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MY TELNO 1802: OCCUPIED TERRITORIES : SECRETARY-GENERAL'S REPORT

SUMMARY

1. SECRETARY-GENERAL'S REPORT EXPLAINS WHY HE DID NOT SEND A MISSION TO THE OCCUPIED TERRITORIES. TWO SUGGESTIONS: A MEETING OF PARTIES TO THE FOURTH GENEVA CONVENTION AND THE ESTABLISHMENT OF AN IMPARTIAL PRESENCE IN THE OCCUPIED TERRITORIES MANDATED BY THE UNITED NATIONS.

DETAIL

2. THE SECRETARY-GENERAL'S REPORT ON THE SITUATION IN THE OCCUPIED TERRITORIES WAS ISSUED ON 1 NOVEMBER (DOCUMENT S/21919 DATED 31 OCTOBER: COPIES FAXED TO NENAD AND UND).

3. THE FIRST PART OF THE REPORT IS FACTUAL. IT DESCRIBES SCR 672 AND THE SECRETARY-GENERAL'S DECISION TO SEND A MISSION TO THE REGION, AND THE ISRAELI REJECTION OF BOTH. THE REPORT GOES ON TO EXPLAIN THE CIRCUMSTANCES LEADING TO THE ADOPTION OF SCR 673, AFTER WHICH THE SECRETARY-GENERAL SENT AN ORAL MESSAGE TO THE ISRAELI GOVERNMENT URGING IT TO RECONSIDER ITS DECISION.

4. A LETTER SENT TO THE SECRETARY-GENERAL ON 31 OCTOBER BY THE NEW ISRAELI PERMANENT REPRESENTATIVE IS REPRODUCED IN THE REPORT. HE REITERATES THAT JERUSALEM IS THE SOVEREIGN CAPITAL OF THE STATE OF ISRAEL IN WHICH THE UNITED NATIONS HAS NO ROLE. THIS IS DESCRIBED AS A LONG-STANDING ISRAELI POLICY: IN 1971 ISRAEL DECLINED TO RECEIVE THE ENVOYS AND THE MISSION TO JERUSALEM MENTIONED IN PARAGRAPH 5 OF SCR 298. THE LETTER ALSO CONVEYS TO THE SECRETARY-GENERAL THE FULL TEXT IN HEBREW OF THE ZAMIR REPORT ON THE INCIDENTS IN JERUSALEM, TOGETHER WITH A SUMMARY IN ENGLISH. THE LATTER WILL BE ISSUED SHORTLY AS AN ADDENDUM TO THE SECRETARY-GENERAL'S REPORT.

5. THE SECRETARY-GENERAL'S REPORT DOES NOT ATTEMPT TO ADDRESS THE QUESTION OF RESPONSIBILITY FOR THE CLASHES OF 8 OCTOBER IN JERUSALEM. IT REFERS ONLY TO THE REPORTS OF AN ISRAELI AND A

PALSTINIAN HUMAN RIGHTS ORGANISATION (B'TSELEM AND AL-HAQ) WHICH WILL BE ISSUED AS ADDENDA TO THE REPORT.

6. THE REPORT THEN MAKES A BRIEF REFERENCE TO THE GOULDING REPORT OF JANUARY 1988 AND TO SUBSEQUENT RESOLUTIONS AND PRESIDENTIAL STATEMENTS ISSUED BY THE SECURITY COUNCIL ON THE OCCUPIED TERRITORIES. IT ALSO DESCRIBES THE SECURITY COUNCIL DEBATES IN GENEVA AND NEW YORK IN LATE MAY AND THE VETOING THEN OF A DRAFT RESOLUTION THAT WOULD HAVE ESTABLISHED A SECURITY COUNCIL COMMISSION TO EXAMINE THE SITUATION IN THE OCCUPIED TERRITORIES AND RECOMMENDED WAYS AND MEANS OF ENSURING THE SAFETY OF PALESTINIAN CIVILIANS.

7. THE SECRETARY-GENERAL NOTES THAT THE RESOLUTIONS AND PRESIDENTIAL STATEMENTS TO WHICH HE REFERS ALL REAFFIRM THE APPLICABILITY TO THE OCCUPIED TERRITORIES OF THE FOURTH GENEVA CONVENTION. HE QUOTES ARTICLE 27 OF THE CONVENTION ON THE ENTITLEMENT OF THE CIVILIAN POPULATION TO SAFETY AND PROTECTION, ARTICLE 29 ON THE RESPONSIBILITY OF THE OCCUPYING POWER, AND ARTICLE 1 WHICH STATES THAT THE HIGH CONTRACTING PARTIES UNDERTAKE TO ENSURE RESPECT FOR THE CONVENTION IN ALL CIRCUMSTANCES. HE EXPLAINS THAT ISRAEL, ITSELF A HIGH CONTRACTING PARTY, DOES NOT ACCEPT THE DE JURE APPLICABILITY OF THE FOURTH GENEVA CONVENTION, ALTHOUGH SINCE 1967 IT HAS DECIDED TO ACT IN DE FACTO ACCORDANCE WITH THE CONVENTION'S HUMANITARIAN PROVISIONS. BUT THIS HAS NOT BEEN ACCEPTED BY THE ICRC, THE 'GUARDIAN' OF THE CONVENTIONS, OR BY THE SECURITY COUNCIL.

8. THE REPORT ENDS WITH A NUMBER OF 'OBSERVATIONS' BY THE SECRETARY-GENERAL. HE STATES THAT HE HAS BEEN GUIDED BY TWO MAIN CONSIDERATIONS: FIRST THAT THE EVENTS OF 8 OCTOBER WERE ONLY THE MOST RECENT OF MANY GRAVE INCIDENTS IN THE OCCUPIED TERRITORIES, AND SECOND THAT THE RESPONSIBILITIES ENTRUSTED TO HIM UNDER SCRS 672 AND 673 SHOULD BE VIEWED IN THE CONTEXT OF EARLIER EFFORTS HE HAD MADE. HE RECALLS THAT THE PRINCIPAL RECOMMENDATION OF THE GOULDING REPORT WAS THAT THE INTERNATIONAL COMMUNITY SHOULD MAKE A CONCERTED EFFORT TO PERSUADE ISRAEL TO ACCEPT THE DE JURE APPLICABILITY OF THE FOURTH GENEVA CONVENTION TO THE OCCUPIED TERRITORIES AND TO CORRECT ITS PRACTISES. IN LINE WITH THE GOULDING REPORT THE NUMBER OF INTERNATIONAL STAFF OF UNRWA IN THE OCCUPIED TERRITORIES HAS BEEN INCREASED FROM 15 IN 1987 TO 51 AND THE SIZE OF THE ICRC DELEGATION FROM 15 TO 45. BUT THE PALESTINIANS HAVE MADE IT CLEAR TO HIM THAT THEIR DISTRUST OF THE ISRAELI OCCUPATION AUTHORITIES IS SO DEEP THAT ONLY AN IMPARTIAL PRESENCE, PROPERLY MANDATED BY THE UNITED NATIONS WOULD BE ABLE TO PROVIDE THEM WITH A CREDIBLE SENSE OF PROTECTION. MANY ASKED WHY UNTSO SHOULD NOT BE ASSIGNED TO MONITOR THE SITUATION

IN THE OCCUPIED TERRITORIES.

9. THE SECRETARY-GENERAL REFERS TO THE AIME MISSION OF EARLY JULY. PEREZ DE CUELLAR SUBSEQUENTLY TOLD THE SECURITY COUNCIL THAT HE WOULD PURSUE HIS INITIATIVE TO PERSUADE THE ISRAELIS TO COMPLY WITH THEIR OBLIGATIONS UNDER THE FOURTH GENEVA CONVENTION. IF THE HIGH CONTRACTING PARTIES FELT THAT FURTHER MEASURES- SUCH AS THE DESIGNATION OF A PROTECTING POWER - WERE REQUIRED, IT WAS A MATTER FOR THEM. HAD IT BEEN POSSIBLE FOR PEREZ DE CUELLAR TO SEND A MISSION TO THE AREA AT THE PRESENT TIME, IT WOULD HAVE FOLLOWED UP THE DISCUSSIONS BEGUN IN THE SUMMER. AT THAT TIME THE ISRAELIS INDICATED THAT THEY WOULD BE IMPLEMENTING NEW MEASURES IN THE OCCUPIED TERRITORIES. IN THE SUBSEQUENT MONTHS THERE WAS A DECREASE IN THE MILITARY PRESENCE AND IN THE NUMBER OF CASUALTIES. BUT THE EVENTS OF 8 OCTOBER SPARKED OFF A NEW SPATE OF VIOLENCE.

10 THE SECRETARY-GENERAL STATES THAT THE NUMEROUS APPEALS TO THE ISRAELI AUTHORITIES TO ABIDE BY THEIR OBLIGATIONS UNDER THE FOURTH GENEVA CONVENTION HAVE BEEN INEFFECTIVE. FOR ANY MEASURE OF PROTECTION TO BE ENSURED, CO-OPERATION OF THE ISRAELI AUTHORITIES IS ESSENTIAL. GIVEN THE SPECIAL RESPONSIBILITY OF THE HIGH CONTRACTING PARTIES FOR ENSURING RESPECT FOR THE CONVENTION, THE SECURITY COUNCIL MIGHT WISH TO CALL FOR A MEETING OF THE HIGH CONTRACTING PARTIES TO DISCUSS POSSIBLE MEASURES THEY MIGHT TAKE. PALESTINIAN APPEALS FOR AN IMPARTIAL PRESENCE, PROPERLY MANDATED BY THE UNITED NATIONS, WERE A MATTER FOR DECISION BY THE SECURITY COUNCIL.

11. THE REPORT CLOSSES WITH A CALL FOR AN EFFECTIVE NEGOTIATING PROCESS ACCEPTABLE TO ALL TO SECURE THE INTERESTS OF BOTH ISRAELIS AND PALESTINIANS AND ENABLE THEM TO LIVE IN PEACE WITH EACH OTHER.

12. PLEASE SEE MIFT FOR COMMENT AND MY SECOND IFT FOR AN ACCOUNT OF FIRST REACTIONS TO THE REPORT.

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