

# Does the Paris Communique Impose the “Auschwitz Border” on Israel? – Overview : An interview with Shoshana Bryen of the Jewish Policy Center



Israeli Jewish Youths at Damascus Gate, Jerusalem Day, May  
17, 2015

Source: AP

## Introduction

On the cusp of the transition from the Obama to the Trump Administration, Israel has been in the crosshairs of actions at the UN and a Paris meeting convened on January 15, 2017 by outgoing French President Hollande. Neither Israel nor the Palestinian Authority will be attending the gathering of 72 nations. The Quartet, as well as the 28 Foreign ministers of the EU will also be meeting on it and deciding what script is to be presented at the UNSC meeting on January 17th in New York. One ominous possibility might be a state of Palestine declaration.

Yet, a communique drafted by the US and France and ‘leaked’ widely proposes ‘coercively’ establishing borders that might imperil Israel’s sovereignty over Jerusalem and its national security. That is the pre- 1967 June Six Day War border what revered Israeli Foreign Minister Abba Eban called “the Auschwitz border” dividing Jerusalem, Israel’s eternal capital. Shoshana Bryen, senior director of the Washington, DC-based Jewish Policy Center in an interview

with the co-authors called the proposed borders, "Indefensible. Because you have an eight mile waist between what will be Palestinian artillery in the hills and the Israelis living underneath them. Ronald Reagan explicitly rejected the pre- '67 borders."

## **UN Security Council Resolution 2334**

The Paris meeting was triggered by the passage of UN Security Council Resolution 2334 on December 23, 2016 and a subsequent controversial speech by outgoing Secretary of State John Kerry at the State Department on December 28<sup>th</sup> supporting resolution 2334. Kerry in his State Department speech [called](#) Israel Prime Minister Benjamin Netanyahu the head of "the most rightwing regime in Israeli history, with "an agenda driven by the most extreme elements" for "unfettered settlement construction and flagrant violation of international law" forcing the end of the peace settlement talks with the Palestinian Authority. Kerry's comments were objected to by Netanyahu as "obsessive, unbalanced, "saying that "most of his speech blamed Israel for the lack of peace." UK PM Theresa May [criticized](#) Kerry's remarks saying, "We do not believe that it is appropriate to attack the composition of the democratically elected government of an ally." Kerry was also criticized by a number of Republican and Democratic Senators and Congressional Representatives.

On December 23, 2016, a crucial vote at the United Nation's Security Council passed an anti-Israel Resolution 2334 by a vote of 14 to 0, with the US abstaining. UNSC Resolution 2334 virtually abrogated Resolutions 242 and 381 passed in the wake of the June 1967 Six Days of War that reunified Israel's capitol that had guaranteed Israel's right to negotiate secure borders. Resolution 2334 stated that "[Israel's](#) settlement activity constitutes a "flagrant violation" of [international law](#) and has "no legal validity".

It demanded that Israel stop such activity and fulfill its obligations as an [occupying power](#) under the [Fourth Geneva Convention](#).” While UN Resolution 2334 had no ‘coercive’ effect under international law; nevertheless, it represented the first action the Security Council passed since 2009 on this issue. Moreover, it was the first abstention by a US government since the Carter Administration in 1980.

On January 10, 2017, Israeli Prime Minister Netanyahu [told](#) a visiting US AIPAC delegation in Jerusalem, that, “we have unequivocal evidence the Obama Administration Led UN Resolution [2334] that marked a major break with US policy.”

### **Background of Israel’s Legal rights to the Land**

Under UNSC Resolutions 242 and 338 Israel lawfully built what the Jewish nation’s opponents called ‘settlements’. These were Jewish villages and towns built on lands in Judea and Samaria with deeds conveyed in the Ottoman era. Nearly 90 percent of population in these Jewish villages and towns in the disputed territories were built on lands originally inhabited by Jews prior to the 1948 -1949 War of Independence for Israel.

In 1979-1980 there was a flurry of UN Security Council resolutions seeking to declare these disputed territories part of a future Palestinian State and Jewish ‘settlements’ illegal. However, Eugene Rostow, former President Johnson era State Department official and co-author of Resolution 242 with British Foreign Minister Lord Carrington, affirmed Israel’s legal right to the lands under the original British Palestine Mandate in 1922 that also declared the Kingdom of Jordan. Professor Rostow noted this in an article published in *The Yale Journal of International Law*, “Palestinian Self-Determination: Possible Futures for the Unallocated Parts of the British Mandate.” Rostow’s arguments presage what is now occurring at the UN Security and at the Paris meeting, as if this was “deja vu

all over again," as baseball legend Yogi Berra might say in one of his famous malapropisms.

Rostow cited the precedent of the Palestine Mandate:

The Palestine Mandate was established under the authority of paragraph 8 of Article 22 of the Covenant, which authorized the League Council explicitly to define the terms of a Mandate when the broad general statement of paragraph 1 was insufficient.

The purpose of the Palestine Mandate was "the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country." The Mandatory government was required to facilitate Jewish immigration and "close settlement" in Palestine, subject to the proviso that the Mandatory government could "postpone or withhold" the application of these (and related) articles of the Mandate in the area of Palestine east of the Jordan River. This was done when Britain established Transjordan as an autonomous province of the Mandate in 1922. But Jewish rights of immigration and close settlement in the West Bank and the Gaza Strip, established by the Mandate, have never been qualified."

### **Trump Obligations to Israel**

During the US Senate confirmation hearing of Trump nominee for Secretary of State, Rex Tillerson, retiring Chief Executive Officer of Exxon Mobil, responded on questions regarding his views of US support for Israel. He said;

Israel is, has always been and remains our most important ally in the region. The UN resolution that was passed, in my view, is not helpful. It actually undermines a good set

of conditions for talks to continue. As an attempt to 'coerce' Israel to change course that will not lead to a solution. The president-elect has already made it clear that we're going to meet our obligations to Israel as the most important ally in the region.

One of the expressed obligations of President – elect Trump is the movement of the US Embassy from Tel Aviv to Jerusalem. While there have been US laws passed in 1990 and 1995 to implement this, waiver provisions were passed by the Clinton, Bush and Obama Administration every six months. There appears to be momentum to finally achieve the move. Sites have already been picked out. There is even a compromise solution to make the existing US consulate in Jerusalem as the seat for the US Ambassador effectively making two US consulates one in Jerusalem and the current Embassy in Tel Aviv. Objections to the prospective move of the US Embassy to Jerusalem were reflected in incitement preached at mosques in the Palestinian Territories and East Jerusalem. That may have motivated a Salafist terrorist to mount a truck ramming in Jerusalem's Amona killing 4 young IDF officers, injuring 17 alighting from a bus. The perpetrator was killed by an armed guide with the group.

Against this background, Northwest Florida's Talk Radio Station, [1330amWEBY](#) host, Mike Bates and co-host Jerry Gordon, Senior editor of the *New English Review*, convened another Middle East Roundtable discussion with [Shoshana Bryen](#), senior director of the Washington, DC-based [Jewish Policy Center](#).

[LISTEN](#) to the Podcast of the January 10, 2017 broadcast. Read the Transcript in two separate posts: Part 1 and 2.