



Press Release GA/10248

General Assembly Plenary

Tenth Emergency Special Session

27th Meeting (PM & Night)

GENERAL ASSEMBLY EMERGENCY SESSION OVERWHELMINGLY DEMANDS ISRAEL'S COMPLIANCE

WITH INTERNATIONAL COURT OF JUSTICE ADVISORY OPINION

Vote: 150-6-10

The General Assembly today voted overwhelmingly to demand that Israel heed last month's advisory opinion of the International Court of Justice (ICJ) to halt construction on its security barrier in the West Bank, tear down the portions built on Palestinian land, and provide reparations to Palestinians whose lives have been harmed by the wall.

By a vote of 150 in favour to 6 against (Australia, Federated States of Micronesia, Israel, Marshall Islands, Tuvalu, United States), with 10 abstentions, the Assembly's tenth resumed emergency special session adopted a resolution which also calls on both the Israeli Government and the Palestinian Authority to immediately implement their obligations under the Road Map peace plan, which calls for a series of parallel and reciprocal steps by each party leading to two States living side by side in peace by 2005.

On 9 July, the 15-judge Court issued its opinion, saying that the 450-mile-long system of walls and fences in the occupied Palestinian territory "gravely"

infringed on the rights of Palestinians, could not be justified by military needs or national security, and violated international law. Though the decision was non-binding, 14 of the 15 judges called on the Assembly and the Security Council to “consider what further action is required to end the illegal situation resulting from the construction of the wall”.

The measure adopted today called on all United Nations Member States to comply with their obligations as contained in the finding by the ICJ -- the United Nations highest legal body -- which include a duty "not to recognize the illegal situation resulting from the construction of the wall in the occupied Palestinian territory, including in and around East Jerusalem" and "not to render aid or assistance in maintaining the situation created by such construction".

The text also requests the Secretary-General to set up a register of all damage caused to "all the natural or legal persons" in connection with Israel's construction of the barrier. It also invites Switzerland, as the depositary of the Geneva Conventions, to conduct consultations and report to the Assembly on the matter, including the possibility of resuming the Conference of High Contracting Parties to the Fourth Geneva Convention.

Following the vote, the representative of Israel said the Assembly had again failed to make a relevant contribution to the cause of Middle East peace by pandering to one viewpoint and marginalizing the scourge of terrorism. The Observer for Palestine said the Assembly's move was “historic”, that the debate was over, and it was time now for implementation, compliance, and, at a later stage, additional measures.

Speaking in explanation of vote before the vote were the representatives of Nauru, Mexico and the United States.

Speaking in explanation of vote after the vote were the representatives of Netherlands (speaking on behalf of the European Union), Bahamas, Uruguay, Switzerland, Canada, Norway, Chile and Tajikistan.

The draft was introduced by the representative of Jordan, on behalf of the Arab Group, and the representative of Liechtenstein introduced amendments to the draft.

The Assembly will meet again at a time to be announced in the Journal.

Background

The General Assembly today resumed its tenth emergency session on illegal Israeli actions in occupied East Jerusalem and the rest of the occupied Palestinian territory, to consider a draft resolution on the recent advisory opinion of the International Court of Justice, which concerns the legal consequences of the Israeli-built security barrier under construction in the West Bank.

Last December, the resumed emergency session unanimously adopted a resolution requesting the Court's opinion, which concerns the legality of the wall. By that text, the Assembly decided to "adjourn the tenth emergency special session temporarily and to authorize the current President of the General Assembly to resume its meeting upon request from Member States".

The Court — the United Nations highest judicial body -- handed down its non-binding ruling last Friday, 9 July, declaring that the wall was illegal, that Israel must dismantle its standing portions, and that Israel must provide reparations for damages caused by the construction. It also suggested that the General Assembly and the Security Council might consider further action.

The Secretary-General transmitted the Court's ruling to the Assembly last week, and today's meeting was subsequently requested by the States members of the League of Arab States (document A/ES-10/274) and the Chairman of the Coordinating Bureau of the Non-Aligned Movement (document A/ES-10/275).

Introduction of Draft

The representative of Jordan, on behalf of the Arab Group, introduced a revised draft text on the Advisory Opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, including in and around East Jerusalem (document A/ES-10/L.18/Rev.1).

He said the revised text had thoroughly taken into consideration the concerns of regional groups and other negotiating parties. It contained three sections: a preamble; the terms of reference from the decision of the advisory opinion of the International Court of Justice; and eight operative paragraphs expressing

the Assembly's demands that Israel comply with the Court's decision.

The draft would have the Assembly recall the original question posed to the World Court last December on the legality of the wall, and would also have the Assembly acknowledge the advisory opinion, and demand that Israel comply with its international obligations.

He added that the text called on both the Israeli Government and the Palestinian Authority to immediately implement their obligations under the "Road Map" peace plan. It also invited Switzerland, as the depositary of the Geneva Conventions, to conduct consultations and report to the Assembly on the matter, including the possibility of resuming the Conference of High Contracting Parties to the Fourth Geneva Convention. It would also request the Secretary-General to establish a register of damage caused to all the natural or legal persons concerned, in connection with paragraphs 152 and 153 of the advisory opinion.

The representative of the Netherlands, speaking on behalf of the European Union, requested a brief suspension to consult on the text.

When the meeting resumed, the representative of Liechtenstein introduced a series of amendments to the text, including proposals to replace two preambular paragraphs with two new passages.

The new fifteenth preambular paragraph would read as follows: "Calling upon both parties to fulfil their obligations under relevant provisions of the Road Map, the Palestinian Authority to undertake visible efforts on the ground to arrest, disrupt and restrain individuals and groups conducting and planning violent attacks, and the Government of Israel to take no actions undermining trust, including deportations and attacks on civilians and extrajudicial killings."

The new sixteenth preambular paragraph would read as follows: "Reaffirming the fact that all States have the right and the duty to take actions in conformity with international law and international humanitarian law, to counter deadly acts of violence against their civilian populations in order to protect the life of their citizens."

Action on Draft

Speaking in explanation of vote before the vote, the representative of Nauru said the ICJ, having decided that the General Assembly had the authority to refer the question of the wall, had issued its advisory position. He had listened carefully to statements made last Friday and concluded that the draft had gone beyond a procedural one accepting the Court's advisory opinion, to a substantive motion asking Israel and Member States to act upon the Court's legally non-binding opinion. He did not believe the General Assembly was the appropriate forum to demand action that touched upon peace and security. The net sum of his delegation's position on the draft was that it would abstain from the vote.

The United States representative regretted the Assembly's rush to adopt the resolution. A durable solution could only be found in a negotiated settlement. The United States had counselled against actions that would be inconsistent with the peace efforts of the Road Map. The resolution diverted attention from where it should be. The resolution remained unbalanced and did not reflect that the Court's position might be limited. Much had changed since last year. He also regretted efforts to politicize the Court's non-binding position on the matter. His delegation also remained concerned about some of the legal conclusions in the opinion, and had serious concerns about the push to convene a conference of the Fourth Geneva Convention. The United States opposed efforts to politicize conventions, and would not attend.

The focus must remain on President Bush's vision of two States living side by side and on the Road Map as the appropriate means for realizing that vision, he said. The United States, the Quartet, the international community and regional communities were engaged in discussions on Israeli disengagement from Gaza and matters of security, Palestinian reform and the economic needs of the Palestinian people. The United States would continue to seek a settlement of the matters.

Mexico's representative said his delegation had voted in favour of the resolution requesting the International Court of Justice for its advisory opinion. It trusted the Court to decide, in accordance with international law, on the questions raised. The Assembly's position was responsible and in accordance with the Charter. Mexico would vote in favour of the draft not only as a demonstration of its deep appreciation for the ICJ, but also because the Court's opinion would contribute to finding a lasting solution. Mexico's confidence in the body had only been strengthened, with time. Its wisdom strengthened the foundation on which the relations among States should be structured.

Through the opinion, the Court had made a great contribution to clarifying applicable norms in international law, as well as the scope of relevant Assembly and Security Council resolutions, he said. He hoped the opinion would provide a new path towards lasting peace for the Israelis and the Palestinians. Mexico appealed to the Security Council to adhere to the Court's opinion and envisage what measures should be taken regarding the wall's construction.

The Assembly then adopted the draft resolution, as orally amended, by a recorded vote of 150 in favour to 6 against (Australia, Federated States of Micronesia, Israel, Marshall Islands, Palau, United States), with 10 abstentions.

Speaking in explanation of vote after the vote, the representative of Israel thanked God that the fate of Israel and the Jewish people was not decided by the Assembly. Israel had respect for the Assembly and the noble principles for which it stood. It was precisely that respect that had so often led Israel to be dismayed by the fact that the Assembly's mandate could be so easily and effectively abused. The Assembly today had again failed to make a relevant contribution to the cause of Middle East peace by pandering to one viewpoint and marginalizing the scourge of terrorism.

He thanked those delegations that had voted against the resolution and thanked those that had "tried to introduce some semblance of balance into the text". But the real issue was whether States would entertain with polite diplomacy efforts to ensure that no pressure was ever brought to bear on the forces that had caused the fence to be built in the first place and had sabotaged any effort to achieve peace. The "myopic" resolution also belittled the need for a comprehensive solution. Those States that recognized the perverse and harmful nature of the advisory opinion, especially those that were members of the diplomatic Quartet, were duty bound to end Palestinian abuse of the organs of the United Nations.

He said that a total disregard of Israel's "bold initiative" to withdraw from parts of the West Bank and Gaza could only be seen as disengagement by those States who agreed with the text from the reality of the situation in the region. That did not bode well for efforts to achieve comprehensive peace. "We should not be so quick to treat advisory opinions as if they were binding and binding Palestinian obligations were voluntary."

Israel was not above the law and would continue to review the route of the fence, in order to protect humanitarian law and human rights for those

Palestinians living along the route of the security barrier, as well as the lives of those Israeli citizens whose lives it was protecting. But, Israel would nevertheless reject wholeheartedly the attempts to use the law as a political weapon, as if it applied to Israel and no one else. It was outrageous to respond with such vigour to a strategy that saved lives and treat a campaign that took lives with such indifference. By buying onto a “mock narrative” that failed to provide any remedies aimed at convincing the Palestinian side to reverse its catastrophic strategy, he believed the Assembly had compounded the error it had made last December when the opinion had been requested from the International Court of Justice. Both sides were worse for it.

The representative of the Netherlands, speaking on behalf of the European Union, said his delegation acknowledged the ICJ decision and had voted in favour of the text in the spirit of consensus. The Union would again express its opposition to the route of the barrier, but would not conceal its disagreement with some of the elements of the advisory opinion. The European Union supported Israel’s right to act in self-defence. It would reaffirm its deep conviction that the Road Map remained the basis for a peaceful settlement. The most important step was for all sides to desist from further violence.

The representative of the Bahamas said her delegation had voted in favour of the draft out of its respect for international law and legal institutions. The Bahamas recognized the right of States to protect themselves and their citizens, as well as the principles of international humanitarian and human rights law. It would call on both sides to return to the Road Map, as they looked towards a peaceful settlement.

The representative of Uruguay said her delegation’s abstention should not be seen as disrespect of the International Court of Justice or its advisory ruling. Uruguay had abstained because the text had considered only one side of an issue that everyone recognized was very complex. The issue of the wall should have been considered within the context of the overall situation in the region. By focusing on only one aspect, the Assembly was not contributing to the effort to ensure peace. Uruguay believed that returning to the Road Map was the best way forward.

The representative Switzerland said that it had voted in favour of the draft as it reflected the opinion of the ICJ. The text had called on Switzerland, as depositary of the Geneva Conventions, to hold consultations with the parties and report to the Assembly on the matter. Switzerland stood ready to take up that task if asked. He added that meetings of the High Contracting Parties to the Conventions were not new or extraordinary and had occurred in recent

years. Switzerland would commit itself to support and respect international humanitarian law. It would consult with all the parties to ensure broader respect for the rule of law.

The representative of Canada said that, at time of the resolution referring the issue to the International Court of Justice, Canada had questioned whether the request was a useful step, given the highly charged political environment. There were elements of the opinion that reflected Canadian policy on the applicability of international law and opposition to the settlements within the Palestinian territories. Any action by the General Assembly should contribute to advancing a just, lasting and negotiated settlement to the conflict. The ICJ had said that the question of the wall was part of a greater whole. It was the Assembly's responsibility to consider the opinion as part of the greater whole, before adopting a resolution. The draft did not adequately discharge that responsibility.

He said Canada remained concerned with the barrier's adverse effect on the dire socio-economic situation in the occupied Palestinian territory. Although Israel had a duty to protect its citizens, its measures had to be in accordance with applicable humanitarian law. While Canada had concerns regarding the route of the barrier, the issue could not be seen in isolation from Israel's security concerns. Israel had the right to take measures to protect its people, including by restricting access to its territory, but had to do so in accordance with law. It was the responsibility of the international community to help create favourable conditions for the conflict's resolution in the context of the Road Map.

Norway's representative said the advisory opinion confirmed that the wall violated international law. A united international community must continue efforts to get the parties back to the negotiating table. The tragic situation could only be brought to end through the implementation of all relevant resolutions.

Chile's representative said his Government was against all acts of terrorism by States or individuals and condemned killings and acts of violence inflicted on innocent civilians. Chile had voted in favour of the resolution. The last preambular paragraph mentioned respect for the International Court of Justice and described its work as essential to the rule of law. However, his delegation would have hoped that the draft could have included a reference to the right and duty of Israel to protect the rights of its citizens against deadly acts of violence.

The representative of Tajikistan said his delegation had temporarily lost its right to an exemption under Article 19 of the Charter and had not been able to vote. Had Tajikistan been able to vote, it would have voted in favour of the draft.

The Observer for Palestine said the debate was over. It was time now for implementation, compliance, and, at a later stage, additional measures. He was not going to respond to some of the comments that had been made earlier. He expressed appreciation to the Assembly for the “magnificent results” that had been achieved today in support of international law and peace and reconciliation in the Middle East. He thanked the Assembly President for his leadership and patience. He also appreciated the efforts of the lead negotiators and thanked the European Union for its efforts to ensure wider acceptance of the resolution.

The ICJ opinion had been a historic event. It had been perhaps the most important development in the situation since the partition plan. The resolution adopted with such an overwhelming majority was also an equally important event. His delegation was confident that all Member States would deal with the provisions of the text with utmost seriousness with regard to implementation. He thanked the Assembly on behalf of the Palestinian people and the Palestinian Authority. He also thanked the judges of the International Court of Justice.

(annex follows)

ANNEX

Vote on Advisory Opinion of ICJ

The draft resolution on the advisory opinion of the International Court of Justice on the legal consequences of the construction of a wall in occupied Palestinian territory (document A/ES-10/L.18/Rev.1) was adopted by a recorded vote of 150 in favour to 6 against, with 10 abstentions, as follows:

In favour: Afghanistan, Albania, Algeria, Andorra, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cape Verde, Chile, China, Colombia, Congo,

Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Eritrea, Estonia, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syria, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Australia, Federated States of Micronesia, Israel, Marshall Islands, Palau, United States.

Abstaining: Cameroon, Canada, El Salvador, Nauru, Papua New Guinea, Solomon Islands, Tonga, Uganda, Uruguay, Vanuatu.

Absent: Angola, Benin, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Ethiopia, Georgia, Guinea-Bissau, Iraq, Kiribati, Liberia, Madagascar, Malawi, Niger, Republic of Moldova, Rwanda, Saint Kitts and Nevis, Samoa, Sao Tome and Principe, Seychelles, Somalia, Tajikistan.

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