

Ambaxxata Ta' Malta



Embassy of Malta

Our ref : HG/MLS/8

The Hague

Cour internationale de Justice

Enregistré au Greffe le :

30 January 2004

International Court of Justice

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30 JAN. 2004/38

HE Mr Philippe Couvreur
Registrar
International Court of Justice
Peace Palace
2517 KJ the Hague

Sir,

Re : Advisory Opinion on the Question of the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory

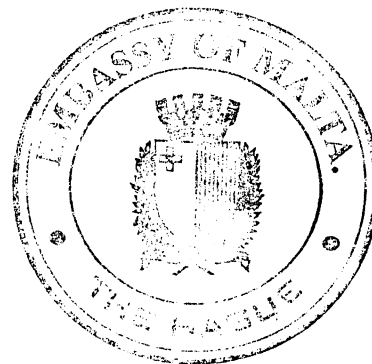
With reference to your letter of 19th December 2003 addressed to HE the Minister of Foreign Affairs of Malta regarding the request for advisory opinion submitted to the Court by the General Assembly of the United Nations on the question of the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories, I have the honour to attach herewith the statement of Malta in this regard, in accordance with Article 66, paragraph 2, of the Statute of the Court.

Also attached are thirty original signed copies of the statement along with a diskette containing the text of the statement.

Accept, Sir, the assurances of my highest consideration.

Adrian Strickland
Ambassador

Enc.



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STATEMENT OF MALTA ON THE QUESTION OF THE LEGAL CONSEQUENCES OF THE CONSTRUCTION OF A WALL IN THE OCCUPIED PALESTINIAN TERRITORY

Malta, while reaffirming its position reflected in an abstention on UN General Assembly Resolution A/RES-ES/10/14, that an Advisory Opinion from the International Court of Justice will not help the efforts of the two parties to re-launch a political dialogue and is to that extent inappropriate,

1. Reiterates its position on UN General Assembly Resolution GA/RES/ES-10/13 as co-sponsored on 20 October 2003. Malta fully supports the EU statement that the construction of the wall inside the occupied Palestinian territories is a departure from the Armistice line of 1949, and is in contradiction to the relevant provisions of international law, due to the following considerations:

(a) The construction of the wall in the Occupied Palestinian Territories, including in and around East Jerusalem, which as already stated, is a departure from the Armistice Line of 1949, together with the expropriation of land and buildings required for this construction, constitute an exercise of sovereignty by Israel in an area where it has no legal claim to such sovereignty. This consideration is based primarily on the main international provisions relating to the territory over which Israel has sovereignty and in particular:

- I. UN General Assembly Resolution 181 (II) of 29 November 1947, endorsing the plan for the partition of Palestine, which in Part II, Section B, defines the boundaries of the Jewish state;
- II. the provisions regarding the Armistice Line of 1949 as contained in UN Security Council documents S/1357 of 26 July 1949, and documents S/1264, S/1296, S/1302, and S/1353;
- III. UN Security Council Resolution 242 of 22 November 1967 which required Israel to withdraw its armed forces from the territories occupied in the recent conflict, which territories include land on which the wall is now being constructed.

(b) The humanitarian and economic hardships resulting from the construction of the wall are in violation of Israel's responsibilities under the 1949 Fourth Geneva Convention relative to the Protection of Civilians in Time of War. In spite of Israel's claim that the Convention is not applicable to the occupied Palestinian territories, the UN Security Council, the UN General Assembly and the UN Commission on Human Rights have repeatedly reaffirmed the *de jure* applicability of the Convention to the occupied Palestinian territories.

In this context Malta recalls UN Security Council Resolution 452 of 20 July 1979 which states:

"..... that the policy of Israel in establishing settlements in the occupied Arab territories has no legal validity and constitutes a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949...."

2. Shares the EU's concern that Israel, as confirmed by the report of the Secretary General pursuant to GA/RES/ES-10/13, is not in compliance with the Assembly's demand that it stops and reverses the construction of the wall in the Occupied Palestinian Territories.

The Hague, 30 January 2004