unjust for the entry to imply that Chile has refused to cooperate. Nor on this record is it reasonable to maintain that all diplomatic means have been exhausted, especially when the United States has failed to respond to Chile's proposal on eight different occasions. In any event, there are other diplomatic means besides the mere exchange of notes.

Notwithstanding Chile's dismay over the U.S. assertion of civil jurisdiction in the *Letelier* suit, Chile has nonetheless made every effort to cooperate with the United States criminal prosecution of the killers. But the Contemporary Practice entry neglects to mention these efforts, thereby implying that Chile's cooperation in the U.S. criminal prosecution has been lacking.

The record reveals that this is most emphatically not the case. First, Chile took the extraordinary step of permitting U.S. prosecutors and FBI agents to enter Chile to carry out their investigation.

Second, the Contemporary Practice entry states that the United States "had sought since September 20, 1978, the extradition" of certain Chilean officials, thereby implying that those efforts were fruitless due to Chile's lack of cooperation. Again, this implication is unfair and inaccurate. The entry does not disclose that the Chilean Government immediately submitted the U.S. extradition request to the Supreme Court of Chile, the ultimate arbiter of such matters under Chilean law; the Chilean executive has no role in such matters. More importantly, Chilean law prohibits the use of plea-bargained testimony, upon which the U.S. extradition request was fundamentally based. Based on these binding legal considerations, the Chilean Supreme Court refused the U.S. request. The United States has not challenged the Court's conclusions.

Incidentally, it should be noted, even though the Chilean Supreme Court did not rely on this point, that the extradition treaty between the two nations does not require the extradition of nationals. In fact, in *Valentine v. United States ex rel. Neidecker* (299 U.S. 5 (1936)), the United States Supreme Court itself held in construing identical language that an extradition treaty will not support the extradition of U.S. nationals unless that power is expressly given. Here it was not.

Finally, the entry neglects to indicate that Chile cooperated to the extent permissible under Chilean law with the recent letters rogatory from the U.S. district court.

The Republic of Chile deplores the murders of Ambassador Letelier and Ms. Moffitt, and will continue—consistent with Chilean law—to cooperate with the United States in bringing their killers to justice. Indeed, given the very significant questions surrounding the Bryan Treaty, Chile has proposed to the State Department that Chile and the United States enter into a joint study of its availability as a dispute resolution mechanism.

OCTAVIO ERRÁZURIZ
Ambassador of Chile

TO THE EDITOR IN CHIEF:

August 11, 1989

In an Editorial Comment in the July 1989 issue of the *Journal* (pp. 519–27), Michael Reisman demonstrates quite convincingly that the United States violated its international obligations when it effectively prevented

Yasir Arafat from addressing the United Nations in New York in 1988. To complete the record, I would like to point out two relevant parts of the factual matrix in addition to those he stressed.

First, the legislative history to section 6 of Public Law 80-357, which contains the so-called security reservation to the UN Headquarters Agreement, suggests that the "reservation" applies even to transit to and from the UN headquarters district. As originally reported out of the Senate Foreign Relations Committee, section 6 did not mention "security," but did reserve the right "completely to control the entrance of aliens into any territory of the United States other than the headquarters district and its immediate vicinity."[1] The House Foreign Affairs Committee decided to go further, and to mention the right to safeguard the security of the United States. It said that its amendment "reserves the right of the United States to safeguard its own security along with the right to control entry of aliens into territory other than the headquarters area."[2]

This legislative history suggests that the House—and ultimately the full Congress—intended the "security reservation" to go further than the reservation dealing with territory other than the headquarters area. The only further place it could go would be the headquarters area itself.

Of course, this does not mean that the United States reserved the right arbitrarily to determine that any individual bound for the headquarters district is a security threat. Agreements, and reservations to agreements (if in fact this was a reservation), must be construed and applied in good faith. As Professor Reisman has pointed out, Yasir Arafat's planned visit to UN headquarters posed no threat to U.S. security under any stretch of the imagination. The "security reservation" simply did not apply to him.

This conclusion is buttressed by the second point I want to mention. Professor Reisman discusses a denial-of-visas incident in 1953, involving representatives of allegedly Communist-dominated organizations, and notes that a compromise was reached between the United States and the United Nations. He concludes that the incident did not provide a precedent for unilateral U.S. determinations regarding individuals who might pose a security threat. His conclusion is strengthened by a memorandum prepared at the time by Henry Cabot Lodge, then the U.S. representative to the United Nations. In it Mr. Lodge said that his own reading of the 1947 Senate and House Reports "leads me to the conclusion that, if this matter goes to the General Assembly as it will if we force this issue, a persuasive case can be made in support of the Secretary-General's position."[3]

FREDERIC L. KIRGIS, JR.
Board of Editors

TO THE EDITOR IN CHIEF:

August 14, 1989

The International Court's Merits Judgment in the *Nicaragua* case condemns as impermissible intervention the act of "financing and supplying

[1] See the Foreign Relations Committee's explanation in S. REP. NO. 559, 80th Cong., 1st Sess. 6 (1947).

[2] H.R. REP. NO. 1093, 80th Cong., 1st Sess. 11 (1947).

[3] Memorandum of May 19, 1953, in 3 FOREIGN RELATIONS OF THE UNITED STATES 1952–1954, at 278.