

# THE U.S. AND “DEFENSIBLE BORDERS”: HOW WASHINGTON HAS UNDERSTOOD UN SECURITY COUNCIL 242 AND ISRAEL'S SECURITY NEEDS

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## **U.S. Policy Does Not Seek Israel's Return to the 1967 Lines**

The United States has historically backed Israel's view that UN Security Council Resolution 242, adopted in the wake of the Six-Day War on November 22, 1967, does not require a full withdrawal to the 1949 armistice lines (sometimes loosely called the 1967 borders). Moreover, in addition to that interpretation, both Democratic and Republican administrations have argued that Israel was entitled to “defensible borders.” In other words, the American backing of defensible borders has been bipartisan, right up to the latest rendition provided by President George W. Bush in April 2004. And it has been rooted in America's longstanding support for the security of Israel, which has gone well beyond the various legal interpretations of UN resolutions.

Why is the U.S. position so important to consider? First, while it is true that ultimately Israel and the Palestinians themselves must decide on the location of borders as part of any negotiation, the U.S. position on borders directly affects the level of expectation of the Arab side regarding the depth of the Israeli concessions they can obtain. To the

extent that the U.S. limits its demands of Israel through either presidential declarations or statements of the secretary of state, then the Arab states and the Palestinian Arabs will have to settle for less in terms of any Israeli withdrawal. U.S. declaratory policy, then, fundamentally affects whether Arab-Israeli differences can ultimately be bridged at the negotiating table or whether they simply remain too far apart.

Second, there is a related dynamic. Historically, Arab diplomats have preferred to extract Israeli concessions through international bodies, like the UN, or even through the U.S., thereby limiting the direct concessions they must make to Israel. According to this scenario, the UN, with U.S. acquiescence, could set the terms of an Israeli withdrawal in the West Bank that Israel would be pressured to fulfill with only minimal bilateral commitments provided by the Arab states. In fact, it was Egyptian President Anwar Sadat who used to say that the U.S. “holds 99 percent of the cards” in the peace process, before he signed the Israel-Egypt Treaty of Peace in 1979. Therefore, if the Arab states understand that the U.S. won't just deliver Israel according to their liking, then they will be compelled to deal with Israel directly.

The United Nations  
Security Council in  
session, May 23, 2002.



## Confusion in Jerusalem about the U.S. Position

Yet despite the critical importance of America's traditional support for Israel's understanding of Resolution 242, historically there has been considerable confusion in Jerusalem about this subject. All too frequently, Israeli diplomats err in asserting that, according to the U.S., Israel must ultimately pull back to the 1967 lines, with perhaps the addition that minor border modifications will be allowed. Those Israelis who take this mistaken position about U.S. policy tend to conclude that Israel has no alternative but to accept this policy as a given, and thereby concede Israel's right to defensible borders.

## Over time, successive U.S. administrations have issued explicit declarations rejecting an Israeli pullback to the 1967 lines and backing Israel's right to defensible borders instead.

However, a careful analysis of the development of the U.S. position on Resolution 242 reveals that this "maximalist" interpretation of U.S. policy is fundamentally mistaken. In fact, successive U.S. administrations following the Six-Day War have demonstrated considerable flexibility over the years regarding the extent of withdrawal that they expected of Israel. True, sometimes the State Department bureaucracy – especially diplomats in the Near Eastern Affairs division that dealt with the Arab world – adhered to a harder-line view of Israel's requirements for withdrawal. But this issue was not decided at their level. Indeed, over time, successive administrations would even go so far as to issue explicit declarations rejecting the requirement of full withdrawal and backing Israel's right to defensible borders instead.

What was the source of America's support for Israel? It is important to recall that Resolution 242 was a joint product of both the British ambassador to the UN, Lord Caradon, and the U.S. ambassador to the UN, Arthur Goldberg.

This was especially true of the withdrawal clause in the resolution which called on Israeli armed forces to withdraw "from territories" and not "from all the territories" or "from the territories" as the Soviet Union had demanded.

The exclusion of the definite article "the" from the withdrawal clause was not decided by a low-level legal drafting team or even at the ambassadorial level. And it was not an oversight or a matter of petty legalism. The decision was taken at the highest level of the U.S. government and was the subject of direct communications between the White House and the Kremlin. In fact, President Lyndon Baines Johnson himself decided that it was important to stick to this phrasing, despite the pressure from the Soviet premier, Alexei Kosygin, who sought to incorporate stricter additional language requiring a full Israeli withdrawal.<sup>1</sup>

The meaning of Resolution 242 was absolutely clear to those who were involved in this drafting process. Thus, Joseph P. Sisco, who would serve as the U.S. Assistant Secretary of State for Near Eastern and South Asian Affairs, commented on Resolution 242 during a *Meet the Press* interview some years later: "I was engaged in the negotiation for months of that resolution. That resolution did not say 'total withdrawal.'"<sup>2</sup> This position was fully coordinated with the British at the time. Indeed, George Brown, who had served as British foreign secretary in 1967 during Prime Minister Harold Wilson's Labour government, summarized Resolution 242 as follows: "The proposal said, 'Israel will withdraw from territories that were occupied,' not 'from the territories,' which means Israel will not withdraw from all the territories."<sup>3</sup>

## President Johnson: '67 Line a Prescription for Renewed Hostilities

President Johnson's insistence on the territorial flexibility of Resolution 242 could be traced to statements he made on June 19, 1967, in the immediate wake of the Six-Day War. Johnson declared that "an immediate return to the situation as it was on June 4," before the outbreak of hostilities, was "not a prescription for peace, but for renewed hostilities." He



President Lyndon B. Johnson, November 17, 1967. On November 22, the UN Security Council unanimously approved Resolution 242 that called on Israel to withdraw “from territories” to “secure and recognized boundaries.” Johnson refused to accept the demand of Soviet Premier Alexei Kosygin that Israel withdraw from “all the territories” to the pre-war lines. Johnson said Israel needed “recognized boundaries” that provided “security against terror, destruction and war.”

stated that the old “truce lines” had been “fragile and violated.” What was needed, in Johnson’s view, were “recognized boundaries” that would provide “security against terror, destruction and war.”<sup>4</sup>

There were several key figures who contributed to how senior officials in the Johnson administration viewed the question of Israeli security needs after the Six-Day War. Secretary of Defense Robert McNamara asked the Chairman of the Joint Chiefs of Staff (JCS), General Earl Wheeler, what was the “minimum territory” that Israel “might be

justified in retaining in order to permit a more effective defense.”

Wheeler responded with a memorandum on June 29, 1967, which concluded: “From a strictly military point of view, Israel would require the retention of some captured Arab territory in order to provide militarily defensible borders.” Specifically, regarding the West Bank, the JCS suggested “a boundary along the commanding terrain overlooking the Jordan River,” and considered taking this defense line up to the crest of the mountain ridge.<sup>5</sup>

There were other reasons why changing the previous 1949 armistice line might be considered for security reasons. Article II of the Armistice Agreement clarified that it did not prejudice the rights of the parties or their future claims, since the agreement had been “dictated exclusively by military considerations.” As a result, the old armistice line was not a recognized international border. On May 31, 1967, the Jordanian ambassador to the UN made this very point to the UN Security Council just days before the Six-Day War. He stressed that the old armistice agreement “did not fix boundaries.”<sup>6</sup>

Ambassador Goldberg would note sometime later another aspect of the Johnson administration’s policy that was reflected in the language of its UN proposals: “Resolution 242 in no way refers to Jerusalem, and this omission was deliberate.”<sup>7</sup> The U.S. was not about to propose the restoration of the *status quo ante* in Jerusalem either, even though successive U.S. administrations would at times criticize Israel’s construction practices in the eastern parts of Jerusalem that it had captured.

Within a number of years, U.S. diplomacy would reflect the idea that Israel was entitled to changes in the pre-1967 lines. At first, public expressions by the Nixon administration were indeed minimalist; Secretary of State William Rogers declared in 1969 that there would be “insubstantial alterations” to the 1967 lines. At the time, Rogers’ policy was severely criticized by Stephen W. Schwebel, the Executive Director of the American Society of International Law, who would become the Legal Advisor of the U.S. Department of State and later serve on the International Court of Justice in The Hague. Schwebel reminded Rogers of Israel’s legal rights in the West Bank in the *American Journal of International Law* (64/344,1970) when he wrote: “Where the prior holder of territory had seized that territory unlawfully, the state which subsequently takes that territory in the lawful exercise of self-defense has, against that prior holder, better title.”

In the international legal community there was an acute awareness that Jordan had illegally invaded the West Bank in 1948 and held it until 1967, when Israel captured the territory in a war of self-defense. Indeed,

only two countries in the world recognized Jordanian sovereignty in the West Bank between 1948 and 1967: the United Kingdom and Pakistan. Even the Arab states refused to recognize Jordan’s claim to the territory. In short, according to Schwebel, Israel’s entitlement to changes in the pre-1967 lines did not arise because it had been vulnerable, but rather because it had been the victim of aggression in 1967.

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### **President Richard Nixon: The Israelis “Can’t Go Back” to the 1967 Borders**

Rogers was soon replaced, in any case, by Henry Kissinger, Nixon’s national security advisor, who significantly modified Rogers’ position. Already in 1973, in subsequently disclosed private conversations with Kissinger, in reference to the 1967 lines Nixon admitted: “You and I both know they [the Israelis] can’t go back to the other borders.”<sup>8</sup> This became evident in September 1975, under the Ford administration, during the Sinai II Disengagement Agreement. While the agreement covered a second Israeli pullout from the Sinai Peninsula, Israel’s prime minister at the time, Yitzhak Rabin, achieved a series of understandings with the U.S. that covered other fronts of the Arab-Israeli peace process. For example, President Ford provided Prime Minister Rabin with a letter on the future of the Golan Heights that stated:

The U.S. has not developed a final position on the borders. Should it do so it will give great weight to Israel’s position that any peace agreement with Syria must be predicated on Israel remaining on the Golan Heights.<sup>9</sup>



This carefully drafted language did not detail whether the U.S. would actually accept Israeli sovereignty over parts of the Golan Heights or just the continued presence of the Israel Defense Forces on the Golan plateau. In either case, the Ford letter did not envision a full Israeli pullback to the 1967 lines or even minor modifications of the 1967 border near the Sea of Galilee.

## **The Durability of Presidential Commitments: The Case of the Ford Letter**

The details of the Ford letter should not be viewed as a subject for academics doing research into U.S. diplomatic history in an archive. It should be recalled that the U.S. explicitly renewed its commitment to the Ford letter just before the 1991 Madrid Peace Conference, when Secretary of State James Baker issued a letter of assurances to Prime Minister Yitzhak Shamir. Moreover, Prime

Minister Benjamin Netanyahu obtained the recommitment of the Clinton administration to the Ford letter prior to the opening of Israeli-Palestinian negotiations over Hebron in 1996. In other words, U.S. letters of assurance were treated as durable commitments that lasted from one administration to the next, according to U.S. diplomatic practice.

## **President Reagan: I Can't Ask Israel to Return to the Pre-1967 Borders**

It was the administration of President Ronald Reagan that most forcefully articulated Israel's right to defensible borders, just after President Jimmy Carter appeared to give only lukewarm support for the U.S.-Israel understandings of the Ford-Kissinger era. Reagan himself stated in a September 1, 1982, address that became known as the "Reagan Plan": "In the pre-1967 borders, Israel was barely ten miles wide at its narrowest point. The bulk of Israel's population lived within artillery range of hostile armies. I am not

President Ronald Reagan, January 20, 1981. The 1982 Reagan plan called for Israel to retain defensible borders, while his secretary of state, George Shultz, stated explicitly, "Israel will never negotiate from or return to the 1967 borders."

about to ask Israel to live that way again.” Reagan came up with a flexible formula for Israeli withdrawal: “The extent to which Israel should be asked to give up territory will be heavily affected by the extent of the peace and normalization.”<sup>10</sup> Secretary of State George Shultz was even more explicit about what this meant during a September 1988 address: “Israel will never negotiate from or return to the 1967 borders.”<sup>11</sup>

What did Shultz mean by this statement? Was he recognizing Israel’s right to retain large portions of the West Bank? A half-year earlier, he demonstrated considerable diplomatic creativity in considering alternatives to a full Israeli withdrawal to the 1967 lines. He even proposed what was, in effect, a “functional compromise” in the West Bank, as opposed to a “territorial compromise.” Shultz was saying that the West Bank should be divided between Israel and the Jordanians according to different functions of government, and not in terms of drawing new internal borders. In an address to the Council on Foreign Relations in February 1988, he asserted: “the meaning of sovereignty, the meaning of territory, is changing, and what any national government can control, or what any unit that thinks it has sovereignty or jurisdiction over a certain area can control, is shifting gears.”<sup>12</sup>

In his memoirs, Shultz elaborated on his 1988 address. He wrote that he had spoken to both Israeli and Jordanian leaders in the spirit of his speech and argued that “who controls what... would necessarily vary over such diverse functions as external security, maintenance of law and order, access to limited supplies of water, management of education, health, and other civic functions, and so forth.”<sup>13</sup> The net effect of this thinking was to protect Israel’s security interests and provide it with a defensible border that would be substantially different from the 1967 lines.

## The Clinton Administration Reaffirms Defensible Borders

U.S. support for defensible borders had clearly become bipartisan and continued into the 1990s, even as the Palestinians replaced Jordan as the primary Arab claimant to the West Bank. At the time of the completion

of the 1997 Hebron Protocol, Secretary of State Warren Christopher wrote a letter of assurances to Prime Minister Benjamin Netanyahu. In the Christopher letter, the Clinton administration basically stated that it was not going to second-guess Israel about its security needs: “a hallmark of U.S. policy remains our commitment to work cooperatively to seek to *meet the security needs that Israel identifies*” (emphasis added). This meant that Israel would be the final arbiter of its defense needs. Christopher then added: “Finally, I would like to reiterate our position that Israel is entitled to secure and *defensible borders* (emphasis added), which should be directly negotiated and agreed with its neighbors.”<sup>14</sup>

The 1997 Christopher letter was significant since it showed U.S. deference to Israel’s judgments concerning its security needs. During this period, Israel was to designate “specified security locations” as part of the redeployment of its troops under the Oslo Accords. Christopher stated separately that the designation of Israeli security locations was an Israeli responsibility. These guarantees contained an implicit assurance: that the U.S. was not going to second-guess Israeli judgments about Israeli security needs.

In summary, there is no basis to the argument that the U.S. has traditionally demanded of Israel either a full withdrawal or a nearly full withdrawal from the territories it captured in the Six-Day War. This is particularly true of the West Bank and Gaza Strip where only armistice lines were drawn in 1949, reflecting where embattled armies had halted their advance and no permanent international borders existed. The only development that altered this American stance in support of defensible borders in the past involved changes in the Israeli position to which the U.S. responded.

## The Unofficial Clinton/Barak Parameters Are Off the Table

On January 7, 2001, two weeks before completing his second term in office, President Clinton presented his own plan for resolving the Israeli-Palestinian conflict. The Clinton parameters were partly based



President Bill Clinton and Secretary of State Warren Christopher, November 7, 1996. Christopher wrote to Prime Minister Benjamin Netanyahu: "A hallmark of U.S. policy remains our commitment to work cooperatively to seek to meet the security needs that Israel identifies." The Christopher letter specified "defensible borders for Israel."

on the proposals made by Israeli Prime Minister Ehud Barak at the failed Camp David Summit of July 2000.

In the territorial sphere, Clinton spoke about Israel annexing "settlement blocs" in the West Bank. However, he made this annexation of territory by Israel conditional upon a "land swap" taking place, according to which Israel would concede territory under its sovereignty before 1967 in exchange for any new West Bank land. This

"land swap" was not required by Resolution 242, but was a new Israeli concession made during the Barak government that Clinton adopted; it should be noted for the record, however, that Maj.-Gen. (res.) Danny Yatom, who served as the head of Barak's foreign and defense staff, has argued that Barak himself never offered these land swaps at Camp David.

Additionally, under the Clinton parameters, Israel was supposed to withdraw from



the Jordan Valley (which Rabin sought to retain) and thereby relinquish defensible borders. Instead, Clinton proposed an “international presence” to replace the IDF. This particular component of the proposals severely compromised Israel’s doctrine of self-reliance in matters of defense and seemed to ignore Israel’s problematic history with the UN and other international forces in even more limited roles such as peace monitoring.

### **IDF Chief of Staff Lt.-Gen. Shaul Mofaz severely criticized the Clinton parameters as a virtual disaster for Israel, conveying not only just his own view but that of the entire IDF General Staff.**

Prior to their formal release, the Chief of Staff of the IDF, Lt.-Gen. Shaul Mofaz, severely criticized the Clinton parameters before the Israeli cabinet as a virtual disaster for Israel: *Yediot Ahronot* reported on December 29, 2000, his judgment that: “The Clinton bridging proposal is inconsistent with Israel’s security interests and, if it will be accepted, *it will threaten the security of the state*” (emphasis added). Mofaz was not just voicing his own opinion, but was actually conveying the view of the entire IDF General Staff. In short, there were real U.S.-Israel differences at the time over the requirements of Israeli self-defense.

The Clinton parameters did not become official U.S. policy. After President George W. Bush came into office, U.S. officials informed the newly-elected Sharon government that the administration would not be bound by the Clinton parameters. Conversely, it was understood that the Sharon government would likewise not be bound by its predecessor’s proposals. Nevertheless, the ideas raised during this period continue to hover over most discussions in Washington policymaking circles about a solution to the Israel-Palestinian conflict, especially in think tanks and research institutes.

### **President Bush: It is Unrealistic to Expect a Return to the Armistice Lines of 1949**

The best proof that the U.S. had readopted its traditional policy that Israel was entitled to defensible borders came from the letter of assurances written by President Bush to Prime Minister Sharon on April 14, 2004, after Sharon’s presentation in Washington of Israel’s disengagement plan from the Gaza Strip. Bush wrote: “The United States reiterates its steadfast commitment to Israel’s security, including secure and defensible borders, and to preserve and strengthen Israel’s capability to deter and defend itself, by itself, against any threat or possible combination of threats.”<sup>15</sup> Here, then, was an implicit link suggested between the letter’s reference to defensible borders and Israel’s self-defense capabilities, by virtue of the fact that they were coupled together in the very same sentence.

Bush clearly did not envision Israel withdrawing to the 1967 lines. Later in the letter he stated: “In light of new realities on the ground, including already existing major Israeli population centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949.” Bush did not use the term “settlement blocs,” as Clinton did, but appeared to be referring to the same idea. Less than a year later, on March 27, 2005, Secretary of State Condoleezza Rice explained on Israel Radio that “Israeli population centers” referred to “the large settlement blocs” in the West Bank.<sup>16</sup>

More significantly, Bush did not make the retention of “Israeli population centers” in the West Bank contingent upon Israel agreeing to land swaps, using territory under Israeli sovereignty from within the pre-1967 borders as Clinton had proposed. In that sense, Bush restored the original terms of reference in the peace process that had been contained in Resolution 242 by confining Israel’s eastern territorial dispute to the West Bank, without involving any additional territorial exchanges.

Bush’s recognition of Israel’s right to defensible borders was the most explicit



expression of the U.S. stand on the subject, for the Bush letter endorsed clear-cut modifications of the pre-1967 lines. Moreover, by linking the idea of defensible borders to Israel's defensive capabilities, Bush was making clear that a "defensible border" had to improve Israel's ability to provide for its own security. True, a "secure boundary," as mentioned in Resolution 242, included that interpretation as well. But it could also imply a boundary that was secured by U.S. guarantees, NATO troops, or even other international forces. Bush's letter did not contain this ambiguity, but rather specifically tied defensible borders to Israel's ability to defend itself.

On March 25, 2005, the U.S. ambassador to Israel, Daniel Kurtzer, was quoted in the Israeli daily *Yediot Ahronot* as saying that there was no U.S.-Israel "understanding" over Israel's retention of West Bank settlement blocs. Kurtzer denied the *Yediot* report. Yet the story raised the question of what kind of commitment the Bush letter exactly constituted. In U.S. practice, a treaty is the

strongest form of inter-state commitment, followed by an executive agreement (such as a Memorandum of Understanding without congressional ratification). Still, an exchange of letters provides an international commitment as well. Kurtzer himself reiterated this point on Israel's Channel 10 television: "Those commitments are very, very firm with respect to these Israeli population centers; our expectation is that Israel is not going to be going back to the 1967 lines." When asked if these "population centers" were "settlement blocs," he replied: "That's correct."<sup>17</sup>

Separately, Bush introduced the idea of a viable and contiguous Palestinian state, which has territorial implications. At a minimum, contiguity refers to creating an unobstructed connection between all the West Bank cities, so that a Palestinian could drive from Jenin to Hebron. Palestinians might construe American references to contiguity as including a Palestinian-controlled connection from the West Bank to the Gaza Strip, like the "safe passage" mentioned

President George W. Bush and Israeli Prime Minister Ariel Sharon at the White House, June 14, 2004. Sharon exchanged letters with Bush in which Israel committed to withdraw from Gaza and the United States endorsed defensible borders for Israel.

in the Oslo Accords. But this would entail bifurcating Israel in two. In any case, there is no international legal right of states to have a sovereign connection between parts that are geographically separated: The U.S. has no sovereign territorial connection between Alaska and the State of Washington. Similarly, there is no such sovereign connection between the parts of other geographically separated states, like Oman. On February 21, 2005, President Bush clarified that his administration's call for territorial contiguity referred specifically to the West Bank.

In the last year of the Bush administration, Prime Minister Ehud Olmert made far-reaching concessions in private discussions with Palestinian Authority Chairman Mahmoud Abbas. In many respects, Olmert's proposals of 2008 went well beyond what was expected of Israel in the Bush letter, but certainly did not cancel the commitments that had been made to Prime Minister Sharon. Secretary of State Condoleezza Rice monitored the Olmert-Abbas discussions closely, though ultimately they failed to produce an Israeli-Palestinian agreement. Rice reported her impressions to the incoming administration of President-elect Barack Obama. Nonetheless, as was the case after the Camp David and Taba talks in 2000, it was not suggested that Israel should be bound by the diplomatic record of a failed negotiation.

## The Obama Administration and Defensible Borders

During the 2008 presidential campaign, then-Senator Barack Obama spoke at the annual policy conference of the American Israel Public Affairs Committee (AIPAC). He spoke on June 4, 2008, about the establishment of a Palestinian state "that is contiguous and cohesive." But he also stipulated that "any agreement with the Palestinian people must preserve Israel's identity as a Jewish state, with secure, recognized and defensible borders." While Obama subsequently modified the statement he made at AIPAC on Jerusalem – watering down his original declaration that it must remain "undivided" – he did not change his remarks in any way about Israel's right to defensible borders.

Yet after Obama entered office, questions emerged about the extent to which the administration still supported the idea of defensible borders. His national security adviser, General James Jones, was known to support the deployment of a NATO force in the West Bank instead of the IDF.<sup>18</sup> There was also some ambiguity over whether the Obama administration felt it was legally bound by the 2004 Bush letter. When asked on two successive days, on June 1 and on June 2, 2009, whether the administration was committed to the letter, Robert Wood, the deputy spokesman of the U.S. Department of State, would only say in response that the administration wanted to see both parties implement their Roadmap obligations. When pressed yet again, he finally answered: "I'm giving you what I got." In other words, Wood had no instructions to confirm whether the administration still supported the Bush letter.

It appeared that the Obama administration preferred to avoid making a clear-cut statement on defensible borders. In November 2009 when the government of Prime Minister Benjamin Netanyahu announced its readiness to implement a 10-month settlement freeze in the West Bank, Secretary of State Hillary Clinton made a brief statement that summarized the Obama administration policy on borders:

We believe that through good-faith negotiations the parties can mutually agree on an outcome which ends the conflict and reconciles the Palestinian goal of an independent and viable state on the 1967 lines, with agreed swaps, and the Israeli goal of a Jewish state with secure and recognized borders that reflects subsequent developments and meets Israeli security requirements.<sup>19</sup>

Thus Secretary Clinton did not identify with either the Palestinian goal of a territorial settlement on the 1967 lines or the Israeli goal of secure borders, but placed the U.S. in a middle position between the two parties. This represented a shift from Bush's 2004 commitments, but did not amount to a complete rejection of defensible borders either.



Toward the fall of 2010, the Obama administration's policy on the 1967 lines further evolved when the U.S. sought to re-start Israeli-Palestinian negotiations as Israel's ten-month settlement freeze ended. The U.S. and Israel negotiated the terms of a second freeze, at which time the Obama administration tried to reach out to the Palestinians with positions that were intended to pull them back to the negotiating table. At that time, the U.S. offered Mahmoud Abbas that the next round of negotiations would be based on the 1967 lines. But this concession from Washington did not appear to alter the Palestinian position in any way. It did, however, put into the American bureaucracy a new position that the U.S. was considering but did not make public.

A dramatic change in the U.S. position emerged on May 19, 2011, when President Obama delivered a major address at the

State Department which sought to produce a unified American policy on the popular uprisings in the Arab world. The last part of Obama's speech dealt with Israel and the Palestinians, where he set forward his position that the "core issues" must be negotiated. He then clarified his view that negotiations should result in two states and that the borders of a Palestinian state should be with Israel, Jordan, and Egypt, thereby precluding Israel retaining territory in the Jordan Valley separating the Palestinian state from the Jordanians. Finally came the bombshell for most Israelis: "We believe the borders of Israel and Palestine should be based on the 1967 lines with mutually agreed swaps, so that secure and recognized borders are established for both states." Obama was the first U.S. president to use the explicit reference to 1967. His qualifications about land swaps that might have been intended to offset this new position were of limited

Prime Minister Benjamin Netanyahu and President Barack Obama at the White House during the first official meeting between the two leaders, May 18, 2009.

value. After all, the Palestinians themselves spoke only about land swaps of 1.9 percent, making this a mechanism for only minuscule modifications of the 1967 line.

The day after his statement on the 1967 lines, Obama met Prime Minister Netanyahu in the White House as U.S.-Israel tensions rose. Before leaving for Washington, Netanyahu's office released a statement according to which he expected to hear from President Obama "a reconfirmation of commitments to Israel from 2004 that received wide support in both houses of Congress." This was a direct reference to the April 14, 2004, Bush letter which had said that the U.S. did not envision a complete Israeli withdrawal in the West Bank and that new demographic realities had to be taken into account. In the aftermath of the meeting, the administration issued a number of clarifications regarding the U.S. position.

Appearing on the BBC on May 20, Obama stated that the basis of negotiations will involve "looking at the 1967 border, recognizing that conditions on the ground have changed, and that there are going to be swaps to accommodate the interests of both sides." He believed that any negotiation at this point should begin with "a conversation about territory and security." Finally, in his address to AIPAC on May 22, Obama clarified further that his reference to the 1967 lines should not have been taken literally: "By definition it means that the parties themselves – Israelis and Palestinians – will negotiate a border that is different than the one that existed on June 4, 1967 (emphasis added)."

In his AIPAC address, Obama added that the formula he had in mind "allows the parties themselves to account for the changes that have taken place over the last forty-four years, including the new demographic realities on the ground and the needs on both sides." While he still insisted that the future Palestinian state needed to have a common border with Jordan, he nonetheless added that: "Provisions must be robust enough to prevent a resurgence of terrorism; to stop the infiltration of weapons; and to provide effective border security."

Many questions remained. Why did President Obama decide to make these public statements on the 1967 lines, even with all the qualifications that he subsequently issued? If he wanted to trigger new peace negotiations, then his timing was difficult to explain. After all, Abbas and his Fatah movement had just tied their fate to Hamas by signing a reconciliation agreement with the Palestinian terrorist organization. Hamas had just condemned the U.S. for killing Osama bin Laden and demonstrated that it was still rigidly committed to its jihadi agenda and not to peace.

At AIPAC, Obama explained the logic of what he was doing. The Palestinians wanted to abandon negotiations, which meant that momentum would be building for unilaterally declaring a Palestinian state or at least using the UN to assist in winning support for its establishment. He stated that he needed "leverage with the Palestinians, with the Arab states, and with the international community," so he needed "a basis of negotiations" that held out "the prospect of success." Obama then stated that he was starting a five-day trip to Europe. In short, the shift in U.S. policy, according to his explanation, was tied to an upcoming American effort to head off a unilateral declaration of Palestinian statehood.

Obama's clarifications ameliorated many Israeli concerns. Nonetheless, a gap appeared to have emerged between the new U.S. position and Israel's insistence that at the end of any negotiating process it be left with defensible borders.

## **Historically, the U.S. Has Not Insisted on Full Israeli Withdrawal**

In conclusion, historically the U.S. has not insisted on a full Israeli withdrawal to the 1949 armistice lines from the territories that Israel captured in the Six-Day War. Yet it is still possible to ask what value these American declarations have if they are made with the additional provision that the ultimate location of Arab-Israeli borders must be decided by the parties themselves. This is particularly true of the 2004 Bush letter, which reiterates this point explicitly.

Clearly the U.S. cannot impose the Bush letter on Israel and the Palestinians if they refuse to accept its terms. The Bush letter only updates and summarizes the U.S. view of the correct interpretation of UN Resolution 242 in any future negotiations. Its importance emanates from four possible future considerations:

- Traditionally, Israel has sought assurances from the U.S. prior to the formal opening of negotiations. This was Israeli practice before the Geneva Peace Conference after the 1973 Yom Kippur War; it was also Israeli practice prior to the 1991 Madrid Peace Conference. But the April 2003 Quartet "Roadmap" was silent on the subject of Israel's future borders and those of the proposed Palestinian state. The Bush letter protected Israel's vital interests prior to the beginning of any future negotiations. It was tantamount to a diplomatic safety net for Israel.
- In the future, if the U.S. and Israel are at a Camp David-like summit and the Palestinians ask U.S. officials to unveil Washington's position on borders, then if the Bush letter is respected, those officials should still back its contents.
- The Bush commitments were intended to last regardless of who was in power in Washington. The Bush letter was greeted with overwhelming bipartisan congressional approval on June 23-24, 2004. The House of Representatives approved it by an overwhelming majority of 407 to 9, the Senate by 95 to 3. Both Rep. Rahm Emanuel and Senator Hillary Clinton voted for the Bush letter.
- In July 2009, the European Union's foreign policy chief recommended that if Israel and the Palestinians do not reach an agreement among themselves, the UN Security Council should call for the recognition of a Palestinian state. He recommended that such a UN resolution dictate the key final status issues, including borders and the status of Jerusalem. If an effort to impose the 1967 lines on Israel by means of a UN Security Council resolution were to move forward, the Bush commitments create an expectation that the U.S. would move to veto such a resolution.<sup>20</sup>

Defensible borders entered the U.S. diplomatic lexicon for Arab-Israeli peacemaking over several administrations. Today, Israel must provide further details about the territorial meaning of defensible borders and seek to reach a more specific understanding with the Obama administration regarding its commitment to the durability of this longstanding component of American diplomacy in the Middle East.

## Notes

1. Premier Kosygin wrote to President Johnson on November 21, 1967, requesting that the UK draft resolution, that was to become Resolution 242, include the word "the" before the word "territories." Johnson wrote back the same day refusing the Soviet request. The Soviet deputy foreign minister, Kuznetsov, tried the same day in New York to insert the word "all," but was rebuffed. See *Foreign Relations of the United States, 1967-1968, volume XIX, Arab-Israeli Crisis and War 1967*, <http://www.state.gov/r/pa/ho/frus/johnsonlb/xix/28070.htm>
2. Adnan Abu Odeh, Nabil Elaraby, Meir Rosenne, Dennis Ross, Eugene Rostow, and Vernon Turner, *UN Security Council Resolution 242: The Building Block of Peacemaking* (Washington, D.C.: Washington Institute for Near East Policy, 1993), p. 88.
3. See Meir Rosenne in *ibid.*, p. 31.
4. Speech by President Lyndon Johnson, June 19, 1967; <http://www.jewishvirtuallibrary.org/jsource/US-Israel/lbjpeace.html>
5. See <http://www.defensibleborders.org/amidror.htm>. For a complete text of the memorandum, JCSM-373-67, see Michael Widlandski, *Can Israel Survive a Palestinian State?* (Jerusalem: Institute for Advanced Strategic and Political Studies, 1990), pp. 148-152.
6. See Ambassador Yehuda Blum, "The Territorial Clauses of Security Council Resolution 242," in *Israel's Rights to Secure Boundaries: Four Decades Since UN Security Council Resolution 242* (Jerusalem: Jerusalem Center for Public Affairs, 2009), p. 29. See also Arthur Lall, *The UN and the Middle East Crisis* (New York: Columbia University Press, 1968), pp. 22-24.
7. Arthur J. Goldberg, Letter to the Editor of *The New York Times*, March 5, 1980.
8. Henry Kissinger, *Crisis: The Anatomy of Two Major Foreign Policy Crises* (New York: Simon and Schuster, 2003), p. 140.
9. Letter from President Ford to Prime Minister Rabin, September 1, 1975; [http://www.jewishvirtuallibrary.org/jsource/Peace/ford\\_rabin\\_letter.html](http://www.jewishvirtuallibrary.org/jsource/Peace/ford_rabin_letter.html)
10. Speech by President Ronald Reagan, September 1, 1982; <http://www.reagan.utexas.edu/resource/speeches/1982/90182d.htm>
11. Secretary of State George P. Shultz's address, September 16, 1988; [http://www.findarticles.com/p/articles/mi\\_m1079/is\\_n2140\\_v88/ai\\_6876262](http://www.findarticles.com/p/articles/mi_m1079/is_n2140_v88/ai_6876262)
12. George P. Shultz, *Turmoil and Triumph: My Years as Secretary of State* (New York: Charles Scribner's Sons, 1993), p. 1022.
13. *Ibid.*, p. 1023.
14. Letter of U.S. Secretary of State Warren Christopher, January 17, 1997; <http://mfa.gov.il/mfa/go.asp?MFAH00qo0>

15. Exchange of letters between President Bush and Prime Minister Sharon, April 14, 2004; <http://www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Exchange+of+Letters+Sharon-Bush+14-Apr-2004.htm>
16. Aluf Benn, "PM: Understanding with U.S. About West Bank Settlement Blocs Holds Firm," *Ha'aretz*, March 27, 2005.
17. <http://www.usembassy-israel.org.il/publish/mission/amb/032505b.html>
18. Aluf Benn, "Candidate for U.S. Security Adviser Wants NATO Force in West Bank," *Ha'aretz*, November 23, 2008, <http://www.haaretz.com/hasen/spages/1039923.html>
19. Hillary Rodham Clinton, Secretary of State, "Israel's Announcement Regarding Settlements," U.S. Department of State Diplomacy in Action, PRN: 2009/1175, <http://www.state.gov/secretary/rm/2009a/11/132434.htm>
20. "EU's Solana Calls for UN to Recognize Palestinian State," July 12, 2009, <http://www.reuters.com/article/idUSLC616115>.
21. <http://www.whitehouse.gov/news/releases/2004/04/20040414-3.html>

## Appendix 1

### **UN Security Council Resolution 242 November 22, 1967**

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East,  
Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,  
Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. Affirms that the fulfillment of Charter principles requires 1. the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:
  - Withdrawal of Israeli armed forces from territories occupied in the recent conflict;
  - Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;
2. Affirms further the necessity
  - For guaranteeing freedom of navigation through international waterways in the area;
  - For achieving a just settlement of the refugee problem;
  - For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;
3. Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;
4. Requests the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

### **UN Security Council Resolution 338 October 22, 1973**

The Security Council,

1. Calls upon all parties to the present fighting to cease all firing and terminate all military activity immediately, no later than 12 hours after the moment of the adoption of this decision, in the positions they now occupy;
2. Calls upon the parties concerned to start immediately after the cease-fire the implementation of Security Council resolution 242 (1967) in all its parts;
3. Decides that, immediately and concurrently with the cease-fire, negotiations start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East.



## Appendix 2

### **Letter from U.S. President George W. Bush to Prime Minister Ariel Sharon April 14, 2004<sup>21</sup>**

His Excellency Ariel Sharon  
Prime Minister of Israel

Dear Mr. Prime Minister,

Thank you for your letter setting out your disengagement plan.

The United States remains hopeful and determined to find a way forward toward a resolution of the Israeli-Palestinian dispute. I remain committed to my June 24, 2002, vision of two states living side by side in peace and security as the key to peace, and to the roadmap as the route to get there.

We welcome the disengagement plan you have prepared, under which Israel would withdraw certain military installations and all settlements from Gaza, and withdraw certain military installations and settlements in the West Bank. These steps described in the plan will mark real progress toward realizing my June 24, 2002, vision, and make a real contribution towards peace. We also understand that, in this context, Israel believes it is important to bring new opportunities to the Negev and the Galilee. We are hopeful that steps pursuant to this plan, consistent with my vision, will remind all states and parties of their own obligations under the roadmap.

The United States appreciates the risks such an undertaking represents. I therefore want to reassure you on several points.

First, the United States remains committed to my vision and to its implementation as described in the roadmap. The United States will do its utmost to prevent any attempt by anyone to impose any other plan. Under the roadmap, Palestinians must undertake an immediate cessation of armed activity and all acts of violence against Israelis anywhere, and all official Palestinian institutions must end incitement against Israel. The Palestinian leadership must act decisively against terror, including sustained, targeted, and effective operations to stop terrorism and dismantle terrorist capabilities and infrastructure. Palestinians must undertake a comprehensive and fundamental political reform that includes a strong parliamentary democracy and an empowered prime minister.

Second, there will be no security for Israelis or Palestinians until they and all states, in the region and beyond, join together to fight terrorism and dismantle terrorist organizations. The United States reiterates its steadfast commitment to Israel's security, including secure, defensible borders, and to preserve and strengthen Israel's capability to deter and defend itself, by itself, against any threat or possible combination of threats.

Third, Israel will retain its right to defend itself against terrorism, including to take actions against terrorist organizations. The United States will lead efforts, working together with Jordan, Egypt, and others in the international community, to build the capacity and will of Palestinian institutions to fight terrorism, dismantle terrorist organizations, and prevent the areas from which Israel has withdrawn from posing a threat that would have to be addressed by any other means. The United States understands that after Israel withdraws from Gaza and/or parts of the West Bank, and pending agreements on other arrangements, existing arrangements regarding control of airspace, territorial waters, and land passages of the West Bank and Gaza will continue.

The United States is strongly committed to Israel's security and well-being as a Jewish state. It seems clear that an agreed, just, fair and realistic framework for a solution to the Palestinian refugee issue as part of any final status agreement will need to be found through the establishment of a Palestinian state, and the settling of Palestinian refugees there, rather than in Israel.

As part of a final peace settlement, Israel must have secure and recognized borders, which should emerge from negotiations between the parties in accordance with UNSC Resolutions 242 and 338. In light of new realities on the ground, including already existing major Israeli population centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949, and all previous efforts to negotiate a two-state solution have reached the same conclusion. It is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities.

I know that, as you state in your letter, you are aware that certain responsibilities face the State of Israel. Among these, your government has stated that the barrier being erected by Israel should be a security rather than political barrier, should be temporary rather than permanent, and therefore not prejudice any final status issues including final borders, and its route should take into account, consistent with security needs, its impact on Palestinians not engaged in terrorist activities.

As you know, the United States supports the establishment of a Palestinian state that is viable, contiguous, sovereign, and independent, so that the Palestinian people can build their own future in accordance with my vision set forth in June 2002 and with the path set forth in the roadmap. The United States will join with others in the international community to foster the development of democratic political institutions and new leadership committed to those institutions, the reconstruction of civic institutions, the growth of a free and prosperous economy, and the building of capable security institutions dedicated to maintaining law and order and dismantling terrorist organizations.

A peace settlement negotiated between Israelis and Palestinians would be a great boon not only to those peoples but to the peoples of the entire region. Accordingly, the United States believes that all states in the region have special responsibilities: to support the building of the institutions of a Palestinian state; to fight terrorism, and cut off all forms of assistance to individuals and groups engaged in terrorism; and to begin now to move toward more normal relations with the State of Israel. These actions would be true contributions to building peace in the region.

Mr. Prime Minister, you have described a bold and historic initiative that can make an important contribution to peace. I commend your efforts and your courageous decision which I support. As a close friend and ally, the United States intends to work closely with you to help make it a success.

Sincerely,

George W. Bush

## Appendix 3

### **U.S. Senate and House of Representatives Approve Commitments to Israel in President Bush's Letter of April 14, 2004**

H. CON. RES. 460  
CONCURRENT RESOLUTION

Whereas the United States is hopeful that a peaceful resolution of the Israeli-Palestinian conflict can be achieved;

Whereas the United States is strongly committed to the security of Israel and its well-being as a Jewish state;

Whereas Israeli Prime Minister Ariel Sharon has proposed an initiative intended to enhance the security of Israel and further the cause of peace in the Middle East;

Whereas President George W. Bush and Prime Minister Sharon have subsequently engaged in a dialogue with respect to this initiative;

Whereas President Bush, as part of that dialogue, expressed the support of the United States for Prime Minister Sharon's initiative in a letter dated April 14, 2004;

Whereas in the April 14, 2004, letter the President stated that in light of new realities on the ground in Israel, including already existing major Israeli population centers, it is unrealistic to expect that the outcome of final status negotiations between Israel and the Palestinians will be a full and complete return to the armistice lines of 1949, but realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities;

Whereas the President acknowledged that any agreed, just, fair, and realistic framework for a solution to the Palestinian refugee issue as part of any final status agreement will need to be found through the establishment of a permanent alternative and the settling of Palestinian refugees there rather than in Israel;

Whereas the principles expressed in President Bush's letter will enhance the security of Israel and advance the cause of peace in the Middle East;

Whereas there will be no security for Israelis or Palestinians until Israel and the Palestinians, and all countries in the region and throughout the world, join together to fight terrorism and dismantle terrorist organizations;

Whereas the United States remains committed to the security of Israel, including secure, recognized, and defensible borders, and to preserving and strengthening the capability of Israel to deter enemies and defend itself against any threat;

Whereas Israel has the right to defend itself against terrorism, including the right to take actions against terrorist organizations that threaten the citizens of Israel;

Whereas the President stated on June 24, 2002, his vision of two states, Israel and Palestine, living side-by-side in peace and security and that vision can only be fully

realized when terrorism is defeated, so that a new state may be created based on rule of law and respect for human rights; and

Whereas President Bush announced on March 14, 2003, that in order to promote a lasting peace, all Arab states must oppose terrorism, support the emergence of a peaceful and democratic Palestine, and state clearly that they will live in peace with Israel: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress –*

(1) strongly endorses the principles articulated by President Bush in his letter dated April 14, 2004, to Israeli Prime Minister Ariel Sharon which will strengthen the security and well-being of the State of Israel; and

(2) supports continuing efforts with others in the international community to build the capacity and will of Palestinian institutions to fight terrorism, dismantle terrorist organizations, and prevent the areas from which Israel has withdrawn from posing a threat to the security of Israel.

Passed the House of Representatives, June 23, 2004.

Passed the Senate, June 24, 2004.