

ISRAEL

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**Response of Israel
to the Report submitted by Mr. John Dugard,
Special Rapporteur of the Commission on Human Rights,
pursuant to Commission Resolution 1993/2A**

**Statement
by
Tuvia Israeli
Israel's Representative to the Third Committee**

New York, 28 October 2005

Mr. Chairman,

Since Israel is the subject of this report, please allow us to provide the committee with an elaborated response.

Mr. Chairman,

Israel has emphasized for over a decade the problematic nature of the mandate of the Special Rapporteur, a mandate that only examines one side of the conflict, a mandate that prejudices key issues and a mandate that is unique and extreme in comparison with the wide range of regional and thematic rapporteurs working on the range of issues of international concern, a mandate that is in direct contrast to the current wave of reforms at the United Nations. The past few years have added a further obstacle to the activity of the current Rapporteur. Repeatedly, in his reports, in his discourses in public fora and in the media, he has misused his position as a platform for promoting his personal prejudices and political agenda.

So, Israel is compelled once again to respond to the latest contribution of the Special Rapporteur. Regrettably this report, like its predecessors, is characterized by serious errors of omission and commission, as well as distortions of both fact and law, all in the cause of advancing a one-sided political agenda.

This approach is all the more disappointing and unfortunate in the current time when, following the implementation of Israel's disengagement initiative, there is a unique opportunity for regenerating dialogue and cooperation between Israelis and Palestinians and reaching a negotiated solution to the issues in conflict. Regrettably, the Report not only does nothing to advance the prospect of such dialogue, but repeatedly sets itself in opposition to the framework agreed by the parties and the international community for resolving the conflict.

Mr. Chairman,

The current report was prepared prior to the implementation of Israel's disengagement from the Gaza Strip and from four settlements in the West Bank. In hindsight, it is apparent that the alarming predictions of the Report were seriously misplaced. Among the many unfounded prophecies of doom were the following:

- Contrary to the Report's insistence that "settlers have confronted the IDF in a violent manner... and it seems that this withdrawal is destined to be accompanied by further violence", the disengagement was implemented with restraint and without casualties.
- The Report's prediction of "major disruptions to road traffic and freedom of movement [with] serious implications for the provisions of foodstuffs access to hospitals school and places of employments" as well as a "humanitarian disaster" did not come to pass, as a result of the care and attention given to these issues by the Israeli authorities.
- Alarming allegations that "insufficient account has been taken of unexploded ordnance and landmines, and the presence of asbestos material in the settlement houses scheduled for destruction", also proved unfounded. Ordnance and explosives

were handled responsibly, and Israeli forces carefully removed all hazardous materials from houses prior to their demolition.

Regarding the status of the Gaza Strip following the disengagement, the Report reiterates the assertion made in previous reports that "it seems clear that Gaza will remain occupied territory". The factual basis for this confident assertion is unclear, particularly since the Report professes that "there is no clarity in respect of Israel's plans or intentions for the future of Gaza." To prop up its conclusion the Report is forced to rely on an assortment of rumors and conjectures, with little or no factual support. A report that claims to present the facts all too often presents subjective statements starting with: "It seems..." "There is also a suggestion..." "It is highly possible..." etc.

Beyond the dubious methodology of relying, almost exclusively, in vague and unattributed allegations, the specific allegations do little in fact to support the Rapporteur's thesis. One of the many examples of the report's inaccuracies is the assertion that Israel has announced that it "will not hesitate to intervene militarily in Gaza after the withdrawal of settlers if Israel's security so requires" is a significant misreading of Israel's statement that it reserves its right to act in self defense. Israel's statement expressly limits its right to engage in military activity in the area to the fundamental right of self-defense available to any state in relation to attacks emanating from neighboring territory. Indeed, this stipulation in the disengagement plan, together with the dismantling of the Military Government, serves as clear evidence that Israel has relinquished any power or authority for its forces to enter or operate in Gaza territory "at will".

Mr. Chairman,

The same lack of stringency that is apparent in the Report's treatment of the Disengagement initiative, is evident in its treatment of the security fence. Faced with the dramatic changes to the route of the fence in accordance with the decisions of Israel's High Court of Justice, the Rapporteur concedes that the route has been "**marginally** modified". This can only be considered an extreme case of understatement, as is evidenced by his own statistics: In the addendum to his Report of 8 September 2003 (E/CN.4/2004/6) the Rapporteur cited figures suggesting that 280,000 Palestinians would be included within the route of the fence. In the current report he gives the figure of 49,000 Palestinians. In other words, ***on his own reckoning, there has been a reduction of over 80% in the number of Palestinians included within the route of the fence.***

Mr. Chairman,

The international community has made it clear that the best, if not the only, hope of arriving at a resolution to the conflict is through the process set out in the "Road Map". This plan, proposed by the Quartet consisting of the United States, the Russian Federation, the European Union and the United Nations, has been accepted by the Israeli and Palestinian leadership, and adopted by the Security Council. However, the Rapporteur repeatedly dismisses the delicate process painstakingly crafted in this document.

The Rapporteur attitude to so many issues addressed directly by the Road Map is at best dismissive. The careful thinking of the Road Map, and the successive steps outlined therein, are disregarded. Whether it be on the issue of Jerusalem, or settlements, or final status negotiations, the rapporteur seems to purpose a system whereby Israel makes concessions

without receiving anything in return, whereby terrorism is relegated to a non-issue at best and even justified at worst, and whereby Israel holds all the responsibility to make peace a reality.

But the Rapporteur does more than dismiss the Road Map process adopted by the international community. He goes as far as to argue that the Road Map process runs counter to international law, suggesting that "the Quartet and the Road Map process to which it is committed are not premised on the Rule of Law or respect for human rights....This compels the Special Rapporteur to question the approach of the Quartet".

That a special rapporteur appointed by the United Nations should openly cast aspersions on the organization which appointed him, and on the Road Map plan approved by the Security Council, raises serious questions regarding the degree to which he views himself accountable to that organization and the principles by which it operates.

Continuing his personal crusade against the universally agreed Road Map Process, the Special Rapporteur also seeks to undermine the very concept of a solution to the conflict based on the principle of a two state solution, which lies at the heart not only of the Road Map, but of every internationally sponsored attempt to resolve the conflict. Regarding this fundamental vision, shared by all those striving for peace in the region, the Rapporteur approvingly quotes unnamed "interlocutors" who argue that "with the two-state solution is becoming increasingly difficult, if not impossible, consideration should be given to the establishment of *a bi-national Palestinian state* [sic]." He adds a personal comment: "The demography of the region increasingly points to such an outcome".

Mr. Chairman,

Israel has long argued that the Reports of the Special Rapporteur do a grave disservice to his position

The current report, perhaps more than any other, reveals the degree to which this agenda and these conclusions are diametrically opposed to the basic principles agreed by moderates on both sides, and by the international community, as the only basis for moving towards peace and reconciliation. Those committed to working for peace know that the Road Map is the only way forward; for the Rapporteur this is a violation of international law. Those working for peace know that the only lasting solution is a two state solution; for the Rapporteur this is no longer possible or desirable. Those working for peace know that progress must be built on the fulfillment of obligations by both sides; for the Rapporteur there are only Palestinian rights and Israeli obligations.

It is hard to predict whether Reports such as the current one will actually succeed in advancing the political agenda of the Special Rapporteur. But one thing is abundantly clear: they will have no effect in improving the humanitarian situation in the region, or in bringing the two sides closer to a resolution of the conflict.

Thank you, Mr. Chairman.