

UNITED NATIONS  
SECURITY  
COUNCIL



Distr.  
GENERAL

S/14821  
31 December 1981

ORIGINAL: ENGLISH

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REPORT OF THE SECRETARY-GENERAL

1. The present report is submitted in pursuance of paragraph 4 of Security Council resolution 497 of 17 December 1981.

2. On 21 December 1981, the Secretary-General addressed the following note to the Permanent Representative of Israel:

"The Secretary-General of the United Nations presents his compliments to the Permanent Representative of Israel to the United Nations and has the honour to refer to Security Council resolution 497 of 17 December 1981, the operative part of which reads as follows:

"The Security Council,

"..."

"1. Decides that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights is null and void and without international legal effect;

"2. Demands that Israel, the occupying Power, should rescind forthwith its decision;

"3. Determines that all the provisions of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 continue to apply to the Syrian territory occupied by Israel since June 1967;

"4. Requests the Secretary-General to report to the Security Council on the implementation of this resolution within two weeks and decides that in the event of non-compliance by Israel, the Security Council would meet urgently, and not later than 5 January 1982, to consider taking appropriate measures in accordance with the Charter of the United Nations".

"In view of the contents of paragraph 4 of the above-mentioned resolution and the reporting responsibility entrusted to him under it, the Secretary-General would be grateful if the Permanent Representative of Israel would inform him, as a matter of urgency, and preferably by 31 December 1981, of

the action which his Government has taken or envisages to take in regard to the implementation of the resolution. It will be recalled that, in his report of 21 December 1981 on the implementation of General Assembly resolution 36/226(B), 1/ the Secretary-General has indicated the position of the Government of Israel on this matter, as it has been conveyed to him on that date."

3. On 29 December 1981, the Permanent Representative of Israel addressed to the Secretary-General the following reply:

"The Permanent Representative of Israel to the United Nations presents his compliments to the Secretary-General and, with reference to the latter's note verbale of 21 December 1981, concerning Security Council resolution 497 of 17 December 1981, has the honour to communicate the following:

"Ever since Israel's establishment in 1948, Syria has regarded itself as being in a state of war with Israel. It sought to prevent by force Israel's establishment before 1948, and having failed in that, attempted with other Arab States to destroy Israel. Between 1948 and 1967, Syrian tanks and artillery on the Golan Heights repeatedly bombarded the northern part of the country and harassed its population.

"The Golan Heights Law - 5742/1981 was enacted almost 15 years after the Six-Day War of June 1967 which Syria and other Arab States forced upon Israel. Both before June 1967 and ever since, Syria has repeatedly rejected Israeli offers to negotiate peace. It has also refused to accept Security Council resolution 242 (1967), which affirms the right of every State in the area to live in peace within secure and recognized boundaries.

"Instead, Syria opened yet another all out war against Israel in October 1973. In the wake of that aggression, Israel again sought to attain full and durable peace with Syria. In its quest for peace, Israel withdrew considerably from territory captured in its defensive operations in the Yom Kippur War of October 1973 as well as in those of 1967. Despite all this and in disregard of Security Council resolution 338, which calls for negotiations for the establishment of peace, Syria has refused to go beyond agreements on a cease-fire and a disengagement of military forces. This Syrian position has placed the Golan Heights and its inhabitants in a limbo; if left to the policies of the present Syrian Government, there would be no peace with Israel for generations to come.

"It is preposterous that a State should be permitted to unleash repeated acts of aggression with the aim of conquering and even destroying a neighbouring country, and then, having been repulsed, should be permitted to invoke international law in a selective and distorted manner and to find fault with legislation which seeks, in the absence of peace or even of negotiation

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1/ A/36/846 and Corr.1-S/14805 and Corr.1.

aimed at reaching peace, to normalize the situation in the area in question. This Syrian attitude would appear to violate Article 2 (2) of the Charter, which states that:

'All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter'.

"In the view of the Government of Israel, recent Syrian acts and declarations have made it urgently necessary to bring to an end the anomalous situation regarding the Golan Heights. The Government of Israel could not wait endlessly for Syria to begin to show political will to make peace and agree on secure boundaries. Israel cannot be expected to maintain indefinitely a military administration merely to accommodate Syria's interest in persistent conflict. It is therefore greatly regretted that the Security Council should have passed a resolution which ignores this background.

"The Israel legislation in question does not in the slightest manner diminish the rights of the local population, including, of course, their property rights and their right to education and religious worship according to their traditions. All these are fully safeguarded.

"The Government of Israel wishes to reiterate that it is willing, now as always, to negotiate unconditionally with Syria, as with its other neighbours, for a lasting peace, in accordance with Security Council resolutions 242 (1967) and 338 (1973). The Golan Heights Law does not preclude or impair such negotiations.

"The Government of Israel expresses the hope that any further consideration by the Security Council of this matter will focus constructively on the attainment of peace through negotiations between the States directly concerned and on the prevention of the threat or use of force."

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