



THE SECRETARY-GENERAL

Cour internationale de Justice

Enregistré au Greffe le :

International Court of Justice

Filed in the Registry on :

30 JAN. 2004 /10

29 January 2004

Excellency,

Pursuant to the Order of the Court dated 19 December 2003, I have the honour to transmit to the Court a written statement in the case of *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Request for Advisory Opinion)*.

I also have the honour to inform you that the United Nations will not present oral statements and comments to the Court during the hearings of the said case.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'K. Annan'.

Kofi A. Annan

His Excellency  
Mr. Shi Jiuyong  
President of the International Court of Justice  
The Hague



**INTERNATIONAL COURT OF JUSTICE**

**WRITTEN STATEMENT  
IN THE CASE CONCERNING**

**(UNITED NATIONS)**

**LEGAL CONSEQUENCES OF THE CONSTRUCTION OF A WALL  
IN THE OCCUPIED PALESTINIAN TERRITORY  
(REQUEST FOR ADVISORY OPINION)**



## Written Statement Submitted to the International Court of Justice by the Secretary-General of the United Nations

### I. Introduction

1. On 8 December 2003, the United Nations General Assembly adopted resolution A/RES/ES-10/14, whereby it decided, in accordance with Article 96 of the Charter of the United Nations to request the International Court of Justice (hereafter "the Court") pursuant to Article 65 of the Statute of the Court, to urgently render an advisory opinion on the following question: "What are the legal consequences arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions?"

2. By an Order dated 19 December 2003, concerning the case of *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court established the procedures to be followed in this case. By that Order, the Court decided, *inter alia*, that "the United Nations and its Member States are considered likely, in accordance with Article 66, paragraph 2 of the Statute of the Court, to be able to furnish information on all aspects raised by the question submitted to the Court for advisory opinion". Accordingly, the following information is submitted to supplement the information contained in the report of the Secretary-General of 24 November 2003 (A/ES-10/248) prepared pursuant to General Assembly resolution , and concerns developments with respect to the construction of the Barrier which have taken place since the issuance of that report.

3. Unless otherwise indicated, factual information in this submission is based on field observations and research conducted by United Nations' officials between 25 November 2003 and 25 January 2004, as well as information obtained by the United Nations from competent Israeli authorities, as facilitated by the Israeli Ministry of Foreign Affairs. A senior UNSCO official also toured the area accompanied by the head of the Seam Zone Administration in the Israeli Ministry of Defense on 22 January 2004.

### II. Phases of the Route Completed or Under Construction

#### Overview

4. According to newly updated information, the construction of the Barrier is divided into four phases. To date, approximately 190 kilometres of the Barrier have been completed. This comprises *Phase A* and most of *Phase B*, which include part of the central and northern West Bank and two short stretches north and south of Jerusalem. New construction began in early December 2003 on *Phase C* in part of the central West Bank and Jerusalem. Work has yet to start on *Phase D*, which is planned for the southern West Bank.

5. New components are being added to the completed Barrier complex, including at least two of five planned major crossing terminals along the Barrier that are modelled after the Erez and Karni crossings in the Gaza Strip. According to information provided to the United Nations, several new West Bank roads will be part of the Barrier complex, and are planned or under construction: 13 for Palestinians covering 57 kilometres and seven for Israelis covering 17 kilometres. In addition, the route of the Barrier to the north and south of Jerusalem roughly follows existing Israeli plans for arterial roads, including an eastern ring road to the south of the city and a motorway to the north, Highway 45.

#### Phase A

6. This initial part of the Barrier, which, according to updated information, runs 150 kilometres from the Salem checkpoint north of Jenin to the settlement of Elkana in the central West Bank, including the double barrier around the Baqa Sharqiya enclave, was declared completed on 31 July 2003. Current activity in this area involves adjustments to the Barrier's route, the construction of a crossing terminal, and road work. United Nations officials on the ground calculate that the Barrier has put approximately 56,000 Palestinians in enclaves, areas encircled by the Barrier that open into the West Bank. This includes around 5,300 Palestinians between the Barrier and Green Line in "Closed Arcas" where Israel requires permits or identity cards for Palestinians who reside there. Another 8,200 Palestinians live in areas which are subject to the Military Order that created the "Closed Areas" ("Order Concerning Security Directives (Judea and Samaria) (number 378), 1970, Declaration Concerning the Closure of Area Number s/2/03 (Scam Arca)" of 2 October 2003, hereinafter referred to as the "Closed Arcas Order"), but where the permit system is currently not implemented.

7. *The Nazlat Issa - Baqa Sharqiya enclave.* As part of the *Phase A* construction completed in July 2003, a Barrier section was built to the east of this enclave in the northern West Bank, placing its approximately 6,700 people between the Green Line and the Barrier. In late November 2003, Israel began constructing a new Barrier section along the Green Line to the enclave's west, which is almost completed. Some of it runs directly through the town of Nazlat Issa, where a concrete wall six-meters high and 800 meters long has been constructed. The enclave is under the Closed Areas Order but residents are not yet required to obtain permits to remain there. The United Nations has been informed that the east side of the Barrier will eventually be pulled down, although there is no evidence of this yet on the ground.

8. *Tulkarem Infrastructure.* A major crossing terminal is under construction on the Green Line just south of the town of Tulkarem, due for completion in May 2004. According to information made available to the United Nations, it is modelled on the Karni crossing in Gaza and will also include a fuel depot, army camp and adjacent industrial zone. To the east of this terminal, construction has started on an underpass beneath a road that services several Israeli settlements to provide Palestinians access to Tulkarem from the south. Improvements are also underway on an unpaved tertiary road near the Barrier between Tulkarem and Qalqiliya.

9. *The Qalqiliya - Habla enclaves.* Israel has removed the permanent checkpoint east of the encircled town of Qalqiliya, although temporary checkpoints can still block movement in and out. In mid-January 2004, construction started on a set of underpasses beneath the road servicing the settlement Alfe Menashe to give Palestinians in the neighbouring Habla enclave access to Qalqiliya. A crossing point for goods and people is being levelled to the east of the two enclaves, where the Barrier crosses the main road to the city of Nablus.

## Phase B

10. This Phase is planned to run approximately 40 kilometres east from the Saleh checkpoint along the northern part of the Green Line to the Jordan Valley. The Government of Israel had announced a December 2003 completion date, but construction continues. The first sections of this Phase, which runs near or on the Green Line through the Gilboa Mountains to the village of al-Mutilla above the Jordan Valley, are nearly complete. Two additional sections of the Barrier diverge at this point. Construction started in early January 2004 on one section that runs due east to the Jordanian border. The other section is planned to run due south and away from the Green Line to the village of Taysir. Israeli officials informed the United Nations that this section may not be completed, although evidence of construction can be seen.

11. *Jalameh Checkpoint.* Major construction work is underway at this checkpoint, which is due north of Jenin and functions as the primary point of entry between Israel and the northern West Bank. The United Nations understands that a crossing terminal and army camp are being erected, and an industrial zone is also planned for the site.

## Phase C (Excluding Occupied East Jerusalem)

12. Construction started in early December 2003 on *Phase C*, which runs from the terminus of *Phase A*, near the Israeli settlement Elkana in the central West Bank, to the village of Nu'man, southeast of Jerusalem. It is divided into three different stages, with work underway along several parts of C1, which forms the bulk of the route. Stage C2 is the so-called "Ariel Salient", which is planned to cut up to 22 kilometres into the West Bank to incorporate 52,000 Israeli settlers. The United Nations has been informed that this stage will be the last to be built, apparently in part due to internal and international pressure to change the route. Stage C3 comprises two eight to 10 kilometre "depth barriers" that connect between serpentine segments of the Barrier in the south-central West Bank.

13. *Stage C1.* Construction started in early December 2003 along parts of this route in the central West Bank. The first is along a north-south axis between the villages of Rantis and Budrus, where the Green Line heads southeast toward Jerusalem. Approximately four kilometres of the Barrier out of a total of 40 kilometres in this area is currently under construction, mostly near the Green Line. It is projected that about 36 kilometres of the Barrier planned in this area runs east of the Green Line. In late December 2003, a set of land confiscation orders was issued in several villages in the municipality of Betunia along the planned route of the Barrier as it continues east toward Jerusalem. Much of this part of the route deviates from the Green Line, reaching up to seven kilometres inside the West Bank at the point where it connects with a completed section of *Phase A* construction at Ofer Military Camp south of Ramallah.

14. *Stage C3.* The two planned "depth barriers" of this stage run up to nine kilometres inside the West Bank. The United Nations understands that the exact components or start date for construction have not yet been determined, but if completed, they will form two enclaves encompassing 72,000 Palestinians in 24 communities. One depth barrier runs north-south, roughly parallel with current construction between the villages of Rantis and Budrus noted in paragraph 13. The United Nations has been informed that this "depth barrier" is necessary to provide a secure zone for nearby Ben Gurion Airport. The other depth barrier runs east-west along a ridge that is said to be part of the route of Highway 45, a motorway under construction.

### **Phase C (Occupied East Jerusalem)**

15. Further construction started in late November 2003 along the south-eastern part of Israel's self-declared municipal boundary for Jerusalem. It runs up to six kilometres inside the Green Line, from the suburban village of El-Ezariya south to an existing Barrier section near the settlement of Har Homa. The section includes sections of nine-meter high concrete wall in populated areas, including El-Ezariya, which is cut off from Jerusalem, and neighbouring Abu Dis, which has been split in two. At least 35,000 people will live east of this section of the Barrier, which has no gates. The United Nations understands that Palestinians with Jerusalem identity cards or valid permits will enter via a checkpoint beneath the eastern slope of the Mount of Olives.

16. Another concrete wall has been erected on a hilltop due south of Abu Dis, which will contain a Border Police base. The base overlooks Barrier construction to the south, which follows the planned route for the eastern Jerusalem ring road. The Palestinian hamlet of Nu'man sits at the southern end of this stage, where it is connected with an existing section of the Barrier. A crossing terminal for people and goods from the southern West Bank is apparently planned here.

17. Several roads are planned or under construction in conjunction with the Barrier around Jerusalem. The al-Zaim interchange, below the eastern flank of the Mount of Olives, is undergoing major expansion. According to information made available to the United Nations, the interchange will separate Israeli and Palestinian road networks that follow the Barrier line as it stretches north and south of the city. Israeli traffic coming from eastern settlements and the Jordan Valley will be linked to highways leading into Jerusalem and settlements to the north. Palestinian traffic will be directed to the northern and southern West Bank, with valid permit holders gaining access to East Jerusalem over the Mount of Olives.

18. The Barrier's route in northern Jerusalem coincides with major transportation infrastructure plans. A highway that services the northern Jerusalem settlements of Pisgat Zeev and Neve Yaakov, stopping at the Palestinian neighbourhood of Al-Ram, will continue along the planned Barrier line for two kilometres to the Atarot Industrial Zone. The Barrier here will join finished construction at the nearby Qalandiya checkpoint that controls crossing between Ramallah and Jerusalem. Al-Ram will be separated from Jerusalem and the checkpoint will be moved about two kilometres to the west, where a crossing terminal is planned. The Barrier here also links with the planned route for Highway 45. The United Nations has been informed that changes of the motorway's route in this area are under consideration despite evidence of land levelling running due east of Qalandiya, away from the current planned Barrier route.

### **Phase D**

19. Work on Barrier construction has yet to start on *Phase D*, which is planned for the southern West Bank.

## **III. Process of Land Requisition as Part of the Barrier's Construction**

20. The land requisition process remains the same as described in the report of the Secretary-General prepared pursuant to General Assembly resolution ES-10/13.

## **IV. The Establishment of Closed Areas**

21. The series of legal instruments issued by the Israeli Defence Forces on 2 October 2003 (the Closed Areas Orders) remain in place.



## V. Conclusion

22. The factual update of the report of the Secretary-General prepared pursuant to General Assembly resolution ES-10/13 finds that the Government of Israel has continued with ongoing construction of the Barrier along the route approved by the Israeli Cabinet on 1 October 2003 in Decision 883. In addition, the Government of Israel has begun construction to add some new components to already completed sections of the Barrier, such as crossing terminals, roads, underpasses, and gates.