

The Problems of Security Council Resolution 2803 (2025) Establishing the Board of Peace in Gaza: A Comparison with Namibia

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Abstract

On November 17, 2025, the UN Security Council adopted Resolution 2803 establishing a “Board of Peace” for Gaza with the same “13-0-2” voting pattern as the historic 1970 Resolution 276 on Namibia. This paper analyzes how the Namibia Doctrine—that Security Council resolutions bind member states without explicit Chapter VII invocation—has been applied in opposite directions. While Resolution 276 challenged South Africa’s illegal occupation and contributed to Namibia’s 1990 independence, Resolution 2803 establishes a framework coordinating with the occupying power despite the ICJ’s 2024 declaration of Israel’s occupation as unlawful.

The paper demonstrates that the apparent “13-0-2” consensus is fragile: seven of thirteen affirmative voters attached significant reservations, with Pakistan and Sierra Leone explicitly stating that self-determination “cannot be subject to any conditionality.” The analysis reveals a fundamental tension in the Namibia Doctrine: the same legal mechanism can serve both liberation and the conditioning of self-determination. The paper concludes by examining UN Secretary-General Guterres’s January 29, 2026 warning that the Board of Peace “cannot substitute for the United Nations,” and explores whether Resolution 2803 may violate Charter Articles 24(2) and 1(2) by subordinating self-determination to externally-defined governance reforms.

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I. Introduction: Symmetric Votes, Asymmetric Purposes

On November 17, 2025, the United Nations Security Council adopted Resolution 2803 by a vote of 13 in favor, 0 against, with 2 abstentions (China and Russia).[1] This resolution establishes a “Board of Peace (BoP)” chaired by U.S. President Donald Trump[2] and an “International Stabilization Force (ISF)” authorized to use “all necessary measures” to demilitarize Gaza.[3] The resolution was adopted merely 16 months after the International Court of Justice (ICJ) declared Israel’s continued presence in the Occupied Palestinian Territory unlawful and affirmed the inalienable right of self-determination of the Palestinian people in its Advisory Opinion of July 2024.[4] While the resolution is claimed to provide a realistic exit from a devastating conflict that has claimed over 70,000 lives[5], it raises fundamental legal and political questions.

Fifty-five years earlier, in 1970, the Security Council adopted Resolution 276 with the identical voting pattern of “13-0-2” (with France and the United Kingdom abstaining).[6] That resolution declared South Africa’s continued presence in Namibia (then “South West Africa”) “illegal and invalid”[7] and ultimately led to the 1971 ICJ Advisory Opinion in the Namibia case, which

established the “Namibia Doctrine”—that Security Council resolutions can bind member states even without explicit reference to Chapter VII of the UN Charter.[8]

The symmetry of the voting pattern is superficial. In 1970, France and the United Kingdom abstained on a resolution challenging illegal occupation. In 2025, China and Russia abstained on a resolution premised on coordination with the occupying power. The same “13-0-2” pattern produced resolutions with diametrically opposite vectors. This paradox illuminates a deeper tension inherent in the Namibia Doctrine: the mechanism of binding Security Council resolutions without explicit Chapter VII invocation can be employed both for the liberation of peoples and for the conditioning of peoples’ self-determination.

II. The Namibia Doctrine: The Dual Legacy of Strategic Ambiguity

The core of the Namibia Doctrine is that Security Council resolutions can bind member states under Article 25 of the Charter even without explicit reference to Chapter VII. From an analysis of the text and context of Resolution 276, the ICJ developed a four-element test for determining the binding character of Security Council decisions: (1) drafting history, (2) operative verbs (such as “decides,” “declares”), (3) strong language, and (4) context. Applying these elements, the ICJ concluded that Resolution 276 constituted a binding decision under Article 25 despite lacking Chapter VII invocation.[9]

Resolution 2803 follows in this lineage and satisfies the four-element test. It employs operative language such as “decides” and “welcomes,” powerful terminology like “all necessary measures,” the context of post-conflict urgency, and drafting history regarding Chapter VII invocation.[10]

Why was Chapter VII omitted? Because explicit invocation of Chapter VII would have increased the likelihood of veto. This “strategic ambiguity” served similar purposes in both cases. It enabled permanent members with reservations to choose abstention rather than veto, allowing the resolutions to be adopted.[11]

However, a profound paradox exists. The Namibia Doctrine was established to strengthen international law’s capacity to challenge illegal occupation. Resolution 2803, while using the same mechanism, seeks to establish an international framework premised on coordination with, rather than challenge to, the occupying power.[12]

III. The Reversed Symmetry of Abstentions: 1970 and 2025

The symmetry of the “13-0-2” voting pattern is superficial. In 1970, France and the United Kingdom abstained. They expressed legal objections and practical concerns but crucially did not exercise their veto.[13] History has judged these abstentions harshly. The 1971 ICJ Opinion and Namibia’s independence in 1990 revealed that France and the United Kingdom had been on the “wrong side of history.”[14]

The 2025 abstentions are more complex. Russian Ambassador Nebenzia criticized the resolution for failing to reaffirm “the cornerstone formula of ‘two States for two peoples’” and

denounced the fact that the Board of Peace could “act absolutely autonomously, without any regard for Ramallah’s position” as reminiscent of “colonial practices.”[15] Chinese Ambassador Fu Cong likewise noted that the resolution is “vague and unclear on many critical elements” and “does not demonstrate the fundamental principle of Palestinians governing Palestine.”[16]

Yet if they had such strong principled objections, why abstain rather than veto? According to informal reports, the United States conducted extensive diplomacy before the vote and secured “acquiescence” from major Arab states. This created powerful pressure on China and Russia. The logic: “How can an outside major power justify blocking when the most directly affected parties are not opposing the resolution?”[17]

This strategic calculation mirrors the 1970 dynamics in reverse form. Where 1970 saw “active advocacy,” 2025 saw “passive acquiescence.”[18]

III-B. The Fragility of Apparent Consensus

Resolution 2803 was adopted by a vote of 13-0-2, but this number represents only a superficial consensus. Many of the 13 states that voted in favor attached significant reservations in their post-vote statements, expressing serious concerns about the resolution’s implementation.

Algeria (representing the Arab Group) voted in favor while presenting seven conditions. At their core: (1) strict adherence to “no annexation, no occupation, no forced displacement,” (2) UN centrality in humanitarian assistance, (3) complete withdrawal of Israeli occupation forces, (4) clarification of PA governance return, and (5) expansion of protection measures to the West Bank.[19]

Pakistan (representing the eight Arab and Muslim countries group) similarly expressed nine principled positions. Most importantly: “Self-determination is inherent and unconditional. This right is enshrined in the Charter of the United Nations and applies equally to the Palestinian people and cannot be subject to any conditionality.” This is a direct rebuttal of the resolution’s conditional language that “conditions may finally be in place” after PA reform implementation. [20]

The United Kingdom and France conditioned their support on the resolution’s implementation conforming to international law and advancing toward a two-state solution. France articulated three “pillars” for implementation: (1) a two-state solution based on the 1967 lines, (2) the prompt return of a reformed PA to Gaza, and (3) the unity of Gaza and the West Bank.[21]

Slovenia argued that “the clear terms of reference of the Board of Peace and its composition should be communicated to the Security Council once they become available,” pointing to the resolution’s textual incompleteness.[22]

Sierra Leone expressed the most detailed legal reservations. It stated that “the powers of the Security Council are not unlimited. They are bounded by the Charter and by peremptory norms of general international law (jus cogens),” citing “the right of peoples to self-determination” as an example. Sierra Leone based this claim on the fact that the ILC included self-determination in the illustrative lists of “widely recognized” jus cogens norms in both the 2001 Commentary to

the State Responsibility Articles and the 2019 Draft Conclusions on Jus Cogens. However, the ILC itself characterized these lists as “illustrative” and “non-exhaustive,” not definitive identifications. Moreover, these are **commentaries and annexes**, not treaty provisions themselves. As for the ICJ, while it has consistently confirmed the erga omnes character of self-determination (including in the 2024 Palestine Opinion, para. 97), it has avoided explicit recognition of its jus cogens status. Thus, Sierra Leone’s legal position represents an expansive interpretation of existing ILC documents and ICJ jurisprudence, attempting to treat the jus cogens status of self-determination as already established.[23]

Sierra Leone placed six “understandings” on the record, declaring among them that “nothing in this resolution impairs, qualifies or defers the inalienable right of the Palestinian people to self-determination and to an independent State. This right exists independently of any peace plan, governance arrangement or reform programme.”[24]

This pattern of conditional support reveals the fragility of Resolution 2803’s legitimacy. While superficially appearing as overwhelming support of “13-0-2,” at least seven of the 13 affirmative voters (Algeria, Pakistan, the United Kingdom, France, Slovenia, Greece, and Sierra Leone) attached explicit reservations.

Particularly noteworthy is that Algeria and Pakistan, representing respectively the Arab Group and the eight Arab and Muslim countries, based their affirmative votes on the extrinsic reason of “respecting the position of the Palestinian Authority and Arab states.”[25] In other words, these states are not satisfied with the resolution’s content itself but voted in favor out of political consideration to respect the choices of Palestine and Arab states.

Even more significant is that Pakistan and Sierra Leone, by emphasizing the “unconditionality” and (in Sierra Leone’s case) “peremptory character” of self-determination, seek to effectively nullify the resolution’s language about “conditions finally being in place.” Pakistan’s explicit statement that the right “cannot be subject to any conditionality” indicates a position that even a Security Council resolution cannot condition the exercise of self-determination on completion of externally-defined reform programs.

These reservations are likely to manifest as serious interpretational conflicts among participating states during the implementation phase. Will the Board of Peace and ISF respect “Palestinian ownership,” maintain PA centrality, and operate under clear time limits? Or will they act independently of Palestinian wishes based on the broad authority of “international legal personality” and “all necessary measures”? This conflict further sharpens the paradox that while Namibia Resolution 276 in 1970 “challenged” South Africa’s illegal presence, Resolution 2803 in 2025 risks “legitimizing” occupation. If the resolution’s implementation moves in the direction feared by the states expressing reservations—namely, indefinite international control and substantive conditioning of Palestinian self-determination—this apparent “13-0-2” consensus will rapidly collapse. At that point, the principled positions of China and Russia, which abstained, may be reassessed in historical evaluation.

IV. Collision with the ICJ Advisory Opinion: Constitutional Constraints

In its Advisory Opinion of July 2024, the ICJ found Israel's continued presence in the Occupied Palestinian Territory unlawful and declared that Israel is under an obligation to bring to an end its presence "as rapidly as possible."^[26] Resolution 2803 creates tension with this legal framework. Instead of declaring the Israeli occupation illegal, the resolution conditions the phased withdrawal of the Israel Defense Forces (IDF) on "standards, milestones, and timeframes linked to demilitarization that will be agreed between the IDF, ISF, the guarantors, and the United States."^[27]

According to Article 103 of the Charter, obligations under the Charter prevail over obligations under any other international agreement. Does this apply to ICJ findings based on general international law?^[28] This interpretation is complicated by the ICJ's own recognition of self-determination as an obligation *erga omnes*.^[29] If self-determination is an *erga omnes* obligation but not a peremptory norm, a Security Council resolution under Article 103 could, in principle, temporarily condition its exercise for purposes of conflict resolution. However, a decisive issue arises here: the Security Council's own powers are not unlimited.

In the Namibia Opinion, the ICJ held that "the powers of the Security Council under Article 24 are not unlimited... Paragraph 2 of Article 24 makes it clear that the Security Council, in discharging its duties under Article 24, paragraph 1, 'shall act in accordance with the Purposes and Principles of the United Nations.'"^[30] Article 1(2) of the Charter lists among the UN's purposes "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples."^[31]

Therefore, when the Security Council acts under Article 24, it must act in accordance with Article 1(2) pursuant to Article 24(2), which includes respect for self-determination. If Resolution 2803 subordinates Palestinian self-determination to externally-defined conditions of "good faith implementation" of PA reform, this could contradict Articles 24(2) and 1(2) of the Charter.

This constitutional constraint might be tested by an additional ICJ advisory opinion. Article 96 of the Charter authorizes the General Assembly or the Security Council to request the ICJ to give an advisory opinion on any legal question.^[32] If the General Assembly (or non-permanent members of the Security Council) were to submit the question "Does Security Council Resolution 2803 violate Articles 24(2) and 1(2) of the Charter by subordinating self-determination to conditions of PA reform?" the ICJ would face a matter of principle. If self-determination is an *erga omnes* obligation even if not a peremptory norm, what is the interaction with the Charter-based constraints on the Security Council's authority?

V. Conclusion

Resolution 2803 in 2025 was adopted with the same "13-0-2" pattern as Resolution 276 in 1970. However, while Resolution 276 challenged illegal occupation, Resolution 2803 is premised on coordination with occupation. While Resolution 276 promoted decolonization, Resolution 2803 risks introducing a new form of international control.

This reversal exposes the core tension of the Namibia Doctrine. The same legal mechanism can be employed both for the liberation of peoples and for the conditioning of peoples' self-determination.

Ultimately, what matters is not the vote at adoption but the process of implementation. Just as Namibia's independence in 1990 proved the historical legitimacy of Resolution 276[33], the legitimacy of Resolution 2803 will be judged by whether it ultimately delivers genuine self-determination and independence for the Palestinian people. As the reservations of supporting states demonstrate, the apparent consensus is extremely fragile. If the resolution's implementation moves in the direction feared by the states expressing reservations—namely, indefinite international control and substantive conditioning of Palestinian self-determination—this apparent “13-0-2” consensus will rapidly collapse. At that point, the principled positions of China and Russia, which abstained, may be reassessed in historical evaluation.

[Addendum: January 30, 2026]

While this article was being written, on January 30, 2026, UN Secretary-General António Guterres made important remarks about the Board of Peace at a press conference. The Secretary-General emphasized that the Board of Peace “cannot substitute for the United Nations or the Security Council” and stated that “only the Security Council can adopt decisions that are binding on all Member States of the United Nations.”[34]

These remarks demonstrate that the UN's highest official himself recognizes the risk that the Board of Peace, possessing “international legal personality” and chaired by U.S. President Trump, could erode the constitutional distribution of authority under the Charter—precisely the concern this article has analyzed.

Particularly noteworthy is the Secretary-General's reference to President Trump's expressed intention to expand the Board of Peace's role to “deal with conflicts around the world,” and his explicit opposition to this. This suggests that Resolution 2803 may not merely be a technical measure for Gaza's interim administration but could involve a broader reorganization of the international order.

The Secretary-General's remarks further sharpen the “Namibia Doctrine Paradox” analyzed in this article. Resolution 276 in 1970 became a means to strengthen UN authority and challenge illegal occupation. Yet Resolution 2803 in 2025, while using the same mechanism, risks creating a new power structure that bypasses the UN system itself. The Secretary-General's restraint is timely, but the resolution has already been adopted and the Board of Peace is becoming a fait accompli.

This development brings into sharp relief the importance of the reservations expressed by supporting states. Pakistan's emphasis on the “temporary nature” and “expiration in 2027,” Sierra Leone's recording of “functioning within the UN system,” and Algeria's demand for a “central role for the PA” are not mere diplomatic formalities but critically important principles for monitoring the resolution's implementation. Implementation that ignores these reservations would realize the worst-case scenario warned of by the Secretary-General—the “substitution for the UN.”

Footnotes

[1] UN Doc. S/RES/2803 (2025), adopted by the Security Council at its 10046th meeting, on 17 November 2025. For the voting record, see UN Doc. S/PV.10046 (2025), p. 3. In favour: Algeria, Denmark, France, Greece, Guyana, Pakistan, Panama, Republic of Korea, Sierra Leone, Slovenia, Somalia, United Kingdom, United States. Against: None. Abstaining: China, Russian Federation.

[2] S/RES/2803 (2025), para. 2: “Welcomes the establishment of the Board of Peace (BoP) as a transitional administration with international legal personality...” Further, Annex 1, para. 9: “This body will set the framework and handle the funding for the redevelopment of Gaza... which will be headed and chaired by President Donald J. Trump...”

[3] S/RES/2803 (2025), para. 7: “Authorizes Member States working with the BoP and the BoP to establish a temporary International Stabilization Force (ISF) in Gaza... and to use all necessary measures to carry out its mandate consistent with international law...” There is no explicit reference to Chapter VII of the UN Charter throughout the resolution.

[4] Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024. The ICJ held: “The Court finds that Israel’s continued presence in the Occupied Palestinian Territory is unlawful and that Israel is under an obligation to bring to an end its presence in the Occupied Palestinian Territory as rapidly as possible.” (para. 267). It also confirmed that “the right of peoples to self-determination has been recognized as having an erga omnes character” (para. 97).

[5] UN Doc. S/PV.10046 (2025), p. 6, para. 107 (Mrs. Rodrigues-Birkett, Guyana): “following two years of a devastating war in Gaza, which claimed the lives of close to 70,000 people and injured many more.” The U.S. representative also stated “the death toll climbs into the tens of thousands.” Ibid., p. 2, para. 2 (Mr. Waltz, United States).

[6] UN Doc. S/RES/276 (1970), adopted by the Security Council at its 1529th meeting, on 30 January 1970. For the voting record, see UN Doc. S/PV.1529 (1970), p. 1. In favour: 13. Against: None. Abstaining: France, United Kingdom.

[7] S/RES/276 (1970), para. 2: “Declares that the continued presence of the South African authorities in Namibia is illegal and that consequently all acts taken by the Government of South Africa on behalf of or concerning Namibia after the termination of the Mandate are illegal and invalid.”

[8] Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, p. 16. The ICJ held: “It has been contended that Article 25 of the Charter applies only to enforcement measures adopted under Chapter VII of the Charter. It is not possible to find in the Charter any support for this view. Article 25 is not confined to decisions in regard to enforcement action but applies to ‘the decisions of the Security Council’ adopted in accordance with the Charter.” (para. 114)

[9] Namibia Opinion, paras. 113-115. The ICJ held: “It has been contended that Article 25 of the Charter applies only to enforcement measures adopted under Chapter VII of the Charter. It is not possible to find in the Charter any support for this view. Article 25 is not confined to decisions in regard to enforcement action but applies to ‘the decisions of the Security Council’ adopted in accordance with the Charter.” (para. 114). Further, “The language of a resolution of the Security Council should be carefully analysed before a conclusion can be made as to its binding effect. In view of the nature of the powers under Article 25, the question whether they have been in fact exercised is to be determined in each case, having regard to the terms of the resolution to be interpreted, the discussions leading to it, the Charter provisions invoked and, in general, all circumstances that might assist in determining the legal consequences of the resolution of the Security Council.” (para. 115)

[10] S/RES/2803 (2025) contains the following operative language: para. 1 “Endorses... and calls on all parties”; para. 2 “Welcomes the establishment”; para. 4 “Authorizes Member States”; para. 7 “Authorizes... to use all necessary measures”; para. 8 “Decides the BoP... shall remain authorized”. Particularly, “all necessary measures” (para. 7) has been standard language in past Security Council practice to authorize the use of force. For drafting history, see statements in UN Doc. S/PV.10046 (2025). U.S. representative Waltz emphasized the resolution’s coercive character, stating it “authorizes the international stabilization force, a strong coalition of peacekeepers... to deploy under a unified command.” Ibid., p. 2, para. 2.

[11] When Resolution 276 was adopted in 1970, France and the United Kingdom abstained but did not exercise their veto. See S/PV.1529 (1970). When Resolution 2803 was adopted in 2025, China and Russia likewise abstained but did not exercise their veto. S/PV.10046 (2025), p. 3. U.S. representative Waltz, in his pre-vote statement, suggested that the presence or absence of explicit Chapter VII invocation could affect voting behavior: “with this kind of support, and if the region most affected—the Arab nations, the Muslim majority nations, the Palestinians and the Israelis—can accept this draft resolution, how could anyone be against it?” Ibid., p. 2, para. 2. This statement indicates a strategic intent to encourage China and Russia to abstain rather than veto, leveraging the support of Arab and Muslim states.

[12] Namibia Resolution 276 declared South Africa’s “continued presence... is illegal” (S/RES/276 (1970), para. 2) and demanded that South Africa “withdraw immediately its administration from the Territory” (S/RES/264 (1969), para. 3). In contrast, despite the ICJ’s 2024 Opinion finding Israel’s occupation unlawful (ICJ 2024 Opinion, para. 267), Resolution 2803 establishes a framework premised on coordination with Israel. Resolution 2803, para. 7 stipulates that the ISF will be deployed “in close consultation and cooperation with the Arab Republic of Egypt and the State of Israel,” and further states that “As the ISF establishes control and stability, the Israel Defense Forces (IDF) will withdraw from the Gaza Strip based on standards, milestones, and timeframes linked to demilitarization that will be agreed between the IDF, ISF, the guarantors, and the United States.” In other words, Israel’s withdrawal is conditioned on “standards agreed between the IDF, ISF, guarantors, and the United States,” premising “coordination” with the occupying power.

[13] UN Doc. S/PV.1529 (1970), pp. 3-4 (United Kingdom), pp. 6-7 (France). Both France and the United Kingdom abstained, stating they had “always expressed reservations” about the legal framework of GA resolution 2145 (XXI) on which Resolution 276 was based. The UK explicitly stated its “inability to contemplate action which would rapidly turn into complete economic

warfare against South Africa.” France expressed similar reservations but both states praised the resolution’s “spirit of moderation” and did not exercise their veto.

[14] The ICJ confirmed the legal binding force of Resolution 276 and declared South Africa’s continued presence illegal in its Advisory Opinion of 21 June 1971. *Namibia Opinion*, paras. 113-133. Namibia achieved independence on 21 March 1990, ending South Africa’s illegal occupation. UN General Assembly resolution 44/243 (1990) of 29 August 1989 confirmed UN support for Namibian independence.

[15] UN Doc. S/PV.10046 (2025), pp. 15-16, Mr. Nebenzia (Russian Federation). The Russian representative stated: he criticized the absence of “the cornerstone formula of ‘two States for two peoples’” in the resolution and noted that “the Board of Peace and the International Stabilization Force... will be able to act absolutely autonomously, without any regard for Ramallah’s position.” Further, he stated this was “reminiscent of colonial practices and the British Mandate for Palestine granted by the League of Nations, when the opinions of the Palestinians themselves were not taken into account whatsoever,” denouncing the resolution’s colonial character. *Ibid.*, p. 16, para. 116.

[16] UN Doc. S/PV.10046 (2025), pp. 16-17, Mr. Fu Cong (China). The Chinese representative expressed four major concerns: first, “the resolution is vague and unclear on many critical elements,” noting the structure, composition, and mandate of the BoP and ISF are unclear; second, “the resolution does not demonstrate the fundamental principle of Palestinians governing Palestine,” noting Palestinian sovereignty and ownership are insufficiently reflected; third, “fails to explicitly reiterate a firm commitment to the two-State solution,” noting the absence of clear reference to the two-state solution; fourth, effective UN and Security Council involvement is not ensured. *Ibid.*, p. 17, paras. 127-130.

[17] UN Doc. S/PV.10046 (2025), p. 2, para. 2, Mr. Waltz (United States). The U.S. representative stated in his pre-vote remarks: “Those countries stood with President Trump... just eight weeks ago, and they have now publicly stood for this draft resolution. More than a dozen European heads of State... the Secretary-General and Mahmoud Abbas stood with President Trump... So I ask members before this vote: with this kind of support, and if the region most affected—the Arab nations, the Muslim majority nations, the Palestinians and the Israelis—can accept this draft resolution, how could anyone be against it?” Further, in his post-vote statement, the U.S. representative stated, “I would like to thank our partners from the President’s meeting during high-level week: Egypt, Qatar, Jordan, Saudi Arabia, the United Arab Emirates, Türkiye, Indonesia and Pakistan,” emphasizing the support of eight Arab and Muslim states. *Ibid.*, p. 3, para. 71. The Algerian representative (Arab Group) also confirmed that “brotherly Arab and Muslim countries... have publicly endorsed the draft in its final version and called for its adoption” and “the Palestinian Authority, at the highest level, has openly welcomed the initiative.” *Ibid.*, p. 4, para. 84.

[18] Resolution 276 in 1970 was adopted based on active requests from 57 African states. See S/PV.1529 (1970), p. 1: “Letter dated 26 January 1970 addressed to the President of the Security Council from the representatives of Afghanistan, Algeria, Burundi, Cambodia, Cameroon, Ceylon, Chad...” (57 states signed). In contrast, Resolution 2803 in 2025, while “openly welcomed... at the highest level” by the Palestinian Authority and Arab states (S/PV.10046 (2025), p. 4, para. 84, Algeria), the support has the character of passive acquiescence based on

ceasefire maintenance and humanitarian urgency rather than active advocacy. The Algerian representative himself stated, “Algeria finally decided to vote in favour of this text, whose core objective we support, namely, the maintenance of the ceasefire” (ibid., para. 85), indicating support for the limited purpose of ceasefire maintenance rather than full endorsement of the resolution’s content.

[19] UN Doc. S/PV.10046 (2025), pp. 4-6, Mr. Bendjama (Algeria). Algeria presented seven conditions: (1) strict adherence to “no annexation, no occupation, no forced displacement”; (2) humanitarian assistance reaching all of Gaza “through United Nations agencies and other humanitarian actors, without any hindrance”; (3) Gaza to be “governed under transitional arrangements by a technocratic Palestinian committee, pending the return of the Palestinian Authority”; (4) ISF establishment to “first and foremost, provide protection to Palestinian civilians and enable the complete withdrawal of Israeli occupation forces from Gaza”; (5) “the urgent expansion of protection measures to the West Bank, where settler terrorism has reached unprecedented levels” is necessary. Algeria cited as reasons for ultimately voting in favor that “the Palestinian Authority, at the highest level, has openly welcomed the initiative” and “brotherly Arab and Muslim countries... have publicly endorsed the draft.” Ibid., p. 4, para. 84.

[20] UN Doc. S/PV.10046 (2025), pp. 7-9, Mr. Ahmad (Pakistan). Pakistan presented nine principles, particularly emphasizing: (1) the declaration that “Self-determination is inherent and unconditional. This right is enshrined in the Charter of the United Nations and applies equally to the Palestinian people and cannot be subject to any conditionality” (this is a direct rebuttal of the resolution’s para. 2 conditional language that “conditions may finally be in place”); (2) emphasis on time limits that “the mandate conferred by the Security Council on the Board of Peace is temporary and expires in 2027”; (3) the principle that “executive and administrative authority in Gaza must remain with the Palestinians”; (4) repeated emphasis that “the role of the Palestinian Authority is absolutely central and decisive.” Pakistan acknowledged, “some of our key proposals were not reflected,” making explicit that its support was conditional despite recognizing the resolution’s incompleteness. Ibid., p. 9, para. 41.

[21] UN Doc. S/PV.10046 (2025), p. 6 (Mr. Kariuki, United Kingdom); pp. 11-12 (Mr. Bonnafont, France). The UK representative stated, “the provisional arrangements should be implemented in accordance with international law, respecting Palestinian sovereignty and self-determination” and argued “this should strengthen the unity of Gaza and the West Bank and strengthen Palestinian institutions so that a reformed Palestinian Authority can resume governance of Gaza.” The French representative presented three “pillars” for implementation: (1) “the implementation of a solution with two democratic and sovereign States, Palestine and Israel, living side by side in peace and security, within secure and recognized borders based on the 1967 lines, including Jerusalem”; (2) “the prompt return of a reformed and strengthened Palestinian Authority to Gaza”; (3) “the unity of Gaza and the West Bank, both of which are an inseparable part of the territory of the State of Palestine.” Further, he declared, “These principles—which are rooted in international law, in international humanitarian law, in international human rights law and in the right of peoples to self-determination—we will continue to defend with consistency and conviction.”

[22] UN Doc. S/PV.10046 (2025), pp. 10-11, Mr. Žbogar (Slovenia). Slovenia stated, “the clear terms of reference of the Board of Peace and its composition should be communicated to the Security Council once they become available” and further argued “the details of the deployment

and operations of the ISF should be worked out through a close consultative process with potential troop-contributing countries.” It also emphasized the need for continued monitoring, stating “the Security Council should be briefed regularly on the activities of the Board of Peace and the ISF, in addition to the written reports mandated.”

[23] UN Doc. S/PV.10046 (2025), pp. 18-20, The President (Sierra Leone). The Sierra Leone representative stated, “the powers of the Security Council are not unlimited. They are bounded by the Charter and by peremptory norms of general international law (*jus cogens*), which permit no derogation” and asserted, “Among these peremptory norms is the right of peoples to self-determination, as elaborated by the International Law Commission and confirmed by the jurisprudence of the International Court of Justice.” However, both the ILC’s 2001 Commentary to the State Responsibility Articles (Commentary to Article 40, para. 4) and the 2019 Draft Conclusions on *Jus Cogens* (Conclusion 23, Annex) merely cite self-determination as an **illustration** of “generally agreed” or “widely recognized” *jus cogens* norms, and these are **commentaries and annexes, not treaty provisions themselves**. ILC, Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001, Yearbook of the International Law Commission, 2001, vol. II, Part Two; ILC, Draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*), with commentaries, 2019, Yearbook of the International Law Commission, 2019, vol. II, Part Two, Annex. As for the ICJ, including in the 2024 Palestine Advisory Opinion, while it has consistently confirmed the *erga omnes* character of self-determination (ICJ 2024 Opinion, para. 97), it has avoided explicit recognition of its peremptory status.

[24] UN Doc. S/PV.10046 (2025), pp. 19-20, The President (Sierra Leone). Sierra Leone recorded six “understandings”: (1) “nothing in this resolution impairs, qualifies or defers the inalienable right of the Palestinian people to self-determination and to an independent State. This right exists independently of any peace plan, governance arrangement or reform programme”; (2) “we regard the Board of Peace as transitional in nature... It does not alter the status of the Occupied Palestinian Territory, nor does it confer or transfer sovereignty”; (3) understanding that the Security Council is substantively acting under Chapter VII; (4) “the Board of Peace and the ISF will function within, not outside, the framework of the law of occupation and the applicable rules on international responsibility”; (5) “Israel’s international legal responsibility for the situation preceding the adoption of this resolution persists”; (6) reaffirmation of the unity and contiguity of Gaza and the West Bank.

[25] The Algerian representative stated, “Algeria has always made its standing alongside Palestine a solemn obligation... Algeria has never overstepped this role... but rather has pledged to fully respect the choices and decisions of the Palestinian people themselves and their representatives,” emphasizing that its affirmative vote was based on respect for the Palestinian people’s choice. UN Doc. S/PV.10046 (2025), p. 5, para. 85. The Pakistani representative similarly stated, “Pakistan’s position has been aligned with, and supportive of, the principal stakeholders—Palestine and the Arab countries,” likewise making explicit the extrinsic reason. *Ibid.*, p. 9, para. 41.

[26] Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024, para. 267: “The Court finds that Israel’s continued presence in the Occupied Palestinian

Territory is unlawful and that Israel is under an obligation to bring to an end its presence in the Occupied Palestinian Territory as rapidly as possible.”

[27] S/RES/2803 (2025), para. 7 and Annex 1, para. 16: “As the ISF establishes control and stability, the Israel Defense Forces (IDF) will withdraw from the Gaza Strip based on standards, milestones, and timeframes linked to demilitarization that will be agreed between the IDF, ISF, the guarantors, and the United States.”

[28] UN Charter, Art. 103: “In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.” However, whether Article 103 directly applies is debatable, as an ICJ finding is not “any other international agreement” but rather an authoritative interpretation of general international law.

[29] ICJ 2024 Opinion, para. 97: “The Court recalls that the right of peoples to self-determination has been recognized as having an erga omnes character (see East Timor (Portugal v. Australia), Judgment, I.C.J. Reports 1995, p. 90, at p. 102, para. 29; Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I), p. 136, at pp. 171-172, para. 88). All States have an interest in the protection of the rights involved because of their importance and their erga omnes character.” However, the ICJ has not explicitly recognized self-determination as a peremptory norm (jus cogens). In both East Timor (1995) and the Wall Opinion (2004), the ICJ confirmed the erga omnes character but avoided judgment on jus cogens status.

[30] Namibia Opinion, paras. 110-111. The ICJ held: “The powers of the Security Council under Article 24 are not unlimited... Paragraph 2 of Article 24 makes it clear that the Security Council, in discharging its duties under Article 24, paragraph 1, ‘shall act in accordance with the Purposes and Principles of the United Nations.’” (para. 110). Further, “One of the purposes of the United Nations, as set forth in Article 1, paragraph 2, is to develop friendly relations among nations ‘based on respect for the principle of equal rights and self-determination of peoples.’” While the ICJ stated that the reference to UN purposes in Article 24(2) does not limit the Security Council’s discretion, it noted, “These purposes and principles serve as important guide-lines for the Security Council in discharging its primary responsibility for the maintenance of international peace and security under Article 24 of the Charter” (para. 111).

[31] UN Charter, Art. 1(2): “To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.”

[32] UN Charter, Art. 96(1): “The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.”

[33] Namibia achieved independence on 21 March 1990. While it took approximately 20 years from the adoption of Resolution 276 (30 January 1970), the UN consistently condemned South Africa’s illegal occupation and ultimately achieved independence. UN General Assembly resolution 44/243 (1990) of 29 August 1989 confirmed UN support for Namibian independence. Resolution 2803 provides for BoP authorization until 31 December 2027 (S/RES/2803 (2025),

para. 8: “until 31 December 2027, subject to further action by the Council”), but subsequent developments remain uncertain.

[34] “UN Secretary-General says U.S.-led Board of Peace ‘cannot substitute for UN or Security Council,’” Kyodo News, 30 January 2026. Secretary-General Guterres stated at a press conference: “Only the Security Council can adopt decisions that are binding on all Member States of the United Nations.” He also referred to President Trump’s expressed intention to expand the Board of Peace’s role to “deal with conflicts around the world” and stated, “If we want a world that is stable, where peace is sustainable, we need to support multilateralism,” opposing U.S. unilateralism. UN Headquarters (New York) press conference, 29 January 2026.

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