 11).

If the PIO is suggesting that it must be given a detailed legal explanation of why it can be designated a "foreign mission" before being so designated, that position is obviously wrong. Either the State Department has the authority to designate an entity as a "foreign mission" or it does not, regardless of the fullness of the explanation given to the foreign mission designee. For example, the designation by the State Department of the Amtorg Trading Corporation as a foreign mission is tersely worded, noting simply that Amtorg is hereby designated a "foreign mission within the meaning of section 202(a)(4) of the Act..." See 52 Fed. Reg. 5373 (Feb. 20, 1987) (attached hereto as Exhibit 3). The fact that the State Department did not describe the PLO as a "political entity" in haec verba is of no moment.

It is also telling that while the PIO claims that it is not an "entity" under § 4302(a)(4) (PIO Mem. at 11), the plaintiffs do not deny that the PLO is a "political entity" under §4302(a)(4)(B). Instead, the plaintiffs simply argue that it is untenable to suggest that the PLO can be both the "organization" referred to in subsection (B) as well as the "political entity" under that same subsection since it would then mean that the PLO represents itself. (PIO Mem. at 11, n.16.) The PIO's reading of the statute is wrong on both counts.

A. The PIO Is An "Entity" Under The FMA.

Although the word "entity" is not defined by the FMA, it cannot be seriously argued that the PIO is not an entity. While the term "entity" is not defined in the FMA, its common sense

meaning suggest a broad reading of that term. The PIO is not an individual but has registered with the Justice Department as an organization under the Foreign Agents Registration Act. The PIO describes itself in the instant lawsuit as an "organization." Complaint ¶ 4. Surely, ~~the PIO~~ exists as something and it is not unreasonable for the Secretary of State to regard the PIO as an "entity."

If there is any doubt as to the meaning of the word "entity," Congress has stated in 22 U.S.C. § 4302(b) that "[d]eterminations with respect to the meaning and applicability of the terms used in subsection (a) shall be committed to the discretion of the Secretary." See also 22 U.S.C. § 4308(g). Amici submit that the Secretary of State did not abuse his discretion by classifying the PLO as an "entity." Indeed, amici suggest that in light of functions of the PIO and its relationship to the PLO, it would not even be an abuse of discretion if the PIO were considered to be a "mission" or "agency" of the PLO for purposes of FMA. In any event, the Secretary of State has deemed the PIO to be an "entity" and the Courts are to defer to expertise of the agency charged with administering a statute in determining the proper construction of its terms. Chevron v. Natural Resources Defense Council, 467 U.S. 837, 842-43 (1984). This should be especially so in the administration of our foreign affairs.

The plaintiffs argue that the legislative history of the 1986 amendment to the FMA adding the word "entity" to the definition of "foreign mission" indicates that Congress wanted

in this country, but not its political office.^{1/}

For the foregoing reasons, the Court should reject the plaintiffs' argument that the PIO is not an "entity" under the FMA.

B. The PLO Is A "Political Entity" For
Purposes Of Section 4302(a)(4)(B).

The plaintiffs also suggest that notwithstanding the State Department's failure to label the PLO as a "political entity," to regard the PLO as both the "organization" and "political entity" referred to in subsection (B), ("an organization ... representing a territory or political entity ...") would mean that the PLO represents itself. Just as the plaintiffs' have misconstrued the meaning of "entity," in § 4302(a), so too have they misread this subsection.

Looking at the scheme of section 4302(a)(4) as a whole rather than in the crabbed manner suggested by the plaintiffs, it is clear that Congress authorized the Secretary of State to designate and regulate missions or entities of (A) foreign governments, and those entities or missions of (B) political or territorial entities that do not rise to the level of a foreign government or sovereign. This latter category was broadly worded to give the Secretary ample discretion in making his determination. Congress did not, however, require that the

^{1/} It is amici's understanding that on November 24, 1986, the State Department designated the Soviet press offices of Tass, Navosti, and Isveztia as "foreign missions." These entities are not commercial in nature such as Amtorg, but instead disseminate propaganda, not unlike the function of the PIO.

putative foreign mission be controlled by a separate "organization" which in turn represents yet a third and distinct "political entity." To read subsection (B) in this manner would mean that Congress intended to control or regulate missions or entities twice removed from the underlying principal but not those only once removed, such as is the case with the PIO vis-a-vis the PLO.

Rather, the common sense reading of subsection (B) suggests that the phrase "organization...representing a ...political entity" means that the Secretary of State can regulate a mission of an "organization" representing a political entity as opposed to one representing, for example, a social or economic entity. Surely the PLO is an organization representing or constituting a political entity. This preferred reading of subsection (B) is also in accord with the usage of those same terms in § 4302(a)(7) where a "sending State" means "the foreign government, territory, or political entity represented by a foreign mission." The foreign mission thus represents "the foreign government, territory, or political entity" in § 4302(a)(7) without an "organization" being listed as a separate intervening entity. Thus, there is no statutory difficulty in considering the PLO to be a "political entity" under the FMA.

C. The PLO Is Substantially Owned Or Effectively Controlled By The PLO.

The plaintiffs also argue that the PIO is neither "substantially owned" nor "effectively controlled" by the PLO for purpose of the definition of a "foreign mission." (PIO Mem.

at 14.) In the first place, Congress did not make the "own or control" test a necessary criteria in the definition; rather, the "own or control" test is cast in the disjunctive:

"'foreign mission' means any mission to or agency or entity in the United States which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by..."

22 U.S.C. § 4302(a)(4) (emphasis added).

It is undisputed that the PIO is involved in "other activities of" the PLO as evidenced by the activities described by the plaintiffs in the Declaration of Hasan Abdel Rahman. Significantly, when Congress amended the FMA in 1986, it deleted the requirement that the "activities" be "governmental" thereby broadening the scope of the FMA. — . — . — .

In any event, amici submit that even under the alternative criteria, there can be no dispute that the PIO is "effectively controlled" by the PLO. In his Declaration, Hasan Abdel Rahman admits that he as well as the PIO are "agents" of the PLO. Declaration ¶¶ 3,6. He also states that he does not seek or receive "regular instructions from the PLO on how to perform my job or run the office," although he does "discuss issues with the PLO on a periodic basis." Id. ¶7. While it is not clear what Mr. Rahman means by "regular" instruction, there is no dispute that he does seek and receive instructions from the PLO. Only the frequency of these instructions is unclear. 2/

2/ Any doubts on this point can be clarified by discovery and depositions if necessary.

The Secretary of State can make the reasonable conclusion that while Mr. Rahman may be free to rent whatever offices he deems necessary and to carry out similar mundane tasks, the PLO can terminate its funding and support of the PIO if that office does not follow the PLO's policies and instructions, or if Mr. Rahman makes speeches or engages in activities that the PLO determines to be inimical to its own interests. Consequently, it was not an abuse of the discretion for the Secretary of State to determine that the PIO is "substantially owned or effectively controlled" by the PLO, especially in light of Congress' grant of discretion to the Secretary in defining those terms. See 22 U.S.C. § 4302(b).

Further evidence of the PLO control over the PIO is found in literature distributed by the PIO itself. On page 11 of the magazine entitled "A Profile of the Palestinian People" (rev. 2d ed. 1987), there is an organizational chart of the PLO structure. A copy of that magazine was obtained by Paul D. Kamenar, amici's undersigned counsel, from the PIO. The relevant excerpt is attached to Mr. Kamenar's Declaration as Exhibit 4. The PLO is governed by its 15-member Executive Committee which is referred to as the PLO's "Cabinet," and is headed by its Chairman Yasir Arafat. Abu Al-Abbas who was responsible for the hijacking of the Achille Lauro and the killing of American citizen Leon Klinghoffer has been recently selected to serve on this Executive Committee. Directly underneath this Executive Committee are the various "Departments." According to this literature, "each member of

the Executive Committee is responsible for a particular functional department." Id. at 12.

The chart of the PLO structure indicates that the "Political Department" consists of "P.L.O. Representation - 83 Offices Worldwide." That representation ranges from the PLO being recognized and given diplomatic status in a few countries to that given by the majority of those 83 countries where the PLO is only represented as an "information office" such as the PIO in the United States. Attached also is an article from the April 13, 1986 New York Times describing the PLO's "information offices" in various countries. (Exhibit 5). Further evidence of PLO control of the PIO comes from the fact that the bulk of the \$350,000 budget of the PIO is paid for by the Palestine National Fund (Rahman Declaration ¶8). This fund, according to the PLO organizational chart, is the "Finance Department" or treasury of the PLO.

Accordingly, there can be no doubt that the PIO is effectively owned or controlled by the PLO. Contrary to plaintiffs' assertions, the PIO is not simply an agent just like the typical Washington, D.C. public relations office registered under the Foreign Agents Registration Act (FARA). On the contrary, the PIO is unique since it is structurally a part of the PLO itself and under the direction and control of the PLO's Executive Committee.

D. The Pendency Or Enactment Of Similar Legislation Does Not Undercut The Authority Given By Congress In FMA.

The plaintiffs also argue that the FMA does not authorize

Exhibit 7

the closing of the PIO on the grounds that Congress is currently considering legislation that would accomplish the same thing. PIO Mem. at 19, n.29. Plaintiffs also argue that the government could also have invoked the International Emergency Powers Act, 50 U.S.C. §§ 1701-1706 to cut off the PIO's funding from the PLO. This argument is without merit.

As indicated earlier, Congressional amici and their colleagues have introduced S. 1203 and H.R. 2587 because of the failure by the State Department heretofore to take action against the PLO. There is an obvious distinction between the discretionary authority provided by the FMA and the mandatory language of the proposed legislation. In addition, the legislation would close the PLO Observer Mission to the United Nations in New York. Just because Congress has addressed its concerns to a specific problem does not mean that other legislation of a broader nature is unavailing to the Executive. For example, a provision of the Smoot-Hawley Tariff Act generally prohibits the importation of goods into the United States which are made by forced labor. 19 U.S.C. § 1307. The Executive's reluctance to invoke the law against the importation of goods from the Soviet Union made by forced or "gulag" labor as found by the Commissioner of Customs led Congress, including many of the amici, to introduce legislation on this specific issue. See McKinney v. U.S. Dept. of Treasury, 799 F.2d 1544 (Fed. Cir. 1986). Accordingly, the pendency or enactment of legislation that relates to the same subject matter does not derogate the authority of the Executive found in more general legislation.

Similarly, the existence of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. §§ 1701-1706, does not undercut the Executive's authority to invoke FMA. The fact that IEEPA authorizes certain economic embargoes does not mean it is the exclusive tool available to the Executive to accomplish its foreign policy objectives in this area. Rather, this and other legislation may be used as options or together as the situation warrants.

Similar arguments have been considered and rejected by the courts. For example, in United States v. Morison, 604 F. Supp. 655 (D. Md. 1985), appeal argued No. 86-5008 (4th Cir. Oct. 8, 1987), the defendant argued that Congress did not intend that the espionage statutes, 18 U.S.C. §§ 793(d) and (e) cover his "leaks" of national security information to the press; that Congress was considering specific legislation to stop such leaks; and that the espionage statute would be duplicative of other legislation designed to stop "leaks." The district court rejected these arguments noting that the language of the statute was broad and encompassed more than the "classic espionage situation" of transmitting secret information to a foreign government. Id. at 660. See also United States v. An Article of Drug, 394 U.S. 784, 801 (1969) (definition of "drug" is broader than common medical usage).

II. THE CLOSING OF THIS PIO DOES NOT VIOLATE PLAINTIFFS' FIRST AMENDMENT RIGHTS OF SPEECH AND ASSOCIATION.

Plaintiffs' argument that the closing of the PIO violates

their First Amendment rights is without merit. At best, any First Amendment rights allegedly implicated are incidental and are hardly of the magnitude that outweighs the compelling governmental interest in carrying out our foreign policy objectives by closing the PIO. —

A. Plaintiffs' First Amendment Rights Remain Intact.

Nothing in the State Department order refers at all to the content of any literature distributed by the PIO or to any speeches made by its director. See "Designation of Palestine Information Office as a Foreign Mission," (Exhibit A to Plaintiffs' Complaint). Rather, the PIO is being ordered closed not for what the PIO says, but for what it represents, i.e., an official presence on U.S. soil of the PLO, an organization which has engaged in and sanctioned numerous acts of terrorism against U.S. citizens and those of our allies. For a comprehensive description of the numerous terrorist activities engaged in by the PLO, see generally Hearing Before the Subcommittee on Security and Terrorism of the Senate Committee on the Judiciary on The Availability of Civil and Criminal Actions Against Yassir Arafat's Palestine Liberation Organization, 99th Cong., 2d. Sess. (1986). To say that the PIO's First Amendment rights are being violated by closing its offices is like saying that the government cannot order a tenant out of a condemned building just because the tenant happens to be a newspaper or magazine publisher. In either case, there are legitimate and compelling governmental reasons for closing the offices which have nothing to do with the content of the views disseminated by the occupant.

To that extent, plaintiffs do not even appear to oppose the closing of the PIO on these facially neutral grounds. In the Prayer for Relief section of their complaint, plaintiffs seek a "preliminary and permanent injunction" on constitutional grounds apparently to prevent the PIO's closing only if such closing is "based on PIO's advocacy of unpopular political ideas." Complaint at 9. Since there is no evidence whatsoever that the closing order is based on the PIO's advocacy of any political ideas, popular or otherwise (other than the totally speculative allegation made in ¶22 of plaintiffs' complaint), plaintiffs have no real First Amendment objection to the closing order.^{3/}

Plaintiffs remain free to advocate or disseminate any views that they wish. Neither the closing order nor the pending legislation restricts the First Amendment rights of anyone in the United States. Indeed, Section 3(1) of S.1203 and H.R.2587 expressly makes clear that "informational material" may be received from the PLO.

The plaintiffs' First Amendment analysis falls apart by their failure to understand the difference between domestic speech and the regulation of foreign influence or control of individuals or entities within the United States. The government, for example, can limit travel by U.S. citizens to

^{3/} Plaintiffs' unsupported allegation in ¶22 of their complaint is even further weakened by their allegation that they suspect the closing was motivated only "in part" by the disagreement with the political message of the PIO. Presumably, plaintiffs concede that the order can be supported on other non-First Amendment grounds.

Cuba. Zemel v. Rusk, 381 U.S. 1 (1965). As a foreign entity, the PLO enjoys no First Amendment rights under our constitution. Cf. Johnson v. Eisentrager, 339 U.S. 763, 783-785 (1950). Thus, the plaintiffs miss the point when they suggest that if the closing order is constitutional, "then the government could just as easily have claimed a right to silence domestic debate during the Vietnam War on the ground that it was complicating negotiations with North Vietnam." PIO Mem. at 28. Rather, the government would have had the right to close a North Vietnam Information Office on U.S. soil funded and controlled by North Vietnam. Domestic debate on the Vietnam War would have remained unimpeded, just as domestic debate on the PLO and the Mideast may continue.^{4/}

Plaintiffs' reliance on Lamont v. Postmaster General, 381 U.S. 301 (1965) is misplaced. In Lamont, the Court held that the First Amendment prohibited the Post Office from requiring the recipient of communist political propaganda prepared abroad to notify the Post Office before such mail would be delivered. Id.

^{4/} There are, of course, certain situations where even speech, either foreign or domestic, can be punished when it rises to the level of adhering to our enemies in a manner constituting treason. 18 U.S.C. § 2381. See, e.g., Chandler v. United States, 171 F.2d 921 (1st Cir. 1948), cert. denied, 69 S.Ct. 640 (1949) (First Amendment no bar to prosecuting U.S. national for treason who made radio announcements in Germany during World War II critical of the United States war effort); Gillars v. United States 182 F.2d 962 (D.C. Cir. 1950). Thus, one could argue that the First Amendment would not protect treasonous statements made by U.S. citizens on Radio Hanoi during the Vietnam War.

There is no attempt here by the government to stop or regulate the sending or receipt of information or literature from the PLO by mail. What the government can require, and does require, however, is that any person, whether a United States citizen or not, register with the government whenever that person acts as an "agent" of a foreign principal in disseminating the literature received. Foreign Agents Registration Act (FARA), 22 U.S.C. §§ 611-621. FARA requires detailed reporting procedures far in excess of the nominal requirement struck down in Lamont, including requiring the registrant to file 2 copies of all propaganda disseminated. 22 U.S.C. § 614. Thus, certain associations with a foreign principal or government can indeed be regulated notwithstanding the First Amendment rights of speech and association. See Meese v. Keene, 107 S.Ct. 1862 (1987); United States v. Peace Information Center, 97 F. Supp. 255 (D.D.C. 1951). And the fact that the plaintiffs allege that they are in compliance with FARA does not mean that FARA is the ceiling of regulation that the government may interpose in a relationship between a United States citizen and foreign political entities. Indeed, the plaintiffs' cite no authority which gives U.S. citizens, who owe their allegiance to the United States, a constitutional right to act as agents of a foreign power. See also The Neutrality Act, 18 U.S.C. § 950; The Logan Act, 18 U.S.C. § 953.

If plaintiffs' arguments were to prevail, then foreign governments or entities could easily frustrate U.S. foreign policy decisions relating to foreign missions by simply employing U.S. citizens or residents.

B. Any Impact On Plaintiffs' First Amendment Rights Are Incidental And Are Outweighed By Compelling Governmental Interests.

Although amici submit that the First Amendment is not violated by the government's closing of the PIO, any alleged First Amendment violations are only incidental and are outweighed by the compelling governmental interests asserted.

The Supreme Court in United States v. O'Brien, 391 U.S. 367 (1968), articulated a four-part test to determine whether indirect effects on First Amendment rights are constitutional. The government's actions clearly meet all four.

1. The Closing Of The PIO Is Within The Constitutional Power Of The Government.

The first element of the O'Brien test is whether the law or regulation is "within the constitutional power of government." The Foreign Missions Act, as well as the proposed legislation by Congressional amici, are clearly within the powers of the legislative and executive branches. The executive possesses certain foreign affairs powers under Article II. United States v. Curtis-Wright Export Corp., 299 U.S. 304 (1936); United States v. Pink, 315 U.S. 203 (1942) (power to recognize foreign governments).

The Congress under Article I, and the Senate in its treaty making role under Article II, also possess authority to legislate in the area of foreign affairs, including the authority to enact the Foreign Missions Act under consideration in the instant case. Congress' authority is found, inter alia, in Article I, sec. 8, cl.3 (power to regulate foreign commerce);

cl. 10 ("to define and punish piracies and felonies committed on the high seas, and offenses against the Law of Nations"); cl. 11 ("to declare war, grant Letters of Marque and Reprisal, and make rules concerning captures on Land and Water"). Considering the fact that Abu Abbas, who is now on the PLO Executive Committee, was responsible for pirating the Achille Lauro on the high seas and killing an American citizen, the application of the FMA to the PLO as well as the pending legislation directed against the PLO are well within Congress' authority under Art. 1, sec. 8, cl. 10. In addition, the slaying of two American ambassadors in 1973 in the Sudan for which Yasir Arafat of the PLO was implicated certainly constitutes an act against the law of nations.^{5/}

Finally, Congress enjoys the power under Article I, sec. 8, cl. 18 "[t]o make all Laws which shall be necessary and proper or carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof" (emphasis added).

2. The FMA Furthers An Important Governmental Interest.

There can be no question that the closing of the PIO as a "foreign mission" furthers an important governmental interest.

^{5/} Congress' authority for taking action against certain countries or their leaders could also be based on Congress' authority under clause 11 to "grant letters of marque or reprisal," a power historically used against pirates and other international outlaws, but which can be applied to their modern day counterparts who engage in hijacking and terrorism.

The State Department has cited important foreign policy reasons why the presence of the PLO on U.S. soil is inimical to our interests. The pending legislation introduced by Congressional amici similarly cites findings of PLO terrorist activities. The conduct of our foreign affairs by the political departments of our government is not only substantial, but is an area to which the courts have especially given great deference. Haig v. Agee, 453 U.S. 280 (1981). The particular foreign policy interest here is to remove the official presence of the PLO from U.S. soil.

3. The Governmental Interest Is Unrelated To The Suppression Of Free Press.

The governmental interest in closing the PIO relates to conduct of our foreign affairs rather than to the speech of the plaintiffs. As noted earlier, the plaintiffs remain free to express their own views on the PLO at their own expense. The recognition of foreign governments as well as the recognition and regulation of foreign missions relates to the conduct of our foreign policy.

Another example of congressional action regulating foreign influence is the prohibition of the making of political contributions by foreign nationals and the receipt of such contributions by political candidates. 2 U.S.C. § 441e. Thus, while plaintiffs cite Buckley v. Valeo, 424 U.S. 1 (1976) for the proposition that the First Amendment protects the expenditures of money, (PIO Mem. at 26), they ignore this more relevant provision of the election law, not addressed in Buckley, which prohibits foreign contributions, whether in the

form of money or in-kind. Congress' interest in prohibiting foreign contributions is not to "suppress" free expression, but merely to avoid any real or apparent perception that foreign sources may be influencing or controlling a candidate or the political debate. Indeed, Congress has even prohibited purely domestic corporations and unions from making such contributions. 2 U.S.C. § 441b. If Congress can prevent a citizen from an ally such as Great Britain from contributing to a Congressional candidate -- and likewise prevent the candidate from receiving such a contribution -- surely our government can order that the PLO terminate its ties with the PLO.

To take another example, assume that the PLO or Libya purchased an American newspaper such as the Washington Post or The New York Times. As far as amici can ascertain, no law currently prevents this from happening. If such a purchase were to be made, would Congress be powerless to order the PLO or Libya to divest itself of that holding, even if the PLO's hand-picked editor happened to be a U.S. citizen? Congress' interest in that case would not be the suppression of speech, but rather to limit the extent of investment or involvement by foreign interests, especially inimical ones, in U.S. domestic matters.

4. The Incidental Restriction On
Alleged First Amendment Rights
Is No Greater Than Essential To
Further the Governmental Interest.

This fourth and final part of the O'Brien test is easily met. Since the governmental interest is to sever the PLO's

official presence in the United States, the closing order is limited only to that interest. As noted earlier, the plaintiffs can continue to espouse their own views on the PLO; they may not, however, act as the representative of the PLO in this country. If anything, amici suggest that the action taken by the Executive does not fully accomplish the objective of ridding this country of the PLO presence since no action is being taken against the PLO Observer Mission in New York. Consequently, even if the Court were to uphold the closing of the PLO's Washington, D.C. office, amici's proposed legislation would still be necessary to fully accomplish this objective.

III. PLAINTIFFS HAVE NOT MADE THE REQUISITE SHOWING ENTITLING THEM TO A PRELIMINARY INJUNCTION.

In order for this Court to grant a preliminary injunction delaying the December 1, 1987 effective date of the State Department's closing order, the court must consider the standard four-part test enunciated in WMATC v. Holiday Tours, 559 F. 2d 841 (D.C. Cir. 1977): (1) the likelihood of success on the merits; (2) the threat of irreparable injury if injunctive relief is denied; (3) the possibility of harm to other parties; and (4) the public interest. The plaintiffs have failed to meet this test in order to justify the exercise of this Court's equitable powers to grant such extraordinary relief of a preliminary injunction.

As for the likelihood of success on the merits, amici and the defendants have clearly demonstrated that the closing of the

PIO is authorized by the broad wording of the Foreign Missions Act and that the First and Fifth Amendments are not violated by defendants' actions.

The plaintiffs have also failed to show any irreparable injury to themselves if the preliminary injunction were not granted. The plaintiffs' claim of a loss of First Amendment rights if the office were to close has not been established as a matter of law or even in fact. There is nothing in Mr. Rahman's Declaration that indicates that he will not be able to keep a single speaking engagement to express his views, or that he could not continue to disseminate PLO literature. The only hardship entailed deals with the mechanical and mundane task of closing the PIO office, an injury which although inconvenient, is not irreparable. If this Court were to subsequently rule in the plaintiffs' favor on the merits, the plaintiffs could easily lease office space in this city. Any effect on the plaintiffs' First Amendment rights are speculative.

In addition, it has been reported that if the PIO office were to be closed, James Zogby, director of the Arab-American Institute, announced that "we will open one of our own." Washington Post, June 30, 1987, at A17, col. 1. The material disseminated by the PIO appears to be published and disseminated by other organizations in the United States such as the Palestine Human Rights Campaign, 220 South Sate Street, Chicago, Illinois as well as the Palestine Research and Education Center in Fairfax, Virginia which publishes "Palestine Perspectives." In short, the plaintiffs remain free to engage in First

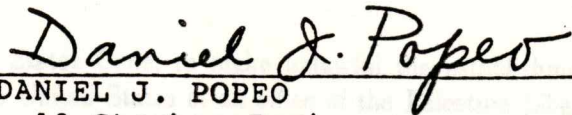
Amendment activities, and the public can continue to receive PLO literature.

The third criteria, harm to other parties, is closely related to the fourth criteria concerning the public interest. The plaintiffs merely assert that the American public's right to hear controversial views and the right of plaintiffs to express them, outweigh the foreign policy reasons for closing the PLO. As previously noted, however, there does not appear to be dearth of sources of information available to the American public on the PLO or the Palestinian issue. Further, the plaintiffs remain free to disseminate such information.

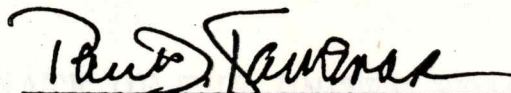
On the other hand, the public interest in closing the representative of the PLO on U.S. soil is substantial and overwhelming. The American public strongly oppose the terrorist activities of the PLO and do not wish to even indirectly subsidize the PLO's presence here. The American public also expect that our legitimate foreign policy concerns be carried out rather than be delayed. Any such delay could itself send the wrong message to our allies and other countries that our actions against the PLO are not credible.

For the foregoing reasons, amici curiae request that the plaintiffs' motion be denied.

Respectfully submitted,



DANIEL J. POPEO
12 Steuben Park
Utica, New York, 13501
(315) 735-8541



PAUL D. KAMENAR
D.C. Bar No. 914200

WASHINGTON LEGAL FOUNDATION
1705 N Street, N.W.
Washington, D.C. 20036
(202) 857-0240

Counsel for Amici

Date: November 23, 1987

100TH CONGRESS
1ST SESSION

S. 1203

To amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14 (legislative day, MAY 13), 1987

Mr. GRASSLEY (for himself, Mr. LAUTENBERG, Mr. DOLE, Mr. METZENBAUM, Mr. BOSCHWITZ, Ms. MIKULSKI, Mr. SYMMS, Mr. MCCAIN, Mr. D'AMATO, Mr. MURKOWSKI, Mr. KARNES, Mr. PACKWOOD, Mr. SPECTER, Mr. HECHT, Mr. DECONCINI, Mr. HELMS, Mr. SIMON, Mr. CHILES, Mr. DIXON, Mr. LEVIN, Mr. TRIBLE, Mr. GRAHAM, Mr. GRAMM, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SHORT TITLE

4 SECTION 1. This Act may be cited as the "Anti-
5 Terrorism Act of 1987".

1 FINDINGS; DETERMINATIONS

2 SEC. 2. (a) The Congress finds that—

3 (1) Middle East terrorism accounted for 60 per
4 centum of total international terrorism in 1985;5 (2) The Palestine Liberation Organization (here-
6 after in this Act referred to as the "PLO") was
7 directly responsible for the murder of an American citi-
8 zen on the Achille Lauro cruise liner in 1985, and a
9 member of the PLO's Executive Committee is under
10 indictment in the United States for the murder of that
11 American citizen;12 (3) the head of the PLO has been implicated in
13 the murder of a United States Ambassador overseas;14 (4) the PLO and its constituent groups have taken
15 credit for, and been implicated in, the murders of
16 dozens of American citizens abroad;17 (5) the PLO covenant specifically states that
18 "armed struggle is the only way to liberate Palestine.
19 Thus it is an overall strategy, not merely a tactical
20 phase";21 (6) the PLO rededicated itself to the "continuing
22 struggle in all its armed forms" at the Palestine Na-
23 tional Council meeting in April 1987; and24 (7) the Attorney General has stated that "various
25 elements of the Palestine Liberation Organization and

1 its allies and affiliates are in the thick of international
2 terror”.

3 (b) Therefore, the Congress determines that the PLO
4 and its affiliates are a terrorist organization and a threat to
5 the interests of the United States, its allies, and to interna-
6 tional law and should not benefit from operating in the
7 United States.

8 PROHIBITIONS REGARDING THE PLO

9 SEC. 3. It shall be unlawful, if the purpose be to further
10 the interests of the Palestine Liberation Organization or any
11 of its constituent groups, any successor to any of those, or
12 any agents thereof, on or after the effective date of this
13 Act—

14 (1) to receive anything of value except informa-
15 tional material from the PLO or any of its constituent
16 groups, any successor thereto, or any agents thereof;

17 (2) to expend funds from the PLO or any of its
18 constituent groups, any successor thereto, or any
19 agents thereof; or

20 (3) notwithstanding any provision of the law to
21 the contrary, to establish or maintain an office, head-
22 quarters, premises, or other facilities or establishments
23 within the jurisdiction of the United States at the
24 behest or direction of, or with funds provided by the
25 Palestine Liberation Organization or any of its consti-

1 uent groups, any successor to any of those, or any
2 agents thereof.

ENFORCEMENT

4 SEC. 4. (a) The Attorney General shall take the neces-
5 sary steps and institute the necessary legal action to effectu-
6 ate the policies and provisions of this section.

7 (b) Any district court of the United States for a district
8 in which a violation of this Act occurs shall have authority,
9 upon petition of relief by the Attorney General, to grant in-
10 junctive and such other equitable relief as it shall deem nec-
11 essary to enforce the provisions of this Act.

EFFECTIVE DATE

13 SEC. 5. (a) Provisions of this Act shall take effect ninety
14 days after the date of enactment of this Act.

(b) The provisions of this Act shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere in the world.

O

100TH CONGRESS
1ST SESSION

H. R. 2587

To make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 1987

Mr. KEMP (for himself, Mr. TORRICELLI, Mr. HERGER, Mr. MICA, Mr. LAGOMARSINO, Mr. SMITH of Florida, Mrs. MORELLA, Mr. WYDEN, Mr. WOLF, Mr. DWYER of New Jersey, Mr. PORTER, Mr. RICHARDSON, Mr. KYL, Mr. FROST, Mr. BATES, Mr. DAUB, and Mr. GALLEGLY) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SEC. 2. FINDINGS AND DETERMINATION.

4 (a) FINDINGS.—The Congress finds that—

5 (1) Middle East terrorism accounted for 60 per-
6 cent of total international terrorism in 1985;

7 (2) the Palestine Liberation Organization (herein-
8 after in this Act referred to as the "PLO") was direct-

1 ly responsible for the murder of a United States citizen
2 on the Achille Lauro cruise liner in 1985, and a
3 member of the PLO's executive committee is under in-
4 dictment in the United States for the murder of that
5 United States citizen;

6 (3) the head of the PLO has been implicated in
7 the murder of a United States Ambassador overseas;

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9 credit for, and been implicated in, the murders of
10 dozens of United States citizens abroad;

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12 "armed struggle is the only way to liberate Palestine.
13 Thus it is an overall strategy, not merely a tactical
14 phase";

15 (6) the PLO rededicated itself to the "continuing
16 struggle in all its armed forms" at the Palestine Na-
17 tional Council meeting in April 1987; and

18 (7) the Attorney General has stated that "various
19 elements of the Palestine Liberation Organization and
20 its allies and affiliates are in the thick of international
21 terror".

22 (b) DETERMINATION.—Therefore, the Congress deter-
23 mines that the PLO and its affiliates are a terrorist organiza-
24 tion and a threat to the interests of the United States and its

1 allies and to international law and should not benefit from
2 operating in the United States.

3 SEC. 3. PROHIBITIONS REGARDING THE PLO.

4 It shall be unlawful, if the purpose is to further the in-
5 terests of the PLO or any of its constituent groups (or any
6 successor or agent of the PLO or such a group)—

7 (1) to receive anything of value, except informa-
8 tional material, from the PLO or any of its constituent
9 groups (or any successor or agent of the PLO or such
10 a group);

11 (2) to expend funds from the PLO or any of its
12 constituent groups (or any successor or agent of the
13 PLO or such a group); or

14 (3) to establish or maintain an office, headquar-
15 ters, premises, or other facility or establishment within
16 the jurisdiction of the United States at the behest or
17 direction of or with funds provided by the PLO or any
18 of its constituent groups (or any successor or agent of
19 the PLO or such a group).

20 SEC. 4. ENFORCEMENT.

21 (a) DUTY OF ATTORNEY GENERAL.—The Attorney
22 General shall take the necessary steps and institute the nec-
23 essary legal action to enforce section 3.

24 (b) JURISDICTION OF UNITED STATES DISTRICT
25 COURT.—Any United States district court for a district in

- 1 which a violation of section 3 occurs shall have jurisdiction,
- 2 upon petition for relief by the Attorney General, to grant
- 3 injunctive and such other equitable relief as the court shall
- 4 deem necessary to enforce section 3.

5 SEC. 5. EFFECTIVE DATE AND CESSATION OF EFFECT.

- 6 (a) EFFECTIVE DATE.—Section 3 shall take effect 90
- 7 days after the date of enactment of this Act.

- 8 (b) CESSATION OF EFFECT.—Section 3 shall cease to
- 9 apply if the President certifies in writing to the President pro
- 10 tempore of the Senate and the Speaker of the House of Rep-
- 11 resentatives that the PLO and its constituent groups, and all
- 12 successors and agents of the PLO groups, no longer practice
- 13 or support terrorist actions anywhere in the world.



(d) Automotive maintenance and repair services;

(e) Packing, shipping, cartage and related services, including provision of packing materials;

(f) Educational services, including classes or coursework of any type and without regard to the character of the institution furnishing the same; and

(g) Financial services.

Goods

(a) Motor vehicles;

(b) Construction equipment and materials;

(c) Equipment and materials for the maintenance of the mission;

(d) Computers and automated data processing equipment; and

(e) Furnishings for offices and residences.

III. Determination

I hereby determine it to be reasonably necessary to accomplish the purposes set forth in section 4304(b) of the Act to require the diplomatic and consular missions of the Union of Soviet Socialist Republics (not including the Soviet Mission to the United Nations), and members thereof, to acquire any of the following benefits as may hereafter be specified by the Director of the Office of Foreign Missions either solely and exclusively from or through the Director of the Office of Foreign Missions, or upon such terms and conditions as the Director of the Office of Foreign Missions may direct.

(A) Services

The acquisition of services available from commercial, governmental or other sources within the United States (other than personnel of the mission), to include:

(1) Public utilities and services, including public recreational facilities and sanitation services; and

(2) Personal services of individuals engaged within the United States for whatever purpose, whether on a temporary or regular basis.

Such personal services to include:

(a) Services relating to public relations, information, publishing, printing, advertising, distribution of literature, or mailing;

(b) Plumbing, electrical, construction, maintenance, engineering, architectural or related services;

(c) Recreational, entertainment, party, catering, or like services, including the provision of facilities;

(d) Automotive maintenance and repair services;

(e) Packing, shipping, cartage and related services, including provision of packing materials;

(f) Educational services, including classes or coursework of any type and without regard to the character of the institution furnishing the same; and

(g) Financial services.

Provided that nothing in the Determination shall prevent diplomatic and consular missions of the Union of Soviet Socialist Republics and their personnel from obtaining medical services.

(B) Goods

Acquisition of the following categories of goods within the United States, irrespective of the source or manner of acquisition:

(a) Motor vehicles;

(b) Construction equipment and materials;

(c) Equipment and materials for the maintenance of the mission;

(d) Computers and automated data processing equipment; and

(e) Furnishings for offices and residences.

IV. Administrative Provisions

A. It is unlawful for any person subject to the jurisdiction of the United States directly to supply, or contract to supply the aforementioned goods and services to the aforementioned foreign missions, or any member thereof, other than in accordance with section 4311(a) of the Act, this Determination and any determination issued hereunder.

B. *Date of Effect:* A determination issued by the Director of the Office of Foreign Missions shall be effective at such time as the Director may prescribe.

C. Persons wishing clarification as to the applicability of this Determination or information on subsequent Determinations may contact the Office of Foreign Missions, US Department of State, Washington, DC 20520; or by telephone: (202) 647-3416.

George P. Shultz,
Secretary of State.

[FR Doc. 87-3620 Filed 2-19-87; 8:45 am]

BILLING CODE 4710-35-M

[Public Notice 1001]

Foreign Missions Act Determination; Amtorg Trading Corp.

Pursuant to the authority vested in me by the Foreign Missions Act, 22 U.S.C. 4301 et seq. (the "Act"), including section 202(b) of the Act (22 U.S.C. 4302(b)), and the Department of State Delegation of Authority No. 147 of September 13, 1982, I hereby determine:

1. That Amtorg Trading Corporation, with offices at 750 Third Avenue, New

York, New York, (hereinafter referred to as "Amtorg") is a "foreign mission" within the meaning of section 202(a) of the Act (22 U.S.C. 4302(a)(4)), as amended by Pub. L. 99-569;

That section 205 of the Act (22 U.S.C. 4305) is applicable to the acquisition, real property by Amtorg and its employees who are nationals of the Soviet Union.

Dated: January 7, 1987.

Ronald I. Splers,

Under Secretary for Management.

[FR Doc. 87-3621 Filed 2-19-87; 8:45 am]

BILLING CODE 4710-35-M

Shipping Coordinating Committee, Sub-Committee on Safety of Navigation; Open Meeting

The Working Group on Safety of Navigation of the Sub-Committee on Safety of Life at Sea (SOLAS) will hold an open meeting at 9:30 a.m. on Thursday, March 12, 1987, in Room 4234 of Department of Transportation Headquarters, 400 7th Street, SW., Washington, DC.

The purpose of the meeting will be to report on developments relating to the below listed agenda items considered at the 33rd session of the Sub-Committee on Safety of Navigation of the International Maritime Organization held in London, January 15-16, 1987, and to begin preparations for the 34th session.

Decisions of other IMO bodies.

Routing of Ships.

Problems related to deep-draft vessels.

Matters concerning search and rescue. Amendment of regulations V/2(a) and V/3(b) of SOLAS.

Removal of disused offshore platforms.

Infringement of safety zones around offshore structures.

Method of supplying heading information at the emergency steering position.

World-wide navigation system.

Electronic chart display systems.

Navigational aids and related equipment.

Work program.

Any other business.

Members of the general public may attend up to the seating capacity of the room.

For further information contact Mr. Edward J. LaRue, Jr., U.S. Coast Guard

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PALESTINE INFORMATION OFFICE,
et al.,

Plaintiffs,

v.

GEORGE P. SHULTZ,
et al.,

Defendants.

CIVIL ACTION
NO. 87-3085
Judge Stanley Sporkin

DECLARATION OF PAUL D. KAMENAR

1. I am the Executive Legal Director of the Washington Legal Foundation and am counsel to amici curiae Congressmen Jack Kemp, et al.

2. On November 13, 1987, I visited the Palestine Information Office at 818 18th Street, N.W., Washington, D.C. and asked for any literature relating to the Palestinian issues.

3. I was given four pieces of literature including a copy of "A Profile of the Palestinian People" (rev. 2d ed., 1987) which contains on page 11 the PLO structure. An excerpt from that magazine is attached hereto. The chart indicates that under the Political Department of the PLO is listed "P.L.O. Representation - 83 Offices Worldwide." It should be noted that although the initials appear to be "P.I.O." instead of "P.L.O.", the "I" looks as if it might have been a typographical error. In any event, there is no legal difference between the two since the PIO is the PLO representative.

4. I also obtained a copy of the magazine "Palestine: P.L.O. information bulletin" Nov. 1, 1987. I directed my clerk Nicholas Gutierrez to examine the PIO's filing with the Justice Department and he could not locate a copy of that document which is required to be filed. —

5. I also note that the PIO has not answered several items on its latest form, including Questions 4 and 12.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 23rd day of November, 1987.



PAUL D. KAMENAR

A Profile of the Palestinian People



*Edward W. Said
Ibrahim Abu-Lughod
Janet L. Abu-Lughod
Muhammad Hallaj
Elia Zureik*

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One Quincy Court
Chicago, IL 60604
Second Edition, 1987
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**The PHRC as a Non-Governmental Organization meets
The International Conference on the Question of Palestine**

of the United Nations distributed this document to the participants in
Geneva, August 27 - September 9, 1983.

The PHRC as a Non-Governmental Organization member of the United Nations distributed this document to the participants in The International Conference on the Question of Palestine, Geneva, August 27 - September 9, 1983.

sectarian or national influences would play no part. Both Zionism and Arab nationalism were thus rejected as a basis for the future Palestinian state. Underlying that vision was the awareness of the existence of two peoples on the same land, one, Palestinian Arab—the other, Israeli Jew. The national affiliation of Palestinians with the Arab people was of no consequence to the political organization of the projected Palestine; similarly the religious affinity of Israelis with Jews elsewhere was to entail no special political right or obligation. The vision of the democratic secular polity was not of one consisting of two separate and hostile communities, but of persons whose individual rights were primary and equal. This concept challenged both Israeli Jews and Palestinian Arabs to accept coexistence in the same polity on the basis of full equality.

It was fully realized that this goal conflicted with Zionism and its embodiment in Israel. Additionally, the movement viewed Israel as an extension of European-American imperialism which therefore would marshal its resources to resist the new formulation. Achievement of the first principle — establishment of a democratic secular polity in Palestine — could not be realized except by adherence to a second principle — the necessity for armed struggle by the Palestinian masses. Towards that end, the PLO undertook to mobilize and organize the Palestinians, and it subsequently recruited militant cadres and obtained material and political support for that program. As it did so, the PLO succeeded in organizing and in focusing the loyalty of the Palestinian people, as well as in challenging the legitimacy of the Arab states' exercise of control over Palestinians within their domain. The PLO additionally understood that Israel's control of the West Bank and Gaza must be challenged by all means including militant action, and it therefore rendered material, political, and economic support to Palestinians there to resist Israel's occupation. Finally, as representative of the Palestinian people everywhere, the PLO viewed its functions as including its duty to organize the Palestinian communities everywhere and to provide them with support, security and welfare.

Structure of the PLO

Today, the Palestine Liberation Organization represents the embryonic Palestinian state and government. Its constituency is the entirety of the Palestinian people. Over the years the Palestinians, no matter how subjugated or displaced, have retained a distinct and durable consciousness of themselves as a national community; in response the PLO has developed a structure capable of addressing the needs and aspirations of its constituency.

The Palestinian National Council is the highest policy-making body of the Palestine Liberation

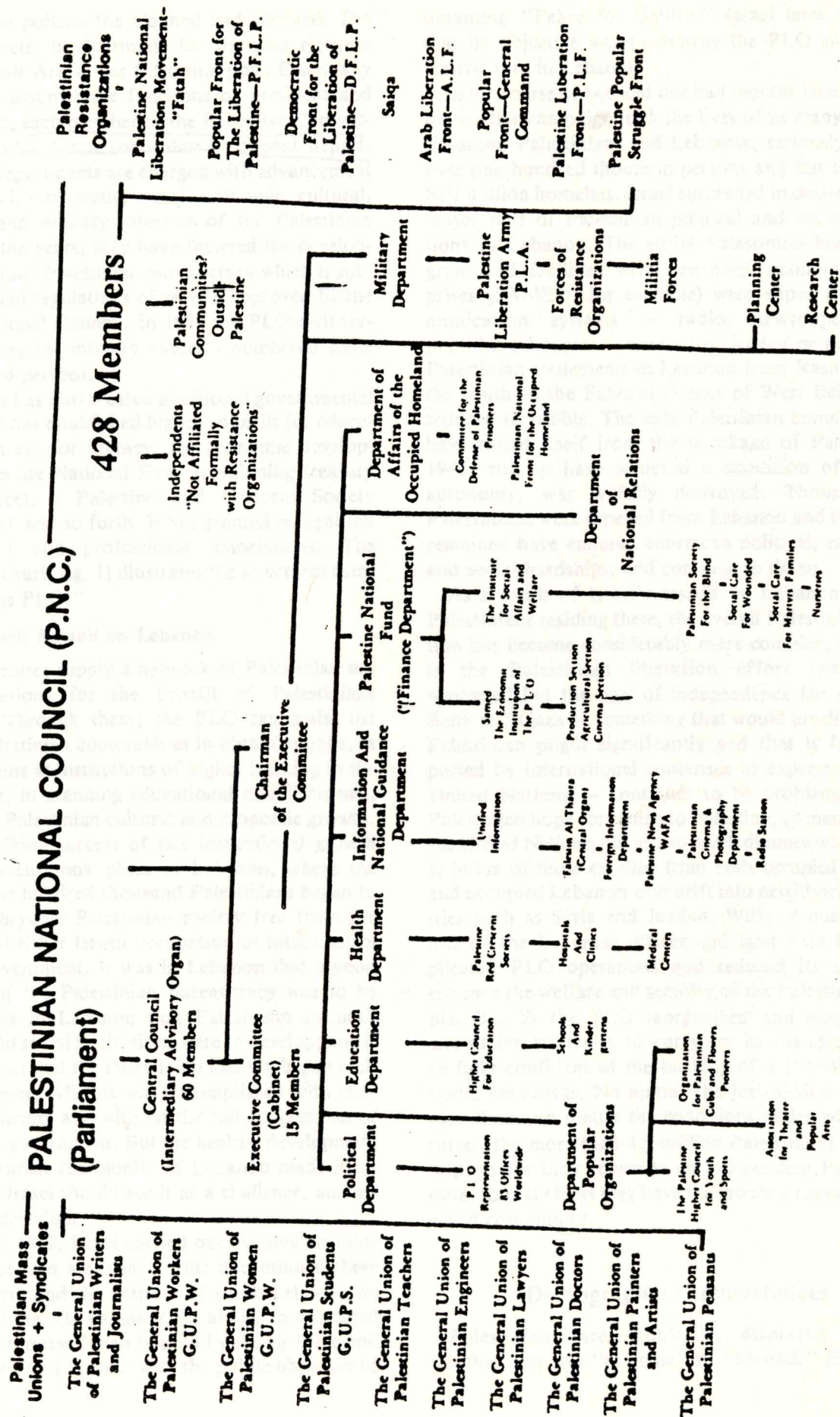
Organization. At present, the council is composed of 428 members presumed to represent all sectors of the Palestinian people, geographically and culturally. (The council has allotted certain seats to Palestinians in the occupied areas, but Israeli control has prevented those members from attending the sessions of the council.) The membership of the council is drawn from three separate categories: the militant organizations (Fatah, Popular Front for the Liberation of Palestine, Popular Democratic Front, etc.) in proportion to their actual or presumed strength; popular associations such as teachers' unions, women's unions, students' unions, writers, or workers' unions, and so on; and independents. Although representation is not solely premised on geographic principles of distribution, geography does play an important role in designating members of the council. Thus members drawn from the three categories mentioned are usually drawn from the geographic spread of the Palestinian people. In short, function, geography, and politics play important roles in the designation of the membership in the council. Looked at in a different way, the council, as a representative of the Palestinian people, symbolizes Palestinian pluralism. It is a multi-party council and reflects all political tendencies present in the Palestinian political community.

— The council debates all Palestinian issues at its annual meetings. Usually these meetings last about one week, at the end of which two sets of actions are adopted. One deals with the policies that the executive is to pursue in the coming period, policies relating to such matters as finance, military activities, political strategy, or bureaucratic functions, such as the creation of various departments — education, social welfare, culture, etc. It is perhaps appropriate to point out that major political programs become binding on the executive only when so mandated by the council. For example, the modification of the Palestinian program aiming at the creation of a democratic secular State took place within the council, which adopted a Provisional Program that accepted *de facto* Palestinian authority over the West Bank and Gaza should Israel withdraw; this was subsequently amended in 1977 to demand an Independent Palestinian State under the control of the Palestine Liberation Organization. It was in the pursuit of that modified program that the Executive Committee made its appeal in the United Nations in 1981 to support the establishment of an Independent Palestinian State specifically in the West Bank and Gaza.

The second action of the council is the election of the Executive Committee and its chairman. Thus far the practice has been to elect by secret ballot fifteen persons who for all practical purposes act as the Palestinian cabinet. The Executive Committee is responsible for im-

FIGURE 1

P.L.O. STRUCTURE



plementing the policies the Council had adopted. The committee elects its chairman; for the past eighteen years, Mr. Yasir Arafat has filled that post. Essentially the chairman assumes the functions of president and prime minister; each member of the Executive Committee is responsible for a particular functional department. These departments are charged with advancement of the political, diplomatic, social, economic, cultural, educational and military interests of the Palestinian people; over the years, they have fostered the development of a distinct Palestinian bureaucracy which is subject to rules and regulations of service approved by the Palestine National Council. In 1982 the PLO civil service - excluding the military cadres - numbered some eight thousand persons.

The council has also created additional governmental authorities. It has established higher councils for education, for culture, for literacy, for economic development, a Palestine National Fund (combining treasury and commerce), a Palestine Red Crescent Society (public health), and so forth. It has granted recognition to syndicalist and professional associations. The organization chart (fig. 1) illustrates the structural components of the PLO.⁴⁷

Effect of Israeli Assault on Lebanon

These structures supply a network of Palestinian national institutions for the benefit of Palestinians everywhere. Through them, the PLO can assist the dispersed Palestinian communities in obtaining jobs, in placing students at institutions of higher learning in the host societies, in manning educational establishments, in enhancing Palestinian cultural and economic growth. The most striking success of this institutional growth and development took place in Lebanon, where the estimated four hundred thousand Palestinians began to form an embryonic Palestinian society free from the constraints of either Israeli occupation or total control by a host government. It was in Lebanon that a good proportion of the Palestinian bureaucracy was to be found; it was in Lebanon that Palestinian cultural, economic, and social institutions were to develop; and it was in Lebanon that the Palestinian identity began really to re-coalesce. All this was accomplished with considerable difficulty and without the full cooperation of the Lebanese government. But the healthy development of the Palestinian community in Lebanon made it inevitable that Israel should see it as a challenge, and attempt its destruction.

On June 4, 1982, Israel carried out massive air raids against Palestinian areas in Beirut; it continued these raids on Beirut and the entirety of south Lebanon on the fifth of June. On the sixth, its army, an estimated one hundred thousand men backed by the air force and navy, marched on Lebanon with the public objective of

obtaining "Peace for Galilee." Israel later admitted that its objective was to destroy the PLO and its infrastructure in Lebanon.

In the course of two and one half months Israel's vastly destructive campaign took the lives of as many as forty thousand Palestinians and Lebanese, seriously injured over one hundred thousand persons and left over one-half million homeless. Israel succeeded in destroying the major part of Palestinian political and social institutions in Lebanon. The entire Palestinian health program and facilities were destroyed; economic enterprises (SAMED, for example) were wiped out; communication systems — radio, newspapers, and publishing houses — were either looted or destroyed. Palestinian settlements in Lebanon from Rashidiyya in the south to the Fakhani district of West Beirut were reduced to rubble. The only Palestinian community to have raised itself from the wreckage of Palestine in 1948, and to have achieved a condition of relative autonomy, was wilfully destroyed. Thousands of Palestinians were expelled from Lebanon and those that remained have endured enormous political, economic, and social hardships, and continue to do so.

As a result of Israel's assault on Lebanon and the Palestinians residing there, the overall Palestinian situation has become considerably more complex. Not only is the Palestinian liberation effort temporarily weakened, but the goal of independence for the West Bank and Gaza — something that would ameliorate the Palestinian plight significantly and that is fully supported by international consensus as expressed by the United Nations — continues to be problematic. The Palestinian hope for return to Palestine, as mandated by the United Nations, has grown much dimmer with the daily influx of those expelled from both occupied Palestine and occupied Lebanon who drift into neighboring countries such as Syria and Jordan. Without question the loss of the Lebanese offices and land base has complicated PLO operations and reduced its ability to enhance the welfare and security of the Palestinian people. But as the PLO reorganized and mapped out alternative strategies to carry on its mandate, it did so fully confident of the backing of a Palestinian national consensus. No matter the jurisdiction exercised over them, no matter the conditions under which they suffer, the more than 4.5 million Palestinians continue to press for their return to an independent Palestinian state. In that effort they have the growing support of the world community.

Demographic Circumstances

Palestinians are, ironically, displaced persons, whether they live "at home" or "abroad." Each pass-

THE NEW YORK TIMES, SUNDAY, APRIL 13, 1981

In Europe, P.L.O. Comes Under Close Watch

By HENRY KAMN

Special to The New York Times

ATHENS, April 12 — In a period of heightened vigilance against terrorism in Europe, Palestinian Liberation Organization offices in 14 non-Communist countries are under close scrutiny by security and intelligence agencies.

European and other officials say there is a dual purpose: to insure that those representing the P.L.O. in Europe carry out only their official functions, and to protect them against possible attacks by Palestinian groups in their midst, the P.L.O. leader.

In Greece, Cyprus, Turkey and Malta, the P.L.O. offices have diplomatic status equivalent to that of embassies. Officials have diplomatic immunity and are entitled to consular treatment. They are also exempt from customs duties and are not subject to inspection by host governments.

In France, Italy, Switzerland and Austria, the organization enjoys similar rights as an accredited observer to international organizations there.

Information Offices

Elsewhere, the offices are designated as information offices. In Belgium, Denmark, West Germany, Finland, France, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden, Switzerland, Turkey and Yugoslavia, the P.L.O. offices are considered as part of the consulates of the Arab League and have access to consular diplomatic privileges.

There was a time when the P.L.O. was the main focus of international concern to prevent Palestinian terrorism and acts, according to an American expert on terrorism here. Western capital flows, he said, were being blocked by groups and individuals who were attacking the

has asked Western European nations, as well as those in the Middle East, to increase security for American diplomats because of concern over the possibility of kidnappings or revenge in the wake of fighting in Israel and Libya between American and Soviet forces and Libya.

Most Terrorism in Europe

According to the Bureau on Terrorism of the Police Center for Strategic Studies at Tel Aviv University, terrorist acts attributed to Palestinians last year more than doubled in number over 1979, from 23 to 47. The center said 41 of the 47 acts were in Europe.

For the time being, the European officials in various countries said, Mr. Arafat's European representation is to be following the P.L.O. leader's example and not to be subject to inspection by host governments.

But security officials in several capitals concluded that whatever the present attitude toward terrorism by Mr. Arafat's mainstream followers, several of the organization's European representatives have been at least

who speak in the name of the P.L.O. in Europe had no official status in classification operations, including visas.

"In all of our offices, we have representatives of different Palestinian organizations," Mr. Arafat said. "The P.L.O. diplomatic committee in Geneva, for example, has employees followed the political line laid out by Mr. Arafat and Yasser Arafat, but the P.L.O. is political wing."

All P.L.O. representatives in Europe carried out activities as political, cultural and cultural. "The P.L.O. has now the right to speak against terrorism," Mr. Arafat said. "The P.L.O. was ready to offer its support to governments."

"We would cooperate with anybody against terrorism — if you want, even with America," he said. "We would like to see a P.L.O. presence in all of the larger and many cities."

Mr. Arafat said, "Greece and P.L.O. agreed to cooperate against terrorism. He said he was also sometimes called by the Cypriot Government to control the P.L.O. in Cyprus and to prevent terrorism on the island."

Greek and European officials said the P.L.O. was not a terrorist organization.

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In Europe, P.L.O. Comes Under Close Watch

By HENRY KAMM

Special to The New York Times

ATHENS, April 12 — In a period of belittened vigilance against terrorism in Europe, Palestine Liberation Organization offices in 18 non-Communist countries are under close scrutiny by security and intelligence agencies.

European and other officials say there is a dual purpose: to insure that those representing the P.L.O. in Europe carry out only their official functions, and to protect them against possible attacks by Palestinians opposed to Yasir Arafat, the P.L.O. leader.

In Greece, Cyprus, Turkey and Malta, the P.L.O. offices have diplomatic status equivalent to that of embassies. Officials have diplomatic immunity and are entitled to encode their communications and use diplomatic pouches that are not subject to inspection by host governments.

In France, Italy, Switzerland and Austria, the organization enjoys similar rights as an accredited observer to international organizations there.

Information Offices

Elsewhere, the missions are designated as information offices — in Belgium, Britain, Denmark, Finland, West Germany, the Netherlands, Norway, Portugal, Sweden and Spain, although Spanish officials announced March 22 that they would grant the P.L.O. office in Madrid diplomatic status. In some of those countries, the offices are part of the missions of the Arab League and thus have access to some diplomatic prerogatives.

There was a time when the P.L.O. was the main focus of counterintelligence to prevent Palestinian terrorist acts, according to an American expert on terrorism in a Western capital. Now, he said, concerned agencies are struggling to keep track of more shadowy groups and ad hoc plots.

In recent days, for example, the United States

has asked Western European nations, as well as those in the Middle East, to increase security for American diplomats because of concern over the possibility of Libyan acts of revenge in the wake of fighting in waters off Libya between American naval forces and Libya.

Most Terrorism in Europe

According to the Project on Terrorism of the Jaffee Center for Strategic Studies at Tel Aviv University, terrorist acts attributed to Palestinians last year more than doubled in number over 1984, from 32 to 67. The center said Al Fatah, the P.L.O. group that Mr. Arafat heads, carried out 13 of these actions. It also said that 48 of the 67 acts took place in Europe.

For the time being, Government officials in various countries said, Mr. Arafat's European representatives seem to be following the P.L.O. leader's emphasis on conducting political actions and not terror attacks outside Israel and the territories it occupies.

But security officials in several capitals contended that whatever the present attitude toward terrorism by Mr. Arafat's mainstream followers, several of the organization's European representatives have been at least indirectly implicated in terrorist acts.

Recruiting Activity Reported

David Kimche, director general of the Israeli Foreign Ministry, said in an interview in Jerusalem that people attached to P.L.O. offices in Europe were preparing a support structure for terrorist operations. He described this activity as recruiting, renting safehouses, providing identity documents, choosing potential targets and collecting operational intelligence.

According to Prof. Paul Wilkinson of Aberdeen University in Scotland, a specialist in Palestinian movements, "there are several kinds of people employed in P.L.O. offices," and "they are all ready to do violence."

European and Israeli officials and scholars

who specialize in Palestinian affairs said a P.L.O. mission in Europe had on its staff a specialist in clandestine operations, including terrorism.

"In all of our offices we have representation of different Palestinian organizations," said Massoud Ghandour, the P.L.O. diplomatic representative in Greece. He contended that employees followed the political line laid down by Mr. Arafat and Farouk Kaddoumi, head of the P.L.O.'s political wing.

All P.L.O. representatives in Europe ascribed their activities as political, educational and cultural. "The P.L.O. has now turned against terrorism," Mr. Ghandour said. He said the P.L.O. was ready to offer its assistance to governments.

"We would cooperate with anybody against terrorism — if you want, even with America," he said. He added that as a P.L.O. representative, he is "a target for many sides."

Last December, he said, Greece and the P.L.O. agreed to cooperate against terrorism. He said he was also sometimes called to help the Cypriot Government "control the Palestinians" to prevent terrorism on the island.

Israeli and European specialists said the organization's missions geographically closest to Israel were active in intelligence work to prepare for possible terrorist actions.

An Israeli official report that could not be verified from another source said that in December 1984, Abu Tayeb, who is described as the commander of Force 17, an elite militia unit of Al Fatah, reported to a meeting of other senior officials that he had reorganized the unit's representation at P.L.O. offices in Europe in preparation for future actions. Israeli security officials said Force 17 representatives in Europe were stocking weapons.

Israel holds Force 17 responsible for the slayings last year of two Israeli seamen in Barcelona, Spain, and of three Israeli tourists on a yacht in the harbor of Larnaca, Cyprus.

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PALESTINE INFORMATION OFFICE,
et al.,

Plaintiffs,

v.

GEORGE P. SHULTZ,
et al.,

Defendants.

CIVIL ACTION

NO. 87-3085

Judge Stanley Sporkin

DECLARATION OF NICHOLAS GUTIERREZ

1. I am a third-year law student at Georgetown University Law Center and am employed by the Washington Legal Foundation as a part-time law clerk.

2. On November 16, 1987, at the direction of my supervisor Paul D. Kamenar, I personally examined the latest registration statement of the Palestine Information Office on file at the appropriate Department of Justice office at 1400 New York Avenue N.W., Washington, D.C., to compare it with the copy submitted to the court.

3. Question number 4 on the original of the latest registration report filed by the PIO as well as on the copy filed with the Court has not been answered either "Yes" or "No" and therefore the form is incomplete.

4. Question number 18 on the original has an "x" clearly marked in the "No" box although the copy filed with this Court attached to the Declaration of Hassan Abdel Rahman indicates that question 18 was not answered at all, leading me to conclude

that the copy submitted to the court is not an accurate and true copy.

5. In addition, I examined the political propaganda which is required by the Foreign Agents Registration Act to be on file. I did not locate a copy of Vol. 12, No. 55 "Palestine: P.L.O. information bulletin" Nov. 1, 1987 which our office obtained directly from the PIO, nor did I find on file any other issue of "Palestine."

6. On November 19, 1987, I returned to the DOJ office to copy the latest filed report but the report was not available and was told that one of the DOJ attorneys may have it.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 20th day of November, 1987.


NICHOLAS GUTIERREZ

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Leave to File Brief Amici Curia, Brief of Amici Curiae, and Exhibits thereto, were hand-delivered this 23d day of November, 1987, to Arthur Spitzer, American Civil Liberties Union, 1400 20th Street, N.W., Washington, D.C. 20036, and to Sharon Reich, Department of Justice, 10th & Pennsylvania Avenue, N.W., Washington, D.C. 20530.


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