

Palestine at United Nations Security Council: Two Drafts for a Resolution on Palestinian Self-Determination

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Region: [Middle East & North Africa](#)

Theme: [History](#), [United Nations](#)

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This week the members of the United Nations Security Council have been carefully studying two draft resolutions on Palestine: we will call them “Draft I” and “Draft II” (see complete version of both documents at the end of this note).

United States top officials have declared that they will not support the first draft presented, while France, United Kingdom and others are working and consulting on a second version (see [JerusalemPost note](#)). Israel Minister of Foreign Affairs has called the resolution a “gimmick” (see [Newsweek note](#)) while another top official in Israel as an “act of war” (see [note](#) from Timesofisrael).

Last December 17, European Parliament adopted a resolution referring to “its strong support for the two-state solution on the basis of the 1967 borders, with Jerusalem as the capital of both states, with the secure State of Israel and an independent, democratic, contiguous and viable Palestinian State living side by side in peace and security on the basis of the right of self-determination and full respect of international law” (see [official press release](#)).

The very same day of December 17, the European Union Tribunal annulled, on procedural grounds, the European Council measures maintaining Hamas on the “European list of terrorist organisations” (see [official press release](#)): the inclusion of Hamas on this list was done in December 2001 as part of a set of measure taken after September 11. The same 17 December 2014 in Geneva, the State Parties to IV Geneva Convention on International Humanitarian Law adopted a declaration on its application in Palestine, with the absence of Australia, Canada, Israel and Rwanda delegations. Israel ambassador in Geneva considered that Switzerland initiative was (in French) “politique et amoral” (see [press note](#) of TDG). The Direction Fédérale des Affaires Etrangères (DFAE) of Switzerland, in charge of the organization of this meeting, refers the group of Australia, Canada, Israel, United States and Rwanda in the following words: “ Un petit nombre de Hautes parties contractantes ont exprimé leur opposition et n’ont pas participé à la conférence.” (see [official press release](#)): it has to be recalled that Israel made pressures on Switzerland not only with United States in order to boycott this meeting (see [note of Timesofisrael](#)).

In addition to general rules of international law applicable to inter State relations and in addition to obligations of humanitarian law during armed conflict, another set of basic

international regulations violated by Israel interested recently international community: a few days before December 17, a secret CIA report made available by US Senate (see [full text](#) of this report) referred to Israel court decisions used as a “precedent” to justify torture by US officials during G.W. Bush Administration (see Jerusalem Post [note](#)). In recent declarations US Ambassador at the United Nations declared, in relation with International Criminal Court (ICC) and Palestine that: “The ICC is of course something that we have been absolutely adamant about. Secretary Kerry has made it very, very clear to the Palestinians, as has the President. I mean, this is something that really poses a profound threat to Israel” (sic) (see [note with interview](#) of S. Power).

Taken into considerations these few elements from international law legal perspective, the reader can better understand Israel fears concerning both drafts of this resolution.

Draft Resolution I

Palestinian blue draft resolution in the Security Council at 7:07 PM Draft Resolution (17 December 2014)

Reaffirming its previous resolutions, in particular resolutions 242 (1967); 338 (1973), 1397 (2002), 1515 (2003), 1544 (2004), 1850 (2008), 1860 (2009) and the Madrid Principles,

Reiterating its vision of a region where two democratic states, Israel and Palestine, live side by side in peace within secure and recognized borders,

Reaffirming the right of the Palestinian people to self-determination,

Recalling General Assembly resolution 181 (II) of 29 November 1947,

Reaffirming the principle of the inadmissibility of the acquisition of territory by force and recalling its resolutions 446 (1979), 452 (1979) and 465 (1980), determining, inter alia, that the policies and practices of Israel in establishing settlements in the territories occupied since 1967, including East Jerusalem, have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East, Affirming the imperative of resolving the problem of the Palestine refugees on the basis of international law and relevant resolutions, including resolution 194 (III), as stipulated in the Arab Peace Initiative,

Underlining that the Gaza Strip constitutes an integral part of the Palestinian territory occupied in 1967, and calling for a sustainable solution to the situation in the Gaza Strip, including the sustained and regular opening of its border crossings for normal flow of persons and goods, in accordance with international humanitarian law,

Welcoming the important progress in Palestinian state-building efforts recognised by the World Bank and the IMF in 2012 and reiterating its call to all States and international organizations to contribute to the Palestinian institution building programme in preparation for independence,

Reaffirming that a just, lasting and peaceful settlement of the Israeli-Palestinian conflict can only be achieved by peaceful means, based on an enduring commitment to mutual recognition, freedom from violence, incitement and terror, and the two-State solution,

building on previous agreements and obligations and stressing that the only viable solution to the Israeli-Palestinian conflict is an agreement that ends the occupation that began in 1967, resolves all permanent status issues as previously defined by the parties, and fulfils the legitimate aspirations of both parties,

Condemning all violence and hostilities directed against civilians and all acts of terrorism, and reminding all States of their obligations under resolution 1373 (2001),

Recalling the obligation to ensure the safety and well-being of civilians and ensure their protection in situations of armed conflict,

Reaffirming the right of all States in the region to live in peace within secure and internationally recognized borders,

Noting with appreciation the efforts of the United States in 2013/14 to facilitate and advance negotiations between the parties aimed at achieving a final peace settlement,

Aware of its responsibilities to help secure a long-term solution to the conflict,

1. Affirms the urgent need to attain, no later than 12 months after the adoption of this resolution, a just, lasting and comprehensive peaceful solution that brings an end to the Israeli occupation since 1967 and fulfills the vision of two independent, democratic and prosperous states, Israel and a sovereign, contiguous and viable State of Palestine living side by side in peace and security within mutually and internationally recognized borders;

2. Decides that the negotiated solution will be based on the following parameters:

borders based on 4 June 1967 lines with mutually agreed, limited, equivalent land swaps ; security arrangements, including through a third-party presence, that guarantee and respect the sovereignty of a State of Palestine, including through a full and phased withdrawal of Israeli security forces which will end the occupation that began in 1967 over an agreed transition period in a reasonable timeframe, not to exceed the end of 2017, and that ensure the security of both Israel and Palestine through effective border security and by preventing the resurgence of terrorism and effectively addressing security threats, including emerging and vital threats in the region. A just and agreed solution to the Palestine refugee question on the basis of Arab Peace Initiative, international law and relevant United Nations resolutions, including resolution 194 (III); Jerusalem as the shared capital of the two States which fulfils the legitimate aspirations of both parties and protects freedom of worship; an agreed settlement of other outstanding issues, including water;

3. Recognizes that the final status agreement shall put an end to the occupation and an end to all claims and lead to immediate mutual recognition;

4. Affirms that the definition of a plan and schedule for implementing the security arrangements shall be placed at the center of the negotiations within the framework established by this resolution;

5. Looks forward to welcoming Palestine as a full Member State of the United Nations within the timeframe defined in the present resolution;

6. Urges both parties to engage seriously in the work of building trust and to act together in the pursuit of peace by negotiating in good faith and refraining from all acts of incitement and provocative acts or statements, and also calls upon all States and international organizations to support the parties in confidence-building measures and to contribute to an atmosphere conducive to negotiations;

7. Calls upon all parties to abide by their obligations under international humanitarian law, including the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949;

8. Encourages concurrent efforts to achieve a comprehensive peace in the region, which would unlock the full potential of neighborly relations in the Middle East and reaffirms in this regard the importance of the full implementation of the Arab Peace Initiative;

9. Calls for a renewed negotiation framework that ensures the close involvement, alongside the parties, of major stakeholders to help the parties reach an agreement within the established timeframe and implement all aspects of the final status, including through the provision of political support as well as tangible support for post-conflict and peace-building arrangements, and welcomes the proposition to hold an international conference that would launch the negotiations;

10. Calls upon both parties to abstain from any unilateral and illegal actions, including settlement activities, that could undermine the viability of a two-State solution on the basis of the parameters defined in this resolution;

11. Calls for immediate efforts to redress the unsustainable situation in the Gaza Strip, including through the provision of expanded humanitarian assistance to the Palestinian civilian population via the United Nations Relief and Works Agency for Palestine Refugees in the Near East and other United Nations agencies and through serious efforts to address the underlying issues of the crisis, including consolidation of the ceasefire between the parties;

12. Requests the Secretary-General to report on the implementation of this resolution every three months;

13. Decides to remain seized of the matter.

Draft resolution II

The Security Council ,

PP1. Reaffirming its previous resolutions, in particular resolutions 242 (1967), 338(1973) 1397 (2002), 1515 (2003), 1544 (2004), 1850 (2008), 1860 (2009) and the Madrid Principles,

PP2. Reiterating its vision of a region where two democratic states, Israel and Palestine, live side by side in peace within secure and recognized borders,

PP3. Reaffirming the right of the Palestinian people to self-determination,

PP4. Recalling General Assembly resolution 181 (II) of 29 November 1947 and its recommendation on the question of Palestine and the establishment of the independence of the Arab and Jewish States,

PP5. Reaffirming the principle of the inadmissibility of the acquisition of territory by force and recalling its resolutions, 446 (1979), 452 (1979) and 465 (1980), determining, inter alia, that the policies and practices of Israel establishing settlements in the territories occupied since 1967, including East Jerusalem, have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East,

PP6. Underlining that the Gaza Strip constitutes an integral part of the territory occupied in 1967 and will part of the Palestinian state and calling for a sustainable solution to the situation in the Gaza Strip,

PP7. Welcoming the important progress in Palestinian state-building efforts recognized by the

world bank and the IMF in 2012 and reiterating its call to all states and international organizations to contribute to the Palestinian institution building programme in preparation for statehood,

PP8. Reaffirming that a just, lasting and peaceful settlement of the Israeli-Palestinian conflict can only be based on an enduring commitment to mutual recognition, freedom from violence, incitement and terror, and the two-state solution, building on previous agreements and obligations and stressing that the only viable solution to the Israeli-Palestinian conflict is an agreement that ends the occupation that began in 1967, resolves all permanent status issues as previously defined by the parties and fulfills the aspirations of both parties.

PP9. Condemning all violence and hostilities directed against civilians and all acts of terrorism, and reminding all States of their obligations under resolution 1373 (2001),

PP10. Reaffirming the right of all States in the region to live in peace within secure and recognized borders,

PP11. Noting with appreciation the efforts of the United States in 2013-14 to take forward negotiations aimed at final settlement,

PP12. Aware of the responsibilities to help secure a long term solution to the conflict,

OP1. Affirms the urgent need to attain, no later than 24 months after the adoption of this resolution, a just, lasting and comprehensive peaceful solution that fulfills the vision of two independent democratic and prosperous states, Israel and a sovereign contiguous and viable State of Palestine living side by side in peace and security within mutually and internationally recognized border;

OP2. Decides that the negotiated solution will be based on the following parameters:

- borders based on 4 June 1967 with mutually agreed limited equivalent land swaps;

- security agreements that respect the sovereignty of a non-militarized state of Palestine, including through a full phased withdrawal of Israeli security forces which will end the occupation that began in 1967 over an agreed transition period in a reasonable timeframe, and that ensure the security of both Israel and Palestine through effectively with security threats including with new and vital threats in the region;
- an agreed, just, fair, and realistic solution to the refugee question, including a viable mechanism to provide for reparation, resettlement, compensation and other agreed measures for a conclusive resolution;
- Jerusalem as the shared capital of the two States which fulfills the aspirations of both parties and protects freedom and worship;
- an agreed settlement of other outstanding issues, including water;

OP3. Recognizes that the final status agreement shall put an end to all claims to the occupation and lead to immediate mutual recognition;

OP4. Affirms that the definition of a plan and schedule for implementing the security arrangements shall be placed at the heart of the negotiations within the framework established by this resolution;

OP5. Looks forward to welcoming Palestine as a full member of the United Nations;

OP6. Urges both parties to engage seriously in the work of building trust and to act together in the pursuit of peace by negotiating in good faith and eschewing provocative acts or statements and also calls upon all states and international organizations to contribute to an atmosphere conducive to negotiations;

OP7. Encourages concurrent efforts to achieve a comprehensive peace in the region, which would unlock the full potential of neighborly relations in the Middle East and reaffirms in this regard, the importance of the full implementation of the Arab Peace initiative;

OP8. Calls for a renewed negotiation framework that the close involvement, alongside the parties, of major stakeholders, to provide political support as well as concrete support for post-conflict arrangements, to help the parties reach an agreement within the established timeframe and implement all aspects of the final status;

OP9. Calls upon both parties to abstain from any new actions, including settlement activities, that could undermine the viability of a two state solution on the basis of the parameters defined in this resolution;

OP10. Requests the Secretary General to report on the implementation of this resolution every three months.

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