

108TH CONGRESS
2D SESSION

H. CON. RES. 390

Condemning the adoption of United Nations General Assembly Resolution ES–10/14 (December 8, 2003) which requests the International Court of Justice (ICJ) to render an advisory opinion concerning the international legal consequences arising from Israel’s construction of a security fence in parts of the West Bank, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2004

Mr. ACKERMAN (for himself, Ms. ROS-LEHTINEN, Mr. LANTOS, Mr. WAXMAN, Mr. BERMAN, Mr. ENGEL, Mr. MATSUI, and Ms. BERKLEY) submitted the following concurrent resolution; which was referred to the Committee on International Relations

CONCURRENT RESOLUTION

Condemning the adoption of United Nations General Assembly Resolution ES–10/14 (December 8, 2003) which requests the International Court of Justice (ICJ) to render an advisory opinion concerning the international legal consequences arising from Israel’s construction of a security fence in parts of the West Bank, and for other purposes.

Whereas the United Nations General Assembly, at the instigation of Palestinian representatives, called an emergency special session at which Resolution ES–10/14 (December 8, 2003) was adopted requesting the International Court of Justice (ICJ) to render an advisory

opinion concerning the international legal consequences arising from Israel's construction of a security fence in parts of the West Bank;

Whereas Resolution ES–10/14 is completely one-sided, omitting any mention of the hundreds of Palestinian acts of terrorism against Israel, and prejudged the question, rendering the requested advisory opinion redundant;

Whereas the jurisdiction of the International Court of Justice in this matter is dubious, given the Palestinian's lack of standing before the Court, Israel's refusal to jointly accept the jurisdiction of the Court in the matter, and the clearly political, and thus inappropriate, nature of the questions to be judged by the Court in the matter;

Whereas the International Court of Justice is not required to offer advisory opinions in political disputes and, in any case, advisory opinions of the Court are entirely non-binding;

Whereas a justice of the International Court of Justice has made public statements condemning Israel and Israel's efforts to defend itself from Palestinian terrorism that strongly suggest bias against Israel, and that same justice has refused to recuse himself in this matter before the Court;

Whereas the United States voted against Resolution ES–10/14, has filed a brief arguing that referral of the matter to the International Court of Justice is inappropriate and may impede efforts to achieve progress toward a negotiated resolution of the Israeli-Palestinian conflict, and has chosen not to present an oral argument before the Court;

Whereas the United States has a vital national security interest in the resolution of the Arab-Israeli conflict and particularly the Israeli-Palestinian conflict based on the terms of United Nations Security Council Resolutions 242 (1967), 338 (1973), and 1397 (2002);

Whereas the United States, in conjunction with the European Union, the Russian Federation, and the United Nations (together known as the “Quartet”), proposed the Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly known as the “Roadmap”), that has been endorsed by the United Nations Security Council and requires difficult steps from both Israel and the Palestinian Authority, and begins notably, with the requirement for the Palestinians to “immediately undertake an unconditional cessation of violence . . .”; and

Whereas since September 2000, Palestinian terrorism has resulted in the deaths of 928 Israelis and the injury of 6,209 Israelis, as well as the deaths of 33 United States citizens: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
 2 *concurring), That Congress—*

3 (1) condemns the adoption of United Nations
 4 General Assembly Resolution ES–10/14 (December
 5 8, 2003) which requests the International Court of
 6 Justice (ICJ) to render an advisory opinion concerning the international legal consequences arising
 7 from Israel’s construction of a security fence in
 8 parts of the West Bank;
 9

1 (2) deplores the unhelpful and inappropriate
2 use of the International Court of Justice by the
3 United Nations General Assembly for narrow polit-
4 ical purposes that only do harm to the credibility of
5 the General Assembly and the Court, and threaten
6 to impede international and United States efforts to
7 resolve the Israeli-Palestinian conflict;

8 (3) commends the Administration for its leader-
9 ship in opposing the gross manipulation of the Inter-
10 national Court of Justice into a political forum for
11 denunciation of Israel and its legitimate actions in
12 self-defense;

13 (4) expresses the continued and unshakeable
14 commitment of the United States to Israel's right to
15 exist as a Jewish democratic state, its security and
16 its right of self-defense, including the right to build
17 a security fence as a direct consequence of more
18 than three years of barbaric Palestinian terrorism;

19 (5) condemns the ongoing failure of the Pales-
20 tinian leadership to take action to unconditionally
21 cease all violence and terrorism directed at Israel
22 and to instead, irresponsibly, pursue misguided and
23 sterile political alternatives to the Performance-
24 Based Roadmap to a Permanent Two-State Solution

1 to the Israeli-Palestinian Conflict, democratic re-
2 form, and direct negotiations to achieve peace; and
3 (6) reiterates support for the President's June
4 2002 speech setting out the conditions necessary for
5 progress in resolving the Israeli-Palestinian conflict
6 and for the achievement of a negotiated two-state
7 solution based on United Nations Security Council
8 Resolutions 242 (1967), 338 (1973), and 1397
9 (2002) calling for the exchange of territory for
10 peace, direct negotiations between the parties, and
11 the immediate cessation of all acts of violence.

○