

108TH CONGRESS
2D SESSION

S. RES. 408

Supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

IN THE SENATE OF THE UNITED STATES

JULY 20, 2004

Mr. SMITH (for himself, Mr. ALEXANDER, Mr. BOND, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. CRAPO, Mrs. DOLE, Mr. FITZGERALD, Mr. LIEBERMAN, Mr. LUGAR, Mrs. MURRAY, Mr. SCHUMER, Mr. WYDEN, Mr. DEWINE, Ms. MIKULSKI, and Mr. ALLARD) submitted the following resolution; which was referred to the Committee on Foreign Relations

RESOLUTION

Supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

Whereas the United Nations General Assembly requested the International Court of Justice to render an opinion on the legality of the security fence being constructed by Israel to prevent Palestinian terrorists from entering Israel;

Whereas on February 23, 2004, the International Court of Justice commenced hearings on the legality of the security fence;

Whereas on July 9, 2004, the International Court of Justice issued an advisory opinion that was critical of the legality of the security fence and that accused Israel of violating its international obligations;

Whereas the security fence is a necessary and proportional response to the campaign of terrorism by Palestinian militants;

Whereas throughout Israel, the West Bank, and Gaza, terrorist groups have sent suicide bombers to murder Israeli civilians in buses, cafes, and places of worship, have used snipers to shoot at Israeli civilians in their homes and vehicles and even in baby carriages, and have invaded homes and seminaries in order to carry out acts of terrorism;

Whereas Palestinian terrorists routinely disguise themselves as civilians, including as pregnant women, hide bombs in ambulances, feign injuries, and sequence bombs to kill rescue workers responding to an initial attack;

Whereas a security fence has existed in Gaza since 1996 and that fence has proved effective at reducing the number of terrorist attacks and prevented many residents of Gaza from crossing into Israel to carry out terrorist attacks;

Whereas from the onset of the Palestinian campaign of terror against Israel in September 2000, until the start of the construction of the fence in July 2003, Palestinian terrorists based out of the northern West Bank carried out 73 attacks in which 293 Israeli were killed and 1,950 were wounded, and during the period since construction

began, from August 2003 through June 2004, only 3 attacks were successfully executed, 2 of which were executed by terrorists coming from areas where the fence was not yet completed;

Whereas this reduction in number of attacks represents a 90 percent decline since construction of the security fence commenced;

Whereas on June 30, 2004, Israel's High Court of Justice issued a dramatic ruling that supported the need for the security fence to fight terror, but ruled that its route must take into account Palestinian humanitarian concerns, thus reinforcing the central role that the rule of law plays in Israeli society;

Whereas United Nations Security Council Resolution 242 (November 22, 1967) and United Nations Security Council Resolution 338 (October 22, 1973) require negotiated settlement of the Israeli-Palestinian conflict, including the demarcation of final borders and recognition of the right of Israel to "secure and recognized boundaries";

Whereas according to international law and as expressly recognized in Article 51 of the Charter of the United Nations, all countries possess an inherent right to self-defense;

Whereas the security fence and associated checkpoints are crucial to detecting and deterring terrorists among the Palestinian civilian population;

Whereas there is concern that the International Court of Justice is politicized and critical of Israel;

Whereas construction of the security fence does not constitute annexation of disputed territory because the security

fence is a temporary measure and does not extend the sovereignty of Israel;

Whereas the security fence is permitted under the Declaration of Principles on Interim Self-Government Arrangements, signed at Washington September 13, 1993, between Israel and the P.L.O. (hereinafter referred to as the “Oslo Accord”) in which Israel retained the right to provide for security, including the security of Israeli settlers;

Whereas the case regarding the legality of the security fence in the International Court of Justice violates the principles of the Oslo Accord that require that all disputes between the parties be settled by direct negotiations or by agreed-upon methods; and

Whereas the United States, Korea, and India have constructed security fences to separate such countries from territories or other countries for the security of their citizens: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) recognizes Israel’s right of self-defense
3 against Palestinian terrorist attacks, and supports
4 the construction of a security fence, the route of
5 which, with the support of the Government of Israel,
6 takes into account the need to minimize the confiscation of Palestinian land and the imposition of
7 hardships on the Palestinian people;

9 (2) condemns the decision of the International
10 Court of Justice on the legality of the security fence;
11 and

1 (3) urges the United States to vote against any
2 further United Nations action that could delay or
3 prevent the construction of the security fence and to
4 engage in a diplomatic campaign to persuade other
5 countries to do the same.

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