

## **Statement to be delivered by H.E. Carolyn Schwalger**

New Zealand supported this Resolution after careful consideration. We did so because we support a two-state solution and because we support international law.

The Israel/Palestinian conflict has gone on for too long. The suffering it has led to on both sides is immense. Its broader destabilising impact on the region is profound. The effects are felt as far away as New Zealand.

The only way to end the conflict is the two-state solution. Both sides need to return to negotiations to achieve this.

This resolution, though not perfect, sets the international community's expectations that both parties must move towards a negotiated settlement. We hope the passage of this Resolution will provide impetus to the parties to reengage in negotiations.

The 12-month timeframe set out in the Resolution for Israeli withdrawal from the occupied Palestinian Territory is frankly unrealistic. A two-state solution needs to be the product of negotiations. Aspirations need to be tempered by realism, given the complexities to be addressed.

However, in the next 12 months we expect Israel to take meaningful steps towards compliance with international law, particularly through withdrawal from the occupied Palestinian Territory.

We would also expect the Palestinian Authority to take meaningful steps to assume political and security control of the occupied Territory.

We are strong supporters of the International Court of Justice. The ICJ's Advisory Opinion aligns with New Zealand's long-standing view that Israel's conduct in the occupied Palestinian Territory is unlawful.

However, we are disappointed that, in some cases, the Resolution goes beyond what was envisaged in the Advisory Opinion.

Although the Resolution does not impose obligations on New Zealand beyond any already existing under international law, New Zealand stands ready to implement any measures adopted by the UN Security Council.

New Zealand will continue to impose travel bans against extremist settlers and others involved in violations of international humanitarian law, as we deem appropriate.

**From:** MEA [DM-MEA@mfat.govt.nz](mailto:DM-MEA@mfat.govt.nz)

**Sent:** Wednesday, September 18, 2024 6:57 PM

**To:** NEW YORK [NYK@mfat.govt.nz](mailto:NYK@mfat.govt.nz)

**Cc:** CANBERRA [CBA@mfat.govt.nz](mailto:CBA@mfat.govt.nz); WASHINGTON [WSH@mfat.govt.nz](mailto:WSH@mfat.govt.nz); LONDON [LON@mfat.govt.nz](mailto:LON@mfat.govt.nz); OTTAWA [OTT@mfat.govt.nz](mailto:OTT@mfat.govt.nz); ALL POSTS (FM) [ALLPOSTSFM@mfat.govt.nz](mailto:ALLPOSTSFM@mfat.govt.nz); ...WLN SLT [WLN-SLT@mfat.govt.nz](mailto:WLN-SLT@mfat.govt.nz); CEO [DM-CEO@mfat.govt.nz](mailto:DM-CEO@mfat.govt.nz); DCE [DCE@mfat.govt.nz](mailto:DCE@mfat.govt.nz); DS EMA [DM-DSEMA@mfat.govt.nz](mailto:DM-DSEMA@mfat.govt.nz); DS MLG [DM-DSMLG@mfat.govt.nz](mailto:DM-DSMLG@mfat.govt.nz); DS AAG [DM-DSAAG@mfat.govt.nz](mailto:DM-DSAAG@mfat.govt.nz); DS PDG [DSPDG@mfat.govt.nz](mailto:DSPDG@mfat.govt.nz); AMER [DM-AMER@mfat.govt.nz](mailto:DM-AMER@mfat.govt.nz); AUS [DM-AUS@mfat.govt.nz](mailto:DM-AUS@mfat.govt.nz); LGL [DM-LGL@mfat.govt.nz](mailto:DM-LGL@mfat.govt.nz); PHM [PHM@mfat.govt.nz](mailto:PHM@mfat.govt.nz); ISED [DM-ISED@mfat.govt.nz](mailto:DM-ISED@mfat.govt.nz); EUR [DM-EUR@mfat.govt.nz](mailto:DM-EUR@mfat.govt.nz); <sup>s6(a)</sup>

FM.Defence (Seemail) [fm.defence@nzdf.mil.nz](mailto:fm.defence@nzdf.mil.nz); <sup>s6(a)</sup>

FM.P/S MFA (Seemail) [PS.MFA@mfat.govt.nz](mailto:PS.MFA@mfat.govt.nz); FM.P/S Defence (Seemail)

[P/SDEFENCE@mfat.govt.nz](mailto:P/SDEFENCE@mfat.govt.nz); MEA [DM-MEA@mfat.govt.nz](mailto:DM-MEA@mfat.govt.nz); ...MEA POSTS [MEAPOSTS@mfat.govt.nz](mailto:MEAPOSTS@mfat.govt.nz); UNHC [DM-UNHC@mfat.govt.nz](mailto:DM-UNHC@mfat.govt.nz); LGL [DM-LGL@mfat.govt.nz](mailto:DM-LGL@mfat.govt.nz); HAGUE [HAG@mfat.govt.nz](mailto:HAG@mfat.govt.nz); FM.DPMC (FPA) (Seemail) [DPMCFPA@mfat.govt.nz](mailto:DPMCFPA@mfat.govt.nz); FM.P/S Associate MFA (Seemail) [PSAssociateMFASeemail@mfat.govt.nz](mailto:PSAssociateMFASeemail@mfat.govt.nz); <sup>s6(a)</sup>  
<sup>s9(2)(g)(ii)</sup>

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**Subject:** FORMAL MESSAGE: MEPP: PALESTINE GENERAL ASSEMBLY RESOLUTION: VOTING INSTRUCTIONS

**[RESTRICTED]**

### Summary – Rāpopoto

We instruct NYK to vote 'Yes' on the Palestine-led UNGA Resolution on next steps regarding the Advisory Opinion of the International Court of Justice (ICJ) on *the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory (OPT), including East Jerusalem*.

We instruct NYK to deliver an Explanation of Vote (EOV) after the vote on Wednesday to signal our support for the general thrust of the resolution whilst setting out our concerns with some of the details of the text.

### Action – Hohenga

**NYK** to please:

- Vote 'Yes' on the Palestine-led UNGA Resolution on next steps regarding the Advisory Opinion of the International Court of Justice (ICJ) on *the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory (OPT), including East Jerusalem*.
- Deliver the attached Explanation of Vote after the vote.
- We would welcome early reporting on the outcome of the vote as well as the explanations of vote <sup>s6(a)</sup>

- Please upload the EoV to Post's website once delivered and send us the link; we will upload the EoV once you have.

**Other posts:** once the EoV has been delivered you are welcome to draw upon the messaging therein to explain New Zealand's position.

**ANK:** we will separately send bespoke talking points for you to use with Israel.

## **Report – Purongo**

2 Advice we provided the Minister on how to vote on the resolution involved weighing some complex factors. Considerations that informed our assessment of the text were:

- **Support for the ICJ, international law and the international rules-based system.** Most of the resolution adheres closely to the ICJ Advisory Opinion which, while non-binding, carries legal weight and moral authority. The Opinion is consistent with New Zealand policy.

- **Fidelity to the ICJ Advisory Opinion.** s9(2)(h), s6(a)

- **Support for the two-state solution** as the only viable way to ensure peace between Israel and a future Palestinian state. Israeli withdrawal from the oPT is necessary if a two-state solution is to be achieved. This should be the product of negotiation between the parties. No negotiations are imminent but this resolution puts pressure on Israel to cease its occupation.

3 Other factors we considered were precedent (the s6(a)  
ICJ consideration of Russia/Ukraine), company and s6(a)

4 On balance the Minister decided that New Zealand should vote Yes on this resolution and deliver an explanation of vote which sets out our concerns with some aspects of the text while reiterating our support for the two-state solution and opposition to Israel's occupation.

**Ends - Mutu**

**From:** NEW YORK <NYK@mfat.govt.nz>

**Sent:** Monday, September 9, 2024 7:51 AM

**To:** MEA <DM-MEA@mfat.govt.nz>; NEW YORK <NYK@mfat.govt.nz>; ...MEA POSTS <MEAPOSTS@mfat.govt.nz>; UNHC <DM-UNHC@mfat.govt.nz>; LGL <DM-LGL@mfat.govt.nz>; HAGUE <HAG@mfat.govt.nz>

**Cc:** CANBERRA <CBA@mfat.govt.nz>; WASHINGTON <WSH@mfat.govt.nz>; LONDON <LON@mfat.govt.nz>; OTTAWA <OTT@mfat.govt.nz>; ALL POSTS (FM) <ALLPOSTSFM@mfat.govt.nz>; ...WLN SLT <WLN-SLT@mfat.govt.nz>; CEO <DM-CEO@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>; DS EMA <DM-DSEMA@mfat.govt.nz>; DS MLG <DM-DSMLG@mfat.govt.nz>; DS AAG <DM-DSAAG@mfat.govt.nz>; DS PDG <DSPDG@mfat.govt.nz>; AMER <DM-AMER@mfat.govt.nz>; AUS <DM-AUS@mfat.govt.nz>; LGL <DM-LGL@mfat.govt.nz>; PHM <PHM@mfat.govt.nz>; ISED <DM-ISED@mfat.govt.nz>; EUR <DM-EUR@mfat.govt.nz>; s6(a)

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UNHC <DM-UNHC@mfat.govt.nz>; CAIRO <CAI@mfat.govt.nz>; ANKARA <ANK@mfat.govt.nz>; ALL DIVISIONS <ALLDIVISIONS@mfat.govt.nz>

**Subject:** FORMAL MESSAGE: MEPP: PALESTINE CIRCULATES DRAFT GENERAL ASSEMBLY RESOLUTION ON THE INTERNATIONAL COURT OF JUSTICE ADVISORY OPINION

[RESTRICTED]

#### Attachments - ĀpitiHanga

- ICJ follow-up draft resolution 7 September

#### Summary - Rāpopoto

The Palestinian Observer Mission has circulated a draft UN General Assembly (GA) resolution on the next steps regarding the Advisory Opinion of the International Court of Justice (ICJ) on the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory (OPT), including East Jerusalem. The resolution sets out a six-month timeframe for Israel to bring to an end its unlawful presence in the OPT and details further obligations and actions for Israel, other UN Member States (including third party obligations), and international organisations including the UN itself. Palestine aims to put the resolution to a vote in the GA on 20 September ahead of UNGA High-level Week. Member States' positioning on the resolution are likely to come under close scrutiny, s6(a)

#### Action - Hohenga

LGL: appreciate your substantive analysis of the draft resolution, in particular Palestine's summary of the obligations described by the ICJ in its advisory opinion.

s6(a)

#### Report - Pūrongo

Further to NYK's FM of 31 July and 30 August, the Palestinian Observer Mission (POM) has circulated this morning (Sunday 8 September NYKT) a draft UN General Assembly (GA) resolution (attached) on the next steps regarding the Advisory Opinion (AO) of the International Court of Justice (ICJ) on the

legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem. The ICJ AO was the product of a UNGA request through resolution 77/247 of 30 December 2022 for the Court to render an advisory opinion on a range of legal questions relating to the legal status of the occupation. The resolution "Demands that Israel brings to an end without delay its unlawful presence in the Occupied Palestinian Territory... no later than six months from the adoption of the present resolution" s6(a)

2. The draft resolution sets out specific actions to be taken by Israel, by other states, and by international organisations including the UN, pursuant to the obligations in the AO and international law.

3. Among other things the draft resolution also:

- "Calls for the creation by Member States, and in coordination with the UN and its relevant bodies, including UNCTAD, of an international register of damage..." (comment: consistent with the 2022 GA resolution recommending member states establish a register of damages – NYK FM 15 November 2022 refer);
- Calls for Switzerland to convene a conference of contracting parties to the Fourth Geneva Convention;
- "Decides to convene during the 79th session of the General Assembly an international conference under the auspices of the Assembly to advance implementation of the UN resolutions pertaining to the Question of Palestine";
- "Decides to establish a Special Committee composed of Member States with relevant experience and expertise to examine Israel's violation of article 3 of CERD and to report and make recommendations to the General Assembly in this regard"; and
- Requests the UN Secretary-General to report back within three months on the implementation of this resolution.

4. Given the initial request was through the GA, the GA remains the primary avenue through which there is to be follow up on such an AO. For its part, the ICJ said in its AO that "the precise modalities to bring to an end Israel's unlawful presence in the Occupied Palestinian Territory is a matter to be dealt with by the General Assembly, which requested this opinion, as well as the Security Council. Therefore, **it is for the General Assembly and the Security Council to consider what further action is required to put an end to the illegal presence of Israel, taking into account the present Advisory Opinion.**" s6(a)

s6(a)

5. The POM has told us it has drawn heavily from the ICJ AO itself as well as s6(b)(ii)  
s6(a)

6. s6(a)

s6(a)

s6(a)

*Deadline and Next Steps*

7. The POM has requested **a deadline of 1300pm Tuesday 10 September NYT for comments, with possible voting action on 20 September.** s6(a)

NYK would be grateful if MEA/LGL/UNHC could confirm that – consistent with our approach to the May 2024 GA resolution on Palestine’s rights as a UN Observer –

8. NYK will continue to gather information from Palestine and other key regional players. s6(a)

**Tākupu – Comment**

9. s6(a)

**Ends - Mutu**

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**From:** s9(2)(g)(ii)

**Sent:** Wednesday, September 18, 2024 4:09 PM

**To:** s9(2)(g)(ii)

**Subject:** RE: New Zealand to Vote Yes: Submission - UNGA Resolution: ICI Advisory Opinion on Israeli Occupation of Palestine

Many thanks for this advice s9(2)(g)(ii) and for all the work at your end.

We will instruct NYK according to s6(a), and deliver an EoV). We'll also ask NYK to report asap on the outcome of the vote and the positions and EoVs of our close partners.

The final EoV is attached. We adjusted the penultimate paragraph slightly though have not altered the meaning.

The vote is expected very early morning NZT (somewhere between 3-6am). NYK does not yet have the speakers' list for the EoVs but thinks we are reasonably high on the list. I would expect around 6-10am NZT but NYK can update first-thing tomorrow. NYK will post the EoV on its own Post website and send us the link; we'll then mirror the EoV on MFAT's website.

A draft media pack is attached, along with a press statement, an X post (which just points to the press statement; this was what we did for the last big Palestinian vote), and media lines (including in response to the question s9(2)(g)(ii) posed).

Thanks again

s9(2)(g)(ii)

s9(2)(a)

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**From:** s9(2)(g)(ii)

**Sent:** Wednesday, September 18, 2024 1:49 PM

To: s9(2)(g)(ii)

Cc: s9(2)(g)(ii)

**Subject:** New Zealand to Vote Yes: Re: Submission - UNGA Resolution: ICJ Advisory Opinion on Israeli Occupation of Palestine

Hi s9(2)(a)

Thanks for this latest advice, which allowed us to have a further, detailed discussion with MFA this afternoon.

He has decided that New Zealand will be voting yes. He found the draft explanation of vote included in the advice particularly helpful - because it convinced him that we could vote yes to signal our support of the general thrust of the resolution whilst signalling very clearly the concerns we had with some of the details of the text.

You can go ahead and instruct NYK accordingly (he had no edits to make to the draft EOV). s6(a)  
the PM is also aware (thanks s9(2)(g)(ii))

We look forward to the promised media plan (I think MFA will want to tweet about it, and link to the EOV - do we have a sense of when the vote will happen/EOV will be delivered?) I know s9(2)(a)(iii) has some points which he'd like to be covered, to aid the PM in answering some of the questions he's likely to get.

Finally, can I thank everyone involved in putting this advice together, and in answering my interminable questions since we received it. This and various conversations I've had with you all helped me to have the necessary discussions with MFA over the last few days.

Best

s9(2)(g)(ii)

Senior Foreign Affairs Adviser  
Office of Rt Hon Winston Peters  
New Zealand Deputy Prime Minister & Minister of Foreign Affairs NZ  
Phone: s9(2)(a)

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**From:** s9(2)(g)(ii)

**Sent:** Wednesday, September 18, 2024 12:18:56 PM

**To:** s9(2)(g)(ii)

**Cc:** s9(2)(g)(ii)



s9(2)(g)(ii)

**Subject:** RE: Submission - UNGA Resolution: ICJ Advisory Opinion on Israeli Occupation of Palestine

[SEEMAIL] s9(2)(g)(ii)

Hi s9(2)(g)(ii)

NYK's overall assessment has not changed: the resolution will pass with ~125 'yes' votes.

An updated tracker of countries' intended voting positions is below. s6(b)(i)

There are several delegations which, like us, have yet to get final sign-off for their position; these are shaded differently below.

Para 5 of the Palestinian resolution "calls upon all states... consistent with their obligations under international law... to implement sanctions" amongst other measures. s6(b)(i), s9(2)(h)

New Zealand does not have an autonomous sanctions regime (beyond the RSA). Para 5 in the resolution does not impose a positive legal obligation on us (only the UN Security Council can do that).

You may have seen reporting in the Australian yesterday that the US has been lobbying Australia not to support the resolution. s6(a)

Following the Minister's decision, we will task NYK to vote accordingly and deliver an EoV. We will also provide you with a media pack and media lines.

Let us know if there's anything else we can provide.

Thanks s9(2)(a)

s9(2)(g)(ii)

s6(a)

**From:** s9(2)(g)(ii)  
**Sent:** Wednesday, September 18, 2024 8:18 AM  
**To:** s9(2)(g)(ii)  
**Cc:** s9(2)(g)(ii)

**Subject:** Re: Submission - UNGA Resolution: ICJ Advisory Opinion on Israeli Occupation of Palestine

Good morning s9(2)(g)(ii)

I expect MFA will take a final decision on this resolution this afternoon NZT. We will continue to engage directly with s6(a) the PM is aware of a planned approach.

To aid our next discussion with MFA on this (which I'd expect to happen at around 1pm NZT), I'd like welcome any updates from NYK by the end of their Tuesday on the whip count s6(a)

Best

s9(2)(g)(ii)

Senior Foreign Affairs Adviser  
Office of Rt Hon Winston Peters  
New Zealand Deputy Prime Minister & Minister of Foreign Affairs NZ

Phone: s9(2)(a)



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**From:** s9(2)(g)(ii)

**Sent:** Friday, September 13, 2024 10:16 AM

**To:** s9(2)(g)(ii)

**Cc:** s9(2)(g)(ii)

**Subject:** RE: Sub - UNGA Res - for comments by midday

**[RESTRICTED]**

Further to the below I've done a first cut at EOVs in the link below.<sup>s6(a)</sup>

Can discuss further at our meeting but I think we would want to attach the proposed draft EOV to the Sub that goes up to the Minister on Monday.

s6(a)

**From:** s9(2)(g)(ii)

**Sent:** Friday, September 13, 2024 8:37 AM

**To:** s9(2)(g)(ii)

**Cc:** s9(2)(g)(ii)

**Subject:** Sub - UNGA Res - for comments by midday

**Importance:** High

Hi team,

Link to draft sub on the UNGA Res below and attached.

I'm going to put a time in calendars for us to chat about the sub this morning so if you prefer to provide feedback that way please do otherwise text edits due at midday today please. Key for our meeting from an MEA perspective is to try to form a view amongst officials on what we think our ultimate recommendation should be 😊

s6(a)

Thanks!

s9(2)(g)(ii)

© s9(2)(a)

© s9(2)(g)(ii)

Mon Tues Wed Thur Fri



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**From:** s9(2)(g)(ii)

**Sent:** Tuesday, September 10, 2024 2:14 PM

**To:** s9(2)(g)(ii)

**Cc:** s9(2)(g)(ii)

**Subject:** Update on UN General Assembly resolution on the ICJ Advisory Opinion on Israel's policies and practices in the Occupied Palestinian Territory (OPT).

[RESTRICTED]

H|<sup>s9(2)(g)</sup>  
(ii)

As promised, we provide an update on the draft UN General Assembly resolution on the ICJ Advisory Opinion on Israel's policies and practices in the Occupied Palestinian Territory (OPT).

### Context

- The Palestinian Observer Mission in New York has circulated a draft UN General Assembly (GA) resolution on the next steps regarding the Advisory Opinion of the International Court of Justice (ICJ) on *The legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory (OPT), including East Jerusalem*.
- It is standard practice for the UNGA, when it has requested an Advisory Opinion from the ICJ, to then issue a resolution on the Advisory Opinion once it is delivered. In this case, the ICJ directed the UNGA, UNSC and member states to cooperate "on precise modalities" to bring the unlawful occupation of the OPT to an end. The resolution exceeds that remit in various ways (see analysis below).
- The Resolution draws heavily from the Advisory Opinion itself as well as a number of UNGA resolutions condemning Russia's invasion of Ukraine and reaffirming commitment to Ukraine's territorial integrity (which New Zealand supported).
- The draft resolution uses language from the ICJ Advisory Opinion to denounce Israel's policies and practices with respect to the OPT.

- New Zealand has consistently stated that Israel must uphold its legal obligations and must respect the independent and impartial decisions of international courts. We have also stated that Israel's settlements are unlawful, and that settlement expansion undermines a two-state solution.
- Palestine aims to put the resolution to a vote in the UNGA on 18 September ahead of UNGA High-level Week.

### Initial analysis

- Most of the draft resolution text draws directly from the ICJ Advisory Opinion. However, the Palestinians have introduced several elements that are problematic for us and likeminded countries. In particular:

- s9(2)(h)

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- Based on initial discussion in New York, we understand that most likeminded partners have similar issues with the text. Some <sup>s6(a)</sup> will also have issues with the paragraph calling for a prohibition on arms exports (direct or indirect) to Israel if they are likely to be used in the OPT (which includes Gaza). We have no record of arms exports to Israel since records began in 2003, however we do not have an export ban and have to assess requests to export strategic goods (including arms) to Israel on a case by case basis.
- Member States' positions on the resolution are likely to come under close scrutiny, particularly with regard to consistency between approaches to Russia/Ukraine and Israel/Gaza accountability in the face of breaches of international law. <sup>s6(a)</sup>

### Partner positions

- If tabled in its current form, the resolution will likely be adopted with support from the majority of the UN's membership (~130 countries).
- Positions are still being finalised and we are seeking further views on partner positions but at the moment we assess that voting patterns would be:

- <sup>s6(a)</sup>

### Timing and Next Steps

- The deadline to provide feedback to the Palestinian Observer Mission is now Wednesday 1300 hours NZ time.
- It is unclear at this stage to what extent the Palestinians are willing to make significant substantive changes to the current text on the basis of this feedback, including on the points of concern to New Zealand, in order to broaden support for the resolution.
- An updated Resolution draft will likely be circulated following member state feedback. There may be additional opportunities for feedback as part of this process.

### Proposed approach

- We propose to draw from the initial analysis above to provide our post in New York feedback to convey to the Palestinians, sending this through via FM to New York by COB today NZT (Tuesday) to meet the deadline set by Palestine for feedback. <sup>s6(a)</sup>  
 We also propose sharing our views with Palestine via Cairo (accredited to Ramallah) and the Palestinian representative in Canberra.
- We expect further iterations of the text ahead of a possible vote on 18 September. We will be strongly encouraging the Palestinians delay the vote until after Leaders' week, to provide more time to further engage on the text and build political support.
- Once the nature of the final resolution and the timing of the vote is clearer we will provide formal advice to the Minister via submission recommending a voting position. This recommendation will take into account the text, good company, <sup>s6(a)</sup> and accordance with international law.

s9(2)  
(g)(ii)

If you have any questions or would like a further explanation on any points feel free to give me or a call  
s9(2)(a), s9(2)(g)(ii)

Thanks,  
s9(2)(g)(ii)

s9(2)(g)(ii)

Senior Policy Officer | Kaupapa Here Matua

Middle East and Africa Division

New Zealand Ministry of Foreign Affairs and Trade | Manatū Aorere

☐ s9(2)(a)      ☐ s9(2)(g)(ii)



Mon Tues Wed Thur Fri



**From:** s9(2)(g)(ii)

**Sent:** Monday, September 9, 2024 4:06 PM

**To:** s9(2)(g)(ii)

**Cc:** s9(2)(g)(ii)

s9(2)(g)(ii)

**Subject:** For info: Timeline and next steps: Palestine circulates draft UNGA Res on ICJ Advisory Opinion

Kia ora s9(2)(g)(ii)

You will have seen the below FM come through from NYK regarding receipt of an expected UNGA resolution circulated by the Palestinian Observer Mission on the ICJ Advisory Opinion on the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory (OPT). As discussed with s9(2)(g)(ii) MEA will lead on the coordination of our position and advice to MFA on this Resolution. /iii

Set out below is the timeline we are working to and next steps:

- MEA to provide email update to OMFA by 3pm tomorrow (Tuesday 10 Sept) setting out our initial analysis and proposed feedback.
- MEA to provide instructions to NYK on initial feedback to be provided to the Palestinian Observer Mission by COP Tuesday NZT.
- Updated Resolution draft circulated following member state feedback. There may be additional opportunities for feedback as part of this process.
- MEA to provide advice to MFA on recommended NZ voting position once we have a clearer sense of the final resolution text.
- MEA to provide final voting instructions to NYK.
- 20 September – possible vote on the Resolution.

Any questions please let us know.

s9(2)(g)(ii)

Senior Policy Officer | Kaupapa Here Matua

Middle East and Africa Division

New Zealand Ministry of Foreign Affairs and Trade | Manatū Aorere

s9(2)(g)(ii)

Mon Tues Wed Thur Fri



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16 September 2024

Minister of Foreign Affairs

For approval by

17 September 2024

### UNGA Resolution: ICJ Advisory Opinion on Israeli Occupation of Palestine

**BRIEFING** Decision Submission

**PURPOSE** To seek your approval to vote yes, in good company, on a United Nations General Assembly Resolution implementing the International Court of Justice's Advisory Opinion on Israel's unlawful presence in the occupied Palestinian Territory.

### Recommended referrals

Prime Minister

For information by

18 September 2024

### Contact details

NAME	ROLE	DIVISION	WORK PHONE
s9(2)(g)(ii)	Divisional Manager Chief International Legal Adviser	Middle East and Africa Division Legal Division	s9(2)(a)

### Minister's Office to complete

- |                                              |                                               |                                    |
|----------------------------------------------|-----------------------------------------------|------------------------------------|
| <input type="checkbox"/> Approved            | <input type="checkbox"/> Noted                | <input type="checkbox"/> Referred  |
| <input type="checkbox"/> Needs amendment     | <input type="checkbox"/> Declined             | <input type="checkbox"/> Withdrawn |
| <input type="checkbox"/> Overtaken by events | <input type="checkbox"/> See Minister's notes |                                    |

**Comments**

## Key points

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- On 19 July 2024 the International Court of Justice (ICJ) issued its Advisory Opinion on aspects of Israel's occupation of the Palestinian Territory. The Opinion went against Israel in almost every respect including a finding that Israel's continued presence in the occupied Palestinian Territory (oPT) is unlawful, and it is under an obligation to bring it to an end as rapidly as possible.
- The ICJ stated that it is for the United Nations General Assembly and Security Council to determine the "precise modalities" to end Israel's occupation. On 18 September, the General Assembly will vote on a Palestine-led resolution that affirms the ICJ opinion, promotes particular modalities, and demands that Israel end its unlawful occupation of the oPT within 12 months.
- Deciding on how to vote on the resolution involves weighing some complex factors. Considerations that inform our assessment of the text are:
  - **Support for the ICJ, international law and the international rules-based system.** Most of the resolution adheres closely to the ICJ Advisory Opinion which, while non-binding, carries legal weight and moral authority. The Opinion is consistent with New Zealand policy.
  - **Fidelity to the ICJ Advisory Opinion.** <sup>s6(a), s9(2)(h)</sup>
  - **Support for the two-state solution** as the only viable way to ensure peace between Israel and a future Palestinian state. Israeli withdrawal from the oPT is necessary if a two-state solution is to be achieved. This should be the product of negotiation between the parties. No negotiations are imminent but this resolution puts pressure on Israel to cease its occupation.
- Other factors we have considered are:
  - **Precedent:** <sup>s6(a)</sup>

New Zealand is currently participating in the Ukraine v Russia case in the ICJ and has voted in favour of UNGA resolutions condemning Russia's invasion. <sup>s6(a)</sup>
  - **Company:** <sup>s9(2)(g)(i)</sup>

Our likeminded partners are grappling with similar considerations to us. <sup>s6(a)</sup>
  - <sup>s6(a)</sup>

s6(a)

–

– **Other risks:** There will be strong domestic interest from Palestinian and Israeli civil society groups in New Zealand on our vote. s9(2)(g)(i)

- On balance, officials recommend New Zealand vote Yes on this resolution and deliver an explanation of vote which sets out our concerns with some aspects of the text while reiterating our support for the two-state solution and opposition to Israel's occupation. A Yes vote would reinforce our long-standing position that Israel's occupation of the oPT is unlawful under international law. s6(a)

A draft explanation of vote is appended.

s9(2)(g)(ii)

for Secretary of Foreign Affairs and Trade

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## Recommendations

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It is recommended that you:

- |   |                                                                                                                                                                                                                                                                                                                                                                                                                     |          |
|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 1 | <b>Agree</b> that, provided New Zealand is in good company, New Zealand vote in favour of the Resolution and deliver an explanation of vote on the United Nations General Assembly resolution following up on the International Court of Justice's advisory opinion on <i>the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem</i> . | Yes / No |
| 2 | s6(a)                                                                                                                                                                                                                                                                                                                                                                                                               | Yes / No |
| 3 | s6(a)                                                                                                                                                                                                                                                                                                                                                                                                               | Yes / No |
| 4 | <b>Note</b> the draft Explanation of Vote attached as at Annex I to this Submission to be delivered by the New Zealand Permanent Representative at the UN.                                                                                                                                                                                                                                                          | Yes / No |
| 5 | <b>Refer</b> a copy of this submission to the Prime Minister for his information.                                                                                                                                                                                                                                                                                                                                   | Yes / No |

Rt Hon Winston Peters  
Minister of Foreign Affairs

Date: / /

## Report

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1. Successive New Zealand governments have pursued an approach to the resolution of the Israel/Palestine conflict grounded in support for international law and support for the 'two-state solution'.
2. In December 2022, the UN General Assembly commissioned the International Court of Justice (ICJ) to produce an Advisory Opinion to determine the "legal consequences" arising from Israel's "ongoing violation" of the "right of the Palestinian people to self-determination" and "from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967".
3. On 19 July 2024 the ICJ issued its Advisory Opinion in respect of the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*. The Advisory Opinion went against Israel in almost every respect and set out the following conclusions:
  - Israel's continued presence in the occupied Palestinian Territory is unlawful;
  - Israel is under an obligation to bring to an end its unlawful presence in the occupied Palestinian Territory as rapidly as possible;
  - Israel is under an obligation to cease immediately all new settlement activities, and to evacuate all settlers from the occupied Palestinian Territory;
  - Israel has the obligation to make reparation for the damage caused to all the natural or legal persons concerned in the occupied Palestinian Territory;
  - All States are under an obligation not to recognise the situation as lawful and not to render aid or assistance to Israel in maintaining its occupation.
4. The ICJ set out that it is for the UN General Assembly and the UN Security Council (UNSC) to consider the precise modalities and further action required to bring Israel's unlawful presence in the oPT to an end.<sup>s6(a)</sup>

Palestine has now circulated a resolution affirming the Advisory Opinion and laying out modalities for Israel to withdraw from the oPT within 12 months. On balance we recommend we support the Resolution given our strong support for international law, the ICJ and our long-standing view that Israeli occupation of the oPT is unlawful.

### Palestine-led Resolution

5. On Wednesday 18 September, the United Nations General Assembly will vote on a Palestine-led resolution that affirms the ICJ Opinion, goes beyond the Opinion on some points, and demands that Israel bring to an end its unlawful presence in the oPT within 12 months. It is expected that <sup>s9(2)(g)(i)</sup> member states will support the resolution and that it will therefore be adopted.

### Considerations for New Zealand's voting position on the Resolution

6. Officials recommend that New Zealand vote Yes on this resolution and deliver an explanation of vote setting out our support for the ICJ and the rules based international

system, as well as our expectation that the parties reengage in good faith on negotiations for a two-state solution.

7. In reaching this recommendation, officials have taken into account the role of the ICJ as the pre-eminent international court, our support for international law and the rules-based international order, <sup>s9(2)(h)</sup> our support for the two-state solution, our <sup>s6(a)</sup> the text and timing of the resolution, and good company. These factors are explained in detail below.

### The Rules Based International Order

8. The International Court of Justice is the principal judicial organ of the United Nations and is the global authority on settling disputed questions of international law. In accordance with our strategic interests as a champion of the rules-based international order, New Zealand respects the role of the International Court of Justice and its authority on questions of international law. <sup>s6(a), s9(2)(h)</sup>

9. The merits of the Court's opinion aligns with New Zealand's long-standing view that Israeli settlements are unlawful and <sup>s6(a)</sup> The Court's opinion is an authoritative (and legally sound) application of international law that enjoyed a high degree of consensus amongst the Court's judges. <sup>s6(a)</sup>

10. <sup>s6(a), s9(2)(h)</sup>

11. We have also voted to support a number of General Assembly resolutions condemning Russia's invasion of Ukraine and reaffirming commitment to Ukraine's territorial integrity. Palestine has mirrored parts of the language from those Russia/Ukraine Resolutions in this current Resolution.

### Support for the Two-State Solution

12. A Resolution that affirms the ICJ Opinion and calls on Israel to end its unlawful occupation of the oPT keeps international pressure on Israel to withdraw from the oPT and reengage in negotiations for a two-state solution. Without an end to Israel's occupation of the oPT there can be no two-state solution.
13. New Zealand has consistently stated that Israel must uphold its legal obligations and must respect the independent and impartial decisions of international courts. We have also stated that Israel's settlements are unlawful, and that settlement expansion undermines a two-state



solution. The 12 month timeframe set out in the Resolution for Israeli withdrawal from the oPT (amended from the 6 months contained in the original draft) is highly aspirational. The Palestinian Authority is not fit to take over security in the West Bank, does not have control over Gaza at all, and withdrawal in that timeframe could further destabilise the region. However, we would expect meaningful steps to be taken in the next 12 months towards Israeli withdrawal from the oPT in order for Israel to be meet its international legal obligations.

s6(a)

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#### **The Text and Timing of the Resolution**

18. There have been significant changes to the text from when it was originally circulated as a result of feedback from New Zealand and others. On balance there is no singular legal issue within the Resolution text that would by itself determine New Zealand's voting position. However, read as a totality, the Resolution text goes further than what is required to adhere to the Advisory Opinion, both in its denouncement of Israel and the detail and breadth of proposed actions to end Israel's illegal presence in the oPT.

*Language on Apartheid*

19. <sup>s9(2)(h)</sup>

we expect that some in civil society may point to this section as inferring that Israel has committed apartheid.

*Areas of the text that go beyond the ICJ Advisory Opinion*

20. <sup>s9(2)(h)</sup>

21. In particular, the Resolution calls on member states to comply with their obligations under international law, including to impose sanctions such as travel bans and asset freezes on persons engaged in the maintenance of Israel's occupation of the OPT. <sup>s9(2)(h)</sup>

22. Officials assess that an explanation of vote could lay out our interpretation of some of the areas of the text that go beyond the ICJ Advisory Opinion.

s6(a), s6(b)(i)

*Resourcing*

25. The recommendations made in this paper will be met from within existing baselines and do not require a reprioritisation of work. There are no people or resource implications.

## Annex I: Explanation of Vote

### Statement to be delivered by H.E. Carolyn Schwalger – If we vote Yes

New Zealand supported this Resolution after careful consideration. We did so because we support a two-state solution and because we support international law.

The Israel/Palestinian conflict has gone on for too long. The suffering it has led to on both sides is immense. Its broader destabilising impact on the region is profound. The effects are felt as far away as New Zealand.

The only way to end the conflict is the two-state solution. Both sides need to return to negotiations to achieve this.

This resolution, though not perfect, sets the international community's expectations that both parties must move towards a negotiated settlement. We hope the passage of this Resolution will provide impetus to the parties to reengage in negotiations.

The 12-month timeframe set out in the Resolution for Israeli withdrawal from the occupied Palestinian Territory is frankly unrealistic. A two-state solution needs to be the product of negotiations. Aspirations need to be tempered by realism, given the complexities to be addressed.

However, in the next 12 months we expect Israel to take meaningful steps towards compliance with international law, particularly through withdrawal from the occupied Palestinian Territory.

We would also expect the Palestinian Authority to take meaningful steps to assume political and security control of the occupied Territory.

We are strong supporters of the International Court of Justice. The ICJ's Advisory Opinion aligns with New Zealand's long-standing view that Israel's conduct in the occupied Palestinian Territory is unlawful.

However, we are disappointed that, in some cases, the Resolution goes beyond what was envisaged in the Advisory Opinion.

We do not read the Resolution as imposing obligations on New Zealand beyond any already existing under international law. While New Zealand stands ready to implement sanctions adopted by the UNSC, we do not consider the resolution imposes a positive legal obligation to impose autonomous sanctions.

New Zealand will continue, however, to impose travel bans against extremist settlers and others involved in violations of international humanitarian law, as we deem appropriate.

s6(a)

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**Advisory opinion of the International Court of Justice on the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel's continued presence in the Occupied Palestinian Territory<sup>1</sup>**

*The General Assembly,*

*Guided* by the purposes and principles enshrined in the Charter of the United Nations and international law, including the inalienable right of self-determination of peoples and the principle of the inadmissibility of the acquisition of territory by force,

*Recalling* all of its relevant resolutions, including those adopted at its tenth emergency special session,

*Recalling* all of the relevant resolutions of the Security Council, including resolution 2334 (2016),

*Stressing* the obligation of all Member States to fulfill in good faith the obligations assumed by them in accordance with the Charter of the United Nations, including to accept and carry out the decisions of the Security Council,

*Recalling* its resolution 77/247 of 30 December 2022, by which it decided, in accordance with Article 96 of the Charter, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, to render an advisory opinion on the following questions:

- (a) What are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures?
- (b) How do the policies and practices of Israel referred to above affect the legal status of the occupation, and what are the legal consequences that arise for all States and the United Nations from this status

*Having received* the advisory opinion of the Court, rendered on 19 July 2024, in which the Court determined, *inter alia*, that:

- (a) Israel's continued presence in the Occupied Palestinian Territory is unlawful;
- (b) Israel is under an obligation to bring to an end its unlawful presence in the Occupied Palestinian Territory as rapidly as possible;
- (c) Israel is under an obligation to cease immediately all new settlement activities, and to evacuate all settlers from the Occupied Palestinian Territory;
- (d) Israel has the obligation to make reparation for the damage caused to all the natural or legal persons concerned in the Occupied Palestinian Territory;

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<sup>1</sup> All references to the Occupied Palestinian Territory in the text refer to the Occupied Palestinian Territory, including East Jerusalem

- (e) All States are under an obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory and not to render aid or assistance in maintaining the situation created by the continued presence of Israel in the Occupied Palestinian Territory;
- (f) International organizations, including the United Nations, are under an obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory;
- (g) The United Nations, and especially the General Assembly, which requested this opinion, and the Security Council, should consider the precise modalities and further action required to bring to an end as rapidly as possible the unlawful presence of Israel in the Occupied Palestinian Territory.

*Affirming* in accordance with the advisory opinion of the Court, that:

- (a) the Israeli settlements, and their associated regime, including the transfer by Israel of settlers to the West Bank, including East Jerusalem, as well as Israel's maintenance of their presence, the confiscation or requisitioning of land, exploitation of natural resources, the extension of Israeli law to occupied territory, forced displacement of the Palestinian population, and violence by settlers and occupying forces against Palestinians, have been established and are being maintained in violation of international law,
- (b) Israel's policies and practices, including the maintenance and expansion of settlements, the construction of associated infrastructure, including the wall, the exploitation of natural resources, the proclamation of Jerusalem as Israel's capital, the comprehensive application of Israeli domestic law in East Jerusalem and its extensive application in the West Bank, entrench Israel's control of the Occupied Palestinian Territory, notably of East Jerusalem and of parts of the West Bank, and are designed to remain in place indefinitely and to create irreversible effects on the ground, and amount to annexation of large parts of the Occupied Palestinian Territory,
- (c) to seek to acquire sovereignty over an occupied territory, as shown by the policies and practices adopted by Israel, is contrary to the prohibition of the use of force in international relations and its corollary principle of the non-acquisition of territory by force, and constitutes a violation of the obligation to respect territorial integrity and sovereignty under the Charter of the United Nations and international law,
- (d) a broad array of legislation adopted and measures taken by Israel in its capacity as an occupying Power treat Palestinians differently on grounds prohibited by international law, and that, accordingly, the régime of comprehensive restrictions imposed by Israel on Palestinians in the Occupied Palestinian Territory, including Israel's residence permit regime in East Jerusalem, its policies restricting freedom of movement for Palestinians, its planning policy and its practice of demolition of Palestinian properties, amounts to prohibited discrimination and constitutes systemic discrimination based on, *inter alia*, race, religion or ethnic origin in violation of the relevant rules of international humanitarian law and international human rights law, including the Fourth Geneva Convention and the ICCPR, ICESCR and CERD and customary international law,

- (e) Israel's legislation and measures impose and serve to maintain a near-complete separation in the West Bank, including East Jerusalem, between the settler and Palestinian communities and constitute a breach of Article 3 of CERD that refers to two particularly severe forms of racial discrimination and which stipulates that "States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction",
- (f) the Palestinian people is entitled to self-determination in accordance with the Charter of the United Nations, a right that constitutes a peremptory norm of international law in such a situation of foreign occupation, and that Israel, as the occupying Power, has the obligation not to impede the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory,
- (g) Israel's policies and practices, which span decades, including its settlements and their associated regime, its annexation, its legislation and measures that discriminate against Palestinians in the Occupied Palestinian Territory, and the forced displacement of Palestinians and strict restrictions on their movement, have violated the integrity of the Occupied Palestinian Territory, undermined the integrity of the Palestinian people and the protection against acts aimed at dispersing it, deprived the Palestinian people of its enjoyment of the natural resources in the Occupied Palestinian Territory in breach of its permanent sovereignty over its natural resources, have obstructed the right of the Palestinian people freely to determine its political status and to pursue its economic, social and cultural development, and these policies and practices constitute a prolonged breach of the Palestinian people's fundamental right to self-determination,
- (h) the existence of the Palestinian people's right to self-determination, in view of its character as an inalienable right, cannot be subject to conditions on the part of the occupying Power,
- (i) Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory on account of its occupation, nor can Israel's security concerns override the principle of the prohibition of the acquisition of territory by force,
- (j) the violations by Israel of the prohibition of the acquisition of territory by force and of the Palestinian people's right to self-determination have a direct impact on the legality of the continued presence of Israel, as an occupying Power, in the Occupied Palestinian Territory, and that the sustained abuse by Israel of its position as an occupying Power, through annexation and an assertion of permanent control over the Occupied Palestinian Territory and continued frustration of the right of the Palestinian people to self-determination, violates fundamental principles of international law and renders Israel's presence in the Occupied Palestinian Territory unlawful and this illegality relates to the entirety of the Palestinian territory occupied by Israel in 1967,
- (k) Israel has an obligation to bring an end to its presence in the Occupied Palestinian Territory as rapidly as possible, as it constitutes a wrongful act of continuing character entailing its

international responsibility which has been brought about by Israel's violations, through its policies and practices, of the prohibition on the acquisition of territory by force and of the right to self-determination of the Palestinian people,

*Reaffirming* the need for universal adherence to and implementation of the rule of law at both the national and international levels and its solemn commitment to an international order based on the rule of law and international law, which, together with the principles of justice, are essential for peaceful coexistence and cooperation among States,

*Considering* that respect for the Court and its functions, including in the exercise of its advisory jurisdiction, is essential to international law and justice and to an international order based on the rule of law,

*Recalling* the permanent responsibility of the United Nations with regard to the question of Palestine until it is resolved in all its aspects in accordance with international law and the relevant United Nations resolutions,

*Reaffirming* its commitment to the realization of the right of the Palestinian people to self-determination, including its right to an independent and sovereign State, living side by side in peace and security with Israel, in accordance with the relevant resolutions of the Security Council and the General Assembly,

*Convinced* that achieving a just, lasting and comprehensive settlement of the question of Palestine, the core of the Arab-Israeli conflict, in accordance with international law and the relevant United Nations resolutions, is imperative for the attainment of comprehensive and lasting peace and stability in the Middle East, and *reaffirming* the right of all States in the region to live in peace within secure and internationally recognized borders,

*Stressing* the urgency of achieving without delay an end to the Israeli occupation that began in 1967,

*Reaffirming* its commitment for respect for, and the preservation of, the territorial integrity and unity of the Occupied Palestinian Territory, including East Jerusalem,

*Reaffirming* the illegality of Israeli settlements and their associated regime, as well as all other measures aimed at altering the demographic composition, character and status of the City of Jerusalem and of the Occupied Palestinian Territory as a whole, and rejecting in this regard any attempt at demographic or territorial change in the Gaza Strip, including any actions that reduce the territory of the Gaza Strip, which constitutes an integral part of the Occupied Palestinian Territory,

*Stressing* that, as indicated by the Court, the obligations violated by Israel include certain obligations of an *erga omnes* character, that are, by their very nature, "the concern of all States" and, in view of the importance of the rights involved, all States can be held to have a legal interest in their protection, among them the obligation to respect the right of the Palestinian people to self-determination and the obligation arising from the prohibition of the use of force to acquire territory



as well as certain of its obligations under international humanitarian law and international human rights law,

*Emphasizing* the imperative of ensuring accountability for all violations of international law in order to end impunity, ensure justice, deter future violations, protect civilians and promote peace;

1. *Welcomes* the advisory opinion of the International Court of Justice of 19 July 2024 on the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel's continued presence in the Occupied Palestinian Territory,

2. *Demands* that Israel brings to an end without delay its unlawful presence in the Occupied Palestinian Territory, which constitutes a wrongful act of a continuing character entailing its international responsibility, and to do so no later than twelve months from the adoption of the present resolution;

3. *Demands* that Israel comply without delay with all of its legal obligations under international law, including as stipulated by the International Court of Justice, by, *inter alia*:

- (a) withdrawing all of its military forces from the Occupied Palestinian Territory, including its airspace and maritime space;
- (b) putting an end to its unlawful policies and practices, including ceasing immediately all new settlement activity, evacuating all settlers from the Occupied Palestinian Territory and dismantling the parts of the wall constructed by Israel that are situated in the Territory, and repealing all legislation and measures creating or maintaining the unlawful situation, including those which discriminate against the Palestinian people, as well as all measures aimed at modifying the demographic composition, character and status of any parts of the Territory including all measures violating the historic status quo at the holy sites of Jerusalem;
- (c) returning the land and other immovable property, as well as all assets seized from any natural or legal person since its occupation started in 1967, and all cultural property and assets taken from Palestinians and Palestinian institutions;
- (d) allowing all Palestinians displaced during the occupation to return to their original place of residence;
- (f) making reparation for the damage caused to all the natural and legal persons concerned in the Occupied Palestinian Territory;
- (g) immediately complying with obligations under international law indicated in the respective provisional measures orders of the International Court of Justice in the case concerning the application of the Convention on the Prevention and Punishment of the Crime of Genocide (South Africa v. Israel) in relation to the right of the Palestinian people in the Gaza Strip to be protected from all acts within the scope of Article II and Article III of the Convention;
- (h) not to impede the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State over the entirety of the Occupied Palestinian Territory;

4. *Calls upon* all States to comply with their obligations under international law, *inter alia* as reflected in the advisory opinion, including their obligation:

(a) to promote, through joint and separate action, realization of the right of the Palestinian people to self-determination, the respect of which is an obligation *erga omnes*, and refrain from any action which deprives the Palestinian people of this right and, while respecting the Charter of the United Nations and international law, to ensure that any impediment resulting from the illegal presence of Israel in the Occupied Palestinian Territory to the exercise of the Palestinian people of its right to self-determination is brought to an end;

(b) not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory;

(c) not to render aid or assistance in maintaining the situation created by Israel's illegal presence in the Territory;

(d) not to recognize any changes in the physical character or demographic composition, institutional structure or status of the territory occupied by Israel on 5 June 1967, including East Jerusalem, except as agreed by the parties through negotiations, as affirmed by the Security Council in its resolution 2334 (2016), and the obligation in this regard, in relation to, *inter alia*, their diplomatic, political, legal, military, economic, commercial and financial dealings with Israel, to distinguish between Israel and the Palestinian territory occupied since 1967, including by:

(i) abstaining from treaty relations with Israel in all cases in which it purports to act on behalf of the Occupied Palestinian Territory or a part thereof on matters concerning the Occupied Palestinian Territory or a part of its territory;

(ii) abstaining from entering into economic or trade dealings with Israel concerning the Occupied Palestinian Territory or parts thereof which may entrench its unlawful presence in the Territory, including with regard to the settlements and their associated regime;

(iii) abstaining, in the establishment and maintenance of diplomatic missions in Israel, from any recognition of its illegal presence in the Occupied Palestinian Territory, including by refraining from the establishment of diplomatic missions in Jerusalem, pursuant to Security Council resolution 478 (1980);

(iv) taking steps to prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel in the Occupied Palestinian Territory, including with regard to the settlements and their associated regime;

(e) to ensure, as States parties to the Fourth Geneva Convention, compliance with international humanitarian law as embodied in that Convention, particularly pursuant to their obligations under articles 146, 147 and 148 regarding penal sanctions and grave breaches, while respecting the Charter of the United Nations and international law and underscoring the urgency of undertaking measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem;

(f) to undertake efforts towards bringing to an end systemic discrimination based on, *inter alia*, race, religion or ethnic origin, including to prevent, prohibit and eradicate the violations by Israel of article 3 of CERD identified in the advisory opinion;

5. *Calls upon* all States in this regard, consistent with their obligations under international law:

(a) to take steps to ensure that their nationals, and companies and entities under their jurisdiction, as well as their authorities, do not act in any way that would entail recognition or provide aid or assistance in maintaining the situation created by Israel's illegal presence in the Occupied Palestinian Territory;

(b) to take steps towards ceasing the importation of any products originating in the Israeli settlements, as well as the provision or transfer of arms, munitions and related equipment to Israel, the occupying Power, in all cases where there are reasonable grounds to suspect that they may be used in the Occupied Palestinian Territory;

(c) to implement sanctions, including travel bans and asset freezes, against natural and legal persons engaged in the maintenance of Israel's unlawful presence in the Occupied Palestinian Territory, including in relation to settler violence;

(d) to support accountability efforts for all victims;

5. *Calls also upon* international organizations, including the United Nations, and regional organizations not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory and to distinguish, in their relevant dealings, between Israel and the Occupied Palestinian Territory and not to recognize, or co-operate with or assist in any manner in, any measures undertaken by Israel to exploit the natural resources of the Occupied Palestinian Territory or to effect any changes in the demographic composition or geographic character or institutional structure of the Territory;

6. *Calls upon* the United Nations, and its bodies and organs, to respect and act in a manner consistent with the determinations made by the International Court of Justice, including in relation to all relevant maps, statements and reports, as well as in their respective programmes and actions;

7. *Strongly deplores* the continued and total disregard and breaches by the Government of Israel of its obligations under the Charter of the United Nations, international law and the relevant UN resolutions, and *stresses* that such breaches seriously threaten regional and international peace and security;

8. *Recognizes* that Israel must be held to account for any violations of international law in the Occupied Palestinian Territory, including any violations of international humanitarian law and international human rights law, and that it must bear the legal consequences of all of its internationally wrongful acts, including by making reparation for the injury, including any damage, caused by such acts;

9. *Recognizes in this regard* the need for the establishment of an international mechanism for reparation for all damage, loss or injury arising from the internationally wrongful acts of Israel in the Occupied Palestinian Territory; and *calls for* the creation by Member States, and in coordination with the United Nations and its relevant bodies, of an international register of damage to serve as a record, in documentary form, of evidence and claims information on damage, loss or injury to all natural and legal persons concerned, as well as to the Palestinian people, caused by the internationally wrongful acts of Israel in the Occupied Palestinian Territory, as well as to promote and coordinate evidence-gathering and initiatives aiming to secure such reparation by Israel;

10. *Emphasizes* the need to ensure accountability for the most serious crimes under international law through appropriate, fair and independent investigations and prosecutions at the national or international level, and to ensure justice for all victims and the prevention of future crimes;

11. *Calls for* the convening of a Conference of High Contracting Parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure respect thereof in accordance with common article 1, and invites in this regard the Government of Switzerland, in its capacity as the depositary of the Geneva Conventions, to convene the Conference within six months of the adoption of the present resolution;

12. *Decides* to convene during the 79<sup>th</sup> session of the General Assembly an international conference under the auspices of the Assembly for the implementation of the United Nations resolutions pertaining to the Question of Palestine and the two-State solution for the achievement of a just, lasting and comprehensive peace in the Middle East;

13. *Requests* the Secretary-General, in consultation with the United Nations High Commissioner for Human Rights and Member States with relevant experience and expertise, to present proposals, in the report requested in the present resolution, for the establishment of a mechanism to follow-up on the violations of article 3 of CERD by Israel identified by the Court in its Advisory Opinion;

14. *Confirms its determination* to examine further practical ways and means to secure the full respect of the Advisory Opinion and the full implementation of all relevant UN resolutions, notably in case of non-compliance;

15. *Urges* all States, the United Nations and its specialized agencies and organizations, as well as regional organizations, to support and assist the Palestinian people in the early realization of their right to self-determination and to actively pursue steps to ensure full implementation of the Advisory Opinion and of all relevant United Nations resolutions;

16. *Requests* the Secretary-General to submit a report to the General Assembly within 3 months on the implementation of the present resolution, including any actions taken by Israel, other States, and international organizations, including the United Nations, for the implementation of its provisions or for any violations thereof;

17. *Reaffirms* the permanent responsibility of the United Nations with regard to the question of Palestine until it is resolved in all its aspects in accordance with international law and the relevant United Nations resolutions;

18. *Decides* to adjourn the tenth emergency special session temporarily and to authorize the President of the General Assembly at its most recent session to resume its meeting upon request from Member States.