On Israel, A Resolution To Repudiate

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On Dec. 23, 2016, the United States abstained and allowed the Security Council to adopt Resolution 2334 demanding that Israel stop all settlement activity. This resolution, unlike the 25 or so anti-Israel General Assembly resolutions passed each year, has real consequences.

It provides legal authority under Chapter VI of the U.N. Charter for the Security Council or individual states to take Israel to the International Court of Justice, and sets the basis for the Council to enforce its commands by imposing sanctions under Chapter VII — including even the use of force. The incoming U.S. administration will veto any such effort. But the resolution will be invoked by states, the Palestinian Authority, Hamas and every anti-Israel public and private group in the world to justify lawsuits, boycotts, trade restrictions and outright acts of terror.

President-elect Trump condemned the resolution and promises things will be different at the U.N. after Jan. 20th. He cannot be faulted for trying to keep the Obama administration from allowing adoption of so ill-considered and potentially damaging a resolution. Mr. Trump should respond with a plan of action that guts the resolution of its authority.

Mr. Trump will hear from diplomats, foreign ambassadors and others that he cannot undo a Security Council resolution. That is nonsense.

He can, as president, repudiate any international agreement. It will be easier to accomplish this objective, in fact, than it was for Secretary James Baker to convince the General Assembly to repeal its resolution equating Zionism and racism in 1991. John Bolton's effective effort under Secretary Baker's leadership drove a stake through the heart of that evil doctrine.

A vehicle for President Trump's action in this regard is operative paragraph 12, requesting the secretary-general to report to the Council "every three months on the implementation of the provisions of the present resolution."

President Trump should inform the Secretary-general before his first report on March 23, 2017, that the U.S. repudiates Resolution 2334 — that the U.S. will veto any effort to enforce its conclusions. He should also seek legislation imposing trade sanctions on states that rely on the resolution to discriminate against Israel, as the U.S. did successfully against the Arab boycott.

Undoubtedly, the abstention was a calculated effort to punish Prime Minister Netanyahu for failing to take "opportunities" to accept Mr. Obama's position that Israel must stop all construction in all settlements to enable peace negotiations to proceed. As Deputy National Security Advisor Ben Rhodes said in his press briefing: "Prime Minister Netanyahu had the opportunity to pursue policies that would have led to a different outcome today."

Secretary Kerry made clear that, rather than acting as a mediator seeking to develop common ground between Israel and the Palestinians, the Obama administration has preached about what it insists must be done regardless of what is possible in light of Palestinian hostility, the fact that Gaza is in terrorist hands, and the obvious limitations on Prime Minister Netanyahu's domestic political leverage.

The arguments advanced to support the U.S. position are perverse. Ambassador Samantha Powers claimed U.S. presidents have all been against expanding settlements. But no administration has ever supported calling all Israeli settlements "flagrant violations of international law," not even the Obama administration, which vetoed a similar resolution in 2011.

President Reagan regarded the settlements as "legal," and most other presidents have refrained from relying on inapposite principles of international law, shunning such ineffective hectoring. No administration has ever claimed Israel, as an "occupying power" during "war" must treat Palestine as a state.

Ambassador Powers and Secretary Kerry claim that Israeli settlements are an obstacle to peace and threaten the possibility of a two-state solution. But as Ms. Powers acknowledged, "many other factors contribute significantly to the tensions that perpetuate this conflict" and that peace would not be achieved even if Israel eliminated "every single settlement."

In fact, peace was achieved with Egypt and Jordan, and Israel unilaterally withdrew from Gaza, despite the need to dismantle some 34 settlements and remove over 17,000 settlers. And it has long been clear that settlements are the least problematic of the "parameters" for peace; even Mr. Arafat accepted Israel's retention of the major settlements around Jerusalem (with 80% of all settlers) in exchange for Israeli land.

Once Mr. Obama advanced the thesis in his Cairo speech of June 4, 2009, that allsettlements are illegal and an obstacle to peace, ignoring the Bush letter of April 14, 2004, that recognized Israeli control of the major Jerusalem settlements as the likely outcome, Obama made it impossible for any Palestinian leader to demand less, and much more difficult for any Israeli leader to rely on U.S. representations.

The irony for those who support a two-state solution, including Mr. Netanyahu, is that this resolution has caused many Israelis to favor more settlement construction. Every important Israeli leader denounced the U.S. abstention, because they know that the Palestinian Authority prefers costless victories at the U.N. to condemning terror and accepting a Jewish State.

Whatever the U.S. may say about its intentions, as Ms. Powers acknowledged, any U.N. action will be exploited against Israel. Even the resolution's condemnation of terrorism, and its call to end incitement, will be used against Israel and ignored by those whose actions the U.S. pretends will be altered. In allowing the resolution's adoption, the U.S. joined those very states that Ms. Powers has repeatedly condemned for lacking moral conscience, even for Arabs let alone Jews.

The abstention, in short, was a shameful act openly touted as punishment for Israel's failure to abide by a U.S. policy that set back the prospects of peace. The Trump administration must repudiate Resolution 2334 in order to preserve the possibility of a two-state solution, by recognizing that Israel's settlements are not an obstacle to peace if peace were genuinely pursued.