

Explanation of Vote
Follow-up to the Report on the UN Fact-Finding Mission on the Gaza
Conflict

United States Government
Human Rights Council, 13th Session
March 25, 2010

Thank you, Mr. President. As elected members of the UN Human Rights Council, we share a responsibility to respond to allegations of human rights violations across the globe.

Notwithstanding our common purpose, we often differ over the most appropriate and effective responses to allegations of specific violations. Differences about how best to respond to the events in the Gaza Strip and southern Israel in 2008-09 have been on display since the release of the Goldstone Report last September. Despite our strong concerns and those of other countries about the report, we have consistently expressed our belief that allegations about events that took place in Gaza must be taken seriously and warrant credible domestic follow-up action.

In the spirit of seeking a constructive outcome, we would like to articulate two principles that we hope will govern any future consideration of the allegations in the Goldstone Report:

- 1) First is a belief that we hold deeply: that the best way to address and prevent abuses arising from the Arab-Israeli conflict is to end it, through a comprehensive peace settlement that includes two states, Israel and Palestine, living side by side, in peace and security. This remains our overarching goal. In our view, the Human Rights Council is not the venue for reaching an Israeli-Palestinian peace agreement.
- 2) Second, we believe that the foremost responsibility for upholding human rights lies with the governments involved. Governments need to be the first defenders of the human rights of their people. When abuses are alleged, it is the duty of governments to investigate and hold perpetrators responsible.

The United States recognizes the work that Israel has carried forward and that the Palestinian Authority has initiated, on processes of investigation and accountability for alleged violations in relation to the 2008-2009 Gaza conflict. The Israeli and Palestinian processes vary and are at very different

stages of progress. Much more work remains to be done. Israel is a well-established democracy with one of the world's most developed legal systems. It has charged its domestic institutions with responsibility for investigating and instituting accountability measures in response to the Gaza conflict. We are witnessing the initial results from that important domestic process, which include recently-announced indictments. For its part, the Palestinian Authority has taken a responsible step by announcing the creation of a Commission to investigate allegations against Palestinians in relation to the Gaza conflict. We await the results of that Commission. Hamas is a terrorist group and has neither the legitimacy nor the willingness to investigate credibly its repeated and deliberate violations of international law. Our goal remains to have domestic authorities carry out thorough, independent and credible investigations of all allegations arising out of the Gaza conflict, leading to accountability for demonstrated violations.

We have pushed to avoid steps that will interfere with the fulfillment of those obligations or inject political considerations that undercut our common purposes. We should all be working to advance the cause of peace—not to hinder it. We ask that you keep that objective firmly in mind.

With respect to the present resolution, we object, in particular, to the following elements: (1) the recommendation to convene the High Contracting Parties to the Fourth Geneva Convention in what is bound to be a highly politicized and counterproductive session; (2) the one-sided call for the High Commissioner to take the unprecedented step of determining the “appropriate modalities for the establishment of an escrow fund” for the provision of reparations to Palestinians who suffered loss and damage as a result of unlawful acts attributable to the State of Israel during the Gaza conflict; (3) the call for the General Assembly, working with the ICRC, to promote a discussion on the legality of the use of certain munitions, which risks a politically-motivated outcome; and (4) the establishment of a Committee of Independent Experts to “monitor and assess” the parties’ ongoing domestic accountability processes. This last element would set a deeply troubling precedent that we firmly reject. We cannot support such international oversight of these domestic legal processes absent any indication that they are manifestly failing to deal seriously with alleged abuses. The parties’ ongoing domestic processes should be left to play out of their own accord.

Consequently, the United States calls for a vote on this resolution and urges other members to join us in voting no.