

PALESTINIAN ANTI-TERRORISM ACT OF 2006

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MAY 11, 2006.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

\_\_\_\_\_  
Mr. HYDE, from the Committee on International Relations,  
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 4681]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 4681) to promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SEC. 1. SHORT TITLE.**

This Act may be cited as the “Palestinian Anti-Terrorism Act of 2006”.

**SEC. 2. LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY.**

(a) **DECLARATION OF POLICY.**—It shall be the policy of the United States—

(1) to support a peaceful, two-state solution to end the conflict between Israel and the Palestinians in accordance with the Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly referred to as the “Roadmap”);

(2) to oppose those organizations, individuals, and countries that support terrorism and violence;

(3) to urge members of the international community to avoid contact with and refrain from financially supporting the terrorist organization Hamas or a Hamas-controlled Palestinian Authority until Hamas agrees to recognize Israel, renounce violence, disarm, and accept prior agreements, including the Roadmap;

(4) to promote the emergence of a democratic Palestinian governing authority that—

- (A) denounces and combats terrorism;
  - (B) has agreed to and is taking action to disarm and dismantle any terrorist agency, network, or facility;
  - (C) has agreed to work to eliminate anti-Israel and anti-Semitic incitement and the commemoration of terrorists in Palestinian society;
  - (D) has agreed to respect the sovereignty of its neighbors;
  - (E) acknowledges, respects, and upholds the human rights of all people;
  - (F) implements the rule of law, good governance, and democratic practices, including conducting free, fair, and transparent elections in compliance with international standards;
  - (G) ensures institutional and financial transparency and accountability; and
  - (H) has agreed to recognize the State of Israel as an independent, sovereign, Jewish, democratic state; and
- (5) to continue to support assistance to the Palestinian people.

(b) AMENDMENTS.—Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2351 et seq.) is amended—

- (1) by redesignating the second section 620G (as added by section 149 of Public Law 104–164 (110 Stat. 1436)) as section 620J; and
- (2) by adding at the end the following new section:

**“SEC. 620K. LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY.**

“(a) LIMITATION.—Except as provided in subsection (e), assistance may be provided under this Act to the Palestinian Authority only during a period for which a certification described in subsection (b) is in effect.

“(b) CERTIFICATION.—A certification described in this subsection is a certification transmitted by the President to Congress that contains a determination of the President that—

- “(1) no ministry, agency, or instrumentality of the Palestinian Authority is controlled by a foreign terrorist organization and no member of a foreign terrorist organization serves in a senior policy making position in a ministry, agency, or instrumentality of the Palestinian Authority;

“(2) the Palestinian Authority has—

- “(A) publicly acknowledged Israel’s right to exist as a Jewish state; and
- “(B) recommitted itself and is adhering to all previous agreements and understandings by the Palestine Liberation Organization and the Palestinian Authority with the Government of the United States, the Government of Israel, and the international community, including agreements and understandings pursuant to the Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly referred to as the ‘Roadmap’); and

“(3) the Palestinian Authority has taken effective steps and made demonstrable progress toward—

“(A) completing the process of purging from its security services individuals with ties to terrorism;

“(B) dismantling all terrorist infrastructure, confiscating unauthorized weapons, arresting and bringing terrorists to justice, destroying unauthorized arms factories, thwarting and preempting terrorist attacks, and fully cooperating with Israel’s security services;

“(C) halting all anti-Israel incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and replacing these materials, including textbooks, with materials that promote tolerance, peace, and coexistence with Israel;

“(D) ensuring democracy, the rule of law, and an independent judiciary, and adopting other reforms such as ensuring transparent and accountable governance; and

“(E) ensuring the financial transparency and accountability of all government ministries and operations.

“(c) RECERTIFICATIONS.—Not later than 90 days after the date on which the President transmits to Congress an initial certification under subsection (b), and every six months thereafter—

“(1) the President shall transmit to Congress a recertification that the requirements contained in subsection (b) are continuing to be met; or

“(2) if the President is unable to make such a recertification, the President shall transmit to Congress a report that contains the reasons therefor.

“(d) CONGRESSIONAL NOTIFICATION.—Assistance made available under this Act to the Palestinian Authority may not be provided until 15 days after the date on which the President has provided notice thereof to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to

the Committee on Foreign Relations and the Committee on Appropriations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of this Act.

“(e) EXCEPTIONS.—

“(1) IN GENERAL.—Subsection (a) shall not apply with respect to the following:

“(A) ASSISTANCE TO INDEPENDENT ELECTIONS COMMISSIONS.—Assistance to any Palestinian independent election commission if the President transmits to Congress a certification that contains a determination of the President that—

“(i) no member of such commission is a member of, affiliated with, or appointed by a foreign terrorist organization; and

“(ii) each member of such commission is independent of the influence of any political party or movement.

“(B) ASSISTANCE TO SUPPORT THE MIDDLE EAST PEACE PROCESS.—Assistance to the Office of the President of the Palestinian Authority for non-security expenses directly related to facilitating a peaceful resolution of the Israeli-Palestinian conflict or for the personal security detail of the President of the Palestinian Authority if the President transmits to Congress a certification that contains a determination of the President that—

“(i) such assistance is critical to facilitating a peaceful resolution of the Israeli-Palestinian conflict;

“(ii) the President of the Palestinian Authority is not a member of or affiliated with a foreign terrorist organization and has rejected the use of terrorism to resolve the Israeli-Palestinian conflict;

“(iii) such assistance will not be used to provide funds to any individual who is a member of or affiliated with a foreign terrorist organization or who has not rejected the use of terrorism to resolve the Israeli-Palestinian conflict; and

“(iv) such assistance will not be retransferred to any other entity within or outside of the Palestinian Authority except as payment for legal goods or services rendered.

“(2) ADDITIONAL REQUIREMENTS.—Assistance described in paragraph (1) may be provided only if the President—

“(A) determines that the provision of such assistance is important to the national security interests of the United States; and

“(B) not less than 30 days prior to the obligation of amounts for the provision of such assistance—

“(i) consults with the appropriate congressional committees regarding the specific programs, projects, and activities to be carried out using such assistance; and

“(ii) submits to the appropriate congressional committees a written memorandum that contains the determination of the President under subparagraph (A).

“(3) DEFINITION.—In this subsection, the term ‘appropriate congressional committees’ means—

“(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

“(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

“(f) DEFINITIONS.—In this section:

“(1) 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)).

“(2) PALESTINIAN AUTHORITY.—The term ‘Palestinian Authority’ means the interim Palestinian administrative organization that governs part of the West Bank and all of the Gaza Strip (or any successor Palestinian governing entity), including the Palestinian Legislative Council.”

(c) APPLICABILITY TO UNEXPENDED FUNDS.—Section 620K of the Foreign Assistance Act of 1961, as added by subsection (b), applies with respect to unexpended funds obligated for assistance under the Foreign Assistance Act of 1961 to the Palestinian Authority before the date of the enactment of this Act.

(d) REPORT BY COMPTROLLER GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report that contains a review of the proposed procedures by which United States assistance to the Palestinian Authority under the Foreign Assistance Act of 1961 will be audited by the Department of State, the United States Agency for International Development, and all other rel-

evant departments and agencies of the Government of the United States and any recommendations for improvement of such procedures.

(e) SENSE OF CONGRESS.—It is the sense of Congress that the President should be guided by the principles and procedures described in section 620K of the Foreign Assistance Act of 1961, as added by subsection (b), in providing direct assistance to the Palestinian Authority under any provision of law other than the Foreign Assistance Act of 1961.

**SEC. 3. LIMITATION ON ASSISTANCE FOR THE WEST BANK AND GAZA.**

(a) AMENDMENT.—Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2351 et seq.), as amended by section 2(b)(2) of this Act, is further amended by adding at the end the following new section:

**“SEC. 620L. LIMITATION ON ASSISTANCE FOR THE WEST BANK AND GAZA.**

“(a) LIMITATION.—Except as provided in subsection (d), assistance may be provided under this Act to nongovernmental organizations for the West Bank and Gaza only during a period for which a certification described in section 620K(b) of this Act is in effect with respect to the Palestinian Authority.

“(b) MARKING REQUIREMENT.—Assistance provided under this Act to nongovernmental organizations for the West Bank and Gaza shall be marked as assistance from the Government of the United States unless the Secretary of State or the Administrator of the United States Agency for International Development determines that such marking will endanger the lives or safety of persons delivering or receiving such assistance or would have a material adverse effect on the implementation of such assistance.

“(c) CONGRESSIONAL NOTIFICATION.—Assistance made available under this Act to nongovernmental organizations for the West Bank and Gaza may not be provided until 15 days after the date on which the President has provided notice thereof to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of this Act.

“(d) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following:

“(1) ASSISTANCE TO MEET BASIC HUMAN HEALTH NEEDS.—The provision of food, water, medicine, sanitation services, or other assistance to directly meet basic human health needs.

“(2) OTHER TYPES OF ASSISTANCE.—The provision of any other type of assistance if the President—

“(A) determines that the provision of such assistance will further the national security interests of the United States; and

“(B) not less than 25 days prior to the obligation of amounts for the provision of such assistance—

“(i) consults with the appropriate congressional committees regarding the specific programs, projects, and activities to be carried out using such assistance; and

“(ii) submits to the appropriate congressional committees a written memorandum that contains the determination of the President under subparagraph (A) and an explanation of how failure to provide the proposed assistance would be inconsistent with furthering the national security interests of the United States.

“(3) DEFINITION.—In this subsection, the term ‘appropriate congressional committees’ means—

“(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

“(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.”.

(b) OVERSIGHT AND RELATED REQUIREMENTS.—

(1) OVERSIGHT.—For each of the fiscal years 2007 and 2008, the Secretary of State shall certify to the appropriate congressional committees not later than 30 days prior to the initial obligation of amounts for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 that procedures have been established to ensure that the Comptroller General of the United States will have access to appropriate United States financial information in order to review the use of such assistance.

(2) VETTING.—Prior to any obligation of amounts for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual or entity that the Secretary knows, or has reason to believe, advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary shall, as appro-

appropriate, establish procedures specifying the steps to be taken in carrying out this paragraph and shall terminate assistance to any individual or entity that the Secretary has determined advocates, plans, sponsors, or engages in terrorist activity.

(3) PROHIBITION.—No amounts made available for any fiscal year for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 may be made available for the purpose of recognizing or otherwise honoring individuals or the families of individuals who commit, or have committed, acts of terrorism.

(4) AUDITS.—

(A) IN GENERAL.—The Administrator of the United States Agency for International Development shall ensure that independent audits of all contractors and grantees, and significant subcontractors and subgrantees, that receive amounts for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 are conducted to ensure, among other things, compliance with this subsection.

(B) AUDITS BY INSPECTOR GENERAL OF USAID.—Of the amounts available for any fiscal year for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961, up to \$1,000,000 for each such fiscal year may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of subparagraph (A). Such amounts are in addition to amounts otherwise available for such purposes.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the President should be guided by the principles and procedures described in section 620L of the Foreign Assistance Act of 1961, as added by subsection (a), in providing assistance to nongovernmental organizations for the West Bank and Gaza under any provision of law other than the Foreign Assistance Act of 1961.

#### SEC. 4. UNITED NATIONS AGENCIES AND PROGRAMS.

(a) REVIEW AND REPORT.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the President shall—

(A) conduct an audit of the functions of the entities specified in paragraph (2); and

(B) transmit to the appropriate congressional committees a report containing recommendations for the elimination of such entities and efforts that are duplicative or fail to ensure balance in the approach of the United Nations to Israeli-Palestinian issues.

(2) ENTITIES SPECIFIED.—The entities referred to in paragraph (1) are the following:

(A) The United Nations Division for Palestinian Rights.

(B) The Committee on the Exercise of the Inalienable Rights of the Palestinian People.

(C) The United Nations Special Coordinator for the Middle East Peace Process and Personal Representative to the Palestine Liberation Organization and the Palestinian Authority.

(D) The NGO Network on the Question of Palestine.

(E) The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories.

(F) Any other entity the Secretary determines results in duplicative efforts or funding or fails to ensure balance in the approach to Israeli-Palestinian issues.

(b) IMPLEMENTATION OF RECOMMENDATIONS BY PERMANENT REPRESENTATIVE.—

(1) IN GENERAL.—The United States Permanent Representative to the United Nations shall use the voice, vote, and influence of the United States at the United Nations to seek the implementation of the recommendations contained in the report required under subsection (a)(1)(B).

(2) WITHHOLDING OF FUNDS.—Until such recommendations have been implemented, the Secretary of State is authorized to 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 for such entities.

(c) GAO AUDIT.—The Comptroller General shall conduct an audit of the status of the implementation of the recommendations contained in the report required under subsection (a)(1)(B).

(d) **WITHHOLDING OF FUNDS WITH RESPECT TO THE PALESTINIAN AUTHORITY.**—The Secretary of State is authorized to 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 for any United Nations affiliated or specialized agency that provides assistance directly to the Palestinian Authority during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

**SEC. 5. DESIGNATION OF TERRITORY CONTROLLED BY THE PALESTINIAN AUTHORITY AS TERRORIST SANCTUARY.**

It is the sense of Congress that, during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority, the territory controlled by the Palestinian Authority should be deemed to be in use as a sanctuary for terrorists or terrorist organizations for purposes of section 6(j)(5) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(5)) and section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f).

**SEC. 6. DENIAL OF VISAS FOR OFFICIALS OF THE PALESTINIAN AUTHORITY.**

(a) **IN GENERAL.**—A visa shall not be issued to any alien who is an official of, affiliated with, or serving as a representative of the Palestinian Authority during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

(b) **WAIVER.**—Subsection (a) shall not apply—

(1) if the President determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to an alien described in such subsection is important to the national security interests of the United States; or

(2) with respect to visas issued in connection with United States obligations under the Act of August 4, 1947 (61 Stat. 756) (commonly known as the “United Nations Headquarters Agreement Act”).

**SEC. 7. TRAVEL RESTRICTIONS ON OFFICIALS AND REPRESENTATIVES OF THE PALESTINIAN AUTHORITY AND THE PALESTINE LIBERATION ORGANIZATION STATIONED AT THE UNITED NATIONS IN NEW YORK CITY.**

The President shall restrict the travel of officials and representatives of the Palestinian Authority and of the Palestine Liberation Organization who are stationed at the United Nations in New York City to a 25-mile radius of the United Nations headquarters building during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

**SEC. 8. PROHIBITION ON PALESTINIAN AUTHORITY REPRESENTATION IN THE UNITED STATES.**

(a) **PROHIBITION.**—Notwithstanding any other provision of law, it shall be unlawful to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by, the Palestinian Authority or the Palestine Liberation Organization during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

(b) **ENFORCEMENT.**—

(1) **ATTORNEY GENERAL.**—The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of subsection (a).

(2) **RELIEF.**—Any district court of the United States for a district in which a violation of subsection (a) occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of subsection (a).

(c) **WAIVER.**—

(1) **AUTHORITY.**—The President may waive the application of subsection (a) for a period of 180 days if the President determines and certifies to the appropriate congressional committees that such waiver is vital to the national security interests of the United States and provides an explanation of how the failure to waive the application of subsection (a) would be inconsistent with the vital national security interests of the United States.

(2) RENEWAL.—The President may renew the waiver described in paragraph (1) for successive 180-day periods if the President makes the determination and certification described in such paragraph for each such period.

**SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS.**

(a) UNITED STATES POLICY.—It shall be the policy of the United States that the United States Executive Director at each international financial institution shall use the voice, vote, and influence of the United States to prohibit assistance to the Palestinian Authority during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

(b) DEFINITION.—In this section, the term “international financial institution” has the meaning given the term in section 1701(c)(2) of the International Financial Institutions Act.

**SEC. 10. DIPLOMATIC CONTACTS WITH PALESTINIAN TERROR ORGANIZATIONS.**

It shall be the policy of the United States that no officer or employee of the United States Government shall negotiate or have substantive contacts with members or official representatives of Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, al-Aqsa Martyrs Brigade, or any other Palestinian terrorist organization, unless and until such organization—

- (1) recognizes Israel’s right to exist;
- (2) renounces the use of terrorism;
- (3) dismantles the infrastructure necessary to carry out terrorist acts, including the disarming of militias and the elimination of all instruments of terror; and
- (4) recognizes and accepts all previous agreements and understandings between the State of Israel and the Palestine Liberation Organization and the Palestinian Authority.

**SEC. 11. DEFINITIONS.**

In this Act:

- (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—
  - (A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and
  - (B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.
- (2) PALESTINIAN AUTHORITY.—The term “Palestinian Authority” has the meaning given the term in section 620K(e)(2) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act).

**PURPOSE AND SUMMARY**

H.R. 4681, the “Palestinian Anti-Terrorism Act of 2006,” as reported by the Committee on International Relations, both demonstrates Congress’s disapproval of the policies of the new Hamas-dominated government of the Palestinian Authority and prevents United States taxpayer funds from supporting Hamas. H.R. 4681 sets out clear criteria which the Palestinian Authority must meet before it may receive funds pursuant to the Foreign Assistance Act, and restricts United States Government funding under that Act for nongovernmental organizations, preventing them from, in effect, supporting the Palestinian Authority indirectly. Once the Palestinian Authority has credibly demonstrated that it has changed course, assistance to it and to nongovernmental organizations in the West Bank and Gaza may resume flowing without significant restrictions imposed under H.R. 4681.

The bill also includes language intended to restrict funding for the Palestinian Authority through other mechanisms, such as the international financial institutions, and to restrict the presence of the Palestinian Authority or the Palestinian Liberation Organization in the United States.

## BACKGROUND AND NEED FOR THE LEGISLATION

The United States has provided, albeit with restrictions, hundreds of millions of dollars in assistance to the Palestinian people since the beginning of the Oslo process. Because of the problematic nature of the government of the Palestinian Authority, in particular its corruption and its weak adherence to its commitments to cooperate with Israel in the security realm, relatively little funding has been given directly to the Palestinian Authority. Rather, the bulk of the funding has gone to Palestinian nongovernmental organizations or through non-Palestinian based contractors or grantees of the United States Agency for International Development (USAID).

During Fiscal Years 2005 and 2006, the United States took the following actions to support the Palestinians and the Palestinian Authority financially: (1) Congress provided for \$75 million in Economic Support Funds (ESF) for the United States Agency of International Development's West Bank and Gaza program in the 2005 Consolidated Appropriations Act (P.L. 108-447); 2) Congress appropriated \$200 million in supplemental ESF in the Fiscal Year 2005 Iraq Supplemental Appropriations Act (P.L. 109-13); and 3) in the FY2006 Foreign Operations Appropriations Act (P.L. 109-102), Congress provided \$150 million in ESF for the West Bank and Gaza Strip.

After Mahmud Abbas ("Abu Mazen") became Prime Minister of the Palestinian Authority and, later, when he became President of the Authority after the death of Palestinian leader Yasir Arafat, the United States began to provide more funds directly to the Palestinian Authority. This new direction was an attempt to assist, and to be seen to be assisting, the Palestinian Authority as it came out from under the domination of Arafat, and to encourage it to fully live up to its commitments and to govern properly.

Direct United States funding for the Palestinian Authority amounted to \$41 million in 1993-94. There was no direct funding from that time until 2003, when \$20 million was provided for Palestinian Authority infrastructure projects. In December, 2004, \$20 million was used to pay overdue Palestinian utility bills owed to Israeli companies. In May, 2005, an additional \$50 million was transferred to the Palestinian Authority, using a waiver, to improve roads, schools, health clinics, and water facilities. The direct aid was aimed to help ease the transition after Israel withdrew from Gaza. (The United States Government has since sought the return of these funds because of the Administration's cut-off of assistance, and as of April 2006, \$30 million has been returned. The State Department has said that it will continue to seek the return of the remainder.) In addition, \$2.3 million was used to by the United States Security Coordinator to provide non-lethal assistance (vehicles, riot gear, and basic provisions) to security forces under the command of the Palestinian Authority's Interior Ministry

Hamas, the Arabic acronym for the "Islamic Resistance Movement," is a terrorist organization responsible for the deaths of many innocent Israelis (of various religions and ethnicities) and Americans. It also acts in the political sphere and carries on welfare activities in support of its larger aim of remaking the Palestinian Authority as an Islamic state and destroying Israel.



The House has long been on record as opposing the participation of Hamas in the Palestinian government. On December 16, 2005, by a vote of 397–17, with seven voting “present,” the House passed House Resolution 575, asserting that “the inclusion of Hamas, or any other terrorist group on the State Department list of foreign terrorist organizations, into the Palestinian governing structure will inevitably raise serious policy considerations for the United States, potentially undermining the continued ability of the United States to provide financial assistance and conduct normal relations with the Palestinian Authority.”

Hamas subsequently won a significant majority of the seats (although only a plurality of votes cast) in the Palestinian elections in January of 2006.

In February, 2006, the Senate and the House passed Senate Concurrent Resolution 79, expressing, in clear and simple language, the sense of Congress that no United States assistance should be provided directly to the Palestinian Authority if any representative political party holding a majority of parliamentary seats within it maintains a position calling for the destruction of Israel.

Representative Ileana Ros-Lehtinen introduced H.R. 4681, the “Palestinian Anti-Terrorism Act of 2006” on February 1, 2006. This bill was referred to the House International Relations Committee. On April 6, 2006, the Committee considered the bill and ordered it reported favorably, with an amendment in the nature of a substitute.

#### HEARINGS

During recent years, the Committee on International Relations held the following hearings regarding the Palestinians or the Middle East peace process: March 2, 2006, United States Policy Toward the Palestinians in the Aftermath of Parliamentary Elections; February 10, 2005, The Way Forward in the Middle East Peace Process; and June 11, 2003, The Middle East Peace Process at a Crossroads.

The Subcommittee on the Middle East and Central Asia held hearings on the same topics as follows: March 8, 2006: Palestinian Authority Elections: Implications for Peace, Regional Security, and U.S. Assistance; September 21, 2005: The Middle East Peace Process and U.S. Strategic Priorities Post-Disengagement; and March 9, 2005: U.S. Policy Toward the Palestinians in the Post-Arafat Era.

In addition, on May 25, 2005, the Committee received Mr. Mahmud Abbas, President of the Palestinian Authority. On May 15, 2003, a classified briefing was given to Members by the Honorable William J. Burns, Assistant Secretary, Bureau of Near Eastern Affairs, Department of State.

Under the auspices of the Subcommittee on the Middle East and Central Asia or its Chair, meetings or briefings have been held with His Excellency Natan Sharansky, Minister for Jerusalem and Diaspora Affairs of the State of Israel (February 9, 2005); the Honorable William J. Burns, Assistant Secretary, Bureau of Near Eastern Affairs, U.S. Department of State (March 16, 2004, November 6, 2003, May 13, 2003, and February 13, 2003); and Ambassador Marc Otte, the European Union’s Special Representative for the Middle East Peace Process (March 10, 2004).

## COMMITTEE CONSIDERATION

On April 6, 2006, the Committee on International Relations met in open session and ordered favorably reported the bill, H.R. 4681, as amended, by a vote of 36–2, a quorum being present.

## VOTE(S) OF THE COMMITTEE

Clause (3)(b) of rule XIII of the Rules of the House of Representatives requires that the results of each record vote on an amendment or motion to report, together with the names of those voting for or against, be printed in the Committee Report.

A motion to report H.R. 4681, as amended, favorably to the House was agreed to by a record vote of 36 ayes to 2 noes.

Voting yes: Hyde, Smith (NJ), Burton, Gallegly, Ros-Lehtinen, Rohrabacher, Royce, Chabot, Tancredo, Issa, Flake, Green, Weller, McCotter, Harris, Wilson, Boozman, Barrett, Fortenberry, McCaul, Poe, Lantos, Berman, Ackerman, Faleomavaega, Sherman, Wexler, Engel, Meeks, Crowley, Berkley, Schiff, Smith (WA), Chandler, Cardoza, and Carnahan.

Voting no: Blumenauer and McCollum.

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 4, 2006.

Hon. HENRY J. HYDE,  
*Chairman, Committee on International Relations,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4681, the Palestine Anti-Terrorism Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sam Papenfuss.

Sincerely,

DONALD B. MARRON,  
*Acting Director.*

Enclosure.

*H.R. 4681—Palestine Anti-Terrorism Act of 2006*

H.R. 4681 would impose restrictions on aid provided to the Palestinian Authority (PA) and impose other restrictions on activity by the PA and its officials in the United States. CBO estimates that

implementing H.R. 4681 would have no significant budgetary impact because the Administration has effectively implemented the provisions in the bill. CBO estimates that the bill would not affect direct spending or receipts. H.R. 4681 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Section 2 would prohibit the United States from providing aid to the PA unless the President has certified that:

- No elements of the PA have any ties to terrorist organizations,
- The PA has publicly recognized Israel's right to exist as a Jewish state,
- The PA is recognizing and following previous agreements with respect to establishing peace between Israel and the PA,
- The PA is working to eliminate terrorism in its jurisdiction, and
- The PA is moving towards a more transparent and accountable government.

The prohibition would not apply to support for independent elections commissions and the Middle East peace process.

Section 3 would allow aid to the West Bank or Gaza only if such aid promotes the national security interests of the United States and for basic human health needs, such as water, food, medicine, or sanitation. According to the Department of State, this humanitarian aid will total about \$250 million in 2006 (from funds already appropriated), though aid for future years is uncertain.

Section 4 would authorize the Secretary of State to withhold, in part, U.S. contributions to the assessed budget of the United Nations (UN) under the following conditions:

- The UN fails to implement recommendations from an audit of its approach to Israeli-Palestinian issues, or
- UN specialized or affiliated agencies provide direct assistance to the PA.

Based on information from the Department of State, CBO does not expect that these conditions would be met. Consequently, the department would continue to make contributions. (Enacting the bill could result in direct spending savings if the department does withhold contributions after the appropriation of funds for that purpose, because it would affect outlays from funds already appropriated. However, CBO believes that action would be unlikely.)

The CBO staff contact is Sam Papenfuss. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### PERFORMANCE GOALS AND OBJECTIVES

This bill will have accomplished its principle goals if it results either in a change in the policies of the Palestinian Authority or the withholding of direct United States assistance to it (except as specifically provided).

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, of the Constitution.

## SECTION-BY-SECTION ANALYSIS

Section-by-section Analysis of the Amendment in the Nature of a Substitute adopted by the Committee on International Relations:

Section 1 provides a short title for the bill.

Section 2(a) contains a declaration of policy. According to the declaration of policy, it shall be the policy of the United States: (1) to support a peaceful, two-state solution to end the conflict between Israel and the Palestinians in accordance with the “Roadmap”; (2) to oppose those organizations, individuals, and countries that support terrorism and violence; (3) to urge members of the international community to avoid contact with and refrain from financially supporting Hamas or a Hamas-controlled Palestinian Authority until Hamas agrees to recognize Israel, renounce violence, disarm, and accept prior agreements, including the roadmap; (4) to promote the emergence of a democratic Palestinian governing authority that: (A) denounces and combats terrorism; (B) has agreed to and is taking action to disarm and dismantle any terrorist agency, network, or facility; (C) has agreed to work to eliminate anti-Israel and anti-Semitic incitement and the commemoration of terrorists in Palestinian society; (D) has agreed to respect the sovereignty of its neighbors; (E) acknowledges, respects, and upholds the human rights of all people; (F) implements the rule of law, good governance, and democratic practices, including conducting free, fair, and transparent elections in compliance with international standards; (G) ensures institutional and financial transparency and accountability; and (H) has agreed to recognize the State of Israel as an independent, sovereign, Jewish, democratic state; and (5) to continue to support assistance to the Palestinian people.

It is the view of the Committee that funding levels for assistance to the Palestinian people should be maintained, or even increased, given their needs, in coming years.

Section 2(b) redesignates an improperly designated provision added to the Foreign Assistance Act during the 104th Congress and adds a new section 620K of the Foreign Assistance Act entitled “Limitation on Assistance to the Palestinian Authority.” The remainder of the analysis of this subsection consists of an analysis of new section 620K.

Under subsection (a) (of new section 620K), except as provided in subsection (e), assistance under the Foreign Assistance Act may be provided to the Palestinian Authority only during a period for which a certification under subsection (b) (a “certification”) is in effect.

It should be noted that the section speaks in a mandatory sense only to assistance under the Foreign Assistance Act and only to direct assistance to the Palestinian Authority (as defined in section 620K). However, it is the sense of Congress, as noted in Subsection (e) of section 2, that the President should be guided by the principles and procedures described in section 620K of the Foreign Assistance Act, as added by subsection (b) of section 2, in providing

direct assistance to the Palestinian Authority under any provision of law other than the Foreign Assistance Act of 1961.

In addition, it should be noted that all of the special authorities of the Foreign Assistance Act apply, including the provisions providing that assistance to protect human health may be provided even if assistance would otherwise be prohibited (section 104 of the Act). For example, the Committee did not include a specific exception to permit direct assistance to the Palestinian Authority to help it deal with avian flu: sufficient authority for such assistance is already included in the Foreign Assistance Act.

Subsection (b) defines a certification as being one which is transmitted by the President to Congress that contains a determination of the President that: (a) no ministry, agency, or instrumentality of the Palestinian Authority is controlled by a foreign terrorist organization and no member of a foreign terrorist organization serves in a senior policy-making position in a ministry, agency, or instrumentality of the Palestinian Authority; (b) the Palestinian Authority has publicly acknowledged Israel's right to exist as a Jewish state; and recommitted itself and is adhering to all previous agreements and understandings with the Government of the United States, the Government of Israel, and the international community, including agreements and understandings pursuant to the Roadmap; and (c) the Palestinian Authority has taken effective steps and made demonstrable progress toward: completing the process of purging from its security services individuals with ties to terrorism; dismantling all terrorist infrastructure within its jurisdiction, confiscating unauthorized weapons, arresting and bringing terrorists to justice, destroying unauthorized arms factories, thwarting and preempting terrorist attacks, and fully cooperating with Israel's security services; halting all anti-Israel incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and replacing these materials, including textbooks, with materials that promote tolerance, peace, and coexistence with Israel; ensuring democracy, the rule of law, and an independent judiciary, and adopting other reforms such as ensuring transparent and accountable governance; and ensuring the financial transparency and accountability of all government ministries and operations. It is the intent of the Committee that the reference to "adherence" to agreements and understandings does not require perfect performance, but that a rule of reason apply.

Subsection (c) provides that in order to maintain a certification in effect, the President must transmit a recertification within 6 months of the President's last certification (except that a recertification must be made within 90 days, in the case of the first recertification under the subsection). If the President is unable to make a recertification, he shall transmit to Congress a report that contains the reasons the President is unable to make such a recertification.

Subsection (d) provides that assistance to the Palestinian Authority under the Foreign Assistance Act not be provided until 15 days until after a notice thereof is provided by the President to the Committees on International Relations and Appropriations of the House and to the Committees on Foreign Relations and Appropria-

tions of the Senate under the provisions of section 634A of the Foreign Assistance Act.

Subsection (e) provides for exceptions to the general rule of subsection (a). The following kinds of assistance may be provided to the Palestinian Authority:

(1) Assistance to any Palestinian independent election commission, if the President transmits to Congress a certification that contains a determination of the President that no member of the commission is a member of, affiliated with, or appointed by, a foreign terrorist organization and that each member of such commission is independent of the influence of any political party or movement.

(2) Assistance to the Office of the President of the Palestinian Authority, which may only be provided for non-security expenses directly related to facilitating a peaceful solution of the Israeli-Palestinian conflict, or for the personal security detail of the President of the Palestinian Authority, if the President transmits to Congress a certification containing a determination of the President that: (A) such assistance is critical to facilitating a peaceful solution of the Israeli-Palestinian conflict; (B) the President of the Palestinian Authority is not a member of or affiliated with a foreign terrorist organization and has rejected the use of terrorism to resolve the Israeli-Palestinian conflict; (C) such assistance will not be used to provide funds to any individual who is a member of or affiliated with a foreign terrorist organization or who has not rejected the use of terrorism to resolve the Israeli-Palestinian conflict; and (D) such assistance will not be retransferred to an other entity within or outside of the Palestinian Authority except as payment for legal goods supplied or services rendered.

Some members of the Committee believe that the Administration has made a determination to treat the Palestinian Authority in its constituent parts, with parts of the Palestinian Authority that are not controlled by the Hamas Prime Minister or ministries that report to the Prime Minister as not being subject to the administrative cutoff of funding that was announced earlier this year. Some members of the Committee have also expressed concern regarding President Abbas' ability to promote meaningful change and dialogue, based on his past performance and, therefore, with the notion that broad assistance to the office of the President is appropriate.

The Committee approved the narrow exceptions in subsection (e) to allow certain flexibility to promote democratic change through support for truly independent election commissions. The Committee believes that providing assistance for the President's office for the limited purposes of maintaining personal protection for President Abbas and to fund expenses directly related to facilitating a peaceful solution of the Israeli-Palestinian conflict is appropriate. In determining what expenses qualify as "directly related to facilitating a peaceful solution of the Israeli-Palestinian conflict," the Committee expects close consultation from the Administration with respect to such expenses. At the same time, the Committee does not intend that the expression "directly relating to facilitating a peaceful resolution" be limited to assistance, for example, for travel, or to pay the salaries of negotiating teams.

Assistance under this subsection (e) is subject to the requirement that the President determine that the provision of such assistance

is important to the national security interests of the United States and that 30 days prior to the obligation of such amounts the President consult with the appropriate congressional committees regarding the specific programs, projects, and activities to be carried out and submit a written memorandum containing that determination.

The 30-day consultation period may run concurrently with the 15-day notification period under subsection (d) (relating to procedures under section 634A of the Foreign Assistance Act).

Subsection (f) provides definitions for the section. The Palestinian Authority is defined as the “interim Palestinian administrative organization that governs part of the West Bank and all of the Gaza Strip (or any successor Palestinian governing entity), including the Palestinian Legislative Council.” It does not include municipalities within the area governed by the Palestinian Authority.

Subsection (c) of Section 2 makes the provisions of section 620K of the Foreign Assistance Act of 1961, as added by subsection (b), applicable to the unexpended balances of funds obligated prior to the date of the enactment of this Act. It is the view of the Committee that this provision should not result in any diminution of funding available for the Palestinian people, and that such funds should be made available for the Palestinian people through other mechanisms.

Subsection (d) of Section 2 requires the Comptroller General to submit within 180 days of enactment a report on proposed procedures by which United States assistance to the Palestinian Authority under the Foreign Assistance Act will be audited by relevant departments and agencies of the United States and to make any recommendations for the improvement of such procedures.

Subsection (e) of Section 2 expresses the sense of Congress that the President should be guided by the principles and procedures described in section 620K of the Foreign Assistance Act, as added by subsection (b) of Section 2, in providing direct assistance to the Palestinian Authority under any provision of law other than the Foreign Assistance Act of 1961. Although new section 620K does not purport to govern assistance provided outside the Foreign Assistance Act, it is important that the spirit of section 620K be followed insofar as possible in the provision of other assistance.

Section 3(a) adds a new section 620L of the Foreign Assistance Act entitled “Limitation on Assistance for the West Bank and Gaza.” The remainder of the analysis of this subsection consists of an analysis of new section 620L.

Under subsection (a) (of new section 620L) assistance may be provided under the Foreign Assistance Act to nongovernmental organizations for the West Bank and Gaza (except as provided in subsection (d)) only during a period for which a certification described in section 620K(b) of this Act is in effect with respect to the Palestinian Authority.

Subsection (b) provides a statutory-enhanced marking requirement for aid provided to the Palestinians through nongovernmental organizations because the Committee deems it especially important that the Palestinians understand that the Congress is concerned about their welfare and endeavoring to help them, despite the government that they elected. Assistance provided under the Foreign Assistance Act to nongovernmental organizations for the West Bank and Gaza shall be marked as assistance from the Govern-

ment of the United States unless the Secretary, or the Administrator of the United States Agency for International Development, determines that such marking will endanger the lives or safety of persons delivering or receiving such assistance or would have a material adverse effect on the implementation of that assistance.

Subsection (c) requires notification to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate 15 days prior to the provision of any assistance under section 620L, in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act.

The Committee is concerned that notifications for the purpose of this subsection, as well as for other purposes under section 634A, not be made during Congressional recesses absent mutually acceptable arrangements, made in advance, with each of the relevant Committees.

This notification period may run concurrently with the consultation period of 25 days applicable to "any other" assistance specified in paragraph (2) of subsection (d) of proposed section 620L.

Subsection (d) provides exceptions to the general rule of subsection (a), allowing:

(1) The provision of food, water, medicine, sanitation services, or other assistance to meet basic human health needs; and

(2) Any other type of assistance, if the President: (A) determines that the provision of such assistance will further the national security interests of the United States; and (B) not less than 25 days prior to the obligation of amounts for the provision of such assistance: (1) consults with the appropriate congressional committees regarding the specific programs, projects, and activities to be carried out using such assistance; and (2) submits to the appropriate congressional committees a written memorandum that contains the determination of the President under subparagraph (A) and an explanation of how failure to provide the proposed assistance would be inconsistent with furthering the national security interests of the United States.

The exceptions were reviewed carefully in the Committee's approach to H.R. 4681. The Committee believes that despite (or, perhaps, because of) the results of the January elections the United States must maintain its historical commitment to help meet the humanitarian needs of the Palestinian people. In addition, the Committee recognized that, beyond such assistance, it may be prudent to engage in programs other than those designed to meet basic human health needs, such as democracy or rule-of-law programs that support the growth of institutions outside the Palestinian Authority, or other critical needs. The Committee therefore agreed that the Administration could reasonably propose such assistance consistent with furthering United States national security interest, and subject to the statutory mandate for congressional consultation. The Committee expects full consultation from the Executive Branch as it carries forward all its assistance programs, but particularly programs other than those described as meeting basic human health needs, and for that reason an extended congressional consultation period is required for such "other" assistance.



For this subsection, the term ‘appropriate congressional committees’ means the Committee on International Relations and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

Subsection (b) of section 3 provides for several enhanced procedures to oversee the operations under new section 620L.

(1) For each of the fiscal years 2007 and 2008, the Secretary of State shall certify to the appropriate congressional committees not later than 30 days prior to the initial obligation of amounts for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 that procedures have been established to ensure that the Comptroller General of the United States will have access to appropriate United States financial information in order to review the use of such assistance.

(2) Prior to any obligation of amounts for each fiscal year for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual or entity that the Secretary knows, or has reason to believe, advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary shall, as appropriate, establish procedures specifying the steps to be taken to carry out this paragraph and shall terminate assistance to any individual or entity that the Secretary has determined advocates, plans, sponsors, or engages in terrorist activity.

(3) No amounts made available for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 may be made available for the purpose of recognizing or otherwise honoring individuals, or the families of individuals, who commit, or have committed, acts of terrorism.

(4) The Administrator of the United States Agency for International Development shall ensure that independent audits of all contractors and grantees, and significant subcontractors and subgrantees, which receive amounts for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 are conducted to ensure, among other things, compliance with this subsection. Of the amounts available for any fiscal year for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961, up to \$1,000,000 for each such fiscal year may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements described in the preceding sentence. Such amounts are in addition to amounts otherwise available for such purposes.

Subsection (c) of section 3 expresses the sense of Congress that the President should be guided by the principles and procedures described in section 620L of the Foreign Assistance Act, as added by subsection (a) of section 3, in providing direct assistance to the Palestinian Authority under any provision of law other than the Foreign Assistance Act of 1961. Although new section 620L does not purport to govern assistance provided outside the Foreign Assistance Act, it is important that the spirit of section 620L be followed insofar as possible in the provision of other assistance.

Section 4 (a) provides that not later than 60 days after the date of the enactment of this Act, the President shall (A) conduct an audit of the functions of the United Nations Division for Palestinian Rights, the Committee on the Exercise of the Inalienable Rights of the Palestinian People, the United Nations Special Coordinator for the Middle East Peace Process and Personal Representative to the Palestine Liberation Organization and the Palestinian Authority, the NGO Network on the Question of Palestine, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, and any other entity the Secretary determines results in duplicative efforts or funding or fails to ensure balance in the approach to Israeli-Palestinian issues; and (B) transmit to the appropriate congressional committees a report containing recommendations for the elimination of such entities and efforts that are duplicative or fail to ensure balance in the approach of the United Nations to Israeli-Palestinian issues.

Section 4(b)(1) provides that the United States Permanent Representative to the United Nations shall use the voice, vote, and influence of the United States at the United Nations to seek the implementation of the recommendations contained in the report required under subsection (a).

Section 4(b)(2) provides that until such recommendations have been implemented, the Secretary of State is authorized to 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 for such entities. This language is not mandatory.

Section 4(c) provides that the Comptroller General shall conduct an audit of the status of the implementation of the recommendations contained in the report required under subsection (a)(1)(B).

Section 4(d) provides that the Secretary of State is authorized to 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 for any United Nations affiliated or specialized agency that provides assistance directly to the Palestinian Authority during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority. This language is not mandatory.

Section 5 expresses the sense of Congress that, during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by this Act) is not in effect with respect to the Palestinian Authority, the territory controlled by the Palestinian Authority should be deemed to be in use as a sanctuary for terrorists or terrorist organizations for purposes of section 6(j)(5) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(5)) and section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f). This language is not mandatory.

Section 6 provides, in its subsection (a), a general rule that a visa shall not be issued to any alien who is an official of, affiliated with, or serving as a representative of the Palestinian Authority during any period for which a certification described in section 620K(b) of

the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority. Under subsection (b), the general rule will not apply if the President or the President's designee determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to an alien described in such subsection is important to the national security interests of the United States, or to the President of the Palestinian Authority and such President's personal assistants or representatives during the time such President is not determined to be a member of Hamas or any other foreign terrorist organization. The general rule of subsection (a) also does not apply in the case of visas granted in connection with obligations of the United States under the United Nations Headquarters Agreement Act.

Section 7 requires the President to restrict the travel of officials and representatives of the Palestinian Authority and of the Palestine Liberation Organization who are stationed at the United Nations in New York City to a 25-mile radius of the United Nations headquarters building during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

The Committee is aware that the representatives stationed at the United Nations are appointed as representatives of the Palestine Liberation Organization (PLO), not the Palestinian Authority (PA). The legislation specifies "of the Palestinian Authority and of the Palestine Liberation Organization" because of past efforts by the PA to assume greater control over Palestinian representative offices abroad, which creates uncertainty as to which of these entities, the PA or the PLO, will have control over these representative offices in the future.

Section 8 (a) provides the general rule that it shall be unlawful to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by, the Palestinian Authority or the Palestine Liberation Organization during any period for which a certification described in section 620K(b) of the Foreign Assistance Act (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

The Committee is aware that the representatives stationed at the United Nations are appointed as representatives of the Palestine Liberation Organization (PLO), not the Palestinian Authority (PA). The legislation specifies "the Palestinian Authority or the Palestine Liberation Organization" because of past efforts by the PA to assume greater control over Palestinian representative offices abroad, which creates uncertainty as to which of these entities, the PA or the PLO, will have control over these representative offices in the future.

Section 8(b) provides that the Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of subsection (a), and that any district court of the United States for a district in which a violation of subsection (a) occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equi-

table relief as it shall deem necessary to enforce the provisions of subsection (a) of this section 8.

Section 8(c)(1) provides that the President may waive the application of subsection (a) for a period of 180 days if the President determines and certifies to the appropriate congressional committees that such waiver is vital to the national security interests of the United States and provides an explanation of how the failure to waive the application of subsection (a) would be inconsistent with the vital national security interests of the United States.

Section 8(c)(2) permits the President to renew the waiver described in paragraph (1) of subsection 8(c) for successive 180-day periods if the President makes the determination and certification described in such paragraph for each such period.

Section 9(a) provides the general rule that it shall be the policy of the United States that the United States Executive Director at each international financial institution shall use the voice, vote, and influence of the United States to prohibit assistance to the Palestinian Authority during any period for which a certification described in section 620K(b) of the Foreign Assistance of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority. This is not a mandatory provision.

Section 9(b) defines the term “international financial institution” as having the meaning given the term in section 1701(c)(2) of the International Financial Institutions Act.

Section 10 provides that it shall be the policy of the United States that no officer or employee of the United States Government shall negotiate or have substantive contacts with members or official representatives of Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, al-Aqsa Martyrs Brigade, or any other Palestinian terrorist organization, unless and until such organization (1) recognizes Israel’s right to exist; (2) renounces the use of terrorism; (3) dismantles the infrastructure necessary to carry out terrorist acts, including the disarming of militias and the elimination of all instruments of terror; and (4) recognizes and accepts all previous agreements and understandings between the State of Israel and the Palestine Liberation Organization and the Palestinian Authority. This is a non-mandatory policy provision; but the Committee expects that it will be adhered to by the Administration.

Section 11 provides definitions for the bill. The term “appropriate congressional committees” means the Committee on International Relations and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate. The term “Palestinian Authority” has the meaning given the term in section 620K(e)(2) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act).

#### NEW ADVISORY COMMITTEES

H.R. 4681 does not establish or authorize any new advisory committees.

#### CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 4681 does not apply to the legislative branch.

## FEDERAL MANDATES

H.R. 4681 provides no Federal mandates.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## FOREIGN ASSISTANCE ACT OF 1961

\* \* \* \* \*

## PART III

## CHAPTER 1—GENERAL PROVISIONS

\* \* \* \* \*

**SEC. [620G] 620J. DEPLETED URANIUM AMMUNITION.**

(a) \* \* \*

\* \* \* \* \*

**SEC. 620K. LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY.**

(a) *LIMITATION.*—*Except as provided in subsection (e), assistance may be provided under this Act to the Palestinian Authority only during a period for which a certification described in subsection (b) is in effect.*

(b) *CERTIFICATION.*—*A certification described in this subsection is a certification transmitted by the President to Congress that contains a determination of the President that—*

(1) *no ministry, agency, or instrumentality of the Palestinian Authority is controlled by a foreign terrorist organization and no member of a foreign terrorist organization serves in a senior policy making position in a ministry, agency, or instrumentality of the Palestinian Authority;*

(2) *the Palestinian Authority has—*

(A) *publicly acknowledged Israel's right to exist as a Jewish state; and*

(B) *recommitted itself and is adhering to all previous agreements and understandings by the Palestine Liberation Organization and the Palestinian Authority with the Government of the United States, the Government of Israel, and the international community, including agreements and understandings pursuant to the Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly referred to as the 'Roadmap');* and

(3) *the Palestinian Authority has taken effective steps and made demonstrable progress toward—*

(A) *completing the process of purging from its security services individuals with ties to terrorism;*

(B) *dismantling all terrorist infrastructure, confiscating unauthorized weapons, arresting and bringing terrorists to*

*justice, destroying unauthorized arms factories, thwarting and preempting terrorist attacks, and fully cooperating with Israel's security services;*

*(C) halting all anti-Israel incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and replacing these materials, including textbooks, with materials that promote tolerance, peace, and coexistence with Israel;*

*(D) ensuring democracy, the rule of law, and an independent judiciary, and adopting other reforms such as ensuring transparent and accountable governance; and*

*(E) ensuring the financial transparency and accountability of all government ministries and operations.*

*(c) RECERTIFICATIONS.—Not later than 90 days after the date on which the President transmits to Congress an initial certification under subsection (b), and every six months thereafter—*

*(1) the President shall transmit to Congress a recertification that the requirements contained in subsection (b) are continuing to be met; or*

*(2) if the President is unable to make such a recertification, the President shall transmit to Congress a report that contains the reasons therefor.*

*(d) CONGRESSIONAL NOTIFICATION.—Assistance made available under this Act to the Palestinian Authority may not be provided until 15 days after the date on which the President has provided notice thereof to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of this Act.*

*(e) EXCEPTIONS.—*

*(1) IN GENERAL.—Subsection (a) shall not apply with respect to the following:*

*(A) ASSISTANCE TO INDEPENDENT ELECTIONS COMMISSIONS.—Assistance to any Palestinian independent election commission if the President transmits to Congress a certification that contains a determination of the President that—*

*(i) no member of such commission is a member of, affiliated with, or appointed by a foreign terrorist organization; and*

*(ii) each member of such commission is independent of the influence of any political party or movement.*

*(B) ASSISTANCE TO SUPPORT THE MIDDLE EAST PEACE PROCESS.—Assistance to the Office of the President of the Palestinian Authority for non-security expenses directly related to facilitating a peaceful resolution of the Israeli-Palestinian conflict or for the personal security detail of the President of the Palestinian Authority if the President transmits to Congress a certification that contains a determination of the President that—*

*(i) such assistance is critical to facilitating a peaceful resolution of the Israeli-Palestinian conflict;*

*(ii) the President of the Palestinian Authority is not a member of or affiliated with a foreign terrorist orga-*

nization and has rejected the use of terrorism to resolve the Israeli-Palestinian conflict;

(iii) such assistance will not be used to provide funds to any individual who is a member of or affiliated with a foreign terrorist organization or who has not rejected the use of terrorism to resolve the Israeli-Palestinian conflict; and

(iv) such assistance will not be retransferred to any other entity within or outside of the Palestinian Authority except as payment for legal goods or services rendered.

(2) **ADDITIONAL REQUIREMENTS.**—Assistance described in paragraph (1) may be provided only if the President—

(A) determines that the provision of such assistance is important to the national security interests of the United States; and

(B) not less than 30 days prior to the obligation of amounts for the provision of such assistance—

(i) consults with the appropriate congressional committees regarding the specific programs, projects, and activities to be carried out using such assistance; and

(ii) submits to the appropriate congressional committees a written memorandum that contains the determination of the President under subparagraph (A).

(3) **DEFINITION.**—In this subsection, the term “appropriate congressional committees” means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(f) **DEFINITIONS.**—In this section:

(1) **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)).

(2) **PALESTINIAN AUTHORITY.**—The term “Palestinian Authority” means the interim Palestinian administrative organization that governs part of the West Bank and all of the Gaza Strip (or any successor Palestinian governing entity), including the Palestinian Legislative Council.

**SEC. 620L. LIMITATION ON ASSISTANCE FOR THE WEST BANK AND GAZA.**

(a) **LIMITATION.**—Except as provided in subsection (d), assistance may be provided under this Act to nongovernmental organizations for the West Bank and Gaza only during a period for which a certification described in section 620K(b) of this Act is in effect with respect to the Palestinian Authority.

(b) **MARKING REQUIREMENT.**—Assistance provided under this Act to nongovernmental organizations for the West Bank and Gaza shall be marked as assistance from the Government of the United States unless the Secretary of State or the Administrator of the United States Agency for International Development determines that such marking will endanger the lives or safety of persons delivering

or receiving such assistance or would have a material adverse effect on the implementation of such assistance.

(c) *CONGRESSIONAL NOTIFICATION.*—Assistance made available under this Act to nongovernmental organizations for the West Bank and Gaza may not be provided until 15 days after the date on which the President has provided notice thereof to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of this Act.

(d) *EXCEPTIONS.*—Subsection (a) shall not apply with respect to the following:

(1) *ASSISTANCE TO MEET BASIC HUMAN HEALTH NEEDS.*—The provision of food, water, medicine, sanitation services, or other assistance to directly meet basic human health needs.

(2) *OTHER TYPES OF ASSISTANCE.*—The provision of any other type of assistance if the President—

(A) determines that the provision of such assistance will further the national security interests of the United States; and

(B) not less than 25 days prior to the obligation of amounts for the provision of such assistance—

(i) consults with the appropriate congressional committees regarding the specific programs, projects, and activities to be carried out using such assistance; and

(ii) submits to the appropriate congressional committees a written memorandum that contains the determination of the President under subparagraph (A) and an explanation of how failure to provide the proposed assistance would be inconsistent with furthering the national security interests of the United States.

(3) *DEFINITION.*—In this subsection, the term “appropriate congressional committees” means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

\* \* \* \* \*



#### ADDITIONAL VIEWS OF HON. EARL BLUMENAUER

All of us agree with current law that the United States cannot provide assistance to foreign terrorist organizations or governments controlled by terrorists, as well as the Quartet's demands that Hamas recognize Israel's right to exist, forswear violence, and accept previous Israeli-Palestinian agreements. However, this bill goes much further by permanently prohibiting all direct assistance to the Palestinian Authority and almost all non-governmental assistance to the Palestinian people unless any Palestinian government—Hamas, Fatah or otherwise—meets a series of unlikely all-or-nothing conditions. It even restricts aid to Hamas' opponents, limits diplomatic contacts with moderate Palestinian officials and insists on conditions that have nothing to do with Hamas' election or achieving the vision of a Palestinian state living side by side with Israel in peace.

Though I know it is not the intent of the authors, this legislation risks harming Israel's security by making the possibility of constructive engagement more difficult and less likely. It ignores the possibility of progress with any Palestinian government being made in the context of negotiations. By placing permanent restrictions on the tools that the United States can use to promote Palestinian reform and Israeli security, this is the wrong answer to a most difficult challenge.

EARL BLUMENAUER.

