



The Ambassador

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EMBASSY OF THE FEDERATIVE REPUBLIC OF BRAZIL

Au Greffier de la
Cour Internationale de Justice,
M. Philippe Couvreur

La Haye, le 30 Janvier 2004.

Monieur le Greffier,

En réponse à votre lettre 119839, du 19 décembre 2003, j'ai l'honneur de vous faire parvenir, ci-joint, les commentaires du Government brésilien sur la question des Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé.

Veillez agréer, Monsieur le Greffier, les assurances de ma haute considération.

A handwritten signature in black ink, appearing to read 'G. Saboia'.

Gilberto Vergne Saboia
Ambassadeur



THE FEDERATIVE REPUBLIC OF BRAZIL

The Resolution adopted by the Tenth Emergency Special Session of the United Nations General Assembly (UNGA) requests an Advisory Opinion of the International Court of Justice 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?”

Brazil voted in favour of the aforementioned UNGA Resolution, as it believes an ICJ Advisory Opinion would be appropriate, given the nature of this matter. In this regard, the position of the Brazilian Government is the following:

- ongoing construction of the wall by Israel, in departure of the Armistice Line of 1949, as described in the report of the Secretary General (A/ES-10/248) provides evidence that Israel is not complying with the UNGA’s demand, stated in resolution ES-10/13, that it “stop and reverse the construction of the wall in the Occupied Palestinian Territory”;

- although we acknowledge Israel’s right to protect its people from terrorist attacks, and note Israel’s statement that the wall is a temporary measure, such construction has evident political and legal implications;

- the measures that Israel takes for its own defense must be in accordance with universally recognized standards of human rights and International Humanitarian Law, in particular as regards the obligations of the occupying power towards the civilian population of occupied territories;

- politically, the wall is clearly divisive and contrary to the spirit of the confidence-building measures that should accompany the peace process as outlined in the “Road Map”; the construction of the wall inside occupied Palestinian territory would impair future negotiations; for essentially these reasons, the construction of the wall has been termed “a deeply counterproductive act” by the UNSG;

- legally, the UNGA has stated that construction of the wall inside occupied territory is in contradiction to relevant provisions of international law. This seems to be the case, in particular, as regards the obligations of the occupying power outlined in International Humanitarian Law, including the Fourth Geneva Convention. It is therefore appropriate for the ICJ to deliver an advisory opinion that would clarify for the entire international community the legal aspects of the issue.

