

EU Foreign Affairs Chief Denounces Potential Annexation of West Bank by Israel

by Hugh Fitzgerald



[The Times of Israel](#) has the story of Josep Borrell's latest failed attempt to get the E.U. to denounce the potential annexation by Israel of parts of the West Bank:

The Foreign Ministry on Tuesday hit back against the European Union's "megaphone diplomacy" after the bloc's foreign affairs chief, Josep Borrell, again warned Jerusalem against the unilateral annexation of West Bank territory in a message congratulating the Jewish state on its new government.

“The Israeli Foreign Ministry would like to thank the EU for their message congratulating Israel on the swearing-in of a new government,” spokesperson Lior Haiat said in a statement.

“Israel and the EU share history, values, interests, opportunities and both face threats. It is regrettable that once again, the security of Israel, a key partner of the EU, and the threats that Israel face, were not mentioned at all and were not given the centrality that they should be in such a message,” he said.

Borrell said:

The European Union’s position on the status of the territories occupied by Israel in 1967 remains unchanged. In line with international law and relevant UN Security Council resolutions, including resolutions 242 (1967) and 338 (1973), the European Union does not recognise Israeli sovereignty over the occupied West Bank.

Josep Borrell clearly does not understand what U.N. Resolution 242 means. Resolution 242 was intended by its main author, British Ambassador to the U.N. Lord Caradon, to set out the rules for territorial adjustments following Israel’s capture, in the Six-Day War, of the Sinai, Gaza, the Golan Heights, and the West Bank. The first principle was that Israel would never again have to be squeezed back within the pre-1967 lines, that is, the 1949 armistice lines. Israel was required only to “*withdraw from territories*” it had won in the recent conflict and – despite the efforts of the Arab states to change that wording – would not have to “*withdraw from all the territories.*”

The second principle of U.N. Resolution 242 was that Israel was entitled to achieve “*secure and recognized boundaries*” – “*secure*” meaning boundaries, or borders, that could reasonably be defended – that is, be “*defensible.*” This is obviously a

decision that only Israel itself can make.

[Borrell further stated:](#)

The European Union reiterates that any annexation would constitute a serious violation of international law. The European Union will continue to closely monitor the situation and its broader implications, and will act accordingly.

No, the European Union did no such thing. It did not state, much less “reiterate,” that “any annexation [by Israel] would constitute a serious violation of international law.” Borrell was acting *ultra vires*, beyond the scope of his authority. E.U. statements are valid only when they are unanimous; the statement opposing Israeli annexation of part of the West Bank was opposed by six E.U. members. Borrell was wrong to be speaking in the name of the E.U., and wrong in his characterization of its view. What he should have said is that “failing to arrive at an unanimous vote, the European Union continues to take no position on possible Israeli annexation of part of the West Bank.”

[An earlier report](#) has more on the Israeli reaction to Borrell’s statement:

Israel’s public broadcaster Kan reported that, shortly after, Israeli Foreign Minister Yisrael Katz fired back at the EU, saying, “It is unfortunate to read that Joseph Burrell, who claims to be trusted with the EU’s foreign relations, chooses to welcome the new government of a central partner of the EU in this way, and prefers to see the relationship between Israel and the EU through the prism of the pandemic and the ‘status of the territories.’”

“Given the depth of the relationship and in light of the fact that this announcement did not receive the support of the EU member states yesterday, we wonder which policies the honorable gentleman is choosing to represent, and not for the

first time,” Katz added.

Borrell attempted in February to push through a joint EU resolution condemning annexation, but it was blocked by six countries, including the Czech Republic and Italy.

Josep Borrell tried to get the EU to approve a statement opposing Israel’s annexation of territories, but failed, just as he failed last February to get the EU to approve a similar statement condemning Israeli annexation. But that did not stop him from speaking out as if he were legitimately representing the views of the E.U. As the E.U. had failed to take a unanimous position, it could not have issued a statement. Borrell represented only himself.

Katz thanked the EU countries that opposed the latest statement, which again prevented the text from being officially adopted by the EU.

“These countries recognize the value of relations with Israel and we will continue to promote relations between Israel and Europe together,” Katz said.

Katz might also have reminded the E.U. of what U.N Resolution 242 stands for, which is the right of Israel to make territorial adjustments it deems necessary in order that the Jewish state might have “secure and recognized boundaries.” It needs to be reiterated, because people like Josep Borrell claim that Resolution 242 requires Israel to withdraw to the pre-1967 lines, which it most carefully and deliberately – see Lord Caradon’s vigorous denial – does not.

Josep Borrell claims that any unilateral annexation by Israel of territory in the West Bank would “violate international law.” What “international law” does he have in mind? We have already dealt with Resolution 242 and its significance. There is a principle of international law, which says that territory

won from an aggressor in a war of self-defense may be kept. And indeed, we saw this principle put into practice after World War I, when, for example, Italy retained what had been the Austrian Sudtirol (South Tyrol) and turned it into the Italian Alto Adige. After World War II, much of East Prussia became part of Poland, while the German city of Königsberg was turned into the Russian city of Kaliningrad; the United States has held onto numerous islands it won in the Pacific, such as the Northern Marianas. No one claims that these changes in sovereignty after wars of self-defense violate international law.

There are, of course, objections that one could make as to the practicality of Israel annexing all of the West Bank. It is clear that there are many in Israel who, though they are prepared to annex land deemed vital to Israel's defense, such as the Jordan Valley, and the Golan, do not want to annex the entire West Bank. But calling such annexation a "violation of international law" is simply wrong. Josep Borrell needs to study the matter before issuing his self-assured pronouncements. He will discover that it is not despite, but because of, international law, that Israel can lay claim to the entire West Bank. The best source on the matter is *Israel and Palestine: An Assault on the Law of Nations*, by the eminent jurist Professor Julius Stone. Borrell should take the time to read it.

There is another basis for the legal, historic, and moral claim that Israel can make to all of the West Bank, and that is the Mandate for Palestine itself. That Mandate's provisions remained in force even after the League of Nations had been replaced by the U.N. Article 80 of the U.N. Charter commits the U.N. to fulfilling the provisions of the Palestine Mandate, including "close settlement by Jews on the land." What land? The land that was covered by the Mandate's provisions. This was all the land from Mt. Hermon in the north to the Red Sea in the south, and from the Jordan River

westward to the Mediterranean. In other words, all of the West Bank was to be included, in accordance with the Mandate, in the future Jewish National Home. Jordan seized the West Bank in the 1948-49 war, and held onto it as a “military occupier” until 1967. When Israel took possession of the West Bank, it was not as a “military occupier”; its claim – legal, historic, and moral – was enshrined in the Mandate itself.

If Josep Borrell still believes, after reading the exhaustive study of Prof. Julius Stone, that Israel has no rightful claim to annex the West Bank, he should be made to explain why.

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