

INTERNATIONAL COURT OF JUSTICE

**REQUEST BY THE UNITED NATIONS GENERAL ASSEMBLY FOR AN
ADVISORY OPINION ON**

**“LEGAL CONSEQUENCES ARISING FROM THE POLICIES AND PRACTICES
OF ISRAEL IN THE OCCUPIED PALESTINIAN TERRITORY, INCLUDING EAST
JERUSALEM”**

**WRITTEN COMMENTS
UNITED STATES OF AMERICA**

OCTOBER 25, 2023

Introduction

1. In accordance with the Court’s Order of February 3, 2023, and having reviewed the fifty-seven written statements in this proceeding, the United States hereby presents its Written Comments on the statements now before the Court.

2. The United States is submitting these comments at a somber moment, following the horrific terrorist attack by Hamas on the Israeli civilian population. As President Biden said, along with the leaders of France, Germany, Italy, and the United Kingdom, “[a]ll of us recognize the legitimate aspirations of the Palestinian people, and we support equal measures of justice and freedom for Israelis and Palestinians alike. But make no mistake: Hamas does not represent those aspirations, and it offers nothing for the Palestinian people other than more terror and bloodshed.”¹ As the President has reinforced, the United States mourns every innocent life lost as a result of the conflict sparked by Hamas’ actions – Israeli and Palestinian. None of us can ignore the humanity of the Israeli victims of the attacks of October 7, or that of Palestinians who only want to live in peace and dignity. And as the President said: “As hard as it is, we cannot give up on peace. We cannot give up on a two-state solution. Israel and Palestinians equally deserve to live in safety, dignity, and peace.”² It is at these moments that

¹ Statements and Releases, The White House, Joint Statement on Israel (Oct. 9, 2023), *available at* <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/09/joint-statement-on-israel/> (last visited October 19, 2023); *see also* Statements and Releases, The White House, Statement from President Joe Biden Condemning Terrorist Attacks in Israel (Oct. 7, 2023), *available at* <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/07/statement-from-president-joe-biden-condemning-terrorist-attacks-in-israel/> (last visited October 19, 2023); Statements and Releases, The White House, Remarks by President Biden on the Terrorist Attacks in Israel (Oct. 10, 2023), *available at* <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/10/remarks-by-president-biden-on-the-terrorist-attacks-in-israel-2/> (“There is no justification for terrorism. There is no excuse. Hamas does not stand for the Palestinian people’s right to dignity and self-determination. Its stated purpose is the annihilation of the State of Israel and the murder of Jewish people. They use Palestinian civilians as human shields. Hamas offers nothing but terror and bloodshed with no regard to who pays the price.”).

² Statements and Releases, The White House, Remarks by President Biden on the United States’ Response to Hamas’s Terrorist Attacks Against Israel and Russia’s Ongoing Brutal War Against Ukraine (Oct. 20, 2023), *available at* <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/20/remarks-by-president-biden-on-the-united-states-response-to-hamas-terrorist-attacks-against-israel-and-russias-ongoing-brutal-war-against-ukraine/> (last visited October 23, 2023) (“We mourn every innocent life lost. We can’t ignore the humanity of innocent Palestinians who only want to live in peace and have an opportunity.”); *see also* Statements and Releases, The White House, Remarks by President Biden on the October 7th Terrorist Attacks and the Resilience of the State of Israel and its People (Oct. 18, 2023), *available at* <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/18/remarks-by-president-biden-on-the-october-7th-terrorist-attacks-and-the-resilience-of-the-state-of-israel-and-its-people-tel-aviv-israel/> (last visited October 23, 2023) (“[A]s hard as it is, we must keep pursuing peace. We must keep pursuing a path so that Israel and the Palestinian people can both live safely, in security, dignity, and in peace. For me, that means a two-state solution.”); U.S. Mission Egypt, *Remarks by Chargé d’Affaires Ambassador Beth Jones at the Cairo Peace Summit* (Oct. 21, 2023), *available at* <https://eg.usembassy.gov/remarks-by-charge-daffaires-ambassador-beth-jones-at-the-cairo-peace-summit/> (last visited October 23, 2023).

the international community must redouble its efforts to counter violent extremism and terrorism – precisely in order to preserve a horizon of hope. And beyond this, while the attack itself is not before this Court,³ it provides a moment of clarity that reinforces – even for those States and Organizations whose written statements would otherwise urge the Court to discount, overlook, or disregard the established negotiating framework – that the framework established by the Security Council, supported by the General Assembly, and accepted in the Oslo Accords, remains vital. This can be seen in the calls by such States and Organizations in the immediate aftermath of these attacks for the resumption of negotiations between the Israelis and Palestinians consistent with the established negotiating framework.⁴ The United States puts this before the Court not rhetorically, but to add to its consideration of the context of these proceedings and the positions taken in the written statements before it. It is only through direct negotiations under the established “land for peace” framework that the Israelis and Palestinians can achieve a durable and secure peace that gives rise to an independent and viable Palestinian State living safely and securely alongside Israel, with both populations enjoying equal measures of freedom, prosperity, and democracy.

³ The United States emphasizes that while Hamas perpetrated this appalling terrorist attack, it is the parties to the Oslo Accords, not Hamas, who are the subject of this Comment and need to negotiate final resolution of the Israeli-Palestinian dispute. See Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, U.N. Doc. A/51/889- S/1997/357 (Sept. 28, 1995) [Dossier No. 1306] (US Written Statement Annex 5); Declaration of Principles on Interim Self-Government Arrangements, U.N. Doc. A/48/486-S/26560 (Sept. 13, 1993) [Dossier No. 1302] (US Written Statement Annex 4); Exchange of Letters between Yitzhak Rabin, Prime Minister of Israel, and Yasser Arafat, PLO Chairman, concerning Israel-PLO Recognition (Sept. 9, 1993), *available at* <https://www.un.org/unispal/document/auto-insert-205528/> (last visited October 20, 2023) (US Written Statement Annex 3).

⁴ See, e.g., Council of the League of Arab States Res. 8987, Ways of Political Action to Stop the Israeli Aggression and Achieve Peace and Security, at ¶ 8 (Oct. 11, 2023), *available at* [مجلس الجامعة مجلس الجامعة \(lasportal.org\)](https://www.lasportal.org/) (last visited October 19, 2023) (underlining “the necessity of reviving the peace process and of initiating serious negotiations between the Palestine Liberation Organization, the sole legitimate representative of the Palestinian people, and Israel to achieve a just peace”); Planalto, *Security Council Meeting on the Israel-Palestinian Conflict* (Oct. 9, 2023), *available at* <https://www.gov.br/planalto/en/latest-news/security-council-meeting-on-the-israeli-palestinian-conflict> (last visited October 20, 2023) (“It also emphasized that unblocking the peace process is extremely urgent. The Brazilian government reiterates its commitment to the two-State solution, through which an economically viable Palestinian State may live peacefully and safely alongside Israel within borders that have been mutually agreed upon and are internationally recognized.”); Saudi Press Agency, *KSA Calls for Immediate Cessation of Violence between Palestinian Factions and Israeli Occupation Forces, Protection of Civilians and Restraint* (Oct. 7, 2023), *available at* <https://spa.gov.sa/en/e1d84d3f40u> (last visited October 20, 2023) (“The Kingdom renews the call of the international community to assume its responsibilities and activate a credible peace process that leads to the two-state solution to achieve security and peace in the region and protect civilians.”); Dep’t of Int’l Rel. and Coop., *South Africa Calls for the Immediate Cessation of Violence, Restraint, and Peace Between Israel and Palestine* (Oct. 7, 2023), *available at* <https://www.dirco.gov.za/south-africa-calls-for-the-immediate-cessation-of-violence-restraint-and-peace-between-israel-and-palestine/> (last visited October 20, 2023) (“The region is in desperate need of a credible peace process that delivers on the calls of a plethora of previous UN resolutions for a two-state solution and a just and comprehensive peace between Israel and Palestine.”).

3. In its resolution 77/247, the General Assembly requested an advisory opinion from this Court on two questions:

(a) What are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures?

(b) How do the policies and practices of Israel referred to . . . above affect the legal status of the occupation, and what are the legal consequences that arise for all States and the United Nations from this status?

4. In its Written Statement of July 25, 2023, the United States provided background on the established “land for peace” framework for achieving negotiated settlement of the Israeli-Palestinian conflict.⁵ The Security Council first set forth this framework in resolutions 242 and 338.⁶ Its interdependent elements recognize that withdrawal of forces relies on and is bound with the termination of belligerency, mutual recognition, and respect for the right to live in peace within secure and recognized boundaries free from threats or acts of force. The parties adopted the framework in their agreements with each other, collectively known as the Oslo Accords.⁷ The Court recognized it in its opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.⁸ And to this day, the Security Council and General Assembly, the principal political organs of the United Nations (UN) responsible for the maintenance of international peace and security, have maintained their determination that direct negotiation on the basis of this framework is the path to comprehensive, just, and lasting peace.⁹

5. The Court has appropriately recognized that its role in rendering an advisory opinion is to assist the requesting UN organ in carrying out its proper functions – while respecting its

⁵ See United States Written Statement, paras. 1.2, 2.1-2.27.

⁶ See S.C. Res. 242, U.N. Doc. S/RES/242 (Nov. 22, 1967) [Dossier No. 1245] (US Written Statement Annex 1); S.C. Res. 338, U.N. Doc. S/RES/338 (Oct. 22, 1973) (US Written Statement Annex 2); United States Written Statement, paras. 2.3-2.6.

⁷ See Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, U.N. Doc. A/51/889-S/1997/357 (Sept. 28, 1995) [Dossier No. 1306] (US Written Statement Annex 5); Declaration of Principles on Interim Self-Government Arrangements, U.N. Doc. A/48/486-S/26560 (Sept. 13, 1993) [Dossier No. 1302] (US Written Statement Annex 4); United States Written Statement, paras. 2.7-2.10, 2.17-2.21.

⁸ See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* [hereinafter *Construction of a Wall*], *Advisory Opinion*, *I.C.J. Reports 2004*, pp. 200-01, ¶¶ 162-63 (noting that the tragic situation in the Middle East “can be brought to an end only through implementation in good faith of all relevant Security Council resolutions, in particular resolutions 242 (1967) and 338 (1973)”).

⁹ See United States Written Statement, paras. 2.11-2.16, 2.24-2.27.

decisions and taking care to avoid a result that could undermine or render those decisions inconsequential.¹⁰ In this proceeding, the Court has been presented with tens of thousands of pages of statements and dossier records, spanning decades of complex historical events. These materials demonstrate the ongoing and central roles of the Security Council and General Assembly in supporting a negotiated resolution of this conflict and establishing the basis upon which to address this danger to international peace and security. A number of statements nonetheless invite the Court to substitute its judgment for that of the Security Council and General Assembly and to decide fundamental aspects of the Israeli-Palestinian conflict. But such an opinion would risk undermining the established negotiating framework that the Security Council and General Assembly have determined, and continue to find, is the basis for resolving the final status issues between the parties and establishing lasting peace and security.¹¹

6. As such, the United States respectfully submits that the Court's advice need not – and should not – seek to resolve every legal claim and factual contention that is alluded to in the many statements before it. Instead, the Court's considered opinion should appropriately serve the decisions, interests, and proper functions of the General Assembly as well as those of the Security Council, which bears the primary responsibility for the maintenance of international peace and security.¹² That is, its advice should support their determination that a

¹⁰ See *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*, Provisional Measures, I.C.J. Reports 1992, Declaration of Judge Ni, pp. 22, 24 (citing *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America)*, Jurisdiction and Admissibility, I.C.J. Reports 1984, pp. 434-35, ¶ 95) (stating that the Court's reference in *Military and Paramilitary Activities* to "complementary functions should not be overlooked" and discussing how the functions of the political and judicial principal organs may address different aspects of the same matter "[b]ut these functions may be correlated with each other. What would be required between the two is co-ordination and co-operation, not competition or mutual exclusion."); *Western Sahara, Advisory Opinion*, I.C.J. Reports 1975, pp. 26-27, ¶¶ 39, 42; *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)* [hereinafter *Namibia*], *Advisory Opinion*, I.C.J. Reports 1971, p. 24, ¶ 32 (determining that issuance of an advisory opinion was not to assist the Security Council in peacefully resolving a dispute between States, but to gain legal advice on the "consequences and implications of these decisions"); *Interpretation of Peace Treaties, Advisory Opinion*, I.C.J. Reports 1950, Separate Opinion of Judge Azevedo, pp. 79, 82; see also 1 MALCOLM N. SHAW, ROSENNE'S LAW AND PRACTICE OF THE INTERNATIONAL COURT 1920-2015, pp. 110-111 (5th ed. 2016); V. Gowlland-Debbas & M. Forteau, *Art. 7 UN Charter*, in THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE – A COMMENTARY 135, p. 147 (A. Zimmermann et al., eds., 3rd ed. 2019); United States Written Statement, paras. 3.5-3.6.

¹¹ See United States Written Statement, paras. 3.16-3.17, 5.1-5.7.

¹² See *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* [hereinafter *Kosovo*], *Advisory Opinion*, I.C.J. Reports 2010, Separate Opinion of Sepulveda-Amor, pp. 492-93, ¶¶ 8-9; *Construction of a Wall, Advisory Opinion*, 2004 I.C.J. at 159, ¶ 49, 200-01, ¶ 162; United States Written Statement, paras. 3.8-3.12; see also *Kosovo, Advisory Opinion*, Dissenting Opinion of Judge Skotnikov, 2010 I.C.J. at 517-18, ¶ 8 (quoting *Jaworzina, Advisory Opinion*, 1923, P.C.I.J., Series B, No. 8, p. 37 ("It is an

comprehensive, just, and lasting resolution to the conflict requires direct negotiation between the parties on the basis of the “land for peace” negotiating framework.¹³

The Court’s Opinion Should Serve the Functions and Interests of the United Nations by Advising the General Assembly within the Parameters of the Negotiating Framework Established by the United Nations

7. The Court’s relationship with the other principal organs of the UN is one of “coordination and functional cooperation in the attainment of the common goals of the Organization.”¹⁴ The Court has been mindful of its function in assisting relevant UN organs in carrying out their tasks and particularly of the respective competencies of the principal political organs in matters of international peace and security.¹⁵ Both the Security Council and General Assembly have determined that the path to a comprehensive, just, and lasting resolution to the Israeli-Palestinian conflict is direct negotiation between the parties on the

established principle that the right to giving an authoritative interpretation of a legal rule belongs solely to the person or body who has power to modify or suppress it”); *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom), Provisional Measures*, Dissenting Opinion of Judge Bedjaoui, 1992 I.C.J. at 145 (“[I]t is as a rule not the Court’s role to exercise appellate jurisdiction in respect of decisions taken by the Security Council in the fulfilment of its fundamental mission of maintaining international peace and security.”).

¹³ See United States Written Statement, paras. 1.4-1.6, 3.1-3.22, 5.1-5.7. As the United States described in its Written Statement: “Despite tragic periods of violence, unilateral actions by both sides, and allegations by each side of the other failing to adhere to its commitments, neither the parties, nor the General Assembly, nor the Security Council have abandoned the central precept that direction negotiation on the basis of ‘land for peace’ is the path to comprehensive, just and lasting peace and security.” United States Written Statement, para. 2.1.

¹⁴ Gowlland-Debbas & Forteau, *supra* note 10, at 146; see *Kosovo, Advisory Opinion*, Separate Opinion of Sepulveda-Amor, 2010 I.C.J. at 492-93, ¶¶ 8-9; *Kosovo, Advisory Opinion*, Dissenting Opinion of Judge Skotnikov, 2010 I.C.J. at 517-18, ¶ 8; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom), Provisional Measures*, Dissenting Opinion of Judge Bedjaoui, 1992 I.C.J. at 145 (“[I]t is as a rule not the Court’s role to exercise appellate jurisdiction in respect of decisions taken by the Security Council in the fulfilment of its fundamental mission of maintaining international peace and security.”); United States Written Statement, paras. 3.5-3.17; see also, e.g., Brazil Written Statement, para. 12; Chile Written Statement, para. 22; Colombia Written Statement, paras. 3.6(ii), 3.13, 5.3; Indonesia Written Statement, para. 22; Liechtenstein Written Statement, para. 16; People’s Republic of China Written Statement, para. 14; Russian Federation Written Statement, paras. 11, 16, 49, 51; Saudi Arabia Written Statement, paras. 15, 18; South Africa Written Statement, paras. 17, 39-41; United Arab Emirates Written Statement, para. 7; United Kingdom Written Statement, paras. 73-80.

¹⁵ See *Kosovo, Advisory Opinion*, 2010 I.C.J. at 421-22, ¶ 42; *Construction of a Wall, Advisory Opinion*, 2004 I.C.J. at 159, ¶ 50; *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations, Advisory Opinion, I.C.J. Reports 1989*, pp. 177, 188-89, ¶ 31; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom), Provisional Measures*, Declaration of Judge Ni, 1992 I.C.J. at 22, 24; *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951*, pp. 15, 19; see also 1 SHAW, *supra* note 10, at 111; Gowlland-Debbas & Forteau, *supra* note 10, at 147; United States Written Statement, para. 3.5-3.6.

basis of the established negotiating framework.¹⁶ The Court should thus ensure that its advisory opinion remains within the framework's parameters and does not undermine it.

8. A broad range of the written statements before the Court likewise recognize that for decades the Security Council and General Assembly have maintained a significant and continuous role in seeking to promote a durable peace between Israelis and Palestinians.¹⁷

¹⁶ See United States Written Statement, paras. 3.8-3.10; see also *Construction of a Wall, Advisory Opinion*, 2004 I.C.J. at 159, ¶ 49 (citing the responsibilities of the United Nations in questions relating to international peace and security, and explaining that, “[w]ithin the institutional framework of the Organization, this responsibility has been manifested by the adoption of many Security Council and General Assembly resolutions” related to the conflict.).

¹⁷ See, e.g., African Union Written Statement, para. 3 (“From the very first resolutions of the UN in this respect to the latest, the situation of Palestine has given rise to hundreds of reports, submissions, resolutions, and comments . . . to, one day, hopefully, achieve a ‘peaceful, just, lasting and comprehensive solution.’”); Chile Written Statement, paras. 11-15 (“The General Assembly has been involved in the question of Palestine since 1947.”); Egypt Written Statement, para. 25 (“The Palestinian case, in all its aspects, has been under active consideration by the General Assembly, both in ordinary, or special sessions, for several decades.”); Guatemala Written Statement, para. 16 (“[T]he General Assembly has indicated that the United Nations has a ‘permanent responsibility towards the question of Palestine until the question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy.’”); Jordan Written Statement, para. 1 (“The United Nations, including the Security Council, [and] the General Assembly . . . have played and continue to play a central role in relation to the issues raised by the request.”); Kuwait Written Statement, para. 8 (“The unique legal, political and spiritual status of Jerusalem has been a special concern of the international community for centuries and for the United Nations since its establishment.”); Liechtenstein Written Statement, para. 5 (“[T]he dispute over the situation in the Middle East . . . has been on the agenda of the United Nations since its very inception.”); Malaysia Written Statement, para. 18 (“As the Court noted in the Wall Advisory Opinion, the General Assembly has affirmed that the United Nations has ‘a permanent responsibility towards the question of Palestine.’”); Maldives Written Statement, para. 9 (“The Maldives is deeply concerned that the Palestine issue remains unresolved despite decades of efforts by the UN and its Member States.”); Mauritius Written Statement, para. 5 (“[T]he questions plainly concern matters relating to the subject of Palestine on which the General Assembly in particular, and the United Nations as a whole, have exercised a special, enduring and ongoing responsibility since at least 1947.”); Morocco Written Statement, at p. 2; Namibia Written Statement, para. 16(a) (“At least since Resolution 181(II) of 1947, the question of Palestine has been a central aspect of the General Assembly’s work.”); People’s Republic of China Written Statement, paras. 5, 13 (“The question of Palestine has always been an important work of the UN since its founding. For more than 70 years, the UN has approached the question of Palestine as a matter of international peace and security. The UN Security Council and General Assembly have adopted numerous resolutions in this regard.”); Russian Federation Written Statement, para. 52 (“Ever since General Assembly Resolution 181, the United Nations has spared no effort to ensure the realization of the right of Israeli and the Palestinian peoples to self-determination and to achieve a lasting two-State solution with an independent, viable and contiguous Palestinian State peacefully co-existing with Israel. It is within the United Nations, or at least under its auspices, that the universally recognized legal basis for a Palestinian-Israeli settlement has been established. It includes Security Council resolutions 242, 338, 1397, 1515, 1850, and has been most recently spelled out in Resolution 2334.”); Saudi Arabia Written Statement, paras. 18, 24, 26 (“Since the very commencement of the occupation in June 1967, the U.N. Security Council and the U.N. General Assembly have adopted repeated resolutions.”); South Africa Written Statement, para. 13 (“[T]he United Nations General Assembly is competent to request the advisory opinion from the Court in terms of the Charter of the United Nations on a matter that falls within its competence and responsibility and with which it has been seized since the inception of the United Nations.”); Switzerland Written Statement, para. 16 (“L’Assemblée générale a concrétisé cette responsabilité se saisissant du « Problème de la Palestine » dès 1947 et en adoptant de nombreuses résolutions depuis.”); United Arab Emirates Written Statement, paras. 17-19; United States Written Statement, paras. 2.1-2.15, 3.11-3.17; Yemen Written Statement, paras. 9, 29 (“[T]he question of Palestine has remained on the agenda of the Organization since its establishment.”); see also, e.g., S.C. Res. 2334, ¶¶ 9-10, U.N. Doc. S/RES/2334 (Dec. 23, 2016) [Dossier No. 1372]; S.C. Res. 1850, U.N. Doc. S/RES/1850 (Dec. 16, 2008) [Dossier No. 1354]; S.C. Res. 1515, ¶¶ 1-2, U.N. Doc. S/RES/1515 (Nov. 19, 2003) [Dossier No. 1337]; S.C. Res. 1397, ¶ 2, U.N. Doc.

Many of these statements specifically acknowledge and confirm their own support for the “land for peace” negotiating framework that the Security Council first established and that these principal political organs of the UN continue to endorse.¹⁸ The statements identify the critical historical context of relevant Security Council and General Assembly decisions and recommendations, as well as of the Israeli-Palestinian agreements in which the parties adopted the established framework and committed themselves to negotiate the final status issues at the

S/RES/1397 (Mar. 12, 2002) [Dossier No. 1316]; U.N. President of the S.C., Statement by the President of the Security Council, 2023/1, U.N. Doc. S/PRST/2023/1 (Feb. 20, 2023) [Dossier No. 1400]; Dossier Nos. 252-72 (“The Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources”); 353-81 (“The right of the Palestinian people to self-determination”); 403 & 405 (“International Peace Conference on the Middle East”); 406-409 (“Question of Palestine”); 490-516 (“Peaceful settlement of the question of Palestine”); 811-36 (“Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem”).

¹⁸ See, e.g., Canada Written Statement, paras. 5-7 (“Canada’s longstanding view is that it is only through direct negotiation between the parties that a lasting peace can be achieved.”); Chile Written Statement, para. 5 (“[A] solution to the Israeli-Palestinian conflict lies in fruitful and direct negotiations between Palestine and Israel.”); Czech Republic Written Statement, at p. 1 (“As the Czech Republic has repeatedly stressed . . . it fully supports aspirations for Palestinian statehood in a fully negotiated solution.”); Fiji Written Statement, at pp. 2-3 (“The Government of Fiji considers it essential to maintain and uphold the binding legal framework established specifically to resolve the Palestinian-Israeli conflict, both by the United Nations Security Council and by the parties to the Oslo Accords.”); France Written Statement, paras. 14, 98 (“[L]a France souhaite rappeler son attachement à un règlement juste et durable du conflit israélo-palestinien fondé sur le droit international, les résolutions pertinentes du Conseil de sécurité des Nations Unies et les paramètres internationalement agréés. La France réitère son soutien constant à une solution négociée à deux États.”); Guatemala Written Statement, para. 46 (“Such a mandatory framework enjoys the endorsement of the international community and of the Security Council.”); Hungary Written Statement, paras. 20-30 (“Hungary has also reaffirmed its commitment on numerous occasions to finding a solution to the conflict based on negotiations between the parties.”); Italy Written Statement, paras. 1-3 (“The Government of the Italian Republic would like to recall the longstanding support by the United Nations for the principle of negotiations as the only path to resolving the Israeli-Palestinian conflict, on the basis of the ‘land for peace’ principle first established in UN Security Council resolution 242 (1967) . . . the matter . . . can only be solved through negotiations.”); Morocco Written Statement, at p. 4 (“The settlement of the Israeli-Palestinian conflict through dialogue and negotiation, namely Security Council resolutions 242 and 338, remains the keystone for lasting peace and stability in the Middle East.”); Russian Federation Written Statement, paras. 43, 52-55 (“Any advisory opinion that the Court will deliver will have to be in line with this framework and contribute to its implementation.”); Spain Written Statement, para. 1.2 (“The Spanish abstention is consistent with the understanding—which underlies Spanish foreign policy since the Madrid Conference in 1991—that the materialization of the two-state solution and its sustainability is a political question that can only be the result of a negotiated process between the parties within the framework of applicable UNSC resolutions.”); Switzerland Written Statement, paras. 5-6 (“La Suisse est convaincue que seule une solution à deux États, négociée par les deux parties, conformément au droit international et aux paramètres convenus au niveau international, y compris les résolutions du Conseil de sécurité de l’ONU, peut conduire à une paix durable entre Israéliens et Palestiniens.”); United Kingdom Written Statement, paras. 4, 5.3, 10-30, 44-46 (“The United Kingdom’s vision of a two-State solution is consistent with both the principles recognized in the relevant Security Council resolutions and with the parties’ existing agreements.”); Zambia Written Statement, at p. 1 (“Israel, the Palestinians, and the broader international community have long accepted and repeatedly reaffirmed that a peaceful resolution of the Israeli-Palestinian conflict can only be achieved through direct bilateral negotiations . . . The Republic of Zambia fully supports this recognized and established legal framework for the resolution of the Israeli-Palestinian conflict.”); see also United States Written Statement, paras. 2.3-2.16, 2.22-2.27.

core of their conflict.¹⁹ Many express, as the Court did in *Construction of a Wall*,²⁰ that *only through* direct negotiations between the parties and the implementation in good faith of Security Council resolutions 242 and 338, can a durable end to the conflict be brought about.²¹

¹⁹ See, e.g., Czech Republic Written Statement, at p. 1 (“The Czech Republic is therefore of the view that the questions on which the Court has been requested to give its advisory opinion, should be seen in a larger context, in particular in the said framework of the efforts to reach a negotiated solution, including Resolutions 242 (1967) and 338 (1972) of the United Nations Security Council.”); Fiji Written Statement, at pp. 2-3 (“At the invitation of the Arab Republic of Egypt, on 19 March 2023 Jordanian, Israeli, Palestinian and U.S. political and security senior officials met in Sharm El Sheikh. The Government of Israel and the Palestinian Authority reaffirmed, their ‘unwavering commitment to all previous agreements between them . . . and agreement to address all outstanding issues through direct dialogue.’”); France Written Statement, paras. 22, 98 (“[L]’obligation pesante sur Israël et sur la Palestine au titre de la Charte des Nations Unies et du droit international coutumier de résoudre pacifiquement leur différend en s’engageant dans la voie de négociations de paix et en mettant en oeuvre les résolutions pertinentes des Nations Unies.”); Hungary Written Statement, paras. 13-15, 20-30 (“[I]t is important to uphold the existing legal framework, which establishes dispute resolution means and viable ways of communication between the parties and reflects their commitment to settle the remaining issues . . . by way of negotiation in line with Article V of the Declaration of Principles on Interim Self-Government Arrangements.”); Italy Written Statement, paras. 1-2 (“[T]he ‘land for peace’ principle first established in UN Security Council resolution 242 (1967) . . . has laid the foundation for agreements such as the Egypt-Israel Treaty of Peace in 1978, the Israel-Jordan Treaty of Peace of 1994 and the Declaration of Principles of 13 September 1993 in which Israelis and Palestinians committed themselves, *inter alia*, to negotiating between them the resolution of the conflict. This principle has been upheld by all relevant UN Security Council resolutions, in particular resolutions 242 (1967) and 338 (1973).”); Nauru Written Statement, paras. 3-4, 5-19 (“[T]he Court should reaffirm the established legal framework for the resolution of the Israeli-Palestinian conflict. If the Court, in its discretion, finds it appropriate to render an advisory opinion, then the advisory opinion should encourage and assist both parties to uphold their legal commitments under the bilateral agreements.”); Russian Federation Written Statement, paras. 43, 52-55; Spain Written Statement, para. 1.4; United Kingdom Written Statement, paras. 4, 5.3, 10-30, 71-72 (“Rendering an advisory opinion in the circumstances of this case would be contrary to the negotiation framework specifically agreed by the parties and endorsed by both the Security Council and the General Assembly, and would be in conflict with the relevant Israeli-Palestinian agreements.”); Zambia Written Statement, at pp. 1-2 (“The ICJ . . . should not undermine the legal agreement that the parties have accepted as binding on them for the resolution of the conflict.”); see also, e.g., United Arab Emirates Written Statement, paras. 15-21 (“The Security Council has on numerous occasions stressed the need for a negotiated process.”); United States Written Statement, paras. 2.1-2.27.

²⁰ *Construction of a Wall, Advisory Opinion*, 2004 I.C.J. at 200-01, ¶¶ 162-63.

²¹ See, e.g., African Union Written Statement, para. 4 (“[T]he African Union has persistently maintained that ‘[p]rogress cannot be made . . . unless both parties agree on a way forward, together, based on relevant UN resolutions, international law and joint agreements.’”); Canada Written Statement, paras. 5-7 (“Canada continues to recognize UN Security Council resolutions (UNSCR) 242 and 338 as the basis for peace negotiations towards a comprehensive settlement of the conflict.”); Colombia Written Statement, paras. 3.17, 4.11 (“Colombia has always maintained that a solution to the situation between both States can only be reached by a common understanding born out of peaceful and meaningful negotiations . . . [T]he ways of dialogue are the only possible route that would allow a peaceful solution to the conflict.”); Czech Republic Written Statement, at p. 2 (“The negotiated solution continues to remain the only path to ending the conflict.”); Guatemala Written Statement, para. 29 (“Guatemala contends that the final settlement of the Israel-Palestine dispute will only be achieved through bilateral negotiations.”); Italy Written Statement, paras. 1-3 (“The Government of the Italian Republic follows with great concern recent developments, marked by a lack of progress, unilateral actions, further deterioration in trust between the parties and phases of increased violence. This state of things, however, only highlights the essentially political nature of the matter, which can only be solved through negotiations.”); Japan Written Statement, para. 2 (“Japan emphasizes that the conflict between the Israeli and the Palestinian sides including the final status of Jerusalem can be resolved only through negotiations and efforts to build mutual trust among the parties to the conflict.”); Jordan Written Statement, para. 1.17 (referring to “Jordan’s efforts in working towards a just, lasting and comprehensive settlement of the Palestinian question, based on the relevant UN resolutions, including Security Council resolutions 242 (1967), 338 (1973) and 2334 (2016)”); Morocco Written

And other statements join the United States in specifically urging the Court to judiciously approach rendering an opinion so as to protect and advance the prospect of the negotiated peace envisioned by the Security Council and General Assembly, even in the event that the Court opines on violations of international law.²²

9. This said, the United States observes with concern²³ that certain submissions appear to urge the Court to issue an advisory opinion to the General Assembly that decides issues at the very heart of the Israeli-Palestinian dispute, including the ultimate status of the territory in

Statement, at p. 4 (“The settlement of the Israeli-Palestinian conflict through dialogue and negotiation, namely Security Council resolutions 242 and 338, remains the keystone for lasting peace and stability in the Middle East.”); Norway Written Statement, at p. 2 (“Norway believes that a lasting, peaceful solution to the Israeli-Palestinian conflict must be found through political negotiations.”); Spain Written Statement, para. 8.1 (“Spain firmly believes in the need to materialize the two-State solution through a negotiated process, as it is the only answer to the legitimate national aspirations of Palestinians and Israelis.”); Switzerland Written Statement, para. 6 (“La Suisse est convaincue que seule une solution à deux États, négociée par les deux parties . . . peut conduire à une paix durable entre Israéliens et Palestiniens.”); United Arab Emirates Written Statement, paras. 14-21; United Kingdom Written Statement, para. 4 (“By those agreements, the parties accept that a comprehensive negotiated settlement is required in order to achieve the end of the Israeli occupation.”); Zambia Written Statement, at pp. 1-2 (“The Republic of Zambia’s position is that good faith negotiations between the two sides, anchored in the established legal framework for the resolution of their conflict, remain the only viable path to peace, security and prosperity in the region.”).

²² See, e.g., Canada Written Statement, para. 21 (“Canada is concerned that the issuance of an advisory opinion on Israeli practices in the occupied territories may contribute to a polarization of positions that risks moving the parties further away from a just and lasting resolution to the conflict.”); Czech Republic Written Statement, at p. 2 (“[T]he answers should not be construed as allowing departure from the established legal framework.”); Guatemala Written Statement, paras. 46-48 (“Any development will provoke ripples that will resonate and provoke reactions . . . Guatemala wishes to request the Court that any advisory opinion it may decide to furnish carefully considers the above-mentioned negotiations framework and contribute to its prompt implementation.”); Italy Written Statement, paras. 5-6 (“Italy respectfully submits that the Court carefully consider how to exercise its functions in a manner consistent with the responsibilities and stated interests of the General Assembly and Security Council, so as to preserve the parties’ ability to negotiate peace and a two-State solution consistent with the framework established in U.N. Security Council resolutions.”); Russian Federation Written Statement, paras. 5, 58-59 (“The task of the Court is to give a legal assessment . . . in a way that would help, rather than further complicate, finding long-term solutions . . . [T]he Court, whatever advisory opinion it may give, should strive to ensure that the opinion contributes to the task of creating conditions for successful final status negotiations, or, at minimum, that the opinion does not create new obstacles to these negotiations.”); United Kingdom Written Statement, paras. 50.3, 69-72 (“[T]here is an objective basis for the Court to conclude that answering the General Assembly’s request for an advisory opinion on this occasion would conflict with . . . the parties’ agreed framework for resolving the dispute.”); Zambia Written Statement, at p. 2 (“[A]nd should not in any way prejudice the outcome of bilateral negotiations by Israelis and Palestinians on security arrangements, the scope of Palestinian self-determination, and any other ‘permanent status’ issue.”); see also *Construction of a Wall, Advisory Opinion*, 2004 I.C.J. at 201, ¶ 162 (noting the need for “efforts to be encouraged with a view to achieving as soon as possible, on the basis of international law, a negotiated solution to the outstanding problems and the establishment of a Palestinian State, existing side by side with Israel and its other neighbors, with peace and security for all in the region.”).

²³ Similar concerns were expressed in other Written Statements. See, e.g., Canada Written Statement, paras. 12-16 (“It is clear that the questions posed to the Court . . . lie at the heart of the issues to be resolved between Israel and the Palestinians.”); Fiji Written Statement, at p. 4; Guatemala Written Statement, para. 39; Russian Federation Written Statement, paras. 5, 58-59 (“The present request for an advisory opinion strikes at the very heart of the contradictions between Israel and Palestine.”); United Kingdom Written Statement, paras. 3, 5.1-5.4, 52-61, 66; see also United States Written Statement, paras. 3.1-3.22, 5.1-5.7.

question. But such an opinion would be at odds with the decisions and recommendations adopted by the Security Council and General Assembly in the course of exercising their responsibilities under the UN Charter by undermining the negotiating framework that they have determined is needed to achieve a peaceful, just, lasting, and comprehensive solution.

10. Of critical importance, such written statements fail to appropriately consider the full import of the established negotiating framework and, particularly, the decisions and recommendations of the Security Council and the General Assembly to address the conflict on that basis. For instance, some statements refer to elements of the framework – including the history of “land for peace,”²⁴ Security Council resolutions 242 and 338,²⁵ the Madrid Conference Terms of Reference,²⁶ the Oslo Accords,²⁷ and the Roadmap for Peace²⁸ – but many of these ask the Court to render an opinion that could dismantle the “land for peace” paradigm, calling for immediate and unconditional Israeli withdrawal. Others cite the lines of Security Council and General Assembly resolutions that establish and support the longstanding negotiating framework, but focus only on select elements of those resolutions, for instance, provisions urging withdrawal of forces, without appropriately acknowledging the provisions that reinforce the other essential elements of the framework.²⁹

11. Ultimately, these approaches fundamentally fail to address correctly the established framework and its “land for peace” principle, which recognizes the interdependence between *both* the withdrawal of forces from occupied territory *and* the end to conflict and respect and acknowledgement of the sovereignty, territorial integrity, and political independence of every State in the area, and the right of each State to live in peace within secure and recognized

²⁴ See, e.g., Cuba Written Statement, at p. 20; Egypt Written Statement, para. 88; Jordan Written Statement, para. 4.15.

²⁵ See, e.g., Arab League Written Statement, paras. 63-66; Egypt Written Statement, paras. 76-81; Palestinian Written Statement, para. 1.25; South Africa Written Statement, para. 54.

²⁶ See Egypt Written Statement, paras. 87-88; Jordan Written Statement, paras. 3.21-3.23.

²⁷ See, e.g., Cuba Written Statement, at p. 7; Egypt Written Statement, para. 87; Jordan Written Statement, paras. 1.19, 3.24-3.31; Maldives Written Statement, para. 30(c); Palestinian Written Statement, paras. 1.32-33; Qatar Written Statement, paras. 2.75, 2.100, 3.12, 3.49; South Africa Written Statement, para. 7; Türkiye Written Statement, at pp. 2-3.

²⁸ See Egypt Written Statement, para. 87; South Africa Written Statement, paras. 7, 36; see also United Arab Emirates Written Statement, para. 16.

²⁹ See, e.g., Arab League Written Statement, paras. 133-34; Cuba Written Statement, at p. 20; Guyana Written Statement, paras. 20-21; Jordan Written Statement, paras. 4.31-4.33; People’s Republic of China Written Statement, para. 13; Qatar Written Statement, para. 5.90; Saudi Arabia Written Statement, para. 26; Syria Written Statement, para. 15; Türkiye Written Statement, at pp. 2, 13.

borders.³⁰ The Security Council, which bears primary responsibility for the maintenance of international peace and security, and the General Assembly, which requested the Court's advice, have determined that resolution of the conflict requires direct negotiation on the basis of this established negotiating framework. The United States thus urges the Court to proceed with caution: an opinion that adopts these or similar arguments would be inconsistent with the determinations of the Security Council and General Assembly regarding the need for a negotiated two-State solution on the basis of the existing framework.³¹ As it did in *Construction of a Wall*, it is essential that the Court continue to give due regard to the responsibilities and decisions of the General Assembly and Security Council and issue its opinion within the established negotiating framework.³²

Further Observations, Including on the Law of Occupation

12. The recent attacks illustrate the dangers of delaying a comprehensive, just, and lasting resolution to the conflict, and that it remains vital to the security of Israel, the Palestinians, and the region to avoid any step that may interfere with negotiation within the established framework based on the principle of "land for peace." The U.S. position, as explained above and more fully in our prior submission, is that the Court should not render an opinion that would appear to dictate the final status issues the parties have agreed to negotiate within the framework created and supported by the Security Council and General Assembly.³³ For this reason, the United States does not address each and every one of the assertions and underlying

³⁰ See United States Written Statement, para. 1.4.

³¹ See United States Written Statement, paras. 2.3-2.16, 2.22-2.27, 3.5-3.17.

³² See United States Written Statement, paras. 3.5-3.17; see also Canada Written Statement, para. 21 ("While not legally binding, an advisory opinion could impact the outcome of the negotiation framework established by the UN Security Council."); Czech Republic Written Statement, at p. 2 ("[T]he answers should not be construed as allowing departure from the established legal framework already established for putting an end to decades of confrontation and conflict, as precisely stated in the Declaration of Principles on Interim Self-Government Arrangements."); Italy Written Statement, paras. 5-6 ("[S]hould the Court decide to render its opinion, Italy respectfully submits that the Court carefully consider how to exercise its functions in a manner consistent with the responsibilities and stated interests of the General Assembly and Security Council."); Russian Federation Written Statement, paras. 58-59 ("What is clear . . . is that the Court, being a Principal Organ of the United Nations whose advisory opinion 'represents its participation in the activities of the Organization,' should at the very least take account of the above-mentioned decisions of the Security Council and the corresponding vision of the General Assembly."); United Arab Emirates Written Statement, para. 113; United Kingdom Written Statement, paras. 69-72.

³³ See United States Written Statement, para. 3.7; *Construction of a Wall, Advisory Opinion*, 2004 I.C.J. at 200-01, ¶ 162.

assumptions in the written statements and record before the Court, including those with which it disagrees.³⁴

13. The United States will, however, briefly comment on arguments contending that the Israeli military occupation, including such presence in the West Bank, is unlawful or void.³⁵ Having considered these submissions,³⁶ the United States' view is that such arguments are inconsistent with established principles of international law. The United States respectfully submits, as it did in its Written Statement, that international law does not provide for an occupation to itself be rendered unlawful or void based on any of the grounds posited.³⁷ Indeed, as the United States explained in its Written Statement, the legal *status* of an occupation under international humanitarian law results from the fact of occupation alone.³⁸ Although international humanitarian law imposes obligations on belligerents in their conduct of an occupation, it does not provide for the legal status of occupation to be lawful or unlawful.

14. The United States further notes that when making such arguments, certain statements seek to draw parallels between the present case and the *Namibia* and *Chagos* advisory opinions.³⁹ However, those cases arose in critically different contexts, including differences

³⁴ The United States does note that certain concepts may be characterized as reflecting international law or legal findings but are not settled as such. This includes, but is not limited to, aspects of the International Law Commission Draft Articles on State Responsibility for Internationally Wrongful Acts, such as Draft Articles 40 and 41. *See, e.g.*, Ireland Written Statement, para. 50 (“Article 41 of the Draft Articles, which reflects customary international law”); United Arab Emirates Written Statement, paras. 89, 91-93 (“[T]he same obligations apply to all States under the principles reflected in Articles 40 and 41 of the Articles on State Responsibility for Internationally Wrongful Acts (‘ARSIWA’).”).

³⁵ *See, e.g.*, Arab League Written Statement, paras. 7-8, 40-75, 93, 128-32; Bangladesh Written Statement, para. 9; Belize Written Statement, para. 31; Chile Written Statement, para. 119; Colombia Written Statement, para. 4.7; Indonesia Written Statement, paras. 51-52; Malaysia Written Statement, para. 62; Palestinian Written Statement, paras. 6.1-6.19; South Africa Written Statement, para. 4; The Gambia Written Statement, paras. 1.5-1.35.

³⁶ The United States notes that certain arguments appear to suggest that Israel's creation in 1948 was itself unlawful or void. *See* Arab League, para. 13 (referring to denial of Palestinian self-determination since the creation of Israel in 1948); Palestinian Written Statement, paras. 1.18-1.23 (“Israel has thus, since its establishment and its subsequent attainment of Membership of the United Nations, been in breach of the United Nations Charter and its relevant resolutions.”). But suggestions that delegitimize Israel's existence have no place before the Court, and the United States continues to emphasize the need for fair and equal treatment of Israel and all other UN Member States in the UN system.

³⁷ International law does, however, provide frameworks for assessing the lawfulness of a use of force leading to an occupation, or specific conduct during an occupation.

³⁸ United States Written Statement, paras. 4.2-4.3.

³⁹ *See, e.g.*, African Union Written Statement, paras. 118, 252; Arab League Written Statement, paras. 125-26; Bangladesh Written Statement, paras. 23-25; Belize Written Statement, paras. 17, 21-22, 95-98, 103-04; Guyana Written Statement, para. 35; Indonesia Written Statement, paras. 14-17; Jordan Written Statement, paras. 5.15-5.16; Kuwait Written Statement, paras. 15-18; Maldives Written Statement, paras. 44, 46; Mauritius Written Statement, paras. 18-22; South Africa Written Statement, para. 140; The Gambia Written Statement, paras. 1.20, 1.33-1.35.

with respect to the role of the principal political organs of the United Nations.⁴⁰ In *Chagos*, the Court advised on what it found to be an incomplete process of decolonization as to which neither the Security Council nor the General Assembly had taken particular action, such as adopting a negotiating framework like that established in Security Council resolutions 242 and 338.⁴¹ In *Namibia*, the Court considered South Africa's refusal to withdraw from South West Africa after the General Assembly terminated the Mandate that served as the basis for its presence and the Security Council called upon South Africa to withdraw immediately.⁴²

15. But here, in marked contrast, the questions presented relate to Israel's presence and activities in the territory following the 1967 Arab-Israeli War to which the Security Council responded not by ordering immediate and unconditional withdrawal, but instead by adopting a framework for a negotiated resolution based upon the principle of "land for peace." And since then, the Security Council, as well as the General Assembly, have continued to find that only through direct negotiations and the fulfillment of resolutions 242 and 348 can peace be achieved in the region.⁴³ The Court in *Construction of a Wall* noted this same point.⁴⁴ As such, the United States submits that such arguments do not advance the Court's consideration of the questions presented in this proceeding which, as noted, should continue to be guided by the consistent support of the Security Council and General Assembly for the established negotiating framework.

⁴⁰ See Brazil Written Statement, para. 31; Mauritius Written Statement, para. 18 (drawing parallels among these cases but recognizing the distinction among mandatory, colonial, and occupying powers).

⁴¹ See *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, *Advisory Opinion*, I.C.J. Reports 2019, pp. 117-18, ¶ 86 (citing *Western Sahara, Advisory Opinion*, 1975 I.C.J. at 26-27, ¶ 39); *id.* at 131, ¶ 134, 144, ¶ 160.

⁴² *Namibia, Advisory Opinion*, 1970 I.C.J. at 51, ¶ 106, 45, ¶ 86 ("Lacking the necessary powers to ensure the withdrawal of South Africa from the Territory, [the General Assembly] enlisted the cooperation of the Security Council . . . [T]he General Assembly adopted resolution 2145 (XXI) on the termination of the Mandate for South West Africa. Subsequently the Security Council adopted resolution 276 (1970), which declared the continued presence of South Africa in Namibia to be illegal"); see also *id.* at 46, ¶ 94 ("As the Court indicated in 1962 'this Mandate, like practically all other similar Mandates' was 'a special type of instrument . . . instituting a novel international regime.'").

⁴³ Unlike in the situation of South West Africa where the Security Council's resolutions (following General Assembly actions) directed South Africa to withdraw, the Security Council's resolutions as relevant to Israeli Palestinian peace have urged the preservation of a two-state solution and called actions void that imperil that, but never called for immediate and unconditional withdrawal. See, e.g., S.C. Res. 2334, pmb., ¶¶ 1-4, U.N. Doc. S/RES/2334 (Dec. 23, 2016) [Dossier No. 1372]. Rather, the Security Council has endorsed and urged the parties to negotiate. See, e.g., S.C. Res. 1850, pmb., ¶¶ 1-5, U.N. Doc. S/RES/1850 (Dec. 16, 2008) [Dossier No. 1354].

⁴⁴ *Construction of a Wall, Advisory Opinion*, 2004 I.C.J. at 200-01, ¶ 162.

Final Observations

16. The United States respectfully submits that for the Court to properly serve its function to advise the General Assembly with due regard to the responsibilities and decisions of the principal political organs of the UN, it should render its opinion consistent with its approach in *Construction of a Wall*, and do so within the parameters of the established negotiating framework that the Security Council and General Assembly have determined is the path to a comprehensive, just, and lasting peace. The United States notes that the written statements that advocate for extensive and granular legal findings, including on matters that would go directly to the permanent status issues that the parties have committed to negotiate, and that would strike at the foundation of the “land for peace” principle, fail to appropriately consider relevant UN resolutions and the role of the Court. Advice that prejudices permanent status issues reserved for direct negotiation, such as the status of the territory, borders, and security arrangements, would not advance the objectives of the established negotiating framework, help develop the conditions for a negotiated peace, or ultimately serve the interests and functions of the United Nations. That the questions before the Court are framed to encompass and seek legal conclusions about the acts of only one party to the dispute also reinforces the need for caution and careful consideration of the referral itself, and the appropriate scope of the Court’s deliberations.

17. There is an urgent need now to reverse trends on the ground and create the conditions necessary for negotiation between the parties.⁴⁵ This urgency is underscored by recent events, as participants in this proceeding have recognized in their statements in the immediate aftermath of the horrifying terrorist attack and atrocities committed by Hamas against Israeli civilians on October 7.⁴⁶ Hamas’ actions also show its ongoing disregard for Palestinian lives.

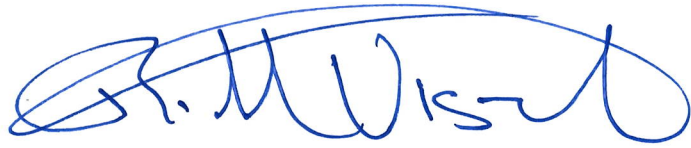
⁴⁵ The United States reiterates that the key parties to such negotiation are the parties to the Oslo Accords, not Hamas.

⁴⁶ See, e.g., Council of the League of Arab States Res. 8987, Ways of Political Action to Stop the Israeli Aggression and Achieve Peace and Security, at ¶ 8 (Oct. 11, 2023), available at [مجلس الجامعة مجلس الجامعة \(lasportal.org\)](https://www.lasportal.org) (last visited October 19, 2023) (underlining “the necessity of reviving the peace process and of initiating serious negotiations between the Palestine Liberation Organization, the sole legitimate representative of the Palestinian people, and Israel to achieve a just peace”); Planalto, *Security Council Meeting on the Israel-Palestinian Conflict* (Oct. 9, 2023), available at <https://www.gov.br/planalto/en/latest-news/security-council-meeting-on-the-israeli-palestinian-conflict> (last visited October 20, 2023) (“It also emphasized that unblocking the peace process is extremely urgent. The Brazilian government reiterates its commitment to the two-State solution, through which an economically viable Palestinian State may live peacefully and safely alongside Israel within borders that have been mutually agreed upon and are internationally recognized.”); The Ministry of Foreign Aff. of the Russian Fed’n, *Comment by Foreign Ministry Spokeswoman Maria Zakharova on the Sharp Escalation of the Palestinian-Israeli Conflict* (Oct. 7, 2023), available at https://mid.ru/en/foreign_policy/news/1907962/ (last visited October 20, 2023) (“[W]e would like to reaffirm our principled and consistent stance that this conflict,

But it is precisely in these times that the international community must fight hardest to preserve a horizon of hope. Within this context, the Court’s opinion should not undermine the implementation of the Security Council and General Assembly-supported framework for Israelis and Palestinians to negotiate with each other a final peace. Indeed, the Court should once again, as it did in *Construction of a Wall*, reinforce the existing negotiating framework and emphasize the need for the parties to engage constructively, as envisioned by the Security Council and General Assembly, to once and for all create a comprehensive, just, and lasting peace.

which has continued for 75 years, cannot be resolved by force and can be settled exclusively by political and diplomatic means, by engaging in a full-fledged negotiation process based on the well-known international legal framework stipulating the establishment of an independent Palestinian state within the 1967 borders with a capital in East Jerusalem that co-exists with Israel in peace and security.”); Saudi Press Agency, *KSA Calls for Immediate Cessation of Violence between Palestinian Factions and Israeli Occupation Forces, Protection of Civilians and Restraint* (Oct. 7, 2023), available at <https://spa.gov.sa/en/e1d84d3f40u> (last visited October 20, 2023) (“The Kingdom renews the call of the international community to assume its responsibilities and activate a credible peace process that leads to the two-state solution to achieve security and peace in the region and protect civilians.”); Dep’t of Int’l Rel. and Coop., *South Africa Calls for the Immediate Cessation of Violence, Restraint, and Peace Between Israel and Palestine* (Oct. 7, 2023), available at <https://www.dirco.gov.za/south-africa-calls-for-the-immediate-cessation-of-violence-restraint-and-peace-between-israel-and-palestine/> (last visited October 23, 2023) (“The region is in desperate need of a credible peace process that delivers on the calls of a plethora of previous UN resolutions for a two-state solution and a just and comprehensive peace between Israel and Palestine.”); United Arab Emirates Ministry of Foreign Aff., *In a Statement, the Ministry of Foreign Affairs has Called for the Protection of Civilians and Stressed that the Immediate Priority is to End the Violence and Protect the Civilian Population* (Oct. 8, 2023), available at <https://www.mofa.gov.ae/en/mediahub/news/2023/10/8/8-10-2023-uae-population> (last visited October 20, 2023) (“[T]he UAE remains in close contact with all regional and international partners to . . . [foster] a return to negotiations for a final settlement within the parameters of the two state solution for Palestinians and Israelis, who deserve to live in peace and dignity.”).

Respectfully submitted,

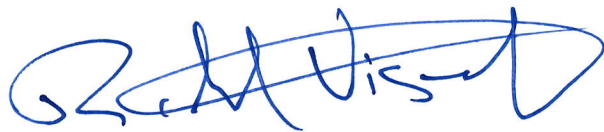
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Richard C. Visek
Acting Legal Adviser
United States Department of State

October 25, 2023

CERTIFICATION

I, Richard C. Visek, representative of the United States of America, hereby certify that the copies of these written comments are true copies of the originals.

A handwritten signature in blue ink, appearing to read "Richard C. Visek". The signature is stylized and cursive, with a large initial "R" and "V".

Richard C. Visek
Acting Legal Adviser
United States Department of State

October 25, 2023