



SECURITY COUNCIL REPORT UPDATE REPORT



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ISRAEL/PALESTINE

Expected Council Action

Security Council members are discussing a draft resolution informally circulated on 21 December 2010 by Lebanon on behalf of the Arab Group. The resolution addresses Israeli settlements in the occupied Palestinian territory and peace negotiations. Before any further steps are taken there will be a period of ongoing discussions. It seems that the co-sponsors will move to put the resolution to a vote in January. (The co-sponsors will likely include some elected Council members, most members of the Non-Aligned Movement and other UN member states—possibly upwards of 100 co-sponsors.) It is unclear whether the draft resolution will be voted on before 19 January, which had been separately scheduled for an open debate on the Middle East.

The Council in the past has adopted a number of resolutions on the issue of settlements but in recent years it has been silent. Indeed no resolution on any aspect of the Israel/Palestine situation has been adopted since resolution 1860 of 8 January 2009. (See our Special Research Report, *The Middle East 1947-2007: Sixty Years of Security Council Engagement on the Israel/Palestine Question* of 17 December 2007, which provides a detailed history of the Council's involvement on the Israel/Palestine issue.)

Key Recent Developments

On 2 September 2010 direct Israeli-Palestinian talks resumed in Washington DC on the basis of an Israeli ten-month curtailment of settlement expansion. (These direct talks replaced US-mediated proximity talks which had been underway since May 2010. Previous direct talks were terminated in late 2008 after the outbreak of the Gaza war.)

A 21 September 2010 Quartet (EU, Russia, US and the UN) statement strongly supported direct talks; urged the continuation of the Israeli settlement moratorium; reaffirmed that negotiations should lead to the end of the occupation that began in 1967 and result in a two-state solution; recalled that unilateral actions, including settlements, cannot prejudice the outcome of negotiations and will not be recognised by the international community; and called upon both parties to fulfill their Road Map obligations. (The Road Map was drafted by the Quartet in 2003 and endorsed that same year in resolution 1515 by the Security Council.)

On 26 September 2010 the Israeli settlement moratorium expired without any extension. Building in settlements restarted. In response, Palestinian President Mahmoud Abbas withdrew from the talks.

In December 2010 a US plan for a ninety-day partial settlement moratorium in exchange for a package of US incentives was abandoned after its rejection by Israel. On 13 December US Middle East Envoy George Mitchell had returned to the region to discuss the situation with Israeli and Palestinian leaders. At press time, Israeli and Palestinian negotiators were expected to travel to Washington DC the week of 10 January.

On 22 November 2010 the Israeli Knesset passed a bill requiring a two-thirds majority in parliament before withdrawal from East Jerusalem or the Golan Heights. If a parliamentary majority is not achieved the bill calls for a national referendum.

On 15 December 2010 in Cairo, Abbas briefed the Arab League which subsequently announced that resumption of talks would require assurances of a serious offer to end the Arab-Israeli conflict. The Arab League decided to bring the issue of Israeli settlements in the occupied Palestinian territory before the Security Council (after previously having suspended such action for thirty days to allow the US to try to come up with a new approach to keep the talks alive).

On 31 December 2010 Abbas said the time had come for a new peace plan which should be framed by the Quartet and based on UN Security Council resolutions. He called for increased US pressure on Israel vis-à-vis the settlements issue. (Media reports indicate that the next meeting of the Quartet may be planned for early February on the sidelines of the Munich Security Conference.)

On 2 January Israeli Prime Minister Benjamin Netanyahu urged Palestinians to focus on negotiations for a final peace deal rather than focus on settlements and on 9 January rejected criticism of settlement activity in East Jerusalem by US Secretary of State Hillary Clinton who had said "this move contradicts the logic of a reasonable and necessary agreement between the parties on the status of Jerusalem."

EU foreign policy head Catherine Ashton said on 9 January that "settlements are illegal under international law, undermine trust between the parties and constitute an obstacle to peace." (Ashton had been in the region on 5 and 6 January in separate talks with Netanyahu and Abbas.) On 10 January Secretary-General Ban Ki-moon said "it is deeply regrettable that growing international concern at unilateral expansion of illegal Israeli settlements is not being heeded. Such actions seriously prejudice the possibility of a negotiated solution to the Israeli-Palestinian conflict."

On 9 January the Palestinian foreign minister confirmed an ongoing diplomatic effort to secure as much international recognition of an independent Palestinian state as possible by September 2011. (This September marks end of Palestine's self-declared institution-building process and the one-year deadline stated at the outset of talks in September 2010 and in the 21 September 2010 Quartet statement.)

On 7 January Chile recognised Palestine as an independent state following several other South American recognitions of Palestine in late 2010, including Brazil. (Media reports indicate approximately 100 countries have recognised the Palestine state to date.)

Palestinians have also asked European states to recognise the 1967 green line as the Israeli-Palestinian border. The EU said it would recognise a Palestinian state at an appropriate time and supports a negotiated settlement. Some European countries have recently upgraded diplomatic relations with the Palestinians.

A 15 December non-binding resolution of the US House of Representatives was unanimously passed calling on the US to not recognise a unilaterally declared Palestine and veto any UN Security Council resolution to establish or recognise Palestine outside of a negotiated agreement.

Past Council Action on the Issue of Israeli Settlements

The most recent attempt to address settlements in the Council was a Libyan draft in July 2008 which was never put to the vote. However, the Council has adopted resolutions on the Israeli policy in the occupied Palestinian territory in the past. Two landmark resolutions include:

- Resolution 242 (22 November 1967) affirmed that the establishment of a just and lasting peace in the Middle East should include the withdrawal of Israel from territories occupied during the June 1967 war.
- Resolution 446 (22 March 1979) specifically addressed the issue of settlements in the occupied territories and determined that the policy and practices of Israel in establishing settlements in the occupied territories have “no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.” It deplored Israel’s non-compliance and called on Israel not to transfer parts of its own civilian population into the occupied Arab territories.

The Draft Resolution

The genesis of the current draft resolution lies in an initiative commenced by the Palestinians in November 2010 and which gained further traction in December after it became apparent that Israel would not reinstitute its settlement moratorium. A draft was informally circulated among Council members in late December for discussion. Subsequently Lebanon—supported by the Palestinians—began canvassing Council members about the possibility of Council action on the settlements issue.

The draft:

- reaffirms past Council decisions that Israeli settlements in the Palestinian territory, including East Jerusalem, are illegal and constitute a major obstacle to peace;
- reiterates previous demands that Israel completely cease all settlement activity;
- calls on both parties to act on the basis of international law and previous agreements, including the Road Map, to create conditions necessary to promote the peace process;
- calls on both parties to continue negotiations in line with the Quartet statement of 21 September 2010; and
- urges intensification of international and regional diplomatic efforts towards peace.

Key Issues

The key issue—given the critical weight given by the US and others to a negotiated solution and the fact that the settlement issue is blocking any prospect of meaningful negotiations—is whether a resolution along the lines proposed could be a circuit breaker and provide a sufficient quid pro quo for the Palestinians to allow them to return to direct negotiations.

A related issue is whether Council members will see the timing as right for such a resolution aimed at getting both parties back to the negotiating table.

A third issue for many Council members is whether this draft resolution can be managed to a successful outcome given the potential for it to set a positive or negative tone for future Security Council involvement on the Israel-Palestine issue—bearing in mind that 2011 seems likely to be a very critical year for the peace process.

Underlying Issues

There has been a wide (but not universal) consensus over the past decade that peace in the Middle East requires a negotiated two-state solution in line with the Road Map and that space should be given for such negotiations. This has led to a preference for discussion in the Quartet mode rather than the Security Council. (There were, however, some important exceptions to this policy in the latter days of the Bush administration when the US relented on its opposition to Council involvement. These resulted in two resolutions: 1850 of December 2008 and 1860 of January 2009.) At this point in time, however, there is growing concern that the strategy employed over the past decade is now fatally compromised by Israel's post-September 2010 settlement policy which contradicts the Road Map commitments.

The situation in Gaza and the lack of Fatah-Hamas reconciliation are also exacerbating factors which undermine the past strategy.

Options

The Council could:

- adopt the draft resolution as proposed;
- amend the resolution to include more explicit language obligating both parties to re-enter direct negotiations promptly; and
- endorse convening an international conference if negotiations remain stalled by a defined date. (The idea of an international conference on the Middle East remains on the table. Russia originally proposed the idea as a follow-up to the last such conference in Annapolis held in November 2007. The Council welcomed these plans in resolutions 1850 and 1860.)

Council Dynamics

The idea of the Council adopting a resolution on this issue at this time seems to have wide support among Council members.

As to the substance of the text, it seems that most members see it as moderate and reasonable, although probably many would be open to some amendments to secure a successful outcome.

Lebanon, as the voice of the Arab Group on the Council, argues that the draft resolution is carefully crafted to respond to Council members' concerns and create positive momentum on the issue.

It seems that the text of the draft resolution already has firm support among elected members from Bosnia and Herzegovina, Brazil, Gabon, India, Nigeria and South Africa.

As to the position of the P5, China and Russia also seem supportive. The US and the EU appear cautious—although the substance of the draft is broadly consistent with the wording of the Quartet position they agreed to on 21 September 2010. The current caution may be due to apprehension about timing and impact on other initiatives.

It seems there is support for the substantive elements in the text from EU members on the Council (France, Germany, Portugal and the UK) in line with the general EU position on settlements. However, some EU members, for example the UK, think that it is important that the resolution take more directly into account the importance of a negotiated settlement and getting both parties back to the table for direct talks. (Colombia may have similar concerns.)

Nevertheless, the key dynamic is whether the US believes that the Council speaking on the subject can add value at this time. Although the US continues to be opposed to the settlements,

for the last two years it has insisted that the Council is not the right forum for decisions on Israeli-Palestinian issues. If the draft resolution goes to a vote and the US uses its veto—it would be the first US veto on the Israel/Palestine issue since 2006 and the first US veto under the Obama administration on any issue. (During former US President George W. Bush’s tenure, the Council adopted nine resolutions on the Israel/Palestine issue—the US voted yes on six and abstained on three. In the same period, the US vetoed nine resolutions on the Israel/Palestine issue. At least two other initiatives never made it to the vote.)

It seems there is growing sense of discomfort among many Council members about the Council’s extended silence on the Israeli/Palestinian issue. This silence has been driven over the last two years by a desire to give the US sufficient space to achieve a negotiated solution. But the current stalemate which is preventing any negotiations has led many to conclude that the passive approach is not adding value.

Selected UN Documents

Security Council Resolutions

- S/RES/1850 (16 December 2008) supported the Annapolis peace process and its commitment to the irreversibility of bilateral negotiations.
- S/RES/1515 (19 November 2003) stated the necessity for a two-state solution and unanimously endorsed the Quartet’s Road Map.
- S/RES/1397 (12 March 2002) affirmed a vision of a region where two States, Israel and Palestine, live side by side within secure and recognized borders.
- S/RES/478 (20 August 1980) censured Israeli enactment of the “basic law” on Jerusalem.
- S/RES/476 (30 June 1980) reconfirmed the illegality of Israeli actions to change the character and status of Jerusalem.
- S/RES/465 (1 March 1980) and S/RES/452 (20 July 1979) the Council accepted the recommendations in reports (S/13450 and S/13679 respectively) submitted by a commission it set up to look into the Israeli settlements.
- S/RES/446 (22 March 1979) declared that settlements in occupied territories have no legal validity and the legal status of Jerusalem cannot be validly altered unilaterally.
- S/RES/338 (22 October 1973) called for a ceasefire and the comprehensive implementation of resolution 242.
- S/RES/242 (22 November 1967) called on all parties to end territorial claims, respect sovereignty, and for Israel to withdraw from occupied territories.

Quartet Statements

- SG/2162 (21 September 2010) supported direct talks, urged the continuation of the Israeli settlement moratorium, and reaffirmed its previous statements regarding a negotiated two-state solution.
- SG/2161 (20 August 2010) welcomed direct talks and reiterated that negotiations should resolve all final status issues and lead to a settlement that ends the occupation which began in 1967 and results in the emergence of an independent, democratic, and viable Palestinian state.
- SG/2158 (19 March 2010) welcomed proximity talks towards resuming direct negotiations leading to a negotiated settlement within two years; reaffirmed that unilateral action would not be recognised by the international community; underscored that Jerusalem is a permanent status issue.

Other

- S/2008/445 (8 July 2008) was a Libyan draft resolution on settlements which was never voted on by the Council.
- S/2003/529 (7 May 2003) was a letter from the Secretary-General transmitting the text

of the road map for a two-state solution to the Israeli-Palestinian conflict.

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