To promote transparency, accountability, and reform within the United Nations system, and for other purposes.

S. 1848

IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2011

Mr. RUBIO (for himself, Mr. INHOFE, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To promote transparency, accountability, and reform within the United Nations system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “United Nations Transparency, Accountability, and Reform Act of 2011”.

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—FUNDING OF THE UNITED NATIONS
Sec. 101. Findings.
Sec. 102. Apportionment of the United Nations regular budget on a voluntary basis.
Sec. 103. Budget justification for United States contributions to the regular budget of the United Nations.

TITLE II—TRANSPARENCY AND ACCOUNTABILITY FOR UNITED STATES CONTRIBUTIONS TO THE UNITED NATIONS

Sec. 201. Findings.
Sec. 203. Independent and objective conduct of audits and investigations relating to United States contributions to the United Nations system.
Sec. 204. Transparency for United States contributions.
Sec. 205. Integrity for United States contributions.
Sec. 206. Refund of monies owed by the United Nations to the United States.
Sec. 207. Annual reports on United States contributions to the United Nations.

TITLE III—UNITED STATES POLICY AT THE UNITED NATIONS

Sec. 301. Annual publication.
Sec. 302. Annual financial disclosure.
Sec. 304. Access to reports and audits.
Sec. 305. Waiver of immunity.
Sec. 308. United Nations treaty bodies.
Sec. 310. Regional group inclusion of Israel.
Sec. 311. United States policy on tier 3 human rights violators.

TITLE IV—STATUS OF PALESTINIAN ENTITIES AT THE UNITED NATIONS

Sec. 401. Findings.
Sec. 402. Statement of policy.
Sec. 403. Implementation.

TITLE V—UNITED NATIONS HUMAN RIGHTS COUNCIL

Sec. 501. Findings.

TITLE VI—GOLDSTONE REPORT

Sec. 601. Findings.
Sec. 602. Statement of policy.
Sec. 603. Withholding of funds; refund of United States taxpayer dollars.

TITLE VII—DURBAN PROCESS

Sec. 701. Findings.
Sec. 702. Sense of Congress; statement of policy.
Sec. 703. Non-participation in the Durban process.
TITLE VIII—UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE MIDDLE EAST

Sec. 801. Findings.
Sec. 802. United States contributions to UNRWA.
Sec. 803. Sense of Congress.

TITLE IX—INTERNATIONAL ATOMIC ENERGY AGENCY

Sec. 901. Technical Cooperation Program.
Sec. 902. United States policy at the IAEA.
Sec. 903. Sense of Congress regarding the Nuclear Security Action Plan of the IAEA.

TITLE X—PEACEKEEPING

Sec. 1001. Reform of United Nations peacekeeping operations.
Sec. 1002. Policy relating to reform of United Nations peacekeeping operations.
Sec. 1003. Certification.

1 SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committees on Foreign Relations, Appropriations, and Homeland Security and Governmental Affairs of the Senate; and

(B) the Committees on Foreign Affairs, Appropriations, and Oversight and Government Reform of the House of Representatives.

(2) EMPLOYEE.—The term “employee” means an individual who is employed in the general services, professional staff, or senior management of the United Nations, including consultants, contractors, and subcontractors.
(3) **General Assembly.**—The term “General Assembly” means the General Assembly of the United Nations.

(4) **Member State.**—The term “Member State” means a Member State of the United Nations. Such term is synonymous with the term “country”.

(5) **Secretary.**—The term “Secretary” means the Secretary of State.

(6) **Secretary-General.**—The term “Secretary-General” means the Secretary-General of the United Nations.


(8) **UN.**—The term “UN” means the United Nations.

(9) **United Nations Entity.**—The term “United Nations entity” means any United Nations agency, commission, conference, council, court, department, forum, fund, institute, office, organization, partnership, program, subsidiary body, tribunal, trust, university or academic body, related organization or subsidiary body, wherever located, that flies the United Nations flag or is authorized to use

(10) UNITED NATIONS SYSTEM.—The term “United Nations system” means the aggregation of all United Nations entities, as defined in paragraph (9).

(11) UNITED STATES CONTRIBUTION.—The term “United States contribution” means an assessed or voluntary contribution, whether financial, in-kind, or otherwise, from the United States Federal Government to a United Nations entity, including contributions passed through other entities for ultimate use by a United Nations entity. United States contributions include those contributions identified pursuant to section 1225(b)(3)(E) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2424).
TITLE I—FUNDING OF THE UNITED NATIONS

SEC. 101. FINDINGS.

Congress makes the following findings:

(1) The United States pays billions of dollars into the United Nations system every year (almost $7,700,000,000 in 2010, according to the Office of Management and Budget), significantly more than any other nation.

(2) Under current rules and contribution levels, it is possible to assemble the two-thirds majority needed for important United Nations budget votes with a group of countries that, taken together, pay less than 1 percent of the total United Nations regular budget.

(3) The disconnect between contribution levels and management control creates significant perverse incentives in terms of United Nations spending, transparency, and accountability.

(4) The United Nations system suffers from unacceptably high levels of waste, fraud, and abuse, which seriously impair the ability of the United Nations to fulfill the ideals of its founding.

(5) Significant improvements in United Nations transparency and accountability are necessary for
improving public perceptions of and United States
support for United Nations operations.

(6) Because of their need to justify future con-
tributions from donors, voluntarily funded organiza-
tions have more incentive to be responsive and effi-
cient in their operations than organizations funded
by compulsory contributions that are not tied to per-
formance.

(7) Catherine Bertini, the former UN Under-
Secretary-General for Management and director of
the World Food Programme (WFP), has stated,
“Voluntary funding creates an entirely different at-
omosphere at WFP than at the UN. At WFP, every
staff member knows that we have to be as efficient,
accountable, transparent, and results-oriented as
possible. If we are not, donor governments can take
their funding elsewhere in a very competitive world
among UN agencies, NGOs, and bilateral govern-
ments.”.

(8) Article XVII of the Charter of the United
Nations, which states that “[t]he expenses of the
Organization shall be borne by the Members as ap-
portioned by the General Assembly”, leaves to the
discretion of the General Assembly the basis of ap-
portionment, which could be done on the basis of voluntary pledges by Member States.

(9) Unlike United States assessed contributions to the United Nations regular budget, which are statutorily capped at 22 percent of the total, there is no cap on voluntary contributions.

(10) The United States, which contributes generously to international organizations whose activities it recognizes as credible, worthwhile, and efficient, contributes more than 22 percent of the budget of certain voluntarily funded United Nations Specialized Agencies.

SEC. 102. APPORTIONMENT OF THE UNITED NATIONS REGULAR BUDGET ON A VOLUNTARY BASIS.

(a) UNITED STATES POLICY.—

(1) VOLUNTARY FUNDING.—It is the policy of the United States to seek to shift the funding mechanism for the regular budget of the United Nations from an assessed to a voluntary basis.

(2) REQUIREMENT TO SEEK CHANGE.—The President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to shift the funding mechanism for the regular budget of the United Nations to a vol-
untary basis, and to make it a priority to build sup-
port for such a transformational change among
Member States, particularly key United Nations do-
nors.

(b) Certification of Predominantly Vol-
untary UN Regular Budget Finding.—A certifi-
cation described in this section is a certification by the
Secretary to the appropriate congressional committees
that at least 80 percent of the total regular budget (not
including extra-budgetary contributions) of the United
Nations is apportioned on a voluntary basis. Each such
certification shall be effective for a period of no more than
1 year, and shall be promptly revoked by the Secretary,
with notice to the appropriate congressional committees,
if the underlying circumstances change so as not to war-
rant such certification.

(c) Withholding of Nonvoluntary Contributions.—

(1) In general.—Beginning 2 years after the
date of the enactment of this Act and notwith-
standing any other provision of law, no funds may
be obligated or expended for a United States as-
sessed contribution to the regular budget of the
United Nations in an amount greater than 50 per-
cent of the United States share of assessed contribu-
tions for the regular budget of the United Nations
unless there is in effect a certification by the Sec-
retary, as described in subsection (b).

(2) Disposition of Withheld Funds.—For a
period of 1 year after appropriation, funds appro-
priated for use as a United States contribution to
the regular budget of the United Nations but with-
held from obligation and expenditure pursuant to
paragraph (1) may be obligated and expended for
that purpose upon the certification described in sub-
section (b). After 1 year, in the absence of such cer-
tification, those funds shall revert to the United
States Treasury.

SEC. 103. BUDGET JUSTIFICATION FOR UNITED STATES
CONTRIBUTIONS TO THE REGULAR BUDGET
OF THE UNITED NATIONS.

(a) Detailed Itemization.—The President shall
include in the annual congressional budget justification a
detailed itemized request in support of the contribution
of the United States to the regular budget of the United
Nations.

(b) Contents of Detailed Itemization.—The
detailed itemization required under subsection (a) shall—
(1) contain information relating to the amounts
requested in support of each of the various sections
and titles of the regular budget of the United Na-
tions; and

(2) compare the amounts requested for the cur-
rent year with the actual or estimated amounts con-
tributed by the United States in previous fiscal years
for the same sections and titles.

(e) Adjustments and Notification.—If the
United Nations proposes an adjustment to its regular as-
sessed budget, the Secretary shall, at the time such adjust-
ment is presented to the Advisory Committee on Adminis-
trative and Budgetary Questions (ACABQ), notify and
consult with the appropriate congressional committees.

SEC. 104. REPORT ON UNITED NATIONS REFORM.

(a) In General.—Not later than 180 days after the
date of the enactment of this Act, and annually thereafter,
the Secretary shall submit to the appropriate congres-
sional committees a report on United Nations reform.

(b) Contents.—The report required under sub-
section (a) shall describe—

(1) progress toward the goal of shifting the
funding for the regular budget of the United Na-
tions to a voluntary basis as identified in section
102, and a detailed description of efforts and activi-
ties by United States diplomats and officials toward
that end;
(2) progress toward each of the policy goals identified in this title, and a detailed, goal-specific description of efforts and activities by United States diplomats and officials toward those ends;

(3) the status of the implementation of management reforms within the United Nations and its specialized agencies;

(4) the number of outputs, reports, or other mandates generated by General Assembly resolutions that have been eliminated;

(5) the progress of the General Assembly to modernize and streamline the committee structure and its specific recommendations on oversight and committee outputs, consistent with the March 2005 report of the Secretary-General entitled “In Larger Freedom: Towards Development, Security and Human Rights for All”;

(6) the status of the review by the General Assembly of all mandates older than 5 years and how resources have been redirected to new challenges, consistent with such March 2005 report of the Secretary-General;

(7) the continued utility and relevance of the Economic and Financial Committee and the Social, Humanitarian, and Cultural Committee, in light of
the duplicative agendas of those committees and the Economic and Social Council; and

(8) whether the United Nations or any of its specialized agencies has contracted with any party included on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

TITLE II—TRANSPARENCY AND ACCOUNTABILITY FOR UNITED STATES CONTRIBUTIONS TO THE UNITED NATIONS

SEC. 201. FINDINGS.

Congress makes the following findings:

(1) As underscored by continuing revelations of waste, fraud, and abuse, oversight and accountability mechanisms within the United Nations system remain significantly deficient, despite decades of reform attempts, including those initiated by Secretaries-General of the United Nations.

(2) Notwithstanding the personal intentions of any Secretary-General of the United Nations to promote institutional transparency and accountability within the United Nations system, the Secretary-General lacks the power to impose far reaching man-
agement reforms without the concurrence of the
General Assembly.

(3) Groupings of Member States whose voting
power in the General Assembly significantly out-
paces their proportional contributions to the United
Nations system have repeatedly and successfully de-
feated, delayed, and diluted various reform proposals
that would have enabled more detailed oversight and
scrutiny of United Nations system operations and
expenditures.

(4) To an unacceptable degree, major donor
states, including the United States, lack access to
reasonably detailed, reliable information that would
allow them to determine how their contributions
have been spent by various United Nations system
entities, further contributing to the lack of account-
ability within the United Nations system.

SEC. 202. DEFINITIONS.

In this title:

(1) TRANSPARENCY CERTIFICATION.—The term
“transparency certification” means an annual, writ-
ten affirmation by the head or authorized designee
of a United Nations entity to the Comptroller Gen-
eral of the United States that the entity will cooper-
ate with the Comptroller General and the appro-
priate congressional committees, including by pro-
viding the Comptroller General, and the appropriate
congressional committees, upon request, with full,
complete, and unfettered access to oversight infor-
mation.

(2) OVERSIGHT INFORMATION.—The term
“oversight information” includes—

(A) internally and externally commissioned
audits, investigatory reports, program reviews,
performance reports, and evaluations;

(B) financial statements, records, and bill-
ing systems;

(C) program budgets and program budget
implications, including revised estimates and re-
ports produced by or provided to the Secretary-
General and the Secretary-General’s agents on
budget related matters;

(D) operational plans, budgets, and budg-
etary analyses for peacekeeping operations;

(E) analyses and reports regarding the
scale of assessments;

(F) databases and other data systems con-
taining financial or programmatic information;

(G) documents or other records alleging or
involving improper use of resources, mis-
conduct, mismanagement, or other violations of
rules and regulations applicable to a United
Nations entity; and

(H) other documentation relevant to the
audit and investigative work of the Comptroller
General of the United States with respect to
United States contributions to the United Na-
tions system.

(3) ACCOUNTABILITY CERTIFICATION.—The
term “accountability certification” means an annual,
written affirmation by the head or authorized des-
ignee of a United Nations entity to the Comptroller
General of the United States that the entity—

(A) provides the public with full, complete,
and unfettered access to all relevant docu-
mentation relating to operations and activities,
including budget and procurement activities;

(B) implements and upholds policies and
procedures to protect whistleblowers;

(C) implements and upholds policies and
procedures to require the filing of individual an-
nual financial disclosure forms by each of its
employees at the P–5 level and above and to re-
quire that such forms be made available to the
Office of Internal Oversight Services, to Member States, and to the public;

(D) has established an effective ethics office;

(E) has established a fully independent, autonomous, and effective internal oversight body;

(F) has adopted and implemented, and is in full compliance with, International Public Sector Accounting Standards; and

(G) has established a cap on its administrative overhead costs.

SEC. 203. INDEPENDENT AND OBJECTIVE CONDUCT OF AUDITS AND INVESTIGATIONS RELATING TO UNITED STATES CONTRIBUTIONS TO THE UNITED NATIONS SYSTEM.

(a) PURPOSE.—The purpose of this section is to make possible the independent and objective conduct of audits and investigations relating to United States contributions to the United Nations system and the use of those contributions by United Nations entities, in an effort to eliminate and deter waste, fraud, and abuse in the use of those contributions, and thereby to contribute to the development of greater transparency, accountability, and internal controls throughout the United Nations system.
(b) **THE COMPTROLLER GENERAL.**—

(1) **DUTIES.**—

(A) **AUDITS AND INVESTIGATIONS.**—The Comptroller General of the United States shall conduct, supervise, and coordinate audits and investigations of—

(i) the treatment, handling, expenditure, and use of United States contributions by and to United Nations entities; and

(ii) the adequacy of accounting, oversight, and internal control mechanisms at United Nations entities that receive United States contributions.

(B) **RECORDKEEPING.**—The Comptroller General shall collect and maintain current records regarding transparency certifications and accountability certifications by all United Nations entities that receive United States contributions.

(C) **BRIEFINGS.**—The Comptroller General shall keep the appropriate congressional committees fully and promptly informed of how United Nations entities are spending United States contributions.
States contributions by means of reports, testimony, and briefings.

(2) Referrals.—

(A) Criminal law violations.—The Comptroller General shall promptly report to the United States Attorney General and to the appropriate congressional committees when the Comptroller General has reasonable grounds to believe a United States Federal criminal law has been violated by a United Nations entity or one of its employees, contractors, or representatives.

(B) Mismanagement.—The Comptroller General shall promptly report, when appropriate, to the appropriate congressional committees, and to the Secretary-General or to the head of the appropriate United Nations entity, cases where the Comptroller General reasonably believes that mismanagement, misfeasance, or malfeasance is likely to have taken place within a United Nations entity and disciplinary proceedings are likely justified.

(3) Cooperation by United States Government entities.—
(A) IN GENERAL.—In carrying out the duties, responsibilities, and authorities of the Comptroller General under this section, the Comptroller shall receive the cooperation of other Federal agencies.

(B) RESPONSES TO REQUESTS.—Upon request of the Comptroller General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Comptroller General, or an authorized designee.

(C) REPORTING OF LACK OF COOPERATION.—Whenever information or assistance requested by the Comptroller General is, in the judgment of the Comptroller General, unreasonably refused or not provided, the Comptroller General shall report the circumstances to the appropriate congressional committees without delay.

(4) CONFIRMATION OF TRANSPARENCY BY UNITED NATIONS ENTITIES.—
(A) Prompt notice by comptroller general.—Whenever information or assistance requested from a United Nations entity by the Comptroller General pursuant to a transparency certification is, in the opinion of the Comptroller General, unreasonably refused or not provided in a timely manner, the Comptroller General shall notify the appropriate congressional committees, the head of that particular United Nations entity, and the Secretary-General of the circumstances in writing, without delay.

(B) Notice of compliance.—If and when the information or assistance being sought by the Comptroller General in connection with a notification pursuant to subparagraph (A) is provided to the satisfaction of the Comptroller General, the Comptroller General shall so notify in writing to the appropriate congressional committees and the head of that particular United Nations entity.

(C) Noncompliance.—If the information or assistance being sought by the Comptroller General in connection with a notification pursuant to subparagraph (A) is not provided to the
satisfaction of the Comptroller General within
90 days of that notification, then the United
Nations entity that is the subject of the notifi-
cation shall be deemed to be noncompliant with
its transparency certification.

(D) Restauration of compliance.—
After the situation has been resolved to the sat-
isfaction of the Comptroller General, the Com-
troller General shall promptly provide prompt,
written notification of that fact and of the res-
toration of compliance, along with a description
of the basis for the Comptroller General’s deci-
sion, to the appropriate congressional commit-
tees, the head of that United Nations entity,
the Secretary-General, and any office or agency
of the Federal Government that has provided
that United Nations entity with any United
States contribution during the prior 2 years.

(5) Confirmation of accountability by
United Nations Entities.—

(A) Prompt notice by Comptroller
General.—Whenever a United Nations entity
that has provided an accountability certification
is, in the opinion of the Comptroller General,
not in full compliance with any or all of the
provisions of that certification, the Comptroller General shall notify the appropriate congressional committees, the head of that particular United Nations entity, and the Secretary-General of the circumstances in writing, without delay.

(B) NOTICE OF COMPLIANCE.—If and when the United Nations entity resumes full compliance with its accountability certification following the provision of the notification pursuant to subparagraph (A), the Comptroller General shall so notify in writing the appropriate congressional committees and the head of that United Nations entity.

(C) NONCOMPLIANCE.—If the United Nations entity named in the notification in subparagraph (A) does not resume full compliance with its accountability certification to the satisfaction of the Comptroller General within 90 days of that notification, then the United Nations entity that is the subject of the notification shall be deemed to be noncompliant with its accountability certification, and the Comptroller General shall provide prompt, written notification of that fact to the appropriate con-
gressional committees, the head of that United Nations entity, the Secretary-General, and any office or agency of the Federal Government that has provided that United Nations entity with any United States contribution during the prior 2 years.

(D) Restoration of Compliance.—
After the situation has been resolved to the satisfaction of the Comptroller General, the Comptroller General shall promptly provide prompt, written notification of that fact and of the restoration of compliance, along with a description of the basis for the Comptroller General’s decision, to the appropriate congressional committees, the head of that United Nations entity, the Secretary-General, and any office or agency of the Federal Government that has provided that United Nations entity with any United States contribution during the prior 2 years.

(6) Reports.—

(A) Audit and Investigation Reports.—Promptly upon completion, the Comptroller General shall provide copies of each audit and investigation report completed pursuant to paragraph (1) to the appropriate con-
gressional committees, and, to the extent permissible under United States law, the head of each United Nations entity that is the subject of that particular report.

(B) **SEMIANNUAL REPORTS.**—Not later than 90 days after the date of the enactment of this Act, and semiannually thereafter, the Comptroller General shall submit to the appropriate congressional committees a report that includes a list of and detailed description of the circumstances surrounding any notification of noncompliance issued pursuant to paragraph (4)(C) or paragraph (5)(C) during the covered timeframe, and whether and when the Comptroller General has reversed such finding of noncompliance.

(C) **PROHIBITED DISCLOSURES.**—Nothing in this subsection shall be construed to authorize the public disclosure of information that is—

(i) specifically prohibited from disclosure by any other provision of law;

(ii) specifically required by executive order to be protected from disclosure in the interest of national defense or national
security or in the conduct of foreign af-
fairs; or

(iii) a part of an ongoing criminal in-
vestigation.

(D) PRIVACY PROTECTIONS.—The Com-
troller General shall exempt from public disclo-
sure information received from a United Na-
tions entity or developed during an audit or in-
vestigation that the Comptroller General be-
lies—

(i) constitutes a trade secret or privi-
leged and confidential personal financial
information;

(ii) accuses a particular person of a
crime;

(iii) would, if publicly disclosed, con-
stitute a clearly unwarranted invasion of
personal privacy; and

(iv) would compromise an ongoing law
enforcement investigation or judicial trial
in the United States.

(E) PUBLICATION.—Subject to the excep-
tions detailed in subparagraphs (C) and (D),
the Comptroller General shall promptly publish
each report under this subsection on the Web site of the Government Accountability Office.

SEC. 204. TRANSPARENCY FOR UNITED STATES CONTRIBUTIONS.

(a) FUNDING PREREQUISITES.—Notwithstanding any other provision of law, no funds made available for use as a United States contribution to any United Nations entity may be obligated or expended if—

(1) the intended United Nations entity recipient has not provided to the Comptroller General within the preceding year a transparency certification;

(2) the intended United Nations entity recipient is noncompliant with its transparency certification;

(3) the intended United Nations entity recipient has not provided to the Comptroller General within the preceding year an accountability certification; or

(4) the intended United Nations entity is noncompliant with its accountability certification as described in section 203(b)(5)(C).

(b) TREATMENT OF FUNDS WITHHELD FOR NONCOMPLIANCE.—At the conclusion of each fiscal year, any funds that had been appropriated for use as a United States contribution to a United Nations entity during that fiscal year, but could not be obligated or expended because of the restrictions of subsection (a), shall be returned to
the United States Treasury, and are not subject to re-
programming for any other use. Any such funds returned
to the Treasury shall not be considered arrears to be re-
paid to any United Nations entity.

(c) PRESIDENTIAL WAIVER.—The President may
waive the limitations of this section with respect to a par-
ticular United States contribution to a particular United
Nations entity within a single fiscal year if the President
determines that failure to do so would pose an extraor-
dinary threat to the national security of the United States
and provides notification and explanation of that deter-
mination to the appropriate congressional committees.

SEC. 205. INTEGRITY FOR UNITED STATES CONTRIBU-
TIONS.

(a) LIMITATIONS.—

(1) CONTRIBUTIONS TO INTERNATIONAL ORGA-
NIZATIONS.—No funds made available for use under
the heading “Contributions to International Organi-
zations” may be used for any purpose other than an
assessed United States contribution to a United Na-
tions entity or other international organization.

(2) INTERNATIONAL ORGANIZATIONS AND PRO-
GRAMS.—No funds made available for use under the
heading “International Organizations and Pro-
grams” may be used for any purpose other than a
voluntary United States contribution to a United
Nations entity or other international organization.

(3) Contributions to International
Peacekeeping Activities.—No funds made avail-
able for use under the heading “Contributions to
International Peacekeeping Activities” may be used
for any purpose other than a United States con-
tribution to United Nations peacekeeping activities,
to the International Criminal Tribunal for the
former Yugoslavia, or to the International Criminal
Tribunal for Rwanda.

(b) Treatment of Funds Withheld for Non-
compliance.—At the conclusion of each fiscal year, any
funds that had been appropriated for use as a United
States contribution to a United Nations entity during that
fiscal year, but could not be obligated or expended because
of the restrictions of subsection (a), shall be returned to
the United States Treasury, and are not subject to re-
programming for any other use. Any such funds returned
to the Treasury shall not be considered arrears to be re-
paid to any United Nations entity.

SEC. 206. REFUND OF MONIES OWED BY THE UNITED NA-
TIONS TO THE UNITED STATES.

(a) Findings.—Congress makes the following find-
ings:
(1) United States taxpayer funds overpaid to United Nations entities and payable back to the United States sometimes remain in the hands of the United Nations because the United States has not requested the return of those funds.

(2) Such funds have been paid into, among other United Nations entities, the United Nations Tax Equalization Fund (TEF), which was established under the provisions of United Nations General Assembly Resolution 973 (1955), and which is used to reimburse United Nations staff members subject to United States income taxes for the cost of those taxes.

(3) In recent years, the TEF has taken in considerably more money than it has paid out, with the United States apparently overpaying into the TEF by $52,200,000 in the 2008–2009 timeframe alone.

(4) According to the United Nations Financial Report and Audited Financial Statements released on July 29, 2010, “As of 31 December 2009, an amount of $179.0 million was payable to the United States of America pending instructions as to its disposition.”.

(5) That balance was allowed to accrue notwithstanding United Nations Financial Regulation 4.12,
which states that any such surpluses “shall be cred-
ited against the assessed contributions due from that
Member State the following year”.

(6) Allowing the United Nations to regularly
overcharge the United States and to retain those
overpayments, or to spend them on wholly unrelated
activities, is a disservice to United States taxpayers
and a subversion of the congressional budget proc-

(b) Statement of Policy.—It is the policy of the
United States—

(1) to annually instruct the United Nations to
return to the United States any surplus assessed
contributions or other overpayments by the United
States to any United Nations entity; and

(2) to use the voice and vote of the United
States to press the United Nations to reform its
TEF assessment procedures to reduce the repeated
discrepancies between TEF income and expendi-
tures.

(c) Certification and Withholding.—For each
and every fiscal year beginning after the effective date of
this Act, until the Secretary submits to the appropriate
congressional committees a certification that the United
Nations has returned to the United States any surplus as-
sessed contributions or other overpayments by the United States to any United Nations entity, the Secretary shall withhold from the regular budget of the United Nations an amount equal to the amount of the funds that the United Nations has yet to return to the United States.

SEC. 207. ANNUAL REPORTS ON UNITED STATES CONTRIBUTIONS TO THE UNITED NATIONS.

(a) Annual Report.—Not later than 90 days after the date of the enactment of this Act and annually thereafter, the Director of the Office of Management and Budget shall submit to Congress a report listing all assessed and voluntary contributions of the United States Government for the preceding fiscal year to the United Nations and United Nations affiliated agencies and related bodies.

(b) Contents.—Each report required under subsection (a) shall set forth, for the fiscal year covered by such report, the following:

(1) The total amount of all assessed and voluntary contributions of the United States Government to the United Nations and United Nations affiliated agencies and related bodies.

(2) The approximate percentage of United States Government contributions to each United Nations affiliated agency or body in such fiscal year.
when compared with all contributions to such agency
or body from any source in such fiscal year.

(3) For each such contribution—

(A) the amount of such contribution;

(B) a description of such contribution (includ-
ing whether assessed or voluntary);

(C) the department or agency of the
United States Government responsible for such
contribution;

(D) the purpose of such contribution; and

(E) the United Nations or United Nations
affiliated agency or related body receiving such
contribution.

TITLE III—UNITED STATES POL-
ICY AT THE UNITED NATIONS

SEC. 301. ANNUAL PUBLICATION.

The President shall direct the United States Perma-
nent Representative to the United Nations to use the
voice, vote, and influence of the United States at the
United Nations to ensure the United Nations publishes
annually, including on a publicly searchable internet Web
site, a list of all United Nations subsidiary bodies and
their functions, budgets, staff, and contributions, both vol-
untary and assessed, sorted by donor.
SEC. 302. ANNUAL FINANCIAL DISCLOSURE.

The President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to implement a system for the required filing of individual annual financial disclosure forms by each employee of the United Nations and its specialized agencies, programs, and funds at the P–5 level and above, which shall be made available to the Office of Internal Oversight Services, to Member States, and to the public.

SEC. 303. POLICY WITH RESPECT TO EXPANSION OF THE UNITED NATIONS SECURITY COUNCIL.

It is the policy of the United States to use the voice, vote, and influence of the United States at the United Nations to oppose any proposals on expansion of the Security Council if such expansion would—

(1) diminish the influence of the United States on the Security Council; or

(2) include veto rights for any new members of the Security Council.

SEC. 304. ACCESS TO REPORTS AND AUDITS.

The President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to ensure that Member States may, upon
request, have access to all reports and audits completed by the Board of External Auditors.

**SEC. 305. WAIVER OF IMMUNITY.**

The President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to ensure that the Secretary-General exercises the right and duty of the Secretary-General under section 20 of the Convention on the Privileges and Immunities of the United Nations to waive the immunity of any United Nations official in any case in which such immunity would impede the course of justice. In exercising such waiver, the Secretary-General is urged to interpret the interests of the United Nations as favoring the investigation or prosecution of a United Nations official who is credibly under investigation for having committed a serious criminal offense or who is credibly charged with a serious criminal offense.

**SEC. 306. TERRORISM AND THE UNITED NATIONS.**

The President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to work toward adoption by the General Assembly of—

(1) a definition of terrorism that—
(A) builds upon the recommendations of the December 2004 report of the High-Level Panel on Threats, Challenges, and Change; (B) includes as an essential component of such definition any action that is intended to cause death or serious bodily harm to civilians with the purpose of intimidating a population or compelling a government or an international organization to do, or abstain from doing, any act; and
(C) does not propose a legal or moral equivalence between an action described in subparagraph (B) and measures taken by a government or international organization in self-defense against an action described in subparagraph (B); and
(2) a comprehensive convention on terrorism that includes the definition described in paragraph (1).

SEC. 307. REPORT ON UNITED NATIONS PERSONNEL.
(a) In General.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report—
(1) concerning the progress of the General Assembly to modernize human resource practices, consistent with the March 2005 report of the Secretary-General entitled “In Larger Freedom: Towards Development, Security and Human Rights for All’’; and

(2) containing the information described in subsection (b).

(b) CONTENTS.—The report shall include—

(1) a comprehensive evaluation of human resources reforms at the United Nations, including an evaluation of—

(A) tenure;

(B) performance reviews;

(C) the promotion system;

(D) a merit-based hiring system and enhanced regulations concerning termination of employment of employees; and

(E) the implementation of a code of conduct and ethics training;

(2) the implementation of a system of procedures for filing complaints and protective measures for workplace harassment, including sexual harassment;
(3) policy recommendations relating to the establishment of a rotation requirement for non-administrative positions;

(4) policy recommendations relating to the establishment of a prohibition preventing personnel and officials assigned to the mission of a member state to the United Nations from transferring to a position within the United Nations Secretariat that is compensated at the P–5 level and above;

(5) policy recommendations relating to a reduction in travel allowances and attendant oversight with respect to accommodations and airline flights; and

(6) an evaluation of the recommendations of the Secretary-General relating to greater flexibility for the Secretary-General in staffing decisions to accommodate changing priorities.

SEC. 308. UNITED NATIONS TREATY BODIES.

The United States shall withhold from United States contributions to the regular assessed budget of the United Nations for a biennial period amounts that are proportional to the percentage of such budget that are expended with respect to a United Nations human rights treaty monitoring body or committee that was established by—
(1) a convention (without any protocols) or an international covenant (without any protocols) to which the United States is not party; or

(2) a convention, with a subsequent protocol, if the United States is a party to neither.

SEC. 309. ANTI-SEMITISM AND THE UNITED NATIONS.

The President shall direct the United States permanent representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to make every effort to—

(1) ensure the issuance and implementation of a directive by the Secretary-General or the Secretariat, as appropriate, that—

(A) requires all employees of the United Nations and its specialized agencies to officially and publicly condemn anti-Semitic statements made at any session of the United Nations or its specialized agencies, or at any other session sponsored by the United Nations;

(B) requires employees of the United Nations and its specialized agencies, programs, and funds to be subject to punitive action, including immediate dismissal, for making anti-Semitic statements or references;
(C) proposes specific recommendations to the General Assembly for the establishment of mechanisms to hold accountable employees and officials of the United Nations and its specialized agencies, programs, and funds, or Member States, that make such anti-Semitic statements or references in any forum of the United Nations or of its specialized agencies;

(D) continues to develop and implements education awareness programs about the Holocaust and anti-Semitism throughout the world, as part of an effort to combat intolerance and hatred; and

(E) requires the Office of the United Nations High Commissioner for Human Rights (OHCHR) to develop programming and other measures that address anti-Semitism;

(2) secure the adoption of a resolution by the General Assembly that establishes the mechanisms described in paragraph (1)(C); and

(3) continue working toward further reduction of anti-Semitic language and anti-Israel resolutions in the United Nations and its specialized agencies, programs, and funds.
SEC. 310. REGIONAL GROUP INCLUSION OF ISRAEL.

The President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to expand the Western European and Others Group (WEOG) in the United Nations in Geneva to include Israel as a permanent member with full rights and privileges.

SEC. 311. UNITED STATES POLICY ON TIER 3 HUMAN RIGHTS VIOLATORS.

The President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to ensure that no representative of a country designated by the Department of State pursuant to section 110 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107) as a Tier 3 country presides as Chair or President of any United Nations Entity.

TITLE IV—STATUS OF PALESTINIAN ENTITIES AT THE UNITED NATIONS

SEC. 401. FINDINGS.

Congress makes the following findings:

(1) In 1989, the Palestine Liberation Organization (PLO) launched an effort to evade direct negotiations for peace with the State of Israel by instead
pursuing Palestinian membership in international
organizations, which could imply de facto recognition
of a Palestinian state by the United Nations.

(2) The Executive branch, with significant sup-
port from Members of Congress, successfully
stopped the PLO’s effort by credibly threatening, as
noted in a May 1, 1989, statement by then-Sec-
retary of State James A. Baker, “that the United
States [would] make no further contributions, vol-
utary or assessed, to any international organization
which makes any change in the P.L.O.’s present sta-
tus as an observer organization”.

(3) The United States success in this case dem-
onstrates that withholding contributions and placing
conditions on their payment can result in real re-
forms, stop counterproductive developments, and ad-
vance United States interests at the United Nations.

(4) The Palestinian leadership has recently re-
sumed its effort to evade direct negotiations for
peace with the State of Israel by seeking recognition
of a Palestinian state from foreign governments and
in international forums.

(5) Efforts to bypass negotiations and to unilat-
erally declare a Palestinian state, or to appeal to the
United Nations or other international forums or to
foreign governments for recognition of a Palestinian state or membership or other upgraded status for the Palestinian observer mission at those forums, would violate the underlying principles of the Oslo Accords, the Road Map, and other relevant Middle East peace process efforts.

(6) On June 18, 2011, the Senate passed Senate Resolution 185 (112th Congress), in which the Senate—

(A) “reaffirms its strong support for a negotiated solution to the Israeli-Palestinian conflict resulting in two states, a democratic, Jewish state of Israel and a viable, democratic Palestinian state, living side-by-side in peace, security, and mutual recognition”;

(B) “reiterates its strong opposition to any attempt to establish or seek recognition of a Palestinian state outside of an agreement negotiated between leaders in Israel and the Palestinians”;

(C) “supports the Administration’s opposition to a unilateral declaration of a Palestinian state and to veto by the United States on February 18, 2011, of the most recent United Nations Security Council resolution regarding a
key issue of the Israeli-Palestinian process’’; and

(D) “calls upon the President to announce that the United States will veto any resolution on Palestinian statehood that comes before the United Nations Security Council which is not a result of agreements reached between the Government of Israel and the Palestinians’’.

(7) Ambassador Rosemary DiCarlo, United States Deputy Permanent Representative to the United Nations, stated on July 26, 2011, “Let there be no doubt: symbolic actions to isolate Israel at the United Nations in September will not create an independent Palestinian state. . . . The United States will not support unilateral campaigns at the United Nations in September or any other time.’’.

SEC. 402. STATEMENT OF POLICY.

It is the policy of the United States to oppose the recognition of a Palestinian state by any United Nations entity, or any upgrade, including full membership or non-member-state observer status, in the status of the Palestinian observer mission at the United Nations, the Palestine Liberation Organization, the Palestinian Authority, or any other Palestinian administrative organization or governing entity, at any United Nations entity, prior to
the achievement of a final peace agreement negotiated be-
tween and agreed to by Israel and the Palestinians.

SEC. 403. IMPLEMENTATION.

(a) IN GENERAL.—The President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to advance the policy stated in section 402.

(b) WITHHOLDING OF FUNDS.—The Secretary shall withhold United States contributions from any United Nations entity that recognizes a Palestinian state or upgrades in any way, including full membership or non-member-state observer status, the status of the Palestinian observer mission at the United Nations, the Palestine Liberation Organization, the Palestinian Authority, or any other Palestinian administrative organization or governing entity, at that United Nations entity, prior to the achievement of complete and final peace agreement negotiated between and agreed to by Israel and the Palestinians. Funds appropriated for use as a United States contribution to the United Nations but withheld from obligation and expenditure pursuant to this section shall immediately revert to the United States Treasury and shall not be considered arrears to be repaid to any United Nations entity.
TITLE V—UNITED NATIONS
HUMAN RIGHTS COUNCIL

SEC. 501. FINDINGS.

Congress makes the following findings:

(1) Since its establishment in 2006, the United Nations Human Rights Council has failed to meaningfully promote the protection of internationally recognized human rights, and has proven to be even more problematic than the United Nations Human Rights Commission that it was created to replace.

(2) The United Nations Human Rights Council suffers from fundamental and severe structural flaws present since its establishment by the United Nations General Assembly, such as the fact that it draws its members from the General Assembly without any substantive membership criteria, with the perverse result that a number of the world’s worst human rights abusers are members of the council.

(3) The structure and composition of the United Nations Human Rights Council have made it subject to gross political manipulation, with the result that, during its almost five years of operation, the Council has passed over 40 resolutions censuring the democratic, Jewish State of Israel, as compared to only a handful censuring the dictatorships in
Burma and North Korea, just one addressing the severe, ongoing human rights abuses in Libya, Iran, Syria, and Belarus, and none addressing the severe, ongoing human rights abuses in China, Cuba, Russia, Zimbabwe, Venezuela, and elsewhere.

(4) The United Nations Human Rights Council’s agenda contains a permanent item for criticism of the democratic, Jewish State of Israel, but no permanent items criticizing any other state.

(5) The United Nations Human Rights Council has established, or preserved the existence of, a number of “Special Procedures” mechanisms to address country-specific situations or thematic issues. These mechanisms include a number of “special rapporteurs” whose expenses and staff support are paid for by contributions to the United Nations.

(6) The United Nations Human Rights Council has also established an “Advisory Committee” whose expenses and staff support are paid for by contributions to the United Nations.

(7) The ongoing five-year review of the United Nations Human Rights Council concluded on June 17, 2011, and failed make any significant reforms to its fundamental and severe structural flaws, includ-
ing its absence of substantive membership criteria, or to remove the permanent agenda item on Israel.

(8) On June 17, 2011, John F. Sammis, United States Deputy Representative to the Economic and Social Council, stated, “The Geneva process [of the five-year review] failed to yield even minimally positive results, forcing us to dissociate from the outcome. . . . the final resolution [for the five-year review] also fails to address the core problems that still plague the Human Rights Council. . . . The United States has therefore voted ‘no’ on the resolution. . . . the Council’s effectiveness and legitimacy will always be compromised so long as one country in all the world is unfairly and uniquely singled out while others, including chronic human rights abusers, escape scrutiny. . . . The resolution before us today does nothing to address the Council’s failures nor move it any closer to the founding values of the UN Charter and the Universal Declaration of Human Rights.”.

(9) United States membership in the Human Rights Council has not led to reform of its fundamental flaw or diminished the Council’s virulently anti-Israel behavior. The Council has passed 14 res-
olutions criticizing Israel since the United States joined in 2009.

SEC. 502. UNITED NATIONS HUMAN RIGHTS COUNCIL MEMBERSHIP AND FUNDING.

(a) In General.—For each fiscal year beginning after the effective date of this Act, until the Secretary submits to Congress a certification that the requirements described in subsection (b) have been satisfied—

(1) the Secretary shall withhold from a United States contribution each fiscal year to a regular budget of the United Nations an amount that is equal to the percentage of such contribution that the Secretary determines would be allocated by the United Nations to support the United Nations Human Rights Council;

(2) the Secretary shall not make a voluntary contribution to the United Nations Human Rights Council; and

(3) the United States shall not run for a seat on the United Nations Human Rights Council.

(b) Certification.—The annual certification referred to in subsection (a) is a certification made by the Secretary to Congress that—

(1) the United Nations Human Rights Council’s mandate from the United Nations General As-
sembly explicitly and effectively prohibits candidacy for Human Rights Council membership of a United Nations Member State—

(A) subject to sanctions by the Security Council; and

(B) under a Security Council-mandated investigation for human rights abuses;

(2) the United Nations Human Rights Council does not include a United Nations Member State—

(A) subject to sanctions by the Security Council;

(B) under a Security Council-mandated investigation for human rights abuses;

(C) that the Secretary has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.), section 40 of the Arms Export Control Act (22 U.S.C. 2780), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or other provision of law, is a government that has repeatedly provided support for acts of international terrorism;
(D) designated by the Department of State pursuant to section 110 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107) as a Tier 3 country; or

(E) that the President has designated as a country of particular concern for religious freedom under section 402(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)); and

(3) the United Nations Human Rights Council’s agenda or programme of work does not include a permanent item with regard to the State of Israel.

(e) SPECIAL PROCEDURES.—The Secretary shall withhold from a United States contribution each year to a regular budget of the United Nations an amount that is equal to the percentage of such contribution that the Secretary determines would be allocated by the United Nations to support the United Nations “Special Rapporteur on the situation of human rights in Palestinian territories occupied since 1967”, and any other United Nations Human Rights Council “Special Procedures” used to display bias against the United States or the State of Israel or to provide support for the government of any United Nations Member State—

(1) subject to sanctions by the Security Council;

...
(2) under a Security Council-mandated investigation for human rights abuses;

(3) that the Secretary has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act), section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or other provision of law, is a government that has repeatedly provided support for acts of international terrorism;

(4) designated by the Department of State pursuant to section 110 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107) as a Tier 3 country; and

(5) that the President has designated as a country of particular concern for religious freedom under section 402(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)).

(d) REVERSION OF FUNDS.—Funds appropriated for use as a United States contribution to the United Nations but withheld from obligation and expenditure pursuant to this section shall immediately revert to the United States Treasury and shall not be considered arrears to be repaid to any United Nations entity.
TITLE VI—GOLDSTONE REPORT

SEC. 601. FINDINGS.

Congress makes the following findings:


(2) The resolution prejudged the outcome of the “fact-finding mission” by mandating that it investigate “violations of international humanitarian law by the occupying power, Israel, against the Palestinian people”.


(4) The report made numerous unsubstantiated assertions against Israel, in particular accusing the Government of Israel of committing war crimes by deliberately targeting civilians during its operations in Gaza.
(5) The report downplayed the overwhelming evidence that Hamas deliberately used Palestinian civilians and civilian institutions as human shields against Israel and deliberately targeted Israeli civilians with rocket fire for over eight years prior to the operation.

(6) The United Nations Human Rights Council voted to welcome the report, to endorse its recommendations, and to condemn Israel without mentioning Hamas.

(7) As a result of the report, the United Nations General Assembly has passed two resolutions endorsing the report’s findings, the United Nations Secretary-General has been requested to submit several reports on implementation of its recommendations, and the Human Rights Council is scheduled to follow up on implementation of the report during future sessions.

(8) The findings of the Goldstone report and the subsequent and continued United Nations member state actions following up on those findings have caused and continue to cause extensive harm to Israel’s standing in the world and could potentially create legal problems for Israel and its leaders.
On April 2, 2011, Justice Richard Goldstone publicly retracted the central claims of the report he authored.

On April 14, 2011, the Senate passed by unanimous consent Senate Resolution 138 (112th Congress), which stated that the Senate—

(A) “calls on the United Nations Human Rights Council members to reflect the author’s repudiation of the Goldstone report’s central findings, rescind the report, and reconsider further Council actions with respect to the report’s findings”;

(B) “urges United Nations Secretary-General Ban Ki Moon to work with United Nations member states to reform the United Nations Human Rights Council so that it no longer unfairly, disproportionately, and falsely criticizes Israel on a regular basis”;

(C) “requests Secretary-General Ban Ki Moon to do all in his power to redress the damage to Israel’s reputation caused by the Goldstone report”;

(D) “asks the Secretary-General to do all he can to urge member states to prevent any
further United Nations action on the report’s findings”; and

(E) “urges the United States to take a leadership role in getting the United Nations and its bodies to prevent any further action on the report’s findings and limit the damage that this libelous report has caused to our close ally Israel and to the reputation of the United Nations”.

(11) Efforts to delegitimize the democratic State of Israel and deny it the right to defend its citizens and its existence can be used to delegitimize other democracies and deny them the same right.

SEC. 602. STATEMENT OF POLICY.

It is the policy of the United States to—

(1) consider the Goldstone Report irredeemably biased and unworthy of further consideration or legitimacy;

(2) strongly and unequivocally oppose any consideration, legitimization, or endorsement of the Goldstone Report, or any other measures stemming from this report, in multilateral fora;

(3) lead a high-level diplomatic campaign in support of the revocation and repudiation, by the United Nations General Assembly, of the Goldstone
Report and any United Nations resolutions stemming from the report, including—

(A) United Nations General Assembly resolutions A/RES/64/10 and A/RES/64/254; and

(B) United Nations Human Rights Council resolutions A–HRC–S–12–1, A/HRC/13/L.30, and A/HRC/16/L.31; and

(4) lead a high-level diplomatic effort to encourage other responsible countries not to endorse, support, or legitimize the Goldstone Report or any other measures stemming from the report.

SEC. 603. WITHOLDING OF FUNDS; REFUND OF UNITED STATES TAXPAYER DOLLARS.

(a) WITHOLDING OF FUNDS.—The Secretary shall withhold from the United States contribution to the regular budget of the United Nations an amount that is equal to the percentage of such contribution that the Secretary determines would be or has been expended by the United Nations for any part of the Goldstone Report or its preparatory or follow-on activities.

(b) REFUND OF UNITED STATES TAXPAYER DOLLARS.—Funds appropriated for use as a United States contribution to the regular budget of the United Nations but withheld from obligation and expenditure pursuant to subsection (a) shall immediately revert to the United
States Treasury and shall not be considered arrears to be repaid to any United Nations entity.

**TITLE VII—DURBAN PROCESS**

**SEC. 701. FINDINGS.**

Congress makes the following findings:

1. The United States is opposed to racism, racial discrimination, xenophobia, and related intolerance, and has long been a party to the Convention on the Elimination of Racial Discrimination.

2. Expensive and politically skewed international conferences can deserve and undermine the worthy goals that they are ostensibly convened to support.

3. The goals of the 2001 United Nations World Conference Against Racism—held in Durban, South Africa, and commonly referred to as “Durban I”—were undermined by hateful, anti-Jewish rhetoric, and anti-Israel political agendas, prompting both Israel and the United States to withdraw their delegations from the Conference.

4. The official government declaration adopted by Durban I, the “Durban Declaration and Program of Action”, focused on the “plight of the Palestinian people under foreign occupation”, and thereby singled out one regional conflict for discussion and im-
Explicitly launched a false accusation against Israel of intolerance towards the Palestinians.

(5) On September 3, 2001, Secretary of State Colin Powell explained the withdrawal of the United States delegation from Durban I by stating that “you do not combat racism by conferences that produce declarations containing hateful language, some of which is a throwback to the ‘days of Zionism’ equals racism; or supports the idea that we have made too much of the Holocaust; or suggests that apartheid exists in Israel; or that singles out only one country in the world—Israel—for censure and abuse”.

(6) The late United States Representative Tom Lantos, who participated as a member of the United States delegation to the Durban Conference, supported that delegation’s withdrawal and wrote in 2002 that the conference “provided the world with a glimpse into the abyss of international hate, discrimination and, indeed, racism”.

(7) On December 19, 2006, the United Nations General Assembly approved a resolution initiating preparations for a Durban Review Conference (commonly referred to as “Durban II”), which was held
between April 20 and 24, 2009, in Geneva, Switzerland.

(8) The chair of the preparatory committee for Durban II was Libya, and the co-chairs included Iran and Cuba.

(9) Throughout the preparatory process for Durban II, member states of the Organization of the Islamic Conference urged that the conference again focus criticism on Israel and single out the Israeli-Palestinian conflict for discussion, and also urged that the conference advocate global speech codes that would impose restrictions contrary to fundamental freedoms recognized in the provisions of the Universal Declaration of Human Rights.

(10) In testimony before the House of Representatives on April 2, 2008, then-Assistant Secretary of State for International Organizations Kirsten Silverer stated that the United States had decided against participating in preparatory activities for Durban II because “[there is] absolutely no case to be made for participating in something that is going to be a repeat of Durban I. We don’t have any confidence that this will be any better than Dur-
(11) During February 2009, the United States actively participated in intergovernmental consultations on Durban II’s “draft outcome document” and engaged in high-level diplomatic efforts to dramatically reverse the path of Durban II by directing it towards meaningful efforts to combat intolerance and bigotry and directing it away from efforts to undermine the cause of fighting discrimination through singling out Israel for implicit criticism and calling for restrictions on fundamental freedoms.

(12) On February 27, 2009, a Department of State spokesman stated that, despite United States efforts to redirect the path of Durban II, “the document being negotiated has gone from bad to worse, and the current text of the draft outcome document is not salvageable. . . . A conference based on this text would be a missed opportunity to speak clearly about the persistent problem of racism” and therefore, the United States would not participate in further consultations and negotiations regarding the “draft outcome document,” and would not participate in Durban II itself unless the “draft outcome document” was radically shortened and revised to eliminate objectionable material.
(13) On April 17, 2009, the third and final session of the preparatory committee for Durban II proposed a final “draft outcome document” that contained a number of provisions advocating restrictions on freedom of expression, and that also implicitly singled out and criticized Israel for racism by re-affirming, in its very first paragraph, the 2001 Durban Declaration and Programme of Action.

(14) On April 19, 2009, President Barack Obama stated at a press conference, “I would love to be involved in a useful conference that addressed continuing issues of racism and discrimination around the globe . . . we expressed in the run-up to this conference our concerns that if you incorporated—if you adopted all the language from 2001, that’s just not something we could sign up for . . . our participation would have involved putting our imprimatur on something that we just don’t believe . . . Hopefully . . . we can partner with other countries on to actually reduce discrimination around the globe. But this wasn’t an opportunity to do it.”.

(15) Canada, Israel, Italy, Germany, the Netherlands, Poland, Australia, and New Zealand also did not participate in Durban II, and the Czech Re-
public walked out of the Conference during its proceedings, never to return.

(16) Libya was the chair of the Main Committee of Durban II, and vice presidents of Durban II included Libya, Iran, and Cuba.

(17) On April 21, 2009, governments participating in Durban II adopted by consensus an “outcome document” that contained a number of provisions advocating restrictions on freedom of expression, and that also implicitly singled out and criticized Israel for racism by reaffirming, in its very first paragraph, the 2001 Durban Declaration and Program of Action.

(18) On December 18, 2009, the United Nations General Assembly approved Resolution A/RES/64/148, which urged the “full and effective implementation of the Durban Declaration and Programme of Action” and called for a “one-day plenary event to commemorate the ten-year anniversary [of Durban I] during the high-level segment of the General Assembly to be devoted to racism, racial discrimination, xenophobia, and related intolerance during its sixty-fifth session, in 2011”. The United States, joined by 12 other nations, voted against this resolution.
(19) On December 24, 2010, the United Nations General Assembly adopted Resolution A/RES/65/240, authorizing the holding of a “one-day high-level meeting of the General Assembly to commemorate the tenth anniversary of the adoption of the Durban Declaration and Programme of Action, at the level of Heads of State and Government, on the second day of the general debate of the sixty-sixth session” in September of 2011. The resolution also states that the meeting (commonly referred to as “Durban III”) will adopt a “political declaration aimed at mobilizing political will at the national, regional, and international levels for the full and effective implementation of the Durban Declaration and Programme of Action and its follow-up processes”.

The resolution also requests that the United Nations Secretary-General “establish a programme of outreach, with the involvement of Member States and United Nations funds and programmes as well as civil society, including non-governmental organizations, to appropriately commemorate the tenth anniversary of the adoption of the Durban Declaration and Programme of Action”. The resolution also requests that “the Office of the United Nations High Commissioner for Human Rights and the Depart-
ment of Public Information of the Secretariat . . . launch a public information campaign for the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action”. The United States, joined by 21 other nations, voted against this resolution.

(20) The Government of Canada has announced that it will not participate in the Durban III meeting. Canada Minister of Citizenship, Immigration, and Multiculturalism Jason Kenney stated, “Our government has lost faith in the entire tainted Durban process. Canada will not participate in this charade any longer. We will not lend our country’s good name to a commemoration of what has widely been characterized as a hatefest. . . . Canada is clearly committed to the fight against racism, but the Durban process commemorates an agenda that actually promotes racism rather than combats it.”.

(21) The Government of Israel has announced that it will not participate in the Durban III meeting, stating, “Israel is part of the international struggle against racism. The Jewish people was itself a victim of racism throughout history. Israel regrets that a resolution on an important subject—elimination of racism—has been diverted and politi-
cized by the automatic majority at the UN, by linking it to the Durban Declaration and Programme of Action (2001) that many states would prefer to forget. The Durban Conference of 2001, with its antisemitic undertones and displays of hatred for Israel and the Jewish World, left us with scars that will not heal quickly. . . . Under the present circumstances, as long as the [Durban III] meeting is defined as part of the infamous ‘Durban process’, Israel will not participate . . . .”.

(22) On June 2, 2011, the United States publicly announced that it would not participate in the Durban III meeting. A Department of State deputy spokesman stated, “Durban process includes displays of intolerance and anti-Semitism, and we don’t want to see that commemorated. In our conversations about this commemoration, we’ve not seen the kind of progress that we think is indicative. We remain unconvinced that the conference is moving in a new direction.”.

(23) The Governments of the Czech Republic, the Netherlands, and Italy have announced that they will not participate in the Durban III meeting.

(24) The Durban I and Durban II Conferences, and the preparatory and follow-on activities for both,
have made little or no demonstrable contribution to combating racism, racial discrimination, xenophobia, and related intolerance.

(25) The United States is the largest contributor to the United Nations system, and is assessed for a full 22 percent of the United Nations regular budget, which is funded by assessed contributions from Member States.

(26) Funding for Durban I, Durban II, and their preparatory and follow-on activities through the United Nations regular budget has resulted in United States taxpayer dollars being used for those purposes.


SEC. 702. SENSE OF CONGRESS; STATEMENT OF POLICY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—
(1) the Durban I and Durban II conferences, and their preparatory and follow-on activities, were subverted by members of the Organization of the Islamic Conference and irredeemably distorted into a forum for anti-Israel, anti-Semitic, and anti-freedom activity;

(2) by walking out of the Durban I conference, not participating in the Durban II conference, and announcing that it would not participate in the Durban III meeting, the United States Government upheld and reaffirmed the fundamental commitment of the United States to combating racism, racial discrimination, xenophobia, and related intolerance;

(3) the Governments of Canada, Israel, Italy, Germany, the Netherlands, Poland, Australia, New Zealand, and the Czech Republic should be commended for their decision to not participate or cease participation in the Durban II conference;

(4) the Governments of Canada, Israel, the Czech Republic, the Netherlands, Italy, and any other government that decides not to participate in the Durban III meeting, should be commended for that decision; and

(5) the United States Government should expeditiously and unequivocally announce that it will not
participate in, support, or legitimize any part of the Durban process.

(b) STATEMENT OF POLICY.—It shall be the policy of the United States to—

(1) lead a high-level diplomatic effort to encourage other responsible countries—

(A) not to participate in, support, legitimate, or fund any portion of the Durban III meeting, its preparatory or follow-on activities, or any other part of the Durban process; and

(B) to withhold from their respective contributions to the regularly assessed biennial budget of the United Nations an amount that is equal to the percentage of such respective contributions that they determine would be or has been allocated by the United Nations for any part of the Durban III meeting or its preparatory or follow-on activities, or for any other part of the Durban process; and

(2) lead a high-level diplomatic effort to explore credible, alternative forums for combating racism, racial discrimination, xenophobia, and related intolerance.
SEC. 703. NON-PARTICIPATION IN THE DURBAN PROCESS.

None of the funds made available in any provision of law may be used for United States participation in the Durban III meeting, its preparatory or follow-on activities, or any further part of the Durban process.

SEC. 704. WITHHOLDING OF FUNDS; REFUND OF UNITED STATES TAXPAYER DOLLARS.

(a) Withholding of Funds for the Durban Process.—The Secretary shall withhold from the United States contribution to the regular budget of the United Nations an amount that is equal to the percentage of such contribution that the Secretary determines would be or has been expended by the United Nations for any part of the Durban I or Durban II conferences, the Durban III meeting, their preparatory or follow-on activities, or any other part of the Durban process, including—

(1) the “public information campaign for the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action” requested by United Nations General Assembly Resolution ARES/65/240;

(2) the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action;
(3) the “group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action”; and

(4) the Ad Hoc Committee on the Elaboration of Complementary Standards.

(b) **WITHHOLDING OF FUNDS FOR OTHER BIASED AND COMPROMISED ACTIVITIES.**—Until the Secretary submits to the appropriate congressional committees a certification, on a case-by-case basis, that the requirements described in subsection (d) have been satisfied, the United States shall withhold from the United States contribution to the regular budget of the United Nations an amount that is equal to the percentage of such contribution that the Secretary determines has been allocated by the United Nations for any conference, meeting, or other multilateral forum, or the preparatory or follow-on activities of any conference, meeting, or other multilateral forum, that is organized under the aegis or jurisdiction of the United Nations or of any United Nations entity.

(c) **REFUND OF UNITED STATES TAXPAYER DOLLARS.**—

(1) **CONTRIBUTIONS TO REGULAR BUDGET OF UNITED NATIONS.**—Funds appropriated for use as a United States contribution to the regular budget of the United Nations but withheld from obligation and
expenditure pursuant to subsection (a) shall immediately revert to the United States Treasury and shall not be considered arrears to be repaid to any United Nations entity.

(2) Contributions to biennial budget of United Nations.—Funds appropriated for use as a United States contribution to the regularly assessed biennial budget of the United Nations but withheld from obligation and expenditure pursuant to subsection (b) may be obligated and expended for that purpose upon the certification described in subsection (d). Such funds shall revert to the United States Treasury if no such certification is made by the date that is one year after such appropriation, and shall not be considered arrears to be repaid to any United Nations entity.

(d) Certification.—The certification referred to in subsection (b) is a certification made by the Secretary to the appropriate congressional committees concerning the following:

(1) The specified conference, meeting, or other multilateral forum did not reaffirm, call for the implementation of, or otherwise support the Durban Declaration and Programme of Action (2001) or the

(2) The specified conference or forum was not used to single out the United States or the State of Israel for unfair or unbalanced criticism.

(3) The specified conference or forum was not used to propagate racism, racial discrimination, anti-Semitism, denial of the Holocaust, incitement to violence or genocide, xenophobia, or related intolerance.

(4) The specified conference or forum was not used to advocate for restrictions on the freedoms of speech, expression, religion, the press, assembly, or petition, or for restrictions on other fundamental human rights and freedoms.

(5) The leadership of the specified conference or forum does not include a Member State, or a representative from a Member State—

(A) subject to sanctions by the Security Council;

(B) under a Security Council-mandated investigation for human rights abuses; or

(C) the government of which the Secretary has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International
Emergency Economic Powers Act), section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

TITLE VIII—UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE MIDDLE EAST

SEC. 801. FINDINGS.

Congress makes the following findings:

(1) United Nations General Assembly Resolution 302 (1949) created the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) with the temporary, strictly humanitarian mandate to “carry out . . . direct relief and works programmes” for Palestinian refugees.

(2) UNRWA has acknowledged that it is the “only UN agency that reports directly to the UN General Assembly, and whose beneficiary population stems from one nation-group”, and is responsible solely for Palestinian refugees, while the United Na-
tions High Commissioner for Refugees (UNHCR) is responsible for other refugees across the world.

(3) UNHCR’s definition of a refugee is, in accordance with the 1951 Convention Relating to the Status of Refugees, any person who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country”.

(4) UNRWA’s much broader definition of a “Palestine refugee” is any person, and his descendants, whose “normal place of residence was [the former British Mandate of] Palestine during the period 1 June 1946 to 15 May 1948 and who lost both home and means of livelihood as a result of the 1948 conflict.”.

(5) UNRWA’s overly inclusive definition of a “Palestine refugee” has resulted in an increase in UNRWA’s reported number of “Palestine refugees” from under 1,000,000 in 1950 to over 4,500,000 in 2011, encompassing multiple generations of descendants of the original Palestinian refugees.
(6) Hundreds of thousands of “Palestine refugees” are citizens of recognized states.

(7) UNRWA, unlike UNHCR, does not offer refugees the option of resettlement and reintegration into their country of refuge or a third country. Efforts by UN officials in the 1950s to offer resettlement and reintegration as an option for Palestinian refugees were dropped under fierce opposition from Arab governments, and have not been taken up since.

(8) Through its overly inclusive definition of a “Palestine refugee” and its refusal to offer refugees the option of resettlement and reintegration, UNRWA contributes to the perpetuation of the suffering of Palestinian refugees, who have been exploited by Arab governments and Palestinian militant groups for over six decades as a political tool with which to assail Israel.

(9) Almost all of UNRWA’s almost 30,000 staff are Palestinian refugees themselves, presenting a clear conflict of interest.

(10) UNRWA’s total annual budget, including its core programs, emergency activities and special projects, exceeds $1,000,000,000.
(11) The United States has long been the largest single contributing country to UNRWA.

(12) From 1950 to 2010, the United States has contributed almost $3,900,000,000 to UNRWA, including an average of over $210,000,000 per year between fiscal years 2007 and 2010.

(13) Section 301(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2221(c)) provides, “No contributions by the United States shall be made to the United Nations Relief and Works Agency for Palestine Refugees in the Near East except on the condition that the United Nations Relief and Works Agency take all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism.”.

(14) In contravention of United States law, UNRWA does not ask its personnel or aid recipients if they are members of foreign terrorist organizations.

(15) Even though the United States remains the largest single contributing country to UNRWA,
UNRWA does not screen its prospective or present staff and aid recipients through United States watch lists, including that of the Department of the Treasury’s Office of Foreign Assets Control, and refused a United States request to do so in 2005.

(16) UNRWA claims that it has fulfilled its obligations under section 301(c) of the Foreign Assistance Act of 1961 by screening personnel through the United Nations Consolidated List pursuant to United Nations Security Council Resolution 1267, but the names on that list are largely members of al-Qaeda and the Taliban, not of Palestinian foreign terrorist organizations such as Hamas, Fatah’s al-Aqsa Martyrs’ Brigades, or Palestinian Islamic Jihad.

(17) Former UNRWA commissioner-general Peter Hansen stated in 2004, “I am sure that there are Hamas members on the UNRWA payroll and I don’t see that as a crime.”.

(18) A number of UNRWA personnel have been discovered to be affiliated with foreign terrorist organizations, including the following people:

(A) Issa Batran (now deceased), a commander of Hamas’s al-Aqsa Martyrs’ Brigades
and senior rocket-maker who taught at an UNRWA school in Gaza;

(B) Humam Khalil Abu Mulal al-Balawi (now deceased), who reportedly carried out a homicide bombing that killed 7 Americans and one Jordanian at Forward Operating Base Chapman in Afghanistan on December 30, 2009, reportedly worked as a physician at an UNRWA clinic in Amman, Jordan, and had longstanding ties to violent Islamist extremism;

(C) Said Siam (now deceased), a longtime Hamas official who eventually served as Hamas’s Interior Minister in Gaza, and who taught at an UNRWA school in Gaza;

(D) Awad al-Qiq (now deceased), a rocket-builder for Palestinian Islamic Jihad who served as headmaster of an UNRWA school in Gaza;

(E) Nahd Atallah, an UNRWA staff member in Gaza, who was arrested, convicted, and sentenced to 15 years’ imprisonment by a military court in Israel for using his UN travel document to bypass Israeli checkpoints in Gaza in order to transport armed Palestinian militants; and
(F) an UNRWA teacher who reportedly praised homicide bombers and permitted Hamas leader Ahmed Yassin (now deceased) to speak to an assembly of students at an UNRWA school. UNRWA did not terminate the teacher’s employment, instead only giving him a letter of censure.

(19) UNRWA staff unions, including the teachers’ union, are frequently controlled by members affiliated with Hamas.

(20) UNRWA refugee camps in Lebanon have frequently been controlled by foreign terrorist organizations and used for numerous unacceptable activities.

(21) Former UNRWA general counsel James Lindsay noted in a 2009 report that—

(A) “UNRWA . . . obviously does not take ‘all possible measures’ in practice” to assure that United States contributions do not provide assistance to any refugee with ties to foreign terrorist organizations, in accordance with section 301(c) of the Foreign Assistance Act of 1961;

(B) “UNRWA makes no attempt to weed out individuals who support extremist positions
UNRWA has taken very few steps to de-
tect and eliminate terrorists from the ranks of
its staff or its beneficiaries, and no steps at all
to prevent members of terrorist organizations,
such as Hamas, from joining its staff.”;

(C) “[i]t is rare for an area staff member
. . . to report or confirm that another staff
member has violated rules against political
speech, let alone exhibited ties to terrorism. Not
surprisingly, external allegations of improper
speech or improper use of UNRWA facilities
are difficult to prove, as virtually no one is will-
ing to be a witness against gang members.”;
and

(D) “[t]here are no formal procedures for
deregistering or denying services to a properly
registered refugee, no matter what he or she
does.”.

(22) UNRWA continues to hold accounts at the
Arab Bank and the Commercial Bank of Syria
(CBS), financial institutions that the United States
deems or believes to be complicit in money laun-
dering and terror financing.

(23) The Arab Bank is reportedly at the center
of United States investigations into how tens of mil-
lions of dollars have flowed to Palestinian groups that allegedly used some of those funds to pay off suicide bombers and their relatives, and is also reportedly being sued in Federal court by United States victims of attacks in Israel, with attorneys for the victims accusing the bank of facilitating acts of international terrorism.

(24) On May 11, 2004, the Department of the Treasury designated CBS as a financial institution of “primary money laundering concern” pursuant to section 311 of the USA Patriot Act (Public Law 107–56; 115 Stat. 298), stating that “CBS had been used by terrorists and their sympathizers and acted as a conduit for the laundering of proceeds generated from the illicit sale of Iraqi oil” and that “numerous transactions that may be indicative of terrorist financing and money laundering have been transferred through CBS, including two accounts at CBS that reference a reputed financier for Usama bin Laden.”.

(25) CBS is controlled by the Government of Syria, a state sponsor of terrorism.

(26) The curriculum of UNRWA schools, which use the textbooks of their respective host governments or authorities, has long contained materials
that are anti-Israel, anti-Semitic, and supportive of violent extremism.

(27) As far back as over 40 years ago, former UNRWA commissioner-general Laurence Michelmore admitted that UNRWA schools were supporting a “bitterly hostile attitude to Israel.”

(28) Former UNRWA general counsel James Lindsay noted in a January 2009 report that “[t]eachers in UNRWA schools were often afraid to remove posters glorifying ‘martyrs’ (including suicide bombers) for fear of retribution from armed supporters of the ‘martyrs’.”.

(29) UNRWA officials have compromised UNRWA’s strictly humanitarian mandate by engaging in political agitation, propaganda, and advocacy against Israel and in favor of Hamas, as reflected by the following actions:

(A) UNRWA officials have repeatedly called for the United States and other nations to deal directly with Hamas and have repeatedly called for political “reconciliation” between Hamas and Fatah.

(B) UNRWA officials have repeatedly castigated Israel for the actions by the Government of Israel to defend innocent civilians from
rocket and mortar attacks from violent extremist groups in Gaza and from other acts of international terrorism, and has repeatedly blamed Israel, not Hamas and other violent extremist groups, for present restrictions on access to Gaza.

(C) Former UNRWA general counsel James Lindsay noted in a 2009 report that, “although it occasionally issued mild, pro forma criticisms of Palestinian attacks (most of which were clearly war crimes), [UNRWA] put more effort into criticizing Israeli counterterrorism efforts (which were condemned using language associated with war crimes, though any such crimes were far from proved) . . . UNRWA never seems to acknowledge that Israel, since its 2005 withdrawal from Gaza, has launched strikes on the territory largely in order to halt rocket attacks and other assaults.”

(D) Lindsay also noted that “UNRWA—through its leaders and press spokespersons—is constantly involved in political speech. . . . These one-sided speeches on political matters do not further the goals of a humanitarian and supposedly nonpolitical agency.”
Despite UNRWA’s contravention of United States law and activities that compromise its strictly humanitarian mandate, UNRWA continues to receive United States contributions, including $237,800,000 in fiscal year 2010.

The bilateral “Framework for Cooperation” that the United States concluded with UNRWA for 2010 actually “commends” UNRWA and does not commit UNRWA to vetting its personnel and aid recipients through United States watch lists.

Assistance from the United States and other responsible nations allows UNRWA to claim that criticisms of the agency’s behavior are unfounded. UNRWA spokesman Christopher Gunness has dismissed concerns by stating, “If these baseless allegations were even halfway true, do you really think the U.S. and [European Commission] would give us hundreds of millions of dollars per year?”.

Former UNRWA general counsel James Lindsay noted in a 2009 report the following:

“The United States, despite funding nearly 75 percent of UNRWA’s national budget and remaining its largest single country donor, has mostly failed to make UNRWA reflect U.S.
foreign policy objectives. . . . Recent U.S. ef-
forts to shape UNRWA appear to have been in-
effective . . . .”;
(B) “[T]he United States is not obligated
to fund agencies that refuse to check its rolls
for individuals their donors do not wish to sup-
port.”;
(C) “A number of changes in UNRWA
could benefit the refugees, the Middle East, and
the United States, but those changes will not
occur unless the United States, ideally with
support from UNRWA’s other main financial
supporter, the European Union, compels the
agency to enact reforms.”; and
(D) “If the [UNRWA commissioner-gen-
eral’s] power is used in ways that are conflict
with the donors’ political objectives, it is up to
the donors to take the necessary actions to en-
sure that their interests are respected. When
they have done so, UNRWA—given the tight fi-
nancial leash it has been on for most of its ex-
istence—has tended to follow their dictates,
even if sometimes slowly.”.
(34) The Government of Canada has recently
placed restrictions on its contributions to UNRWA,
demonstrating consequences for UNRWA’s malfeasance and setting an example for the United States and other donor governments.

SEC. 802. UNITED STATES CONTRIBUTIONS TO UNRWA.

Section 301 of the Foreign Assistance Act of 1961 (22 U.S.C. 2221) is amended by amending subsection (c) to read as follows:

“(c)(1) Contributions by the United States to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), to any successor or related entity, or to the regular budget of the United Nations for the support of UNRWA or a successor entity (through staff positions provided by the United Nations Secretariat, or otherwise), may be provided only during a period for which a certification described in paragraph (2) is in effect.

“(2) A certification described in this paragraph is a written determination by the Secretary of State, based on all information available after diligent inquiry, and transmitted to the appropriate congressional committees along with a detailed description of the factual basis therefor, that—

“(A) no official, employee, consultant, contractor, subcontractor, representative, or affiliate of UNRWA—
“(i) is a member of a foreign terrorist organization;

“(ii) has propagated, disseminated, or incited anti-American, anti-Israel, or anti-Semitic rhetoric or propaganda; or

“(iii) has used any UNRWA resources, including publications or Internet websites, to propagate or disseminate political materials, including political rhetoric regarding the Israeli-Palestinian conflict;

“(B) no UNRWA school, hospital, clinic, other facility, or other infrastructure or resource is being used by a foreign terrorist organization for operations, planning, training, recruitment, fundraising, indoctrination, communications, sanctuary, storage of weapons or other materials, or any other purposes;

“(C) UNRWA is subject to comprehensive financial audits by an internationally recognized third party independent auditing firm and has implemented an effective system of vetting and oversight to prevent the use, receipt, or diversion of any UNRWA resources by any foreign terrorist organization or members thereof;
“(D) no UNRWA-funded school or educational institution uses textbooks or other educational materials that propagate or disseminate anti-American, anti-Israel, or anti-Semitic rhetoric, propaganda or incitement;

“(E) no recipient of UNRWA funds or loans is a member of a foreign terrorist organization; and

“(F) UNRWA holds no accounts or other affiliations with financial institutions that the United States deems or believes to be complicit in money laundering and terror financing.

“(3) DEFINITIONS.—In this section:

“(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(i) the Committees on Foreign Relations, Appropriations, and Homeland Security and Governmental Affairs of the Senate; and

“(ii) the Committees on Foreign Affairs, Appropriations, and Oversight and Government Reform of the House of Representatives.

“(B) FOREIGN TERRORIST ORGANIZATION.—The term ‘foreign terrorist organization’ means an organization designated as a foreign terrorist organization by the Secretary of State in accordance with
section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

“(4) EFFECTIVE DURATION OF CERTIFICATION.—

The certification described in paragraph (2) shall be effective for a period of 180 days from the date of transmission to the appropriate congressional committees, or until the Secretary receives information rendering that certification factually inaccurate, whichever is earliest. In the event that a certification becomes ineffective, the Secretary shall promptly transmit to the appropriate congressional committees a description of any information that precludes the renewal or continuation of the certification.

“(5) LIMITATION.—During a period for which a certification described in paragraph (2) is in effect, the United States may not contribute to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) or a successor entity an annual amount—

“(A) greater than the highest annual contribution to UNRWA made by a member country of the League of Arab States;

“(B) that, as a proportion of the total UNRWA budget, exceeds the proportion of the total budget for the United Nations High Commissioner for Refugees (UNHCR) paid by the United States; or
“(C) that exceeds 22 percent of the total budget of UNRWA.”.

SEC. 803. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the President and the Secretary should lead a high-level diplomatic effort to encourage other responsible nations to withhold contributions to UNRWA, to any successor or related entity, or to the regular budget of the United Nations for the support of UNRWA or a successor entity (through staff positions provided by the United Nations Secretariat, or otherwise) until UNRWA has met the conditions listed in subparagraphs (A) through (F) of section 301(c)(2) of the Foreign Assistance Act of 1961 (as added by section 802);

(2) citizens of recognized states should be removed from UNRWA’s jurisdiction;

(3) UNRWA’s definition of a “Palestine refugee” should be changed to that used for a refugee by the Office of the United Nations High Commissioner for Refugees; and

(4) in order to alleviate the suffering of Palestinian refugees, responsibility for those refugees should be fully transferred to the Office of the United Nations High Commissioner for Refugees.
TITLE IX—INTERNATIONAL ATOMIC ENERGY AGENCY

SEC. 901. TECHNICAL COOPERATION PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The International Atomic Energy Agency (IAEA) was established in 1957 with the objectives of seeking to “accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world” and to “ensure . . . that assistance provided by it or at its request or under its supervision or control is not used in such a way as to further any military purpose.”.

(2) The United States, via assessed contributions, is the largest financial contributor to the regular budget of the IAEA.

(3) In 1959, the IAEA established what is now called the Technical Cooperation Program, financed primarily through voluntary contributions by member states to the Technical Cooperation Fund, to provide nuclear technical cooperation (TC) for peaceful purposes to countries worldwide.

(4) The United States is the largest financial contributor to the IAEA’s Technical Cooperation Fund.
(5) A March 2009 report by the Government Accountability Office (GAO) found that “neither [the Department of State] nor IAEA seeks to systematically limit TC assistance to countries the United States has designated as state sponsors of terrorism—Cuba, Iran, Sudan, and Syria—even though under U.S. law these countries are subject to sanctions.”.

(6) The GAO report also found that “[t]ogether, [Cuba, Iran, Sudan, and Syria] received more than $55 million in TC assistance from 1997 through 2007”. These four countries have received continued assistance since 2007.

(7) The GAO report also found that “proliferation concerns about the [Technical Cooperation Program] have persisted because of the assistance it has provided to certain countries and because nuclear equipment, technology, and expertise can be dual-use—capable of serving peaceful purposes . . . but also useful in contributing to nuclear weapons development.”.

(8) The GAO report also found that “[the Department of State] reported in 2007 that three TC projects in [Iran] were directly related to the Iranian nuclear power plant at Bushehr”.

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The GAO report also found, “The proliferation concerns associated with the Technical Cooperation Program are difficult for the United States to fully identify, assess, and resolve . . . because there is no formal mechanism for obtaining TC project information during the proposal development phase . . . limited [Department of] State documentation on how proliferation concerns of TC proposals were resolved . . . and shortcomings in U.S. policies and IAEA procedures [including monitoring proliferation risks] related to TC program fellowships.”

The GAO report noted that “IAEA officials told us that the Technical Cooperation Program] does not attempt to exclude countries on the basis of their status as U.S.-designated state sponsors of terrorism or other political considerations,” and that, according to the Deputy Director General for the Technical Cooperation Program, “there are no good countries and there are no bad countries” with respect to provision of technical cooperation by the IAEA.

The GAO report also found that “given the limited information available on TC projects and the dual-use nature of some nuclear technologies and
expertise, we do not believe [the Department of
State] can assert with complete confidence that TC
assistance has not advanced [weapons of mass de-
struction] programs in U.S.-designated state spon-
sors of terrorism”.

(12) The GAO report also found that “the GAO
did not share the Department of State’s confidence
in IAEA’s internal safeguards to prevent TC
projects from contributing to weapons development”.

(13) The Foreign Assistance Act of 1961 (22
U.S.C. 2151 et seq.) prohibits any of the funds au-
thorized to be appropriated for “International Orga-
nizations and Programs” from being made available
for the United States proportionate share for pro-
grams for Libya, Iran, Cuba, or the Palestine Lib-
eration Organization, inter alia.

(14) The Foreign Operations, Export Financ-
ing, and Related Programs Appropriations Act,
1998 (Public Law 105–118) prohibits any of the
funds made available by such Act for the IAEA from
being made available for programs and projects of
the IAEA in Cuba.

(15) The Foreign Affairs Reform and Restruc-
turing Act of 1998 (division G Public Law 105–277)
required the United States to withhold a propor-
tionate share of funding to the IAEA for projects in Cuba regarding the Juragua Nuclear Power Plant and the Pedro Pi Nuclear Research Center.

(16) The GAO report described in paragraph (5) asked Congress “to consider directing [the Department of State] to withhold a share of future annual contributions to the [Technical Cooperation Fund] that is proportionate to the amount of funding provided from the fund for U.S.-designated state sponsors of terrorism and other countries of concern, noting that such a withholding is a matter of fundamental principle and intended to foster a more consistent U.S. policy toward such nations”.


(18) United Nations Security Council Resolution 1737 (2006) decided “that technical cooperation provided to Iran by the IAEA or under its auspices shall only be for food, agricultural, medical, safety or other humanitarian purposes [inter alia] . . . but
that no such technical cooperation shall be provided
that relates to . . . proliferation sensitive nuclear
activities . . . “.

(19) The IAEA Director General reported to
the IAEA Board of Governors on February 25,
2011, that the Government of Iran now has approxi-
mately 7,000 centrifuges for enriching uranium, is
running almost 5,000 of them, and has increased its
stockpile of low-enriched uranium to over 3,600 kilo-
grams, considered sufficient for further enrichment
into enough high-enriched uranium for more than
one atomic bomb. The Government of Iran has also
reportedly produced a stockpile of over 40 kilograms
of uranium enriched up to 20 percent U–235.

(20) The IAEA Director General has repeatedly
reported to the IAEA Board of Governors, including
in his report of February 25, 2011, about the “out-
standing issues related to possible military dimen-
sions to Iran’s nuclear programme”.

(21) The IAEA Director General has repeatedly
reported to the IAEA Board of Governors, including
in his report of February 25, 2011, that “the
[IAEA] remains concerned about the possible exist-
ence in Iran of past or current undisclosed nuclear
related activities involving military-related organiza-
tions, including activities related to the development of a nuclear payload for a missile”.

(22) The IAEA Director General has repeatedly reported to the IAEA Board of Governors, including in his report of February 19, 2009, that “Iran has not implemented the Additional Protocol, which is a prerequisite for [the IAEA] to provide credible assurance about the absence of undeclared nuclear material and activities. Nor has [Iran] agreed to [the IAEA’s] request that Iran provide, as a transparency measure, access to additional locations related, inter alia, to the manufacturing of centrifuges, research and development on uranium enrichment, and uranium mining and milling, as also required by the Security Council.”.

(23) The IAEA Director General has repeatedly reported to the IAEA Board of Governors, including in his report of February 19, 2009, that “as a result of the continued lack of cooperation by Iran in connection with . . . issues which give rise to concerns about possible military dimensions of Iran’s nuclear programme, [the IAEA] has made no substantive progress on these issues.”.

(24) Iran has refused to comply with resolutions adopted by the IAEA Board of Governors on

(25) In April 2008, United States Government officials publicly revealed that Syria was building at the Dair Alzour site, with assistance from the Government of North Korea, a secret nuclear reactor that was based on a North Korean model capable of producing plutonium for nuclear weapons and that was weeks away from becoming operational before an Israeli air strike reportedly destroyed the reactor in September 2007.

(26) On April 28, 2008, General Michael Hayden, the former Director of the Central Intelligence Agency, stated that the Syrian reactor at Dair Alzour could have produced enough plutonium for 1 or 2 bombs within a year of becoming operational.

(27) The IAEA Director General reported to the IAEA Board of Governors on November 19, 2008, that the Syrian facility at Dair Alzour bore
features that resembled those of an undeclared nu-
clear reactor, adding that “Syria has not yet pro-
vided the requested documentation in support of its
declarations concerning the nature or function of the
destroyed building, nor agreed to a visit to the three
other locations which the IAEA has requested to
visit”.

(28) The IAEA Director General publicly stated
to the IAEA Board of Governors, on June 15, 2009,
that “the limited information and access provided by
Syria to date have not enabled the Agency to deter-
mine the nature of the destroyed facility” at Dair
Alzour site, that uranium particles have been found
in samples taken from a second site, the Miniature
Neutron Source Reactor facility in Damascus, and
that the particles found at both sites “are of a type
not included in Syria’s declared inventory of nuclear
material”.

(29) Commercial satellite photos published on
February 23, 2011, indicate efforts by the Govern-
ment of Syria to conceal its activities at an addi-
tional site, Marj as Sultan, which may be connected
to the Dair Alzour facility.

(30) The IAEA Director General reported to
the IAEA Board of Governors on February 25,
2011, that “Syria has not cooperated with the [IAEA] since June 2008 in connection with the unresolved issues related to the Dair Alzour site and the other three locations allegedly functionally related to it. As a consequence, the [IAEA] has not been able to make progress towards resolving the outstanding issues related to those sites.”.

(b) IN GENERAL.—No funds from any United States assessed or voluntary contribution to the IAEA may be used to support any assistance provided by the IAEA through its Technical Cooperation program to any country, including North Korea that—

(1) is a country the government of which has been determined by the Secretary, for purposes of section 6(j) of the Export Administration Act of 1979, section 620A of the Foreign Assistance Act of 1961, section 40 of the Arms Export Control Act, or other provision of law, is a government that has repeatedly provided support for acts of international terrorism;

(2) is in breach of or noncompliance with its obligations regarding—

(A) its safeguards agreement with the IAEA;

(B) the Additional Protocol;
(C) the Nuclear Non-Proliferation Treaty;

(D) any relevant United Nations Security Council Resolution; or

(E) the Charter of the United Nations; or

(3) is under investigation for a breach of or noncompliance with the obligations specified in paragraph (2).

(c) **Withholding of Voluntary Contributions.**—Not later than 30 days after the date of the enactment of this Act, the Secretary shall withhold from the United States voluntary contribution to the IAEA an amount proportional to that spent by the IAEA in the period from 2007 to 2008 on assistance through its Technical Cooperation Program to countries described in subsection (b).

(d) **Withholding of Assessed Contributions.**—If, not later than 30 days of the date of the enactment of this Act, the amount specified in subsection (c) has not been withheld and the IAEA has not suspended all assistance provided through its Technical Cooperation Program to the countries described in subsection (b), an amount equal to that specified in subsection (c) shall be withheld from the United States assessed contribution to the IAEA.

(e) **Waiver.**—The provisions in subsections (c) and (d) may be waived if—
(1) the IAEA has suspended all assistance provided through its Technical Cooperation Program to the countries described in subsection (b); or

(2) the President certifies that the countries described in subsection (b) no longer pose a threat to the national security, interests, and allies of the United States.

(f) UNITED STATES ACTIONS AT IAEA.—The President shall direct the United States Permanent Representative to the IAEA to use the voice, vote, and influence of the United States at the IAEA to block the allocation of funds for any assistance provided by the IAEA through its Technical Cooperation Program to any country described in subsection (b).

(g) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the implementation of this section.

SEC. 902. UNITED STATES POLICY AT THE IAEA.

(a) ENFORCEMENT AND COMPLIANCE.—

(1) OFFICE OF COMPLIANCE.—

(A) ESTABLISHMENT.—The President shall direct the United States Permanent Representative to International Atomic Energy Agency (IAEA) to use the voice, vote, and influ-
ence of the United States at the IAEA to estab-
lish an Office of Compliance in the Secretariat
of the IAEA.

(B) OPERATION.—The Office of Compli-
ance shall—

(i) function as an independent body
composed of technical experts who shall
work in consultation with IAEA inspectors
to assess compliance by IAEA Member
States and provide recommendations to the
IAEA Board of Governors concerning pen-
alties to be imposed on IAEA Member
States that fail to fulfill their obligations
under IAEA Board resolutions;

(ii) base its assessments and rec-
ommendations on IAEA inspection reports;
and

(iii) take into consideration informa-
tion provided by IAEA Board Members
that are 1 of the 5 nuclear weapons states
as recognized by the Treaty on the Non-
Proliferation of Nuclear Weapons (21 UST
483) (commonly referred to as the “Nu-
clear Nonproliferation Treaty” or the
“NPT”).
(C) STAFFING.—The Office of Compliance shall be staffed from existing personnel in the Department of Safeguards of the IAEA or the Department of Nuclear Safety and Security of the IAEA.

(2) COMMITTEE ON SAFEGUARDS AND VERIFICATION.—The President shall direct the United States Permanent Representative to the IAEA to use the voice, vote, and influence of the United States at the IAEA to ensure that the Committee on Safeguards and Verification established in 2005 shall develop and seek to put into force a workplan of concrete measures that will—

(A) improve the ability of the IAEA to monitor and enforce compliance by Member States of the IAEA with the Nuclear Non-proliferation Treaty and the Statute of the International Atomic Energy Agency; and

(B) enhance the ability of the IAEA, beyond the verification mechanisms and authorities contained in the Additional Protocol to the Safeguards Agreements between the IAEA and Member States of the IAEA, to detect with a high degree of confidence undeclared nuclear activities by a Member State.
(3) Penalties with respect to the IAEA.—

   (A) In general. — The President shall direct the United States Permanent Representative to the IAEA to use the voice, vote, and influence of the United States at the IAEA to ensure that a Member State of the IAEA that is under investigation for a breach of or non-compliance with its IAEA obligations or the purposes and principles of the Charter of the United Nations has its privileges suspended, including—

   (i) limiting its ability to vote on its case;

   (ii) being prevented from receiving any technical assistance; and

   (iii) being prevented from hosting meetings.

   (B) Termination of penalties. — The penalties specified under subparagraph (A) shall be terminated when such investigation is concluded and such Member State is no longer in such breach or noncompliance.

(4) Penalties with respect to the nuclear nonproliferation treaty. — The President shall direct the United States Permanent Rep-
resentative to the IAEA to use the voice, vote, and
influence of the United States at the IAEA to en-
sure that a Member State of the IAEA that is found
to be in breach of, in noncompliance with, or has
withdrawn from the Nuclear Nonproliferation Treaty
shall return to the IAEA all nuclear materials and
technology received from the IAEA, any Member
State of the IAEA, or any Member State of the Nu-
clear Nonproliferation Treaty.

(b) UNITED STATES CONTRIBUTIONS.—

(1) VOLUNTARY CONTRIBUTIONS.—Voluntary
collections of the United States to the IAEA
should primarily be used to fund activities relating
to nuclear safety and security or activities relating
to nuclear verification.

(2) LIMITATION ON USE OF FUNDS.—The
President shall direct the United States Permanent
Representative to the IAEA to use the voice, vote,
and influence of the United States at the IAEA to—

(A) ensure that funds for safeguards in-
spections are prioritized for countries that have
newly established nuclear programs or are initi-
ating nuclear programs; and

(B) block the allocation of funds for any
other IAEA development, environmental, or nu-
clear science assistance or activity to a country—

(i) the government of which the Secretary has determined, for purposes of section 6(j) of the Export Administration Act of 1979, section 620A of the Foreign Assistance Act of 1961, section 40 of the Arms Export Control Act, or other provision of law, is a government that has repeatedly provided support for acts of international terrorism and the government of which the Secretary has determined has not dismantled and surrendered its weapons of mass destruction programs under international verification;

(ii) that is under investigation for a breach of or noncompliance with its IAEA obligations or the purposes and principles of the Charter of the United Nations; or

(iii) that is in violation of its IAEA obligations or the purposes and principles of the Charter of the United Nations.

(3) DETAIL OF EXPENDITURES.—The President shall direct the United States Permanent Representative to the IAEA to use the voice, vote, and
influence of the United States at the IAEA to secure, as part of the regular budget presentation of the IAEA to Member States of the IAEA, a detailed breakdown by country of expenditures of the IAEA for safeguards inspections and nuclear security activities.

(c) Membership.—

(1) In general.—The President shall direct the United States Permanent Representative to the IAEA to use the voice, vote, and influence of the United States at the IAEA to block the membership on the Board of Governors of the IAEA for a Member State of the IAEA that has not signed and ratified the Additional Protocol and—

(A) is under investigation for a breach of or noncompliance with its IAEA obligations or the purposes and principles of the Charter of the United Nations; or

(B) that is in violation of its IAEA obligations or the purposes and principles of the Charter of the United Nations.

(2) Criteria.—The United States Permanent Representative to the IAEA shall make every effort to modify the criteria for Board membership to reflect the principles described in paragraph (1).
(d) SMALL QUANTITIES PROTOCOL.—The President shall direct the United States Permanent Representative to the IAEA to use the voice, vote, and influence of the United States at the IAEA to make every effort to ensure that the IAEA changes the policy regarding the Small Quantities Protocol in order to—

(1) rescind and eliminate the Small Quantities Protocol;

(2) require that any IAEA Member State that has previously signed a Small Quantities Protocol to sign, ratify, and implement the Additional Protocol, provide immediate access for IAEA inspectors to its nuclear-related facilities, and agree to the strongest inspections regime of its nuclear efforts; and

(3) require that any IAEA Member State that does not comply with paragraph (2) to be ineligible to receive nuclear material, technology, equipment, or assistance from any IAEA Member State and subject to the penalties described in subsection (a)(3).

(e) NUCLEAR PROGRAM OF IRAN.—

(1) UNITED STATES ACTION.—The President shall direct the United States Permanent Representative to the IAEA to use the voice, vote, and influence of the United States at the IAEA to make
every effort to ensure the adoption of a resolution by
the IAEA Board of Governors that, in addition to
the restrictions already imposed, makes Iran ineligi-
ble to receive any nuclear material, technology,
equipment, or assistance from any IAEA Member
State and ineligible for any IAEA assistance not re-
lated to safeguards inspections or nuclear security
until the IAEA Board of Governors determines that
Iran—

(A) is providing full access to IAEA in-
spectors to its nuclear-related facilities;

(B) has fully implemented and is in com-
pliance with the Additional Protocol; and

(C) has permanently ceased and disman-
tled all activities and programs related to nu-
clear-enrichment and reprocessing.

(2) Penalties.—If an IAEA Member State is
determined to have violated the prohibition on as-
sistance to Iran described in paragraph (1) before
the IAEA Board of Governors determines that Iran
has satisfied the conditions described in subpara-
graphs (A) through (C) of such paragraph, such
Member State shall be subject to the penalties de-
scribed in subsection (a)(3), shall be ineligible to re-
ceive nuclear material, technology, equipment, or as-
sistance from any IAEA Member State, and shall be ineligible to receive any IAEA assistance not related to safeguards inspections or nuclear security until such time as the IAEA Board of Governors makes such determination with respect to Iran.

(f) REPORT.—Not later than 180 days after the date of the enactment of this Act, and annually for 2 years thereafter, the President shall submit to the appropriate congressional committees a report on the implementation of this section.

SEC. 903. SENSE OF CONGRESS REGARDING THE NUCLEAR SECURITY ACTION PLAN OF THE IAEA.

It is the sense of Congress that the national security interests of the United States are enhanced by the Nuclear Security Action Plan of the IAEA and the Board of Governors should recommend, and the General Conference should adopt, a resolution incorporating the Nuclear Security Action Plan into the regular budget of the IAEA.

TITLE X—PEACEKEEPING

SEC. 1001. REFORM OF UNITED NATIONS PEACEKEEPING OPERATIONS.

It is the sense of Congress that—

(1) although United Nations peacekeeping operations have contributed greatly toward the promotion of peace and stability for over 6 decades and
the majority of peacekeeping personnel who have served under the United Nations flag have done so with honor and courage, the record of United Nations peacekeeping has been severely tarnished by operational failures and unconscionable acts of misconduct;

(2) in response to such failures, successive Secretaries General of the United Nations have launched numerous reform efforts, including the high-level Panel on United Nations Peace Operations, led by former Foreign Minister of Algeria Lakhdar Brahimi, the 2005 report by the Special Advisor on the Prevention of Sexual Exploitation and Abuse, His Royal Highness Prince Zeid Ra’ad Zeid Al-Hussein of Jordan, and the 2009 New Partnership Agenda, known as the “New Horizon” reports;

(3) despite the fact that the United Nations has had over a decade to implement many of these reforms, nearly four years to implement the reforms in the Zeid Report, and the fact that Secretary-General Ban Ki-Moon, his predecessor Kofi Annan, and the Special Committee on Peacekeeping Operations repeatedly have expressed their commitment “to implementing fundamental, systematic changes as a mat-
a number of critical reforms con-
continue to be blocked or delayed by Members States
who arguably benefit from maintenance of the status
quo;

(4) further, audits of procurement practices in
the Department of Peacekeeping Operations, con-
ducted by the Office of Internal Oversight Services,
and the now-defunct United Nations Procurement
Task Force have uncovered “significant” corruption
schemes and criminal acts by United Nations peace-
keeping personnel; and

(5) if the reputation of and confidence in
United Nations peacekeeping operations is to be re-
stored, fundamental and far-reaching reforms, par-
icularly in the areas of planning, management, pro-
curement, training, conduct, and discipline, must be
implemented without further delay.

SEC. 1002. POLICY RELATING TO REFORM OF UNITED NA-
TIONS PEACEKEEPING OPERATIONS.

It shall be the policy of the United States to pursue
reform of United Nations peacekeeping operations in the
following areas:

(1) PLANNING AND MANAGEMENT.—

(A) GLOBAL AUDIT.—As the size, cost,
and number of United Nations peacekeeping
operations have increased substantially over the past decade, independent audits of each such operation should be conducted annually, with a view toward “right-sizing” operations and ensuring that all operations are efficient and cost effective.

(B) PROCUREMENT AND TRANSPARENCY.—The logistics established within the United Nations Department of Field Support should be streamlined and strengthened to ensure that all peacekeeping missions are resourced appropriately, transparently, and in a timely fashion while individual accountability for waste, fraud, and abuse within United Nations peacekeeping missions is uniformly enforced.

(C) REVIEW OF MANDATES AND CLOSING OPERATIONS.—In conjunction with the audit described in subparagraph (A), the United Nations Department of Peacekeeping Operations should conduct a comprehensive review of all United Nations peacekeeping operation mandates, with a view toward identifying objectives that are practical and achievable, and report its
findings to the Security Council. In particular, the review should consider the following:

(i) Except in extraordinary cases, including genocide, the United Nations Department of Peacekeeping Operations should not be tasked with activities that are impractical or unachievable without the cooperation of the Member State(s) hosting a United Nations peacekeeping operation, or which amount to de-facto trusteeship outside of the procedures established for such under Chapter XII of the United Nations Charter, thereby creating unrealistic expectations and obfuscating the primary responsibility of the Member States themselves in creating and maintaining conditions for peace.

(ii) Long-standing operations that are static and cannot fulfill their mandate should be downsized or closed.

(iii) Where there is legitimate concern that the withdrawal from a country of an otherwise static United Nations peacekeeping operation would result in the resumption of major conflict, a burden-shar-
ing arrangement that reduces the level of assessed contributions, similar to that currently supporting the United Nations Peacekeeping Force in Cyprus, should be explored and instituted.

(D) LEADERSHIP.—As peacekeeping operations become larger and increasingly complex, the Secretariat should adopt a minimum standard of qualifications for senior leaders and managers, with particular emphasis on specific skills and experience, and current senior leaders and managers who do not meet those standards should be removed.

(E) PRE-DEPLOYMENT TRAINING.—Pre-deployment training on interpretation of the mandate of the operation, specifically in the areas of use of force, civilian protection and field conditions, the Code of Conduct, HIV/AIDS, and human rights should be mandatory, and all personnel, regardless of category or rank, should be required to sign an oath that each has received and understands such training as a condition of participation in the operation.

(F) GRATIS MILITARY PERSONNEL.—The General Assembly should seek to strengthen the
capacity the United Nations Department of Peacekeeping Operations and ease the extraordinary burden currently placed upon the limited number of headquarters staff by lifting restrictions on the utilization of gratis military personnel by the Department so that the Department may accept secondments from Member States of military personnel with expertise in mission planning, logistics, and other operational specialties.

(2) Conduct and Discipline.—

(A) Adoption of a Uniform Code of Conduct.—A single, uniform Code of Conduct that has the status of a binding rule and applies equally to all personnel serving in United Nations peacekeeping operations, regardless of category or rank, including military personnel, should be adopted and incorporated into legal documents governing participation in such an operation, including all contracts and Memorandums of Understanding, promulgated and effectively enforced.

(B) Understanding the Code of Conduct.—All personnel, regardless of category or rank, should receive training on the Code of
Conduct prior to deployment with a peacekeeping operation, in addition to periodic follow-on training. In particular—

(i) all personnel, regardless of category or rank, should be provided with a personal copy of the Code of Conduct that has been translated into the national language of such personnel, regardless of whether such language is an official language of the United Nations;

(ii) all personnel, regardless of category or rank, should sign an oath that each has received a copy of the Code of Conduct, that each pledges to abide by the Code of Conduct, and that each understands the consequences of violating the Code of Conduct, including immediate termination of participation in and permanent exclusion from all current and future peacekeeping operations, as well as the assumption of personal liability and victims compensation, where appropriate, as a condition of appointment to any such operation; and
(iii) peacekeeping operations should continue and enhance educational outreach programs to reach local communities where peacekeeping personnel of such operations are based, including explaining prohibited acts on the part of United Nations peacekeeping personnel and identifying the individual to whom the local population may direct complaints or file allegations of exploitation, abuse, or other acts of misconduct.

(C) Monitoring Mechanisms.—Dedicated monitoring mechanisms, such as the Conduct and Discipline Teams already deployed to support United Nations peacekeeping operations in Haiti, Sudan, Kosovo, Liberia, Lebanon, Timor Leste, Cote d’Ivoire, Western Sahara, and the Democratic Republic of Congo, should be present in each operation to monitor compliance with the Code of Conduct, and should report simultaneously to the Head of Mission, the United Nations Department of Field Support, the United Nations Department of Peacekeeping Operations, and the Associate
Director of the Office of Internal Oversight Services for Peacekeeping Operations.

(D) INVESTIGATIONS.—A permanent, professional, and independent investigative body should be established and introduced into United Nations peacekeeping operations. In particular—

(i) The investigative body should include professionals with experience in investigating sex crimes and the illegal exploitation of resources, as appropriate, as well as experts who can provide guidance on standards of proof and evidentiary requirements necessary for any subsequent legal action.

(ii) Provisions should be included in all Memorandums of Understanding, including a Model Memorandum of Understanding, that oblige Member States that contribute troops to a peacekeeping operation to designate a military prosecutor who will participate in any investigation into credible allegations of misconduct brought against an individual of such Member State, so that evidence is collected
and preserved in a manner consistent with the military law of such Member State.

(iii) The investigative body should be regionally based to ensure rapid deployment and should be equipped with modern forensics equipment for the purpose of positively identifying perpetrators and, where necessary, for determining paternity.

(iv) The investigative body should report directly to the Associate Director of the Office of Internal Oversight Services for Peacekeeping Operations, while providing copies of any reports to the Department of Field Support, the Department of Peacekeeping Operations, the Head of Mission, and the Member State concerned.

(E) FOLLOW-UP.—The Conduct and Discipline Unit in the headquarters of the United Nations Department of Field Support should be appropriately staffed, resourced, and tasked with—

(i) promulgating measures to prevent misconduct;
(ii) receiving reports by field personnel and coordinating the Department’s response to allegations of misconduct;

(iii) gathering follow-up information on completed investigations, particularly by focusing on disciplinary actions against the individual concerned taken by the United Nations or by the Member State that is contributing troops to which such individual belongs, and sharing such information with the Security Council, the Department of Peacekeeping Operations, the Head of Mission, and the community hosting the peacekeeping operation; and

(iv) contributing pertinent data on conduct and discipline to the database required pursuant to subparagraph (H).

(F) FINANCIAL LIABILITY AND VICTIMS ASSISTANCE.—Although peacekeeping operations should provide immediate medical assistance to victims of sexual abuse or exploitation, the responsibility for providing longer-term treatment, care, or restitution lies solely with the individual found guilty of the misconduct. In particular:
(i) The United Nations should not assume responsibility for providing long-term treatment or compensation under the Sexual Exploitation and Abuse Victim Assistance Mechanism by utilizing assessed contributions to United Nations peacekeeping operations, thereby shielding individuals from personal liability and reinforcing an atmosphere of impunity.

(ii) If an individual responsible for misconduct has been repatriated, reassigned, redeployed, or is otherwise unable to provide assistance, responsibility for providing assistance to a victim should be assigned to the Member State that contributed the contingent to which such individual belonged or to the manager concerned.

(iii) In the case of misconduct by a member of a military contingent, appropriate funds shall be withheld from the troop contributing country concerned.

(iv) In the case of misconduct by a civilian employee or contractor of the United Nations, appropriate wages shall be gar-
inished from such individual or fines shall
be imposed against such individual, con-
sistent with existing United Nations Staff
Rules, and retirement funds shall not be
shielded from liability.

(G) MANAGERS AND COMMANDERS.—The
manner in which managers and commanders
handle cases of misconduct by those serving
under them should be included in their indi-
vidual performance evaluations, so that man-
gers and commanders who take decisive action
to deter and address misconduct are rewarded,
while those who create a permissive environ-
ment or impede investigations are penalized or
relieved of duty, as appropriate.

(H) DATABASE.—A centralized database,
including personnel photos, fingerprints, and bi-
ometric data, should be created and maintained
within the United Nations Department of
Peacekeeping Operations, the Department of
Field Support, and other relevant United Na-
tions bodies without further delay to track cases
of misconduct, including the outcome of inves-
tigations and subsequent prosecutions, to en-
sure that personnel who have engaged in mis-
conduct or other criminal activities, regardless
of category or rank, are permanently barred
from participation in future peacekeeping oper-
ations.

(I) Cooperation of Member States.—
If a Member State routinely refuses to cooper-
ate with the directives contained herein or acts
to shield its nationals from personal liability,
that Member State should be barred from con-
tributing troops or personnel to future peace-
keeping operations.

(J) Welfare.—Peacekeeping operations
should continue to seek to maintain a minimum
standard of welfare for mission personnel to
ameliorate conditions of service, while adjust-
ments are made to the discretionary welfare
payments currently provided to Member States
that contribute troops to offset the cost of oper-
ation-provided recreational facilities, as nec-
essary and appropriate.

SEC. 1003. Certification.

(a) New or Expanded Peacekeeping Oper-
ations Contingent Upon Presidential Certifi-
cation of Peacekeeping Operations Reforms.—
(1) No new or expanded peacekeeping operations.—

(A) Certification.—Except as provided in subparagraph (B), until the Secretary certifies that the requirements described in paragraph (2) have been satisfied, the President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to oppose the creation of new, or expansion of existing, United Nations peacekeeping operations.

(B) Exception and notification.—The requirements described under paragraph (2) may be waived with respect to a particular peacekeeping operation if the President determines that failure to deploy new or additional peacekeepers in such situation will significantly contribute to the widespread loss of human life, genocide, or the endangerment of a vital national security interest of the United States. If the President makes such a determination, the President shall, not later than 15 days before the exercise of such waiver, notify the appro-
appropriate congressional committees of such determination and resulting waiver.

(2) CERTIFICATION OF PEACEKEEPING OPERATIONS REFORMS.—The certification referred to in paragraph (1) is a certification made by the Secretary to the appropriate congressional committees that the following reforms, or an equivalent set of reforms, related to peacekeeping operations have been adopted by the United Nations Department of Peacekeeping Operations or the General Assembly, as appropriate:

(A) A single, uniform Code of Conduct that has the status of a binding rule and applies equally to all personnel serving in United Nations peacekeeping operations, regardless of category or rank, has been adopted by the General Assembly and duly incorporated into all contracts and a Model Memorandum of Understanding, and mechanisms have been established for training such personnel concerning the requirements of the Code and enforcement of the Code.

(B) All personnel, regardless of category or rank, serving in a peacekeeping operation have been trained concerning the requirements of the
Code of Conduct and each has been given a per-
sonal copy of the Code, translated into the na-
tional language of such personnel.

(C) All personnel, regardless of category or
rank, are required to sign an oath that each has
received a copy of the Code of Conduct, that
each pledges to abide by the Code, and that
each understands the consequences of violating
the Code, including immediate termination of
participation in and permanent exclusion from
all current and future peacekeeping operations,
as well as the assumption of personal liability
for victims compensation as a condition of the
appointment to such operation.

(D) All peacekeeping operations have de-
signed and implemented educational outreach
programs to reach local communities where
peacekeeping personnel of such operations are
based to explain prohibited acts on the part of
United Nations peacekeeping personnel and to
identify the individual to whom the local popu-
lation may direct complaints or file allegations
of exploitation, abuse, or other acts of mis-
conduct.
(E) The creation of a centralized database, including personnel photos, fingerprints, and biometric data, has been completed and is being maintained in the United Nations Department of Peacekeeping Operations that tracks cases of misconduct, including the outcomes of investigations and subsequent prosecutions, to ensure that personnel, regardless of category or rank, who have engaged in misconduct or other criminal activities are permanently barred from participation in future peacekeeping operations.

(F) A Model Memorandum of Understanding between the United Nations and each Member State that contributes troops to a peacekeeping operation has been adopted by the United Nations Department of Peacekeeping Operations that specifically obligates each such Member State to—

(i) uphold the uniform Code of Conduct which shall apply equally to all personnel serving in United Nations peacekeeping operations, regardless of category or rank;

(ii) designate a competent legal authority, preferably a prosecutor with exper-
tise in the area of sexual exploitation and abuse where appropriate, to participate in any investigation into an allegation of misconduct brought against an individual of such Member State;

(iii) refer to its competent national or military authority for possible prosecution, if warranted, any investigation of a violation of the Code of Conduct or other criminal activity by an individual of such Member State;

(iv) report to the Department of Field Support and the Department of Peacekeeping Operations on the outcome of any such investigation;

(v) undertake to conduct on-site court martial proceedings, where practical and appropriate, relating to allegations of misconduct alleged against an individual of such Member State; and

(vi) assume responsibility for the provision of appropriate assistance to a victim of misconduct committed by an individual of such Member State.
(G) A professional and independent investigative and audit function has been established within the United Nations Department of Peacekeeping Operations and the Office of Internal Oversight Services to monitor United Nations peacekeeping operations.