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Security Council

Fifty-ninth year

Provisional

4934th meeting

Thursday, 25 March 2004, 5.05 p.m.

New York

President:	Mr. De La Sablière	(France)
Members:	Algeria	Mr. Baali
	Angola	Mr. Gaspar Martins
	Benin	Mr. Adechi
	Brazil	Mr. Sardenberg
	Chile	Mr. Muñoz
	China	Mr. Wang Guangya
	Germany	Mr. Pleuger
	Pakistan	Mr. Akram
	Philippines	Mr. Baja
	Romania	Mr. Motoc
	Russian Federation	Mr. Gatilov
	Spain	Mr. Arias
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United States of America	Mr. Negroponte

Agenda

The situation in the Middle East, including the Palestinian question

04-28292 (E)

0428292

The meeting was called to order at 5.05 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in the Middle East, including the Palestinian question

The President (*spoke in French*): In accordance with the decision taken at the 4929th meeting of the Security Council, I propose, with the consent of the Council, to invite the representative of Israel to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Gillerman (Israel) took a seat at the Council table.

The President (*spoke in French*): In accordance with the decision taken at the 4929th meeting of the Security Council, I propose, with the consent of the Council, to invite the Permanent Observer of Palestine to participate in the meeting in accordance with the rules of procedure and the previous practice in this regard.

There being no objection, it is so decided.

At the invitation of the President, Mr. Al-Kidwa (Palestine) took a seat at the Council table.

The President (*spoke in French*): The Security Council will continue its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2004/240, which contains the text of a draft resolution submitted by Algeria and the Libyan Arab Jamahiriya.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote now.

There being no objection, it is so decided.

I shall first give the floor to those members of the Council who wish to make statements before the voting.

Mr. Negroponte (United States of America): The United States will vote against this draft resolution because, in our view, it is silent about the terrorist atrocities committed by Hamas; because it does not reflect the realities of the conflict in the Middle East; and because it will not further the goals of peace and security in the region.

The United States is deeply troubled by the killing of Sheikh Yassin. Israel's action has escalated tensions in Gaza and in the region and could set back our effort to resume progress towards peace. But, as I said in Tuesday's open meeting, events must be considered in their context, and the Security Council does nothing to contribute to a peaceful settlement when it condemns one party's actions and turns a blind eye to everything else occurring in the region.

This draft resolution condemns the killing of Sheikh Yassin, the leader of Hamas, a terrorist organization dedicated to the destruction of Israel. Last week Hamas proudly proclaimed its responsibility for a suicide bombing in the Israeli port of Ashdod that killed 10 Israelis and injured 10 more. This draft resolution does not condemn that attack, nor does it condemn those responsible. In fact, it does not even mention them, despite the fact that a number of Council members specifically requested the inclusion of such references.

This draft resolution also, as indicated in the preambular language, refers only to the situation in the occupied territories, ignoring the tragic events which are occurring in Israel. The Council should focus on ways to advance the goal of the two States — Israel and Palestine — living side by side in peace and security. The one-sided draft resolution before the Council does not advance that goal.

The United States is committed to achieving the vision of two States living side by side in peace and security. We will support any action here in the Council and, more importantly, on the ground in the region that will further that goal, and will oppose any action that would impede it. One-sided, unbalanced draft resolutions by the Security Council such as the one before the Council today would only detract from the efforts of the Quartet and the international community to resume progress on the path towards peace.

The President (*spoke in French*): I now put to the vote the draft resolution contained in document S/2004/240.

A vote was taken by show of hands.

In favour:

Algeria, Angola, Benin, Brazil, Chile, China, France, Pakistan, Philippines, Russian Federation, Spain

Against:

United States of America

Abstaining:

Germany, Romania, United Kingdom of Great Britain and Northern Ireland

The President (*spoke in French*): The result of the voting is as follows: 11 in favour, one against and three abstentions. The draft resolution has not been adopted, owing to the negative vote of a permanent member of the Security Council.

I shall now call on those representatives who wish to make statements following the voting.

Mr. Gatilov (Russian Federation) (*spoke in Russian*): The Russian Federation expresses its regret that the Security Council was unable to respond to the development of events in the Palestinian territories resulting from the killing of Sheikh Ahmed Yassin, spiritual leader of the Islamic movement Hamas. Yesterday, the United Nations Commission on Human Rights, as the outcome of a special meeting, adopted by majority vote a resolution on the dangerous situation in the occupied Palestinian territories that condemned such actions by Israel and contained an appeal to the Israeli Government to comply with the principles of international humanitarian law and to refrain from any and all forms of human rights violations in the occupied Palestinian territories.

The Russian Federation's position remains unchanged. We believe that the phenomenon of extremism must be eradicated. We condemn terrorism in all its forms and manifestations, as they violate the most fundamental right of human beings: the right to life. In the Security Council, we have consistently voted in favour of resolutions condemning terrorist acts, including those aimed at Israel's civilian population. We voted in favour of this draft resolution because, inter alia, it contains a condemnation of all terrorist attacks against civilians. From the very outset, we favoured the drafting of a consensus approach that would have ensured Council unity on this issue. We believe that there were opportunities to achieve such a consensus and that the consultations should have been continued.

Once again, the Russian Federation calls upon the Israeli and Palestinian sides to demonstrate restraint and a high level of responsibility and to reject unilateralism. Of particular importance in the current situation are internationally coordinated efforts, under the aegis of the Quartet of mediators, to bring the road map to the level of practical implementation.

Mr. Baali (Algeria): Four days after the horrendous assassination of Sheikh Yassin and six other Palestinians, blown up by an Israeli missile as they were leaving a mosque, the Security Council has been unable to produce either a presidential statement or a resolution condemning that extrajudicial killing and calling for the cessation of that practice, which is contrary to international law. As if doomed to fail whenever it must deal with the intractable situation in the Middle East, the Security Council has come to the conclusion once and for all that it has nothing to say about the terrible tragedy that is unfolding in that part of the world.

By not condemning the extrajudicial killing of Sheikh Yassin, the Security Council is not sending the right message to the world, which has unanimously condemned that crime. It is not sending the right message to those who sincerely believe that the Security Council is the custodian of international law. But it is certainly sending the wrong message to Israel, whose representative boasted two days ago in this very Chamber about the crime committed and vowed to continue the unlawful policy of extrajudicial killings.

During the past four days, the sponsors of the just-vetoed draft resolution made every effort to accommodate the concerns and the demands of all those who wished to see the Security Council adopt a common stance. The text we have before us is indeed a fair and balanced attempt to satisfy every delegation. It condemns the assassination of Sheikh Yassin, and it also condemns all terrorist acts and acts of violence and destruction against civilians. It calls for the cessation of extrajudicial killings as well as of all acts of violence, including acts of terrorism. It calls for adherence to international law and for implementation by the parties of their obligations and of the road map

in order to achieve the vision of two States living side by side in peace and security. In spite of all that, that balanced approach did not fully satisfy some delegations, which I would still like to thank for their efforts to arrive at a general agreement.

While thanking the members of the Council who voted in favour of the draft resolution, I would like to express our deep regret that the Council has again failed to assume its responsibilities.

Mr. Pleuger (Germany): Germany abstained in the voting on the draft resolution at issue. The reason is that the draft resolution addresses the recent events in the Middle East in an unbalanced manner.

The Council of Foreign Ministers of the European Union (EU), on 23 March, unequivocally condemned the extrajudicial killing of Hamas leader Sheikh Ahmed Yassin and of six other Palestinians by Israeli forces. The EU, including Germany, has always opposed extrajudicial killings. My Government believes not only that they are contrary to international law but also that they undermine the concept of the rule of law, which is a key element in the fight against terrorism. I reiterated that position, and our position on the Middle East conflict, in no uncertain terms during the open meeting of the Council two days ago.

At the same time, Germany and the EU have in the past repeatedly condemned the terrorist atrocities that have resulted in the deaths of hundreds of Israelis. Just last week, two terrorist attacks in Ashdod claimed 10 innocent lives. The draft resolution does not address those facts in an appropriate manner, as did the declaration of the EU ministers a couple of days ago.

We tried hard to be able to vote in favour of the draft resolution by introducing balancing language from the declaration of the EU foreign ministers. Germany, for its part, feels bound by the statement of the EU's Council of Foreign Ministers of three days ago, which clearly condemned the wrongdoings of both sides. Consequently, Germany was not able to vote in favour of a draft resolution that falls short of that common European position.

Mr. Motoc (Romania) (*spoke in French*): Romania abstained in the voting on the draft resolution under consideration. Unlike the texts, submitted in the past in other multilateral forums, that Romania was able to support, the draft before us does not ensure that the general context in which the death of Sheikh Yassin took place is taken into account in a similar manner. Nevertheless, we appreciated the efforts of the text's negotiators to reconcile the different points of view expressed.

Aside from the document's procedural difficulties, it should have been very clear on substance and should have taken into account my delegation's position on the problem just considered by the Council. Indeed, Romania believes that extrajudicial killings are unacceptable and contrary to international law. Romania emphasizes once again that any terrorist act is unacceptable and must be condemned.

The implementation of the road map must resume without further delay. That settlement plan has been accepted by the parties. It is the only one that provides an appropriate framework to achieve — through negotiation and with the support of the international community, represented by the Quartet — a just and lasting solution based on the relevant Security Council resolutions and on the vision of two States living together in peace and security within safe and internationally recognized borders.

Sir Emyr Jones Parry (United Kingdom): The United Kingdom has consistently condemned extrajudicial killings. We recognize Israel's right to defend itself against terrorism, but it must act in accordance with international law. The killing of Sheikh Yassin was unlawful and will serve only to perpetuate the vicious cycle of violence.

The United Kingdom has also repeatedly condemned terrorist atrocities committed by terrorist groups and which have caused hundreds of Israeli civilian deaths. The Palestinians must take immediate and effective action to stop the terrorism emanating from the occupied Palestinian territories, in line with their obligations under the road map.

On Monday, 22 March 2004, the United Kingdom supported a European Union statement which condemned the killing of Sheikh Ahmed Yassin but did so in a balanced way. The United Kingdom abstained on the resolution before us tonight because it was unbalanced. It singled out one party as the perpetrator of violence. It failed to condemn terrorist atrocities against Israel and it limited its condemnation of terrorist attacks to those against civilians.

Let me be clear, Sir, the United Kingdom would have voted for this resolution if its proposers had

accepted an amendment reflecting the positions set out by the European Union on 22 March. That amendment would have replaced existing operative paragraph 2, by another text. That text would have condemned terrorist atrocities which have resulted in the deaths of hundreds of Israelis, as well as all acts of violence and destruction. That very reasonable amendment was not accepted.

There will be no military solution to this conflict. Our focus should be on moving the peace process forward. The key is now for both sides to take immediate steps to implement their obligations under the road map and to refrain from actions which will only serve to escalate violence in the region, leading to yet more loss of life.

Mr. Muñoz (Chile) (*spoke in Spanish*): Chile regrets the fact that it was not possible to reach unanimous agreement on this draft resolution. Chile voted in favour of the draft resolution because we feel that extrajudicial execution is an act of violence and therefore needs to be condemned. Although any State has the right to protect its citizens from terrorist attacks, it must do so in accordance with the norms of international law. Moreover, Chile is of the view that operative paragraph 2 of the draft resolution contains a condemnation of suicide attacks against civilians only. We also stress the urgent need for all parties to meet their obligations under the road map, as called for under Security Council resolution 1515 (2003).

Mr. Arias (Spain) (*spoke in Spanish*): My delegation voted in favour of the resolution for the reasons we stated a few days ago in this Chamber, which were based on the two main ideas contained in last week's declaration by the Council of Ministers of the European Union.

Spain opposes any terrorist acts, whatever their source and whatever their motivation may be. A bomb in a bus in Tel Aviv, a bomb in a train in Madrid, a bomb in a building in New York or in Casablanca — all are terrorist acts. They are all equally reprehensible and unjustifiable. We condemn them in the strongest terms and my delegation has made every effort to embody this idea in operative paragraph 2 of the resolution.

But, we are also opposed to and condemn extrajudicial executions. The Security Council could not remain passive in the face of the act committed three days ago. It was contrary to international law and, as has been stated here, it will disastrously fuel tension and hostility in the region.

Mr. Sardenberg (Brazil): The reasons that lead to the affirmative vote by Brazil on the draft resolution are contained in the statement by my delegation during the Security Council's 4929th meeting, held on 23 March 2004.

The President (*spoke in French*): I shall now make a statement in my capacity as the representative of France.

France voted in favour of the draft resolution submitted by Algeria because we believe that the Security Council should send a strong and clear message to the parties in the present context of extremely heightened tensions in the region.

The text was considerably amended and improved during the negotiations over the last 48 hours. The text ultimately reproduces the balance of the declaration of the Ministers of the European Union and condemns the killing of Sheikh Ahmed Yassin as an extrajudicial execution which is a practice that France has always opposed as contravening international law. The text also condemns all terrorist acts against civilians. France has systematically condemned terrorist acts, those heinous acts which have killed hundreds of Israelis since September 2000.

Finally, we appeal to the parties to respect international law and fulfil their obligations within the framework of the road map. The road map is the only possible path. Violence is not an option and must cease.

I regret that it has not been possible to achieve consensus. France finds it particularly regrettable that the Council, once again, finds itself paralysed regarding this pivotal issue for stability and for international peace.

I now resume my function as President of the Council.

The Permanent Observer of Palestine has asked for the floor. I now give him the floor.

Mr. Al-Kidwa (Palestine) (*spoke in Arabic*): Today's events are indeed regrettable. The Security Council was once again prevented, because of the twenty-eighth use of the veto by the United States on the question of the occupied Palestinian territories. I would say the Council was unable to assume its

responsibilities in the maintenance of international peace and security.

What is even more regrettable is that this action takes place amidst the very severe tension within the Middle East, including the negative effects that will be a consequence of the inability of the Council to adopt a measure as happened today.

There is no doubt that millions of people will be unable to understand what happened today and this action will therefore not contribute to calming the situation or be a push towards moderation or dialog in the region. The Arabs have shown great flexibility in the past few days in a serious attempt to adopt a unanimous decision. Before today's action, we had considered a presidential statement that naturally, we had hoped to adopt by consensus. Again, the Arab side did this because we fully understood that the way in which the Council's work concluded was not in the interests of any responsible party or any party that is anxious to see peace prevail in the area. As the representative of Algeria stated earlier, the draft resolution, which has not been adopted, contained a very clear condemnation of all terrorist attacks against any civilians as well as all acts of violence and destruction.

Regrettably, however, the super Power that voted against the draft resolution made suggestions that were impossible to accept. Of course, we would have liked to have seen more countries voting in favour of the draft resolution in the Council, but, once again, proposals were made that we simply could not accept for various reasons, including legal aspects that were perfectly clear. Allow me to cite an example: there was an attempt to broaden the definition of terrorist attacks in a way that would not confine the definition to attacks against civilians. That is indeed bizarre and unacceptable, particularly in a case involving foreign occupation.

All we hope for now is a clear stance in the near future that will make Israel, the occupying Power, understand that it cannot continue its illegal policies, especially extrajudicial killings. This will require a clear position, particularly — if I may speak frankly — from the United States of America. Very modestly and humbly, we call upon the United States to reassess its position on the Palestinian-Israeli conflict. We call upon the United States to adopt more neutral, objective and fair positions to enable it to assume its natural role as the sponsor of the peace process and a member of the Quartet, with a view to the implementation of the road map and the establishment of peace based on the principle of two States, Palestine and Israel.

We would like to express our deep appreciation to Algeria, the Group of Arab States, the members of the Non-Aligned Movement, the members of the Council and, of course, all countries that voted in favour of the draft resolution today. Our Palestinian people express to all of them their thanks and deep appreciation.

The President (*spoke in French*): The representative of Israel has asked for the floor. I now give him the floor, and I call on him now.

Mr. Gillerman (Israel): At the outset, I would like to thank those countries that bravely and with great integrity did not vote for this draft resolution. We are gratified that this draft resolution was not adopted. This draft resolution should never even have been considered. A draft resolution mentioning Sheikh Yassin without mentioning Hamas is shameless and hypocritical. Describing Sheikh Yassin as an innocent bystander leaving prayers, without identifying him as the arch-terrorist that he was, makes a mockery of this Council. I was especially dismayed by those Council members who described Sheikh Yassin as the spiritual leader of the Islamic movement Hamas. This is sad and alarming, especially coming from countries which have themselves suffered from terrorism and continue to do so.

Ignoring the leaders of terror will not make terror go away and sends a dangerous message worldwide. I would also like to ask those Council members which were recently victims of horrendous terror the following question: If you knew, before the bloody massacre of your citizens, who was going to carry out that horrendous act, would you have sat still and let it happen?

Sheikh Yassin stood at the head of an organization that was committed to destroying Israel and to destroying the road map and every other peace initiative through the cold-blooded murder of innocent civilians. He was the head of an organization that has been recognized and declared as a terrorist organization by most of the world's freedom-loving countries, including the whole of the European Union. In fact, it has been recognized as such in most parts of the world, with the exception of this Chamber.

The Security Council, which has endorsed the road map and is charged with the maintenance of international peace and with pursuing the global war on terrorism, would have committed an unforgivable act of hypocrisy had it come to the defence of a man whose life's work and legacy was the eradication of peace, a man who was nothing less than a mass murderer and the godfather of terrorism. We are indeed grateful to those members of the Council that recognized this fact and voted accordingly.

Two weeks ago, Ahmed Yassin proudly — gloatingly — took responsibility for a double suicide bombing at the Ashdod port, which killed 10 innocent people. The bombers were in fact planning a mega-attack targeting chemical storage tanks at the port. Had they been successful, there would likely have been fatalities in the multiple hundreds. I wonder whether the reaction to Israel's defensive operation would have been the same had, by a cruel twist of fate, the Ashdod attack achieved its objective. After the Ashdod attack, the Council was silent, in the same way that it has been silent after the hundreds of other terrorist attacks that Yassin orchestrated and proudly claimed as his own. Yet the sponsors of this draft resolution would have had the Council break that silence to defend the very man responsible for those attacks. There is simply no way to justify this double standard.

We hope that those Council members that were prepared to support this distorted text that was presented to them will have the decency in the future to support draft resolutions that focus on the kind of horrific acts of Palestinian terrorism for which Yassin and his co-conspirators have been responsible.

The fight against terrorism and for peace continues. Only yesterday, we all witnessed, with horror and disbelief, the abyss into which the Palestinian strategy of terrorism and murder has descended. Not for the first time, a young Palestinian boy no older than 14 years old was used as a suicide bomber. This proves once again, sadly, that there will probably not be peace until the Palestinians learn to love their children more than they hate us.

If the international community is serious about advancing the peace process for both Israelis and Palestinians, we must stop tolerating initiatives that pretend that the defensive response to terrorism is worse than terrorism itself. We cannot send the message that terrorists will be immune and satisfy ourselves with routine condemnations.

The Security Council has a responsibility to the victims of terrorism and to the cause of peace. It cannot meet that responsibility by devoting meeting after meeting to pandering to Arab Group initiatives that seek to demonize Israel and ignore Palestinian obligations. The Council can only meet its responsibility by addressing the reality that those Palestinian terrorist organizations and the regimes and leaders sponsoring them are the true enemies of peace. Unless and until they are confronted and defeated, progress towards a two-State solution under the road map will be held hostage.

The President (*spoke in French*): The Permanent Observer of Palestine has asked to speak, and I give him the floor.

Mr. Al-Kidwa (Palestine): I promise that my further statement will be brief. Palestine, of course, is not yet a Member of the United Nations; it is obviously not a member of the Security Council; and it is not my intention to defend the Council against undiplomatic attacks — undiplomatic to say the least. However, I feel the need to make a few quick points.

For the record, we believe that the problem with the Security Council has never been that the Council was anti-Israel. The real problem is that the Council has long tolerated and allowed illegal Israeli actions; it has tolerated and allowed foreign occupation for more than 36 years — occupation that has been transformed into blatant colonialism: colonizing Palestinian land, destroying the lives of a whole people and preventing the realization of the inalienable rights of the Palestinian people, including our right to exercise our sovereignty in our State, Palestine. That has been the problem, and nothing else.

Secondly, we object to the low-level and, I would say, immoral attempts to link illegal Israeli practices and policies with the international fight against terrorism. Israel is not a passive, peaceful country that is subject to attacks from outside. Israel is a terrible occupying Power that has never stopped violating all aspects of international law and international humanitarian law in particular. Israeli policies are not part of the battle against international terrorism; they are part of the problem of creating terrorism.

Finally, we have had it, frankly, with Israel's actions outside this building against us. We have had it with Israel's statements outside this building against the Palestinian people. But in this Chamber, it is too much. Statements such as "the Palestinian people do not love their children" or "the Palestinian people send their children to die because of their hatred of Israel" are statements that are full of racism and that reflect a kind of attitude that should be rejected out of hand — and I am trying to do that now.

The President (*spoke in French*): The representative of Israel has asked to speak, and I give him the floor.

Mr. Gillerman (Israel): I am sorry that I have to take the floor again, but I must say that I am somewhat dismayed, bewildered and shocked by the audacity of an entity that has given the world aeroplane hijackings and hostage kidnappings — and that, in fact, invented suicide bombings — trying to give us a lesson in democracy, human rights, international law and law and order.

There is a very clear connection between Palestinian terror and international terror. Terror is terror. There is no difference between Palestinian terror and international terror, as there is no difference between Hamas and Al Qaeda. Therefore, I think that the Members of the United Nations and the members of the Security Council should realize, sadly, that until the Palestinians realize that they are on the wrong side of the fight against terrorism and decide to choose the path of peace and reconciliation — as has been offered to them by Israel time and time again and as has been rejected by them time and time again — they will, sadly, probably not be Member of the United Nations for a long time to come.

The President (*spoke in French*): There are no further speakers. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 5.50 p.m.