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Some Remarks on the United Nations and Territorial Sovereignty in the Occupied Palestinian Territory

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ملخص

باللغة العربية

بعض الملاحظات على الأمم المتحدة والسيادة الإقليمية في الأراضي الفلسطينية المحتلة

إعداد
الدكتور/ جيوفياني ديستيفانو

تعالج الدراسة قضية الاحتلال للأراضي الفلسطينية (الضفة الغربية وقطاع غزة) ولن تتناول الدراسة الاحتلال الإسرائيلي للجولان ومزارع شبعا. ويتقاسم إدارة الأراضي المحتلة جهتان السلطة الفلسطينية وإدارة الاحتلال غير أن الجهة الأول غير قادرة بنفسها، لأنها لاتملك سيادة كاملة على الأراضي المحتلة؛ إذ سيادتها ناقصة. لهذا سوف تهتم الدراسة بتحديد فكرة الاحتلال ودراسة القرارات الخاصة بفلسطين منذ الاعتراف بدولة إسرائيل 1948 والوضع القانوني للقدس الشرقية ولقطاع غزة.

Some Remarks on the United Nations and Territorial Sovereignty in the Occupied Palestinian Territory

Dr. Giovanni Distefano•

The present contribution is limited to the investigation of the possibility of the creation of territorial titles by effectiveness in the Palestine question. *Ratione loci* it will deal exclusively with the Occupied Palestinian Territory, i.e. the West Bank (including East-Jerusalem) and Gaza, leaving the Golan Heights and the Sheba Farms aside. When one speaks about territorial titles engendered by the effectiveness of occupation, one is induced to mention this possibility solely for Israel(1). The other actor, that is the Palestine Authority (hereinafter: PA), has never been able to avail itself of actual occupation "en tant que souverain" of the aforementioned territories. There is indeed no doubt that such effectiveness is clearly lacking(2).

A. The conceptual construction of territorial title

We can conceive a binary outline of the concept of the territorial title. The latter, as the ground of any subjective right, may be split into a *titulus adquisitionis* on the one hand and *modus adquisitionis* on the other. We borrowed these terms, notwithstanding their orthography, from the vocabulary of the modern civil law of Romanist inspiration. The first one, the *titulus adquisitionis*, represents the legality (the justification, the cause) of

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(1) For the historical account of these events: PAPPE, I., *History of modern Palestine : one land, two peoples*, Cambridge, 2004; MORRIS, B., *Righteous Victims. A History of the Zionist-Arab Conflict, 1881-2001*, New York, 2001.

(2) It is true that the PA was endowed, in accordance with 1993 Oslo agreements, with some prerogatives pertaining to State functions in certain sectors of Palestine called « Zone A », but as the International Court of Justice affirmed in 2004 : "Such transfers have taken place, but, as a result of subsequent events, they remained partial and limited » (Legal consequences of the construction of a wall in the Occupied Palestinian Territory, advisory opinion of 9th July 2004: *I.C.J. Reports* 2004, § 77).

the territorial transfer whereas the second one, the *modus adquisitionis*, refers to the requirement of effectiveness of this change of sovereignty. There will be perfect legal transfer when these two elements are united under the same State(3). These two constitutive components of the legal title summarize in effect the underlying tension of any territorial conflict namely that between legality and effectiveness. The come together of these two elements within the same titular marks the end of this tension and thus the perfection of the legal title. In other words, by the word title the accent is put inexorably on the legality of the territorial transfer, in short on the foundation of the right of territorial sovereignty whereas *modus adquisitionis* refers to its effectiveness. In consequence, one ought to distinguish as clearly as possible the actual possession of the thing (or the *adprehensio physica*) from the title to this possession (*titulus adquisitionis*)(4). This necessity to combine the right to possess a thing (or to occupy a ground) with its actual possession, i.e. the physical acts which render it possible, represents the foundation of any legal order(5).

The principle of effectiveness with regard of territorial titles

Difficult task that of the definition of effectiveness: arduous but necessary. One of the most eminent legal writers, Charles De VISSCHER, wrote in these terms : « Elle [l'effectivité] se dérobe à toute définition générale. Elle suggère à la fois l'idée d'une certaine tension et celle d'une ultime adéquation entre le fait et le droit »(6). At the heart of the relations between law and fact, the effectiveness makes us think instinctively of the

(3) On this point, see the Author in *L'ordre international entre légalité et effectivité. Le titre juridique dans le contentieux territorial*, Paris, 2002, pp. 66-80 et 106-131.

(4) KANT, I., *The Metaphysics of Ethics*, First Part, Second Section, Chapter 1, § 15.

(5) « ...[L']occupation n'est pas par elle-même un titre suffisant et légitime pour acquérir la propriété, car, pour occuper, il faut, avant tout, avoir le droit de le faire. », FIORE, P. *Nouveau droit international public suivant les besoins de la civilisation moderne*, Première partie, Paris, (translated from Italian by PRADIER-FODERE, P.), 1868, pp. 378-379.

(6) DE VISSCHER, Ch., « Observations sur l'effectivité en droit international public », *RGDIP*, Vol. 62 (1958), p. 601: « It [the effectiveness] slips away from a general definition. It suggests at once the idea of a certain strain and that of an ultimate concordance between Facts and Law" [Our translation].

social tides that invest the shore of law. Erosion of course, but also consolidation of the legal coastline(7). In order to grasp the principle of effectiveness one is accustomed to describe it by a maxim drawn from Roman law : « *Ex facto oritur ius* »(8)often cited in contradiction with another maxima:« *Ex iniuria ius non oritur* ».(9) From the beginning we ought to dispel a terminological *quiproquo*, because many terms are used to this end: principle, rule, criterion, condition of effectiveness. What is it really about? How to designate the effectiveness? But, if the word *rule* is too close to the idea of precept or norm, the word *principle*, on the contrary, presupposes an universality and a necessity which make it more legally stringent. For these reasons, we will opt for this term. The principle of effectiveness represents the link between law and fact in the process of the creation of rules and legal situations; it is the guardian of the immanence of law in the social cluster. The international order, characterized by the dispersal of power, the juridical equality of its members and their factual disparity offers a large place to the principle of effectiveness(10). The horizontal and territorial structure of the international Community as it exists at least since the end of the XVI century embodies the fact that States aim at exercising territorial competences that are incompatible among them. The principle of effectiveness in its diverse applications and manifestations pervades the international order and constitutes its vital lymph.

The territorial title, as ground for subjective absolute rights such as sovereignty, has to be characterized by a relative minimum of effectiveness in order to produce legal effects. For the effectiveness to represent the material fact generating the title of territorial sovereignty, two conditions must be fulfilled: on one hand the actual occupation showing the State's

(7) Seen from this point of view – and more fundamentally – the criterion of effectiveness measures the asymptotic equivalence between norm and fact.
(8) D.52 ad leg. Aquilia.
(9) The origin of this saying lays in the shades of History.
(10) It has been rightly observed that because of « ...l'intersubjectivisme qui règne dans un tel monde où l'Etat décide de ce qu'il est et de ce que sont les autres, l'effectivité y apporte un élément d'objectivisation indispensable », TOUSCOZ, J., *Le principe d'effectivité dans l'ordre international*, Paris, 1964, p. v.

animus imperii, and on the other, the *nullius* nature of the concerned territory(11). But apart from this concrete case (uninhabited territory) the large majority of territorial conflicts amounts to the dissociation between validity and effectiveness of the legal title: there will be a claim founded on the validity of the territorial title and another based on the effectiveness of occupation. The effectiveness of the international legal order depends on its capacity to react with regard to territorial situations devoided of legal title; on its capacity to give modulated answers to the situation; on its capacity to offer legal remedy where effectiveness and nullity are closely intertwined. In so doing, the international legal order, under the pressure of social forces diverging with the new territorial situation, will resist in an efficient way, for in any conflict between legal titles it will be the one with the highest degree of perfection that will prevail. By opposing effectiveness to effectiveness, the international community will then prevent the illegal situation to consolidate.

In the light of the construction of the concept of legal title sketched earlier one could maintain that the State which has carried out the conquest (annexation) enjoys indeed of a *modus adquirendi* which lacks nevertheless the *titulus adquisitionis*. In this specific case, the effectiveness cannot by itself create a territorial title if it is not accompanied by the *titulus adquisitionis*(12). As long as the international community effectively resists to this illegal situation, the former will enjoy the *titulus*. Therefore, it is not merely and solely the attitude of the State (or the subject of law) dispossessed which must here be taken into account, but also that of the international community. Hence, on must distinguish these situations from those were territorial transfers always *contra titulum adquisitionis*, are operated without force (or the threat of it): in other words those which could be qualified as

(11) On the attributes of sovereignty and the State jurisdictions which follow therefrom, see especially : The Island of Palmas Case (United States / Netherlands), arbitral award of 4th April 1928, *RIAA*, Vol. 2, pp. 835-850.

(12) « … un siècle de possession injuste ne suffit pas pour enlever à celle-ci les vices de son origine », HEFFTER, A.W., *Le droit international public de l'Europe*, translated from German, Berlin-Paris, 1866, § 12, p. 29 ; « *Quod initio vitiosum est, non potest tractu temporis convalescere* », D.50.17.29 [Paulus lib.8 ad Sabinum].

"disputed possessions"[13], where the attitude of the State directly involved is essential. In fact with regard to the Palestine question, two peremptory rules of general international law are at stake: the one prohibiting the use of force and the one embodying the right of people to self-determination. These represent the two pillars on which the international community has been built and based upon in its contemporary structure.

B. **Application to the Palestine question (1948-2005**): *Titulus* and *Modus adquisitionis*

C.1 From the proclamation of independence of Israel (14th May 1948) to its admission to the UN (11th May 1949): the conquering effectiveness?

From the outset, one should make clear that the Palestine question cannot be reduced to a mere territorial dispute and even less to an interstate conflict because at least three subjects of international law are directly involved with regard to the creation of territorial titles. A State (Israel), a *sui generis* legal subject (Palestine Authority) and the UN (international universal organisation with general competence) holder of the power of disposal of the territorial title. However, this question is characterised by several features of a classical territorial dispute. In any territorial controversy, it is of *bon ton* to determine the critical date. According to the traditional vulgate, the principle of critical date involves the freezing in the creation, extinction and modification of competing territorial titles[14]. In our case, the critical date is clearly represented by the end of the British mandate on Palestine[15]. The last title of territorial sovereignty which is uncontested and

(13) *Cf. KOHEN, M., Possession contestée et souveraineté territoriale, Paris, 1997 ; DISTEFANO, G., L'ordre international entre légalité et effectivité. Le titre juridique dans le contentieux territorial, Paris, Pedone, 2002, pp. 284-292*

(14) « Whatever are the rights of the Parties then, those are still the rights of the Parties now », British Memorial, Antarctica case (United Kingdom v. Argentina): *I.C.J. Memorials* 1956, § 35.

(15) By "Mandatory Palestine" it is meant the territory circumscribed by the League of Nations mandate conferred in July 1922 to Great Britain. Originally, this territory included also nowadays Jordan, which was finally been separated (according to art. 25 of the Mandate) by the mandatory Power and became in 1923 an independent State – Transjordan – under the reign of the Hashemite. From then

incontestable is that of the Ottoman Empire which was jointly transferred to the League of Nations (hereinafter: LN) by the Treaty of Sèvres of 1920 (arts. 94-97) - albeit it never entered into force – and by the Treaty of Lausanne of 1923[16]. The legal title and the factual situation at that time - and until the end of the mandate (14-15 may 1948) [17] – coincided with the effectiveness (in other words there was no division between *titulus* and *modus adquisitionis*). The end of the British mandate, in conformity with the resolution of the General Assembly of the UNO (successor of the legal title of the LN) [18] as well as the actual withdrawal of the mandatory Power put an end to the effective occupation but not to the *titulus* which remained vested with the UNO. The latter, as successor of the LN in the title of the territorial sovereignty on the Mandatory Palestine, decided of a Plan of partition[19], enshrined in resolution 181 (II) of the General Assembly (29 November 1947)[20]. This plan which envisaged the creation of two States an Arab and a Jewish as well as an international statute for the city of Jerusalem was accepted by the Jews but rejected by the Arab States.

The first Israeli Arab war ended with a series of armistices concluded with the benediction of the Security Council (SC). These international agreements (with Syria, Egypt and Transjordan) fixed, among other things, demarcation lines between Israel and each of these 3 States. The one which is of utmost interest drew a line – which has been henceforth been labelled the

onwards, the territory of "Mandatory Palestine" was restricted to the strip of land between the West bank of the Jordan and the Mediterranean Sea.

(16) On the history of the legal status of the « Mandatory Palestine » cf.: Legal consequences of the construction of a wall in the Occupied Palestinian Territory, *op.cit.*, §§ 70-78.

(17) According to the Plan of partition of Palestine (GA resolution of 29 November 1947, Section A.1).

(18) See : Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970) (1970-1971), advisory opinion of 21st June 1971 : *I.C.J. Reports* 1971, § 103.

(19) « L'Etat arabe aurait la Galilée occidentale, la Cisjordanie (sans Jérusalem) et, au sud, une bande de littoral allant du sud de Jaffa jusqu'à l'Egypte. Il comprendrait une population de 735 000 personnes dont 720 000 arabes et 10 000 juifs. L'Etat juif aurait une population de 905 000 personnes dont 498 000 juifs et 407 000 arabes auxquels il faut ajouter environ 90 000 bédouins. La ville de Jérusalem [placée sous statut international] a une population de 100 000 juifs et de 105 000 arabes », CHAGNOLLAUD, J.-P., SOUIAH, S.-A., *Les frontières au Moyan-Orient*, Paris, 2004, p. 94.

(20) See map at the end of this article.

"Green Line" – which divided on the one hand the territories occupied by Israel and, on the other hand, Transjordan (regarding the sector of the West Bank) and Egypt (Gaza strip). In these circumstances, Israel submitted to the UN its request for admission in conformity with article 4 of the UN Charter. In its letter with the request for admission (dated 29 November 1948) addressed to the Secretary general of the UN, the provisional government of Israel declared that the creation of this State has been done "by virtue of the natural and historic right of the Jewish people to independence in its sovereign State and in pursuance of the General Assembly resolution of 29 November 1947 [Plan of partition]"(21).

The discussions in the SC turned around the existence of Israel as a State according to public international law, but the apple of discord was clearly represented by the absence of border delimitation in all points and its repercussions on its quality of State. The British delegate was prophetic when he affirmed that the borders of Israel risked not to be fixed "for some considerable time to come"(22). Nevertheless it was the position of the USSR which was involuntarily lightening on the question of the legality of the creation of the State of Israel with regard to resolution 181 (II). The Soviet delegate said the following: "The State of Israel has been created and exists in accordance with a resolution passed in the General Assembly of 29 November 1947. It is therefore incorrect to assert that its territory is not defined. Its territory is clearly defined by an international decision of the United Nations, namely by the resolution adopted on 29 November 1947 by the General Assembly"(23). Except that, if we could intervene in the debate, that the territory allotted to the State of Israel did not coincide – and by far not – with the extension of the military occupation at the moment of the request (and the admission) of Israel. So one ought to raise a blatant

(21) Doc. S/1093 (in *Security Council Official Records*, Third Year, Supplement for December 1948, p. 118).
(22) *Security Council Proceedings*, n°128, 383rd Meeting, p. 16.
(23) *Security Council Proceedings*, n°128, 383rd Meeting, p. 22.

territorial discrepancy(24): parts of the territory (not insignificant by the way) escaped from the scope of the legal title availed of by Israel(25). Resolution 181 (II) invoked by Israel could not legalize its occupation in all of the sectors where there was such a gap from the Plan of partition. The UK in its capacity as former mandatory Power underlined this gap and recalled that borders "… are at present quite unsettled not only in detail, but in large and important areas; they do not yet know whether the Jews will retain central and northern Galilee [they will eventually] and the city of Jaffa [they will eventually]. *On the assumption that they do retain these areas, we do not know what territorial adjustments* [none eventually] *will be made in other parts of Palestine to compensate the Arabs for the loss of territories to which the Assembly in November 1947 considered them to have a just title*"(26). The requirement of compensation ensues precisely from the absence of *titulus adquisitionis* of Israel on these territories(27). Consequently one has to assess the legal value of the occupation by Israel in terms of territorial titles of the territories that the Plan of partition awarded either to the Arab State or to the future international city of Jerusalem(28). Therefore, it was useless if not squarely absurd for the Soviet delegate to repeat *ad nauseam* that: "Not only does this resolution define precisely the territory of the State of Israel but it even includes an appended map, which can be seen at any time by any

(24) « La situation sur le terrain consacre *de facto* un substantiel agrandissement de l'Etat juif en Palestine par rapport à ce qui avait été prévu dans la résolution du 29 novembre 1947. *Son territoire passe en effet de 14 000 à 21 000 kilomètres carrés* [a 50 % increase !], incluant désormais toute la Galilée, la partie ouest de Jérusalem jusqu'aux abords des murailles de la vieille ville qui passe sous contrôle jordanien, le Néguev jusqu'au port d'Eilat sur la mer Rouge et une partie de la bande territoriale qui va jusqu'à la frontière égyptienne », CHAGNOLLAUD, J.-P., SOUIAH, S.-A., *op.cit.*, p. 97 [emphasis added].

(25) By the word scope we refer to the material extension of the title, namely the parcels of State territory which are governed (or taken into account) by a given title. In other words, we mean "the territorial extension of its [the title] validity", see: DISTEFANO, G., *op.cit.*, p. 400.

(26) *Security Council Proceedings*, n°129, 384th Meeting, p. 15 (emphasis added).

(27) It is revealing to note that the Plan of partition starts with the definition of the borders of the Arab State and afterwards and by default, it traces those of the Jewish State. History and effectiveness made it differently!

(28) The delegate from Syria even affirmed that if the SC recommended the admission of Israel to the UN, then one was to ask whether "… the right of conquest [were] going to be recognized by the Security Council" (*Security Council Proceedings*, n°130, 385th Meeting, p. 7).

member of the Security Council. The question is therefore beyond dispute"[29]. The quaintness of the Soviet attitude was easily rebutted when the British representative replied: "While Mr. Malik [Soviet delegate to the SC] always solemnly invokes the General Assembly's resolution 181 (II) of 29 November 1947, it is admitted that there are Jewish troops, for instance at Faluja. If Mr. Malik will give himself the trouble to consult the map of the partition recommended by the General Assembly's resolution of 29 November 1947, he will see that Faluja was awarded not to the Jews but to the Arabs. Therefore, Jewish forces have no right of which I am aware to have their troops in that particular spot. There are other places such as Lebanon and Transjordan where Jewish troop movements have also been reported"[30]. But one had to wait until the intervention of the Canadian delegate who showed the incoherence of the Soviet position as well as the material gap between the scope of the title invoked by Israel and its actual occupation on the ground as fixed by the Green Line:

"I am not sure what the representative of the Union of Soviet Socialist Republics intends in regard to boundaries. In his statement last Wednesday, to which I have already made reference, he used the word "enforcement" in relation to these boundaries. He may, therefore, believe that the Security Council should take action to make sure that the Israeli authorities withdraw from all areas which were not assigned to them by the General Assembly resolution of 29 November 1947. He may also believe that, without reference to the realities of the situation in Palestine, the Security Council should adopt measures – by force if necessary – to bring an Arab State into existence, to take over the territory not assigned to the Jewish State under the 29 November resolution. […] I am not sure either that the Provisional Government of Israel would wish to be made a member of the United Nations on these terms"[31]

(29) *Security Council Proceedings*, n°129, 384th Meeting, p. 20.
(30) *Security Council Proceedings*, n°130, 385th Meeting, pp. 2-3 (emphasis added).
(31) *Security Council Proceedings*, n°130, 386th Meeting, p. 24 (emphasis added).

The Soviet delegate's reply to the Canadian representative is plainly disconcerting: "That resolution is an international legal document entitling the State of Israel and the Arab State in Palestine to their creation and existence, and nobody – except, of course, the General Assembly – has a right to revoke it". He then added, without any fear of being somewhat incoherent with respect of his previous declarations on the Israeli's title based on the GA resolution, that: "Such a modification is, of course, possible, but that is the affair of the State of Israel and not of those who are trying by force to deprive it of territory which is legally its own, or to change the frontiers of that territory against the wishes of the State of Israel"(32). Furthermore, he broods over on saying that the State of Israel "… has a territory with frontiers clearly delineated by the General Assembly; …"(33). The Soviet delegate will repeat this same idea when, a few months later, the Security Council will put to vote its recommendation to the General assembly on the admission of Israel to the United Nations(34). From the aforementioned, it appears that it is beyond any reasonable doubt that the creation of the State of Israel was not realized in perfect conformity with resolution 181 (II). This assertion can be also corroborated by the fact that according to this legal instrument each Provisional Government (Jewish and Arab) should have sent to the United Nations a formal declaration containing – and showing – its respect of certain commitments. Among the latter we have to enumerate those regarding the internationalisation of Jerusalem as well as its borders, the ban of expropriation and the protection of minorities (and refugees), and so on(35). It is only after the independence of every State, "as envisaged in this plan has become effective and" and the foresaid declaration has been adopted by the two States that "sympathetic

(32) *Security Council Proceedings*, n°130, 386th Meeting, pp. 28-29
(33) *Security Council Proceedings*, n°130, 386th Meeting, p. 32.
(34) *Security Council Proceedings*, n°130, 414th Meeting, p. 10.
(35) Part C of the resolution 181 (II).

consideration should be given to its application for admission to membership in accordance with Article 4 of the Charter of the United Nations"[36].

As it appears from the British delegate intervention, it seems clear that from the outset (1949!) Israel was not willing to abide by the Plan of partition (notably with regard to the international status of Jerusalem) [37], which it nevertheless invoked as a legal title to justify its occupation. However, the SC did not loose much time on these questions and by resolution 64 recommended to the GA to admit Israel to the UN.

Finally, it is legitimate to ask whether the SC recommendation for the admission of Israel to the UN (expression of its consent) is not vitiated by an *error*[38]insofar as it referred to a State whose borders (defined in GA Resolution 181 (II)) were manifestly not the same as those *on the ground* at the time of the armistice ("Green line"). As a result, SC resolution n°64 is based on an erroneous representation of the factual reality which "formed [yet] an essential basis of its consent"[39]. Be that as it may, the practice of the GA and of SC will show – beyond any reasonable doubt – that the admission of Israel to the UN *with its borders fixed by the armistices*, has validated the territorial gap[40]. The normative situation (resulting from the implicit modification of Resolution 181 (II)) is probably the same with regard of the Israeli occupation of West-Jerusalem[41] which will be ultimately under the sovereignty of this State whereas the Plan of partition assigned for the whole

(36) Part F of the resolution 181 (II).

(37) « Yet we have seen statements by responsible Israeli representatives, including the Prime Minister himself, to the effect that part at least of Jerusalem must be incorporated in the Israeli State and that internationalization, if it is to be applied at all, can only affect that area held by the Arabs», *Security Council Proceedings*, 4th year, n° 17, S/414th Meeting, p. 2.

(38) We are referring, by analogy with the régime governing the law treaties, to Article 48 of the 1969 Vienna Convention on the Law of Treaties. Indeed, both a resolution and a treaty share a common ground as regards their legal validity and nature since they are – and are founded upon – the expression of will. Moreover, it's not useless to recall that the compulsory nature of SC resolutions must be sought in a treaty provision, that is to say Article 25 of the United Nations Charter.

(39) Article 48 of the 1969 Vienna Convention on the Law of Treaties.

(40) And this notwithstanding in its resolution 273 (III), on the admission of Israel to the United Nations, the GA « *recall* its resolutions of 29th November 1947 [Plan of partition] and 11th December 1948 [Provisional report of the United Nations Mediator] ».

(41) Cf. res. 298 of the SC

city a special international statute (Part III of resolution 181 (II)) [(42)]. Hence, in all the cases where there has been a gap between the territories awarded to Israel in the Plan of partition and those finally submitted to the sovereignty of the Jewish State, the UN has given its agreement or has validated the effectiveness *contra titulum* of Israel[(43)]. After the Six Days War (1967), the SC asked Israel tirelessly, but in vain, to withdraw from the occupied territories (Resolution 242). This corroborates the thesis that the UN (through the SC and the GA) has recognised, confirmed *de iure* the Israeli sovereignty on all the territories occupied in 1949 and delimitated by the Green Line. In consequence, the territorial titles which are vested with Israel were (and are): a) resolution 181 (II) for the sectors originally assigned to the Jewish State by the UN and b) the effectiveness of the occupation (validated by the UN) for the territories awarded to the Arab State as well as to the international city of Jerusalem, yet occupied since 1949. In other words, in the first case (a), the legal title (resolution 181 (II) is confirmed by effectiveness whereas in the second case (b), the effectiveness *contra titulum* is recognized by the h of the holder of the *titulus adquisitionis*[(44)].

(42) In this regard it seems odd to observe that resolutions 194 (11 December 1948) and 303 (9 December 1949) do not stop reaffirming the internationalisation (and thus the UN title) on the Holy City and Nazareth, considered as *corpus separatum* from the two States. Regarding the city of Jerusalem one can mention by analogy the Free Territory of Trieste – decided by the UN and consecrated by relevant Peace treaties – which in the end never got born but whose dismemberment between Yugoslavia and Italy (consent of the two States) was endorsed by the UN.

(43) Likewise, the consent of the other titular (the Arab-Palestinian people) is from now granted for a long time (at least formally since the Oslo agreements) as it recognized the State of Israel in its actual borders and does not any longer claim these territories. Cf. on this point the speech by the head of the Palestinian delegation at the Madrid Conference (31 October 1991) Mr Haydar Abd al-Shafi (reproduced in The Israel-Arab reader, prepared by W. Laqueur et B. Rubin, sixth edition, London, 2001, p. 398)

(44) Cf. the casuistry of the relations between title and effectiveness dressed by the Chamber of the International Court of Justice in: Case concerning the Frontier Dispute (Burkina-Faso / Mali), Judgement of 22 December 1986: *I.C.J. Reports* 1986, § 63.

C.2 From the Six Days War to nowadays : validation of Israeli annexations or, instead, upholding of the military occupation ?

The territories occupied by Israel in 1967 were by no means "*sans maître*", for the title of territorial sovereignty still vested with the UN(45). The reiterated condemnations by the UN (SC (46)and GA), as well as by the States *uti singuli*, of the Israeli occupation and *a fortiori* its attempts of annexation (of East-Jerusalem) (47) show – if necessary – that the international community has not validated the *contra titulum* Israeli effectiveness(48). The SC, by its resolution 242 (of November 22nd 1967), "*Emphasizing the inadmissibility of acquisition of territory by war …*" and "the commitment to act in accordance with Article 2 of the Charter", affirms that a just and lasting peace in the region will have henceforth to rely on two principles: a) "the withdrawal of Israel armed forces *from territories occupied in the recent conflict*" and b), "respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area." (49)

"This resolution is also significant insofar as the GA, by conferring a new statute of "Superobserver" to Palestine in the UN (six seats instead of two), "considers" that the establishment of the control of the PA "on part of the Occupied Palestinian Territory" constitutes a step towards the realization of the Plan of partition, enshrined in its Resolution 181 (II)"

Israel allegation according to which Article 2, paragraph 4 of the Charter is not applicable since neither the West Bank nor the Gaza strip were (and are) under another State sovereignty has to be straightforwardly refuted. In fact, from Article 2, paragraph 4, as authentically interpreted by resolution 2625 (XXV) and 3314 (XXIX) of the GA, ensues the absolute ban of

(45) See Advisory opinion of the Court in 1971 (Namibia), *op.cit.*, § 118. Hencemore, in its 2004 advisory opinion the I.C.J. will declare that the mere effectiveness does not engender any valid title for the benefit of Israel even if its international responsibility is precisely engaged because of this fact. The analogy with the situation in Namibia under South-African occupation is striking.

(46) Res. 252 (21 May 1968); 267 (3 July 169), 271 (15 September 1969) of the SC.

(47) Res. 78 (1980) of the SC. See also : the declaration of the European council in Venice (13 June 1980)

(48)The mechanical repetition of the rebukes of international law violations and the determination of nullity by the United Nations (notably by the SC) look like an incantatory process.

(49) Emphasis added.

territorial acquisition by force, whether or not the territory is or not under State sovereignty(50). The application of this principle in the Palestine question has been reiterated on numberless occasions by the SC as well as by the GA. This fundamental principle of contemporary public international law related to territorial disputes goes even further than Article 2, paragraph 4,(51) as even the lawful use of armed force could not generate a valid title for the extension of territorial sovereignty. Thus, even if one were to admit the Israeli thesis of aggression during the six days war, its lawful use of force – in conformity with article 51 of the Charter (legitimate self-defence) – could by no means legalise neither its prolonged occupation of the territories, since it does not possess valid titles (the entire West Bank and Gaza), nor (even less!) their annexation (East-Jerusalem and the Golan) (52). The occupation of the West Bank and Gaza by Israel has to be considered as a war occupation(53) which by its prolonged character flagrantly violates relevant public international law rules(54).

The Yom Kippur war (1973) and its outcome do not change the legal status of the Occupied Palestinian Territory as the SC – by fourteen to zero votes – reaffirms the obligation of the parties to the conflict to apply resolution 242 « in all of its parts »(55). The long litany of SC resolutions with

(50) The I.C.J. solemnly reaffirmed the application of this paramount principle of public international law with regard to the "Occupied Palestinian Territory" (Legal consequences of the construction of a wall in the Occupied Palestinian Territory, *op.cit.*, § 87).

(51) Judge Rigaux in his dissenting opinion appended to the I.C.J. Judgement in the *Oil Platforms Case* (Iran v. United States of America) did not hesitate to qualify this rule as the « Grundnorm » (in the wake of Kelsen) of contemporary international law (Judgement of 6 November 2003 (Merits): *I.C.J. Reports* 2003, § 33).

(52) Cf. resolutions 2625 (XXV)et 3314 (XXIX) of the GA ; for the doctrine, see DISTEFANO,G., *op.cit.*, p. 335, note 1418 [*passim*].

(53) Res. 242 (22 November 1967), 465 (1 March 1980), 469 (20 May 1980) of the SC as well as the Advisory opinion of the Court of 9 July 2004 (§§ 78-79 and 89-101). The two-headed entitlement, yet quintessentially and originally unique, on the ancient Mandatory Palestine explains from another legal standpoint the qualification of military occupation. That means that the *titulus* was not without titular, since the concerned territory was not "without a master" ("sans maître").

(54) Hencemore in its resolution 41/162 (1986), the GA determined that Israel, for its occupation of the West Bank (including Jerusalem and Gaza), violates – in addition to several international law obligations – "its commitment under General Assembly resolution 273 (III) of 11 May 1949" which sealed its admission to the United Nations.

(55) Res. 338 (22 October 1973).

similar content shows inexorably that the effectiveness of the Israeli occupation not only has not generated a legal title but also that the *shield of legality* opposed by the UN ended up in undermining this very effectiveness. The non-recognition, the declaration of illegality, the condemnation of the illegal situation constitute the first effective step to the reestablishment of the law and the international community follows its effort of legality by using the legal title as a sword against the consolidation of Israeli legal title(56). The legality could then undermine the adverse effectiveness because the two are intrinsically linked and tangled up in the concept of legal title as construed earlier [*supra* A]. As they ontologically fit one in the other, they can reciprocally influence each other and shape each other.

Since the (constitutive) recognition of the Palestine people as titular of the right of self determination (through the PLO(57) first and then the Palestine Authority(58)) the legal title is now jointly vested with the UN and the Palestine people (and its legitimate representative) (59): the entitlement of the territorial sovereignty is therefore two-headed(60). As the I.C.J. has declared in its 2004 Advisory opinion:

"As regards the principle of the right of peoples to self-determination, the Court observes that the existence of a "Palestinian people" is no longer in issue. Such existence has moreover been recognized by Israel in the exchange of letters of 9 September 1993 between Mr. Yasser Arafat, President of the Palestine Liberation Organization (PLO) and Mr. Yitzhak

(56) International Law Commission (of the United Nations) in its commentary upon the draft articles on the law of treaties expressed itself in the following way concerning the consequences of the nullity of a treaty in conflict with a ius cogens norm : "Paragraph 1 [of Article 67, which will become in the Vienna Convention on the Law of Treaties, Article 71] requires the parties to a treaty void *ab initio* under article 50 [i.e. Article 53 of the Vienna Convention on the Law of Treaties] first to eliminate as far as possible the consequences of any act done in reliance on any provision which conflicts with the rule of *ius cogens*, and secondly to bring their mutual relations into conformity with that rule », *Yearbook of International Law Commission*, 1966, Vol. II, p. 266.

(57) Res. 3236 (XXIX) and 3237 (XXIX) adopted by the GA on 22 November 1974.

(58) See *infra* p. 432.

(59) « [L]egitimate political rights of the Palestinian people » (Res. 672 of 12/October/1990).

(60) Cf. DISTEFANO,G, *op.cit.* pp 360-364. The two-headed character flows from the characteristics of the *titulus* on the territories of the ancient Mandatory Palestine, which is vested with the United Nations.

Rabin, Israeli Prime Minister […] The Court considers that those rights include the right to self-determination, as the General Assembly has moreover recognized on a number of occasions (see, for example, resolution 58/163 of 22 December 2003)" (61)

In 1988, the proclamation of the Arab State of Palestine is in all respects similar to that of the Jewish State 40 years earlier, to one (sizeable) exception, namely the lack of effectiveness of the territorial occupation. In both cases, the proclamations are referring to resolution 181 (II). The GA has taken note of it in its resolution 43/177 (15 December 1988), whose text displays a major incoherence. On one hand, the GA rightly recalls its Plan of partition, but on the other, it goes on affirming "the need to enable the Palestinian people to exercise their sovereignty over their territory occupied since 1967". Does the GA seem to confirm the validation of the famous *territorial gap* and, notwithstanding the reference to resolution 181 (II), limit then the future Arab State of Palestine to the territories occupied by Israel in 1967 reducing accordingly the territorial sphere of the exercise by the Arab Palestine people of its right of self-determination? Even more, this resolution seems to seal in the views of the GA (which we recall is the author of the Plan of partition) the definitive death of the special statute of the Holy City(62). However, 10 years later the same GA will recall "its resolution 181 (II) of 29 November 1947, in which, *inter alia*, it recommended the partition of Palestine into a Jewish State and an Arab State, with Jerusalem as a *corpus separatum*" (63). This resolution is also significant insofar as the GA, by conferring a new statute of "Superobserver" to the Palestine Authority in the UN (six seats instead of two), "considers" that the establishment of the control of the PA "on part of the Occupied Palestinian Territory" constitutes a step towards the realization of the Plan of partition, enshrined in its

(61) *Op.cit.*, § 118.

(62) We can always imagine for the sake of the scientific investigation that res. 181 (II) is from now on modified through the subsequent practice so that any dispositions related to the internationalisation of the city of Jerusalem as well as the ones that fix the original partition (i.e. "territorial gap") are amended or even abrogated.

(63) Res. 52/250 (13 July 1998). In this same resolution, the GA refers to its res. 43/177.

Resolution 181 (II). May we thus infer that the latter is eventually exhumed by the GA? This interpretation could be supported by the subsequent resolutions adopted by the GA(64) and, more recently, by the 2004 I.C.J. Advisory opinion(65). What can we conclude? We have to suspend here our judgement to the negotiations to come.

From 2002 onward, the SC too pierces the terminological barrier when it "*Affirm[s]* a vision of a region where two States, Israel and Palestine, live side by side within secure and recognized borders"(66). The SC dared then to cross the Rubicon: a Palestine State will be established according to resolutions 242 and 338 which stipulate – it is not useless to remind – the withdrawal of Israel from the occupied territories (East-Jerusalem included).

The two-headed entitlement(67) of territorial sovereignty on the West Bank (including East-Jerusalem) – which flows from the title of the UN on the territories of the Mandatory Palestine – is not put in doubt and is corroborated by the peremptory nature of the norm that embodies the right of self-determination. In its resolution 41/162 the GA "*Rejects* all agreements and arrangements which violate the inalienable rights of the Palestinian people" among which one has to mention the "occupation of its territories". Two considerations may be formulated from the standpoint of titles of State jurisdiction. Any agreement between Israel and a third State (as it has been the case in the past between Australia and Indonesia with regard to East-Timor continental shelf), on the occupied Palestinian territories is *void* because of the lack of valid *titulus* vested with Israel (principle of self-determination). In the same way any agreement between Israel and the PA with regard to the legal title of the occupied territories is also void if not

(64) In its res. 58/21 the GA notes "that it has been fifty-six years since the adoption of resolution 181 (II) of 29 November 1947 and thirty-six years since the occupation of Palestinian territory, including East Jerusalem, in 1967". However, one cannot but observe that to these two critical different dates correspond two of different territorial extensions of the legal title (see *supra* note 25). Then, how to conciliate them at the end of the day?

(65) *Op.cit.*, §§ 71 and 162.

(66) Res. 1397 (12 march 2002), 1515 (19 November 2003).

(67) By this term we mean the appurtenance, the imputation of the subjective right (in this case, the right of territorial sovereignty) to the subject of law (*entitlement*).

endorsed by the UN, as the entitlement is two-headed. The *double hat* of the *titulus* is reiterated by the GA when it affirms that the UN has a permanent responsibility in the Palestine question and its settlement(68). The international community ultimately represents the true depositary of international legality and thus of *titulus adquisitionis*.

C.2.1. East-Jerusalem(69)

The annexation of East-Jerusalem must to be qualified, to borrow the terms of the United Nations resolutions, « null and void" or "illegal" (70). From 21 may 1968 onwards, the SC "*Considers* that all legislative and administrative measures and actions taken by Israel […] which tend to change the legal status of Jerusalem are invalid and cannot change that status" and "[u]*rgently calls upon* Israel to rescind all such measures already taken" (71). These measures and actions had such an impact that the physical and sociological features of Jerusalem have been henceforth deeply shattered in few years (72). This determination of invalidity is opposable *ipso iure* to Member States (art. 25 of the United Nations Charter) and prevails on any obligation arising out of any other international agreement (art 103 of the Charter). The GA which had formerly agreed the Plan of partition allowing the transfer of the titulus adquisitionis to the two future States while retaining it for the entire city of Jerusalem, immediately condemned the occupation of

(68) Res. 56/36.

(69) « … le terme de 'Jérusalem-Est' est trompeur. La Jérusalem sous pouvoir jordanien, entre 1948 et 1967, était d'une superficie de 38 kilomètres carrés et n'englobait que la vieille ville et les quartiers adjacents. Tandis que la 'Jérusalem-Est' annexée par Israël s'étend sur 108 kilomètres carrés et englobe 28 cités et villages qui ne faisaient pas partie de la ville », Rapoport, *Ha'aretz* (translated and reprinted in : *Courrier international*, n° 743, p. 27). Be that as it may, the modifications carried on by Israel regarding the « occupied territories » (included East-Jerusalem and whatever its extension), are « null and void » with regard to international law which obviously prevails over municipal law. In this regard, see: GA res. ES-10/6 (24 February 1999).

(70) The GA « *[d]eplores* the transfer by some States of their diplomatic missions to Jerusalem in violation of Security Council resolution 478 (1980) and their refusal to comply with the provisions of that resolution », res. 41/162 C (4 December 1986). Likewise : res. 58/22 (3 December 2003).

(71) Res. 252 (21 May 1968). This injunction counts among the consequences of the engagement of the international responsibility of the State, notably with regard to the restoration of the *statu quo ante* (art. 35 of the ILC Articles, *infra*, note 83).

(72) CHAGNOLLAUD, J.-P., SOUIAH, S.-A., *op.cit.*, p. 192.

its Eastern part [73]. When the Knesset promulgated (30th July 1980) the law of annexation of East-Jerusalem by calling the reunified city "capital of Israel", the SC rapidly reaffirmed, in addition to the already known determinations and injunctions, the nullity of such constitutional, legislative and administrative measures and asked Israel to respect all the previous resolutions regarding the Palestine question[74]. By its resolutions[75], the SC undermines irreversibly the effectiveness of the so-called consolidation process of the Israeli legal title in the occupied territories. By its ascertainment of the invalidity and the arising from the engagement of the international responsibility of Israel, the SC fights efficiently with the sword of the *titulus* against the effectiveness of the Israeli occupation. In its resolution 478 (1980), the SC affirms the nullity of Israel "basic law" and the engagement of the responsibility of this State for its enactment[76]. Subsequently it decided "not to recognize the 'basic law'" and it consequently called upon the Member States to comply with this decision. Moreover, the SC enjoined those States who had the unwise idea to establish their diplomatic mission in Jerusalem to withdraw it. Because of the nullity proclaimed by the SC of the measures taken by Israel, the legal status of the West Bank (including East-Jerusalem) remains that of military occupation. A simple material fact – governed by the laws of war – which does not entail the transfer of the title of territorial sovereignty. The UN (through the SC, the GA[77] and lastly the I.C.J. [78]) never stopped recalling that Israel is the occupying power and by this fact is bound to the international obligations pertaining to this statute.

The Israeli occupation is therefore a simple material fact implemented in defiance of two peremptory norms of public international law: a) the

(73) Res. 2253 (ES-V) and 2254 (ES-V) (14 July 1967), 41/162 (4 December 1986), res. 56/31 (3 December 2001), res. 58/22 (3 December 2003).
(74) Resolution 478 (20th August 1980). Likewise, the GA, supra note 73.
(75) Among others: res. 298 (25 September 1971); 465 (1 March 1908); 478 (20 August 1980).
(76) This represents a tangling up – peculiar to public international law – between nullity, unlawfulness and effectiveness.
(77) Res. ES-10/4 (1997).
(78) Cf. *supra* note 53.

prohibition of the use of force (one of the principles of the UN enlisted in Article 2); b) the right of self-determination of peoples (one of the purposes of the UN, Article 1). It ensues that sheer effectiveness would not create a valid legal title to the benefit of Israel.

In other respects, the SC affirmed that Israeli attempts purporting to change the status of the Holy City "prejudice … the interests of the international community"(79) since, as the GA will affirm 32 years later: "the international community, through the United Nations, has a legitimate interest in the question of the City of Jerusalem and the protection of the unique spiritual, religious and cultural dimension of the city …"(80). We wish to make clear that the legal entitlement to the Holy City is not two-headed as the UN still retains exclusively the *titulus*. To her alone falls the legal power of changing or confirming the modification of the international statute of the Holy City. Thus, in the absence of a valid territorial title, the *animus imperii* – shown by Israel through its law of annexation – is by no means sufficient to acquire the *titulus* because the latter is vested with the UN (international status of this territory).

C.2.2 West Bank (with the exception of East-Jerusalem) and the Gaza strip

The effectiveness cannot create a legal title on a territory – like the West Bank and the Gaza strip – which is not *res nullius*. Moreover, since the occupation has been realized and perpetrated in violation of two norms of *ius cogens* (the prohibition of the use of force and the right of self-determination) and since the UN possesses by virtue of GA resolution 181 (II) the power of disposal of the territorial title, the mere consent of the Palestinian people will not be sufficient to transfer the titulus because the latter is two-headed. Then, if the PA itself could not "validate" the unlawfulness of the illegal occupation, the UN and he PA can do it jointly.

(79) Resolution 298 (25th September 1971).
(80) Res. 58/22 (3 December 2003).

The theoretical possibility of validation–recognition of the Israeli annexation has nevertheless not taken place. In fact, at no time, either the UN or the States *uti singuli* have recognized the extension of the Israeli territorial sovereignty on these territories. In this regard the SC "*[d]etermining* [that] the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 *have no legal validity"* (81), urges Israel "to rescind those measures … on an urgent basis"(82) and "*Calls upon* all States not to provide Israel with any assistance to be used specifically in connexion with settlements in the occupied territories" (83). The SC goes even farther as to "*reaffirm* the overriding necessity to end the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem" (84). The GA – the only plenary organ of the United Nations – expressed its grave concern that: « … that the Palestinian and other Arab territories occupied since 1967, including Jerusalem, still remains under Israeli occupation, that the relevant resolutions of the United Nations have not been implemented and that the Palestinian people is still denied the restoration of its land and the exercise of its inalienable national rights *in conformity with international law, as reaffirmed by the resolutions of the United Nations*" (85).

In addition to that, Israel's *animus occupandi* is lacking as testified by the numerous bilateral commitments entered into by Israel(86) which make

(81) Res. 446 (22nd March 1979) [emphasis added]. See also: res. 58/21 (3 December 2003).

(82) Res. 465 (1st March 1980). Also : Res 452 (20 July 1979).

(83) Res. 465. This injunction has to be read in the light of Article 41, paragraph 2 of the Text on State responsibility adopted by the International Law Commission (of the United Nations) in 2001 (annexed to Res. 56/83 of the GA). See also: 471 (5 June 1980) ; 41/161 A and B, of the GA (4 December 1986) ; ES-10/6 of the GA ; 56/31 of the GA (3 December 2001).

(84) Res. 471 (5 June 1980). Also : 476 (30 June 1980).

(85) Res. 41/162 of 4 December 1986 (emphasis added).

(86) The Camp David Agreements (1979); the Oslo Agreements (1993) ; the intermediate Israeli Palestinian agreement on the West Bank and the Gaza strip signed in Washington on 28 September 1995. In the same line one has to mention the Declaration of the Quartet (UN; RUSSIA; USA; EU) of 16 July 2002 (annexed to the Declaration of the President of the SC of 18 July 2002): "The Quartet reaffirms that there must be a negotiated permanent settlement based on UN Security Council resolutions 242 and 338 […] *The Israeli occupation that began in 1967 must end, and Israel must have secure and recognized borders*" (emphasis added). In the light of this last fragment, one dares to maintain that the semantic dispute (between the French and English texts of resolution 242) respectively « of » and

explicit reference to resolutions 242 and 338. In this respect one cannot evoke the Peace Treaty with Egypt (1979) – regarding Gaza(87) – and that with Jordan (1994), regarding he western bank of the Jordan(88). As the World Court rightly declared in its landmark 2004 advisory opinion:

« That treaty [i.e. with Jordan, concluded in 1994] fixed the boundary between the two States "with reference to the boundary definition under the Mandate as is shown in Annex I (a) . . . without prejudice to the status of any territories that came under Israeli military government control in 1967" (Article 3, paragraphs 1 and 2). Annex I provided the corresponding maps and added that, with regard to the "territory that came under Israeli military government control in 1967", the line indicated "is the administrative boundary" with Jordan »(89)

As a consequence, the legal status of the border between Jordan and Israel indicates clearly that Israel itself recognizes that it does not possess the sovereignty on the Occupied Palestinian Territory. Its actual occupation is then without legal title.

The Court could not have affirmed, in its aforementioned Advisory opinion, that the course of the wall beyond the Green Line violates international law (N° 3 of the *Dispositif*) if it hadn't first determined that Israel has no *titulus adquisitionis* to administer and occupy the West Bank (including East-Jerusalem) and Gaza and even less to annex them.

« from » appear as an idle question, because Israel is called upon – in this declaration – to terminate the occupation it "started in 1967".

(87) The Peace Treaty of 26 March 1979 (between Egypt and Israel) provides in its article II that – without prejudice to the question of the Gaza strip – the international borders between Israel and Egypt will be those between the Mandatory Palestine and Egypt. In the Preamble of this instrument the necessity of the settlement of the question in accordance with resolutions 242 and 338 is aptly recalled.

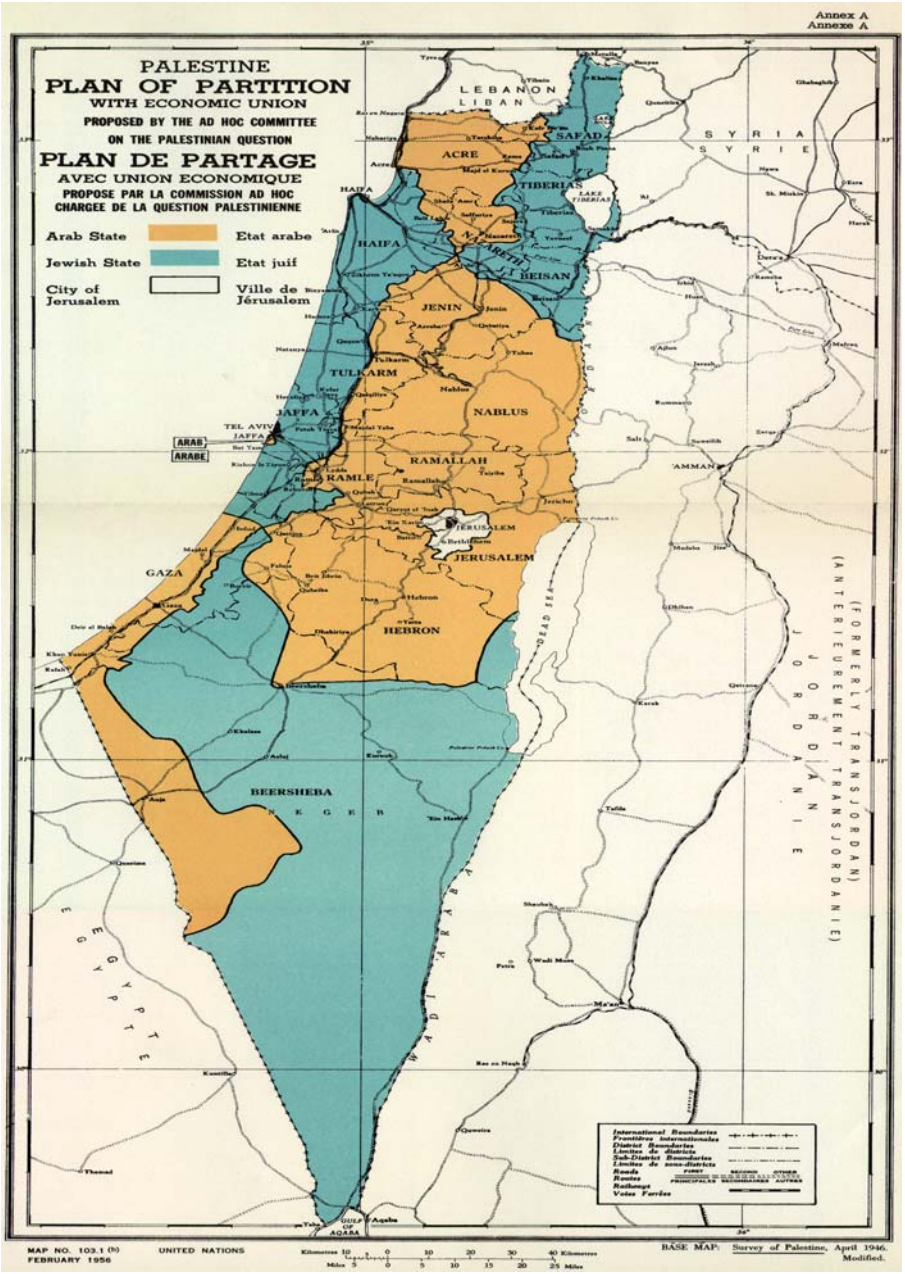
(88) By virtue of this agreement, the protection of the Islamic holy places in Jerusalem has been entrusted to the Hashemite King of Jordan.

(89) Legal consequences of the construction of a wall in the Occupied Palestinian Territory, *op.cit.*, § 6.

Likewise, the agreement between Israel and PA(90), envisaged by the *Roadmap* in its third phase, will have to be in accordance with – notably – resolutions 242 and 338. From this standpoint, the *Roadmap*, presented by the Quartet the 30th April 2003, has become an instrument for the implementation of resolutions 242 and 338 through the creation of new obligations to the Parties. The World Court, in its oft-cited Advisory opinion, reiterates that the settlement of the Palestine question must be in conformity with international law, that is to say notably resolutions 242 and 338(91). This shows the two-headed entitlement of the Occupied Palestinian Territory. Should the future agreements between Israel and PA depart from these resolutions, only the endorsement by the UN would allow the definitive transfer of the *titulus*(92). If indeed it is true that the Oslo agreements of 1993, which make explicit reference to resolutions 242 and 338 as pillars of the settlement of the Palestine question, modify in certain parts of the Occupied Palestinian Territory the rights and obligations of Israel as an occupying power, it is not less true that they do not – and cannot - obliterate the general obligation - stipulated in the aforementioned resolutions – for Israel to withdraw. The Oslo agreements, from now on welcomed and endorsed by the SC are mentioned by the latter in order to specify the obligations incumbent for Israel concerning the withdrawal from the occupied territories. Therefore, the modalities of the withdrawal have been changed *but not* territorial titles.

In conclusion we can sustain that Israel's occupation of the West Bank as well as the Gaza strip violates the title which is jointly enjoyed by the Palestine people (through, nowadays, the PA) *and* by UN. Likewise, Israel's occupation of East-Jerusalem violates the territorial title which is vested with the UN.

(90) The same international treaty also embodies the mutual recognition between Israel and the PLO (see res. 56/36 of the GA).
(91) See also: res. 58/21.
(92) See *supra* p. 437.


Annex A
Annexe A
PALESTINE
PLAN OF PARTITION
WITH ECONOMIC UNION
PROPOSED BY THE AD HOC COMMITTEE
ON THE PALESTINIAN QUESTION
PLAN DE PARTAGE
AVEC UNION ECONOMIQUE
PROPOSE PAR LA COMMISSION AD HOC
CHARGEE DE LA QUESTION PALESTINIENNE
Arab State
Etat arabe
Jewish State
Etat juif
City of Jerusalem
Ville de Jérusalem
LEBANON
LIBAN
SYRIA
SYRIE
SAFAD
ACRE
TIBERIAS
HAIFA
BEISAN
JENIN
TULKARM
NABLUS
JAFFA
TEL AVIV
JAFFA
ARAB
ARABE
RAMALLAH
RAMLE
AMMAN
JERUSALEM
JERUSALEM
GAZA
HEBRON
BEERSHEBA
NEGEB
EGYPTE
(FORMERLY TRANSJORDAN)
(ANTERIEUREMENT TRANSJORDANIE)
JORDANIE
MAP NO. 103.1 (b)
FEBRUARY 1956
UNITED NATIONS
BASE MAP: Survey of Palestine, April 1946.
Modified.

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