

Report of the Committee of independent experts in international humanitarian and human rights laws to monitor and assess any domestic, legal or other proceedings undertaken by both the Government of Israel and the Palestinian side, in the light of General Assembly resolution 64/254, including the independence, effectiveness, genuineness of these investigations and their conformity with international standards.

“Tomuschat Committee Report”

**Statement by the Delegation of the United States of America
Human Rights Council 15th Session
Geneva, September 27, 2010**

Thank you, Mr. President.

The United States opposed the creation of this committee, which stems from the deeply flawed “Goldstone Report.” We have detailed our concerns about the Goldstone report on numerous occasions and need not repeat them here. Having said that, we appreciate that the “Tomuschat Committee” did not jump to conclusions on Israeli motives or recommend follow-up in the UN.

We have consistently expressed our belief that allegations of violations of international law that took place during the Gaza conflict warrant effective domestic follow-up action. The primary responsibility for investigations and follow-up rests with the parties. In this context, we urge members of the Human Rights Council to keep in mind that the “Tomuschat Committee” report did not recommend any further UN action.

Israel has the mechanisms to investigate such questions, as the “Tomuschat Committee” report affirms. Israel is a democracy with a robust judiciary and a strong record of independent review of military operations. We welcome Israel’s steps to investigate, establish accountability, adapt combat doctrine aimed to enhance civilian protections during conflict, and punish those who may have violated the law. Not all of these investigations are complete, and the results are subject to judicial review. These investigations should be given the opportunity to conclude.

Beyond responding to specific violations, the Israeli government has also significantly changed its military operational guidelines to better protect civilians during conflict. The “Tomuschat Committee” report praises these changes, including new procedures regarding the protection of civilians and the destruction of private property, the integration of Humanitarian Affairs Officers into Israeli army battalions, and new orders on the use of certain munitions. The Committee stated that it was unable to determine whether Israel’s investigations fulfilled the mandate of their mission—but these reforms, as well as Israel’s investigations, prosecutions, and public reports, are all evidence of ongoing credible and serious domestic inquiries. Israel, like any other UN member state, should be given the opportunity to complete its work. Because Israel has the right and the demonstrated

ability to conduct credible investigations and serious self-scrutiny, further follow-up of the Goldstone Report by UN bodies is unnecessary and unwarranted.

We note that the “Tomuschat Committee” also reported on the Palestinian Independent Investigation Commission. We welcome the efforts of the Palestinian Authority to establish an investigation into the allegations of human rights violations in the Palestinian Territories, as well as the efforts of the Palestinian Authority to follow-up on the recommendations of the Palestinian Independent Investigation Commission report, and hope that they will continue.

The report states that Hamas has made no serious effort to address the allegations in the Goldstone Report. Hamas is a terrorist organization that is not willing to examine – let alone credibly - its deliberate repeated violations of international law and impairments on the enjoyment of human rights of Israelis and Palestinians. We appreciate that the Committee reaffirmed that all parties, including non-state actors, are bound by customary international law.

Direct talks between Israelis and Palestinians have been resumed, and all parties should help create an environment conducive to progress in these talks. Direct talks between the parts are the best vehicle to end this tragic conflict and

end the human rights abuses that stem from it. We should all be working to advance the cause of peace—not to hinder it.

Thank you, Mr. President.