



21 September 2011

Re: Attempt by Palestinian Leaders to Obtain UN Recognition of a Palestinian State

Your Excellency:

This is a follow-up to our previous letter of 6 September 2011.

Palestinian Authority (PA) President Mahmoud Abbas has now confirmed that PA officials are coming to the United Nations to seek both UN recognition of an Arab Palestinian State in the West Bank and the Gaza Strip, bounded by the 1949 armistice lines drawn between the then-nascent State of Israel and its Arab neighbors, as well as full UN membership.

Once again, we must reiterate that the 1949 armistice lines (also known as the pre-'67 lines) have never been regarded as international boundaries. Nor should they be now, since such recognition would violate the terms of UN Security Council Resolutions 242 and 338 which require defensible borders, something that did not exist in 1967 and would not exist today if there were a return to the status quo ante.

Each of the principles set forth in Resolution 242 requires negotiations between Israel and its neighbors. What the Palestinians are attempting to do by approaching the UN is to forego having to make the concessions necessary to achieve lasting peace in the region.

When the PLO consented to negotiate with the State of Israel in the 1990's, agreements concluded between the State of Israel and the Palestinians were negotiated under the auspices of the international community. In those agreements, the PLO agreed to refrain from acts intended to change the status of the territories outside of peace talks. As such, the current Palestinian appeal to the UN constitutes a material breach of prior Israeli-Palestinian agreements and subverts the international rule of law. Each member state must recognise its role in support of the rule of law. As the UN website states, "Establishing respect for the rule of law is fundamental to achieving a durable peace . . .". As such, UN approval of this attempt by the PA subverts the goal of durable peace between Israel and the Palestinians.

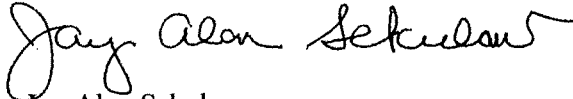
Only through direct negotiations between the parties can a just and lasting peace be achieved. Continuing to pursue the UN option will demonstrate to Israel and the entire world community that Palestinian leaders are not trustworthy negotiation partners. The Palestinians' current actions constitute a total repudiation of the various Israeli-Palestinian agreements. In short, how can Israel negotiate seriously with those who do not keep their solemn word?

Moreover, UN concurrence in the Palestinians' attempt to bypass negotiations with Israel would make the UN complicit in breaching the solemn agreements entered into by Israel and the Palestinians. Israel would then be justified in reneging on all its commitments to the PA under such agreements.

Finally, there remains a question whether the PA has legitimate authority to even raise such an issue on behalf of the Palestinians. Following President Abbas' letter to UN Secretary-General Ban Ki-moon expressing the Palestinians' desire for recognition, PLO spokesman Xavier Abu Eid stated that "[t]he PA does not have any international relations mandate. The only one that can negotiate or sign agreements is the PLO . . .".¹ In addition, Hamas—which openly opposes the PA move at the UN—exercises total governmental control in the Gaza Strip. Further, there are serious indications that Palestinian officials are not being honest regarding their territorial claims. When the PLO was founded in 1964, despite the numerous calls to "liberate" Palestine throughout the 1964 Palestinian National Charter, in Article 24 of the charter, the PLO explicitly excluded the West Bank and the Gaza Strip from its area of concern and disclaimed the exercise of "territorial sovereignty" over those territories. Instead, the Palestinians were seeking to destroy Israel. Although current PA officials have denied that they seek the destruction of Israel, Hamas continues to espouse such a goal. Hence, it is only relatively recently that Palestinians have laid claim to the West Bank and the Gaza Strip—territories they had previously disclaimed.

In light of the foregoing and the serious harm that could befall both the Palestinians and the UN itself, we urge you and your government to oppose all attempts by the Palestinian Authority to renege on its agreements with Israel and to encourage the Palestinians, instead, to return to direct negotiations with Israel—the only way to truly resolve the differences between the parties and establish a viable Palestinian state.

Sincerely,



Jay Alan Sekulow
Chief Counsel

¹Chana Ya'ar, *PLO, PA Compete on UN Statehood Bid*, Arutz Sheva (Sept. 8, 2011, 4:01 PM), <http://www.israelnationalnews.com/News/News.aspx/147686#.TnoHlewu26Q>.