

PALESTINIAN ANTI-TERRORISM ACT OF 2006

—————
MAY 15, 2006.—Ordered to be printed
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Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 4681]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, 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.

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THE AMENDMENT

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 relevant 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 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), including steps necessary to apply the policies and provisions of subsection (a) to the Permanent Observer Mission of Palestine to the United Nations.

(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 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,” both demonstrates Congress’ disapproval of the policies of the new Hamas-dominated government of the Palestinian Authority and prevents United States’ taxpayer funds from supporting Hamas. This legislation primarily falls under the jurisdiction of the House Committee on International Relations. However, the legislation as reported by the International Relations Committee contains provisions that fall within the House Committee on the Judiciary’s juris-

diction. The bill provides 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 the President has not certified that the Authority is taking a number of enumerated steps to reject terrorism and embrace peace with Israel. H.R. 4681 also provides the Attorney General with the authority to enforce a provision of the bill, which makes it 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; and grants the relevant district court the ability to grant injunctive relief.

BACKGROUND AND NEED FOR THE LEGISLATION

The United States has provided hundreds of millions of dollars in assistance to the Palestinian people since the beginning of the Oslo peace process. Hamas, the Arabic acronym for the “Islamic Resistance Movement,” is a terrorist organization responsible for the deaths of many innocent Israelis and Americans.¹ 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. Hamas won a significant majority of the seats in the Palestinian elections in January of 2006.

The bill provides that with certain exceptions the United States government can only give assistance to the Palestinian Authority during a period for which a Presidential certification finds that 1) no ministry, agency, or instrumentality of the Authority is controlled by a foreign terrorist organization; 2) no member of a foreign terrorist organization serves in a senior policy making position in a ministry, agency, or instrumentality of the Authority; 3) the Authority has publicly acknowledged Israel’s right to exist as a Jewish state; 4) the Authority has recommitted itself and is adhering to all previous agreements and understandings by the Palestine Liberation Organization and the Authority with the United States, Israel, and the international community (including the “Roadmap to Peace”); and 5) the 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, 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 authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and replacing these materials, including textbooks, with material 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.

¹The Secretary of State designated Hamas as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act on October 8, 1997. See 62 Fed. Reg. 52650 (1997).

The bill provides 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 such a certification is not in effect. This bar to visa issuance shall not apply if the President determines and certifies to the appropriate congressional Committees, on a case-by-case basis, that the issuance of a visa to such an alien is important to the national security interests of the United States or with respect to visas issued in connection with United States obligations to let officials of governments into the United States for United Nations business.

The bill also provides that it shall be unlawful to establish or maintain an office 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 Presidential certification is not in effect with respect to the Authority (the President is provided with waiver authority.) The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate this provision, including steps necessary to apply it to the Permanent Observer Mission of Palestine to the United Nations.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 4681.

COMMITTEE CONSIDERATION

On May 10, 2006, the Committee met in open session and ordered favorably reported the bill H.R. 4681 with an amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Committee consideration of H.R. 4681.

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 rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4681, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 11, 2006.

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4681, the "Palestinian 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, who can be reached at 226-2840.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 4681—Palestinian 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.)

On May 4, 2006, CBO transmitted an estimate for H.R. 4681 as ordered reported by the House Committee on International Relations on April 6, 2006. The two versions of the bill are similar, and our estimates are identical.

The CBO staff contact for this estimate is Sam Papenfuss, who can be reached at 226–2840. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 4681 provides 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 the President has not certified that the Palestinian Authority is taking a number of enumerated steps to reject terrorism and embrace peace with Israel. The bill also provides that it shall be unlawful to establish or maintain an office 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 Presidential certification is not in effect with respect to the Authority (the President is provided with waiver authority.) The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate this provision, including steps necessary to apply it to the Permanent Observer Mission of Palestine to the United Nations.

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 art. I, § 8, of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The following is a section-by-section analysis and discussion of the provisions within the Committee on the Judiciary's jurisdiction.

Under current law, representatives and members of Hamas are inadmissible into the United States.² Section 6 provides 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

²See section 212(a)(3)(B)(i)(IV)(aa), (V) of the Immigration and Nationality Act. The Attorney General may waive these grounds of inadmissibility to allow aliens to come temporarily to the United States. See section 212(d)(3) of the INA.

any period for which such a certification is not in effect. This bar to visa issuance shall not apply if the President determines and certifies to the appropriate congressional Committees, on a case-by-case basis, that the issuance of a visa to such an alien is important to the national security interests of the United States or with respect to visas issued in connection with United States obligations under the United Nations Headquarters Agreement Act of 1947 (“UNHAA”). The UNHAA provides that “[t]he Federal, State or local authorities of the United States shall not impose any impediments to transit to or from the headquarters district of . . . representatives of Members or officials of the United Nations . . . [and that L]aws and regulations in force in the United States regarding the entry of aliens shall not be applied in such manner as to interfere with th[ese] privileges. . . .”³

Subsection (a) of Section 8 provides that 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 Presidential certification (described above) is not in effect with respect to the PA.

Subsection (b) of section 8 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), including steps necessary to apply the policies and provisions of subsection (a) to the Permanent Observer Mission of Palestine to the United Nations. 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).

Subsection (c) 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. The President may renew the waiver for successive 180-day periods if the President makes the necessary determination and certification for each such period.

Language added by the Committee to extend enforcement of Section 8(a) to the Permanent Observer Mission to the United Nations is necessary to direct the Attorney General to follow past precedent in his enforcement activities and eliminate ambiguity in the legislative text.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

The bill was referred to this Committee for consideration of such provisions of the bill and the amendment as fall within the jurisdic-

³Sections 11 and 13 of the Agreement Between the United Nations and the United States of America Regarding the Headquarters of the United Nations, contained in J. Res., 61 Stat. 756 (August 4, 1947).

tion of this committee pursuant to clause 1(l) of Rule X of the Rules of the House of Representatives. The changes made to existing law by the amendment reported by the Committee on International Relations are shown in the report filed by that Committee (Rept. 109-462, Part 1). The amendments made by this Committee do not make any changes to existing law.

MARKUP TRANSCRIPT

BUSINESS MEETING
WEDNESDAY, MAY 10, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:08 a.m., in Room 2141, Rayburn House Office Building, the Honorable F. James Sensenbrenner, Jr. (Chairman of the Committee) presiding.

[Intervening business.]

Chairman SENSENBRENNER. Pursuant to notice, I now call up the bill H.R. 4681, the "Palestinian Anti-Terrorism Act of 2006," for purposes of markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any time, and the text as reported by the Committee on International Relations which the Members have before them will be considered as read, considered as the original text for purposes of amendment and open for amendment at any point.

[The bill, H.R. 4681, follows:]

109TH CONGRESS
2D SESSION

H. R. 4681

[Report No. 109-]

To promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2006

Ms. ROS-LEHTINEN (for herself, Mr. LANTOS, Mr. CANTOR, Mr. CHABOT, Mr. ACKERMAN, Mr. ENGEL, Mr. PENCE, Mr. WELLER, Ms. HARRIS, Mr. BURTON of Indiana, Mrs. MCCARTHY, Mr. CARDOZA, Mr. MACK, Ms. BEAN, Mr. CROWLEY, Mr. LYNCH, Mrs. JO ANN DAVIS of Virginia, Mr. CHANDLER, Mr. BROWN of South Carolina, Mr. MCCAUL of Texas, Mr. KING of New York, Mr. ISRAEL, Ms. BERKLEY, Mr. POE, Mr. ROYCE, Mrs. BLACKBURN, Mr. TANCREDO, Mr. SCHIFF, Mr. SHERMAN, and Mr. NADLER) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on the Judiciary and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

APRIL --, 2006

Reported from the Committee on International Relations with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 1, 2006]

A BILL

To promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SEC. 1. SHORT TITLE.**

4 *This Act may be cited as the “Palestinian Anti-Ter-*
5 *rorism Act of 2006”.*

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

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

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

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

18 (3) *to urge members of the international commu-*
19 *nity to avoid contact with and refrain from finan-*
20 *cially supporting the terrorist organization Hamas or*
21 *a Hamas-controlled Palestinian Authority until*
22 *Hamas agrees to recognize Israel, renounce violence,*
23 *disarm, and accept prior agreements, including the*
24 *Roadmap;*

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

3 (A) denounces and combats terrorism;

4 (B) has agreed to and is taking action to
5 disarm and dismantle any terrorist agency, net-
6 work, or facility;

7 (C) has agreed to work to eliminate anti-
8 Israel and anti-Semitic incitement and the com-
9 memoration of terrorists in Palestinian society;

10 (D) has agreed to respect the sovereignty of
11 its neighbors;

12 (E) acknowledges, respects, and upholds the
13 human rights of all people;

14 (F) implements the rule of law, good gov-
15 ernance, and democratic practices, including
16 conducting free, fair, and transparent elections
17 in compliance with international standards;

18 (G) ensures institutional and financial
19 transparency and accountability; and

20 (H) has agreed to recognize the State of
21 Israel as an independent, sovereign, Jewish,
22 democratic state; and

23 (5) to continue to support assistance to the Pal-
24 estinian people.

1 (b) *AMENDMENTS.*—Chapter 1 of part III of the For-
2 eign Assistance Act of 1961 (22 U.S.C. 2351 et seq.) is
3 amended—

4 (1) by redesignating the second section 620G (as
5 added by section 149 of Public Law 104–164 (110
6 Stat. 1436)) as section 620J; and

7 (2) by adding at the end the following new sec-
8 tion:

9 **“SEC. 620K. LIMITATION ON ASSISTANCE TO THE PALES-**
10 **TINIAN AUTHORITY.**

11 “(a) *LIMITATION.*—Except as provided in subsection
12 (e), assistance may be provided under this Act to the Pales-
13 tinian Authority only during a period for which a certifi-
14 cation described in subsection (b) is in effect.

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

19 “(1) no ministry, agency, or instrumentality of
20 the Palestinian Authority is controlled by a foreign
21 terrorist organization and no member of a foreign ter-
22 rorist organization serves in a senior policy making
23 position in a ministry, agency, or instrumentality of
24 the Palestinian Authority;

25 “(2) the Palestinian Authority has—

1 “(A) publicly acknowledged Israel’s right to
2 exist as a Jewish state; and

3 “(B) recommitted itself and is adhering to
4 all previous agreements and understandings by
5 the Palestine Liberation Organization and the
6 Palestinian Authority with the Government of
7 the United States, the Government of Israel, and
8 the international community, including agree-
9 ments and understandings pursuant to the Per-
10 formance-Based Roadmap to a Permanent Two-
11 State Solution to the Israeli-Palestinian Conflict
12 (commonly referred to as the ‘Roadmap’); and

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

15 “(A) completing the process of purging from
16 its security services individuals with ties to ter-
17 rorism;

18 “(B) dismantling all terrorist infrastruc-
19 ture, confiscating unauthorized weapons, arrest-
20 ing and bringing terrorists to justice, destroying
21 unauthorized arms factories, thwarting and pre-
22 empting terrorist attacks, and fully cooperating
23 with Israel’s security services;

24 “(C) halting all anti-Israel incitement in
25 Palestinian Authority-controlled electronic and

1 *print media and in schools, mosques, and other*
2 *institutions it controls, and replacing these ma-*
3 *terials, including textbooks, with materials that*
4 *promote tolerance, peace, and coexistence with*
5 *Israel;*

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

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

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

17 “(1) *the President shall transmit to Congress a*
18 *recertification that the requirements contained in sub-*
19 *section (b) are continuing to be met; or*

20 “(2) *if the President is unable to make such a*
21 *recertification, the President shall transmit to Con-*
22 *gress a report that contains the reasons therefor.*

23 “(d) *CONGRESSIONAL NOTIFICATION.*—*Assistance*
24 *made available under this Act to the Palestinian Authority*
25 *may not be provided until 15 days after the date on which*

1 *the President has provided notice thereof to the Committee*
2 *on International Relations and the Committee on Appro-*
3 *priations of the House of Representatives and to the Com-*
4 *mittee on Foreign Relations and the Committee on Appro-*
5 *priations of the Senate in accordance with the procedures*
6 *applicable to reprogramming notifications under section*
7 *634A(a) of this Act.*

8 “(e) *EXCEPTIONS.*—

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

11 “(A) *ASSISTANCE TO INDEPENDENT ELEC-*
12 *TIONS COMMISSIONS.*—*Assistance to any Pales-*
13 *tinian independent election commission if the*
14 *President transmits to Congress a certification*
15 *that contains a determination of the President*
16 *that—*

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

20 “(ii) *each member of such commission*
21 *is independent of the influence of any polit-*
22 *ical party or movement.*

23 “(B) *ASSISTANCE TO SUPPORT THE MIDDLE*
24 *EAST PEACE PROCESS.*—*Assistance to the Office*
25 *of the President of the Palestinian Authority for*

1 *non-security expenses directly related to facili-*
2 *tating a peaceful resolution of the Israeli-Pales-*
3 *tinian conflict or for the personal security detail*
4 *of the President of the Palestinian Authority if*
5 *the President transmits to Congress a certifi-*
6 *cation that contains a determination of the*
7 *President that—*

8 “(i) such assistance is critical to facili-
9 *tating a peaceful resolution of the Israeli-*
10 *Palestinian conflict;*

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

16 “(iii) such assistance will not be used
17 *to provide funds to any individual who is*
18 *a member of or affiliated with a foreign ter-*
19 *rorist organization or who has not rejected*
20 *the use of terrorism to resolve the Israeli-*
21 *Palestinian conflict; and*

22 “(iv) such assistance will not be re-
23 *transferred to any other entity within or*
24 *outside of the Palestinian Authority except*

1 *as payment for legal goods or services ren-*
2 *dered.*

3 “(2) *ADDITIONAL REQUIREMENTS.—Assistance*
4 *described paragraph (1) may be provided only if the*
5 *President—*

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

9 “(B) *not less than 30 days prior to the obli-*
10 *gation of amounts for the provision of such*
11 *assistance—*

12 “(i) *consults with the appropriate con-*
13 *gressional committees regarding the specific*
14 *programs, projects, and activities to be car-*
15 *ried out using such assistance; and*

16 “(ii) *submits to the appropriate con-*
17 *gressional committees a written memo-*
18 *randum that contains the determination of*
19 *the President under subparagraph (A).*

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

22 “(A) *the Committee on International Rela-*
23 *tions and the Committee on Appropriations of*
24 *the House of Representatives; and*

1 “(B) *the Committee on Foreign Relations*
2 *and the Committee on Appropriations of the*
3 *Senate.*

4 “(f) *DEFINITIONS.—In this section:*

5 “(1) *FOREIGN TERRORIST ORGANIZATION.—The*
6 *term ‘foreign terrorist organization’ means an organi-*
7 *zation designated as a foreign terrorist organization*
8 *by the Secretary of State in accordance with section*
9 *219(a) of the Immigration and Nationality Act (8*
10 *U.S.C. 1189(a)).*

11 “(2) *PALESTINIAN AUTHORITY.—The term ‘Pal-*
12 *estinian Authority’ means the interim Palestinian*
13 *administrative organization that governs part of the*
14 *West Bank and all of the Gaza Strip (or any suc-*
15 *cessor Palestinian governing entity), including the*
16 *Palestinian Legislative Council.”.*

17 “(c) *APPLICABILITY TO UNEXPENDED FUNDS.—Section*
18 *620K of the Foreign Assistance Act of 1961, as added by*
19 *subsection (b), applies with respect to unexpended funds ob-*
20 *ligated for assistance under the Foreign Assistance Act of*
21 *1961 to the Palestinian Authority before the date of the en-*
22 *actment of this Act.*

23 “(d) *REPORT BY COMPTROLLER GENERAL.—Not later*
24 *than 180 days after the date of the enactment of this Act,*
25 *the Comptroller General of the United States shall submit*

1 *to the appropriate congressional committees a report that*
2 *contains a review of the proposed procedures by which*
3 *United States assistance to the Palestinian Authority under*
4 *the Foreign Assistance Act of 1961 will be audited by the*
5 *Department of State, the United States Agency for Inter-*
6 *national Development, and all other relevant departments*
7 *and agencies of the Government of the United States and*
8 *any recommendations for improvement of such procedures.*

9 (e) *SENSE OF CONGRESS.—It is the sense of Congress*
10 *that the President should be guided by the principles and*
11 *procedures described in section 620K of the Foreign Assist-*
12 *ance Act of 1961, as added by subsection (b), in providing*
13 *direct assistance to the Palestinian Authority under any*
14 *provision of law other than the Foreign Assistance Act of*
15 *1961.*

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

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

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

24 “(a) *LIMITATION.—Except as provided in subsection*
25 *(d), assistance may be provided under this Act to non-*

1 *governmental organizations for the West Bank and Gaza*
2 *only during a period for which a certification described in*
3 *section 620K(b) of this Act is in effect with respect to the*
4 *Palestinian Authority.*

5 “(b) *MARKING REQUIREMENT.*—*Assistance provided*
6 *under this Act to nongovernmental organizations for the*
7 *West Bank and Gaza shall be marked as assistance from*
8 *the Government of the United States unless the Secretary*
9 *of State or the Administrator of the United States Agency*
10 *for International Development determines that such mark-*
11 *ing will endanger the lives or safety of persons delivering*
12 *or receiving such assistance or would have a material ad-*
13 *verse effect on the implementation of such assistance.*

14 “(c) *CONGRESSIONAL NOTIFICATION.*—*Assistance*
15 *made available under this Act to nongovernmental organi-*
16 *zations for the West Bank and Gaza may not be provided*
17 *until 15 days after the date on which the President has pro-*
18 *vided notice thereof to the Committee on International Rela-*
19 *tions and the Committee on Appropriations of the House*
20 *of Representatives and to the Committee on Foreign Rela-*
21 *tions and the Committee on Appropriations of the Senate*
22 *in accordance with the procedures applicable to reprogram-*
23 *ming notifications under section 634A(a) of this Act.*

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

1 “(1) *ASSISTANCE TO MEET BASIC HUMAN*
2 *HEALTH NEEDS.—The provision of food, water, medi-*
3 *cine, sanitation services, or other assistance to di-*
4 *rectly meet basic human health needs.*

5 “(2) *OTHER TYPES OF ASSISTANCE.—The provi-*
6 *sion of any other type of assistance if the President—*

7 “(A) *determines that the provision of such*
8 *assistance will further the national security in-*
9 *terests of the United States; and*

10 “(B) *not less than 25 days prior to the obli-*
11 *gation of amounts for the provision of such*
12 *assistance—*

13 “(i) *consults with the appropriate con-*
14 *gressional committees regarding the specific*
15 *programs, projects, and activities to be car-*
16 *ried out using such assistance; and*

17 “(ii) *submits to the appropriate con-*
18 *gressional committees a written memo-*
19 *randum that contains the determination of*
20 *the President under subparagraph (A) and*
21 *an explanation of how failure to provide the*
22 *proposed assistance would be inconsistent*
23 *with furthering the national security inter-*
24 *ests of the United States.*

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

3 “(A) *the Committee on International Rela-*
4 *tions and the Committee on Appropriations of*
5 *the House of Representatives; and*

6 “(B) *the Committee on Foreign Relations*
7 *and the Committee on Appropriations of the*
8 *Senate.”.*

9 (b) *OVERSIGHT AND RELATED REQUIREMENTS.*—

10 (1) *OVERSIGHT.*—*For each of the fiscal years*
11 *2007 and 2008, the Secretary of State shall certify to*
12 *the appropriate congressional committees not later*
13 *than 30 days prior to the initial obligation of*
14 *amounts for assistance to nongovernmental organiza-*
15 *tions for the West Bank or Gaza under the Foreign*
16 *Assistance Act of 1961 that procedures have been es-*
17 *tablished to ensure that the Comptroller General of the*
18 *United States will have access to appropriate United*
19 *States financial information in order to review the*
20 *use of such assistance.*

21 (2) *VETTING.*—*Prior to any obligation of*
22 *amounts for assistance to nongovernmental organiza-*
23 *tions for the West Bank or Gaza under the Foreign*
24 *Assistance Act of 1961, the Secretary of State shall*
25 *take all appropriate steps to ensure that such assist-*

1 *ance is not provided to or through any individual or*
2 *entity that the Secretary knows, or has reason to be-*
3 *lieve, advocates, plans, sponsors, engages in, or has*
4 *engaged in, terrorist activity. The Secretary shall, as*
5 *appropriate, establish procedures specifying the steps*
6 *to be taken in carrying out this paragraph and shall*
7 *terminate assistance to any individual or entity that*
8 *the Secretary has determined advocates, plans, spon-*
9 *sors, or engages in terrorist activity.*

10 (3) *PROHIBITION.—No amounts made available*
11 *for any fiscal year for assistance to nongovernmental*
12 *organizations for the West Bank or Gaza under the*
13 *Foreign Assistance Act of 1961 may be made avail-*
14 *able for the purpose of recognizing or otherwise hon-*
15 *oring individuals or the families of individuals who*
16 *commit, or have committed, acts of terrorism.*

17 (4) *AUDITS.—*

18 (A) *IN GENERAL.—The Administrator of the*
19 *United States Agency for International Develop-*
20 *ment shall ensure that independent audits of all*
21 *contractors and grantees, and significant sub-*
22 *contractors and subgrantees, that receive*
23 *amounts for assistance to nongovernmental orga-*
24 *nizations for the West Bank or Gaza under the*
25 *Foreign Assistance Act of 1961 are conducted to*

1 *ensure, among other things, compliance with this*
2 *subsection.*

3 *(B) AUDITS BY INSPECTOR GENERAL OF*
4 *USAID.—Of the amounts available for any fiscal*
5 *year for assistance to nongovernmental organiza-*
6 *tions for the West Bank or Gaza under the For-*
7 *oreign Assistance Act of 1961, up to \$1,000,000 for*
8 *each such fiscal year may be used by the Office*
9 *of the Inspector General of the United States*
10 *Agency for International Development for audits,*
11 *inspections, and other activities in furtherance of*
12 *the requirements of subparagraph (A). Such*
13 *amounts are in addition to amounts otherwise*
14 *available for such purposes.*

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

22 **SEC. 4. UNITED NATIONS AGENCIES AND PROGRAMS.**

23 *(a) REVIEW AND REPORT.—*

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

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

6 (B) transmit to the appropriate congress-
7 sional committees a report containing rec-
8 ommendations for the elimination of such enti-
9 ties and efforts that are duplicative or fail to en-
10 sure balance in the approach of the United Na-
11 tions to Israeli-Palestinian issues.

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

14 (A) *The United Nations Division for Pales-*
15 *stinian Rights.*

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

18 (C) *The United Nations Special Coordi-*
19 *nator for the Middle East Peace Process and*
20 *Personal Representative to the Palestine Libera-*
21 *tion Organization and the Palestinian Author-*
22 *ity.*

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

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

5 *(F) Any other entity the Secretary deter-*
6 *mines results in duplicative efforts or funding or*
7 *fails to ensure balance in the approach to*
8 *Israeli-Palestinian issues.*

9 ***(b) IMPLEMENTATION OF RECOMMENDATIONS BY PER-***
10 ***MANENT REPRESENTATIVE.—***

11 ***(1) IN GENERAL.—The United States Permanent***
12 ***Representative to the United Nations shall use the***
13 ***voice, vote, and influence of the United States at the***
14 ***United Nations to seek the implementation of the rec-***
15 ***ommendations contained in the report required under***
16 ***subsection (a)(1)(B).***

17 ***(2) WITHHOLDING OF FUNDS.—Until such rec-***
18 ***ommendations have been implemented, the Secretary***
19 ***of State is authorized to withhold from United States***
20 ***contributions to the regular assessed budget of the***
21 ***United Nations for a biennial period amounts that***
22 ***are proportional to the percentage of such budget that***
23 ***are expended for such entities.***

24 ***(c) GAO AUDIT.—The Comptroller General shall con-***
25 ***duct an audit of the status of the implementation of the***

1 *recommendations contained in the report required under*
2 *subsection (a)(1)(B).*

3 (d) *WITHHOLDING OF FUNDS WITH RESPECT TO THE*
4 *PALESTINIAN AUTHORITY.—The Secretary of State is au-*
5 *thorized to withhold from United States contributions to the*
6 *regular assessed budget of the United Nations for a biennial*
7 *period amounts that are proportional to the percentage of*
8 *such budget that are expended for any United Nations af-*
9 *filiated or specialized agency that provides assistance di-*
10 *rectly to the Palestinian Authority during any period for*
11 *which a certification described in section 620K(b) of the*
12 *Foreign Assistance Act of 1961 (as added by section 2(b)(2)*
13 *of this Act) is not in effect with respect to the Palestinian*
14 *Authority.*

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

18 *It is the sense of Congress that, during any period for*
19 *which a certification described in section 620K(b) of the*
20 *Foreign Assistance Act of 1961 (as added by section 2(b)(2)*
21 *of this Act) is not in effect with respect to the Palestinian*
22 *Authority, the territory controlled by the Palestinian Au-*
23 *thority should be deemed to be in use as a sanctuary for*
24 *terrorists or terrorist organizations for purposes of section*
25 *6(j)(5) of the Export Administration Act of 1979 (50 U.S.C.*

1 *App. 2405(j)(5)) and section 140 of the Foreign Relations*
2 *Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C.*
3 *2656f).*

4 **SEC. 6. DENIAL OF VISAS FOR OFFICIALS OF THE PALES-**
5 **TINIAN AUTHORITY.**

6 (a) *IN GENERAL.*—*A visa shall not be issued to any*
7 *alien who is an official of, affiliated with, or serving as*
8 *a representative of the Palestinian Authority during any*
9 *period for which a certification described in section 620K(b)*
10 *of the Foreign Assistance Act of 1961 (as added by section*
11 *2(b)(2) of this Act) is not in effect with respect to the Pales-*
12 *tinian Authority.*

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

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

19 (2) *with respect to visas issued in connection*
20 *with United States obligations under the Act of Au-*
21 *gust 4, 1947 (61 Stat. 756) (commonly known as the*
22 *“United Nations Headquarters Agreement Act”).*

1 **SEC. 7. TRAVEL RESTRICTIONS ON OFFICIALS AND REP-**
2 **RESENTATIVES OF THE PALESTINIAN AU-**
3 **THORITY AND THE PALESTINE LIBERATION**
4 **ORGANIZATION STATIONED AT THE UNITED**
5 **NATIONS IN NEW YORK CITY.**

6 *The President shall restrict the travel of officials and*
7 *representatives of the Palestinian Authority and of the Pal-*
8 *estine Liberation Organization who are stationed at the*
9 *United Nations in New York City to a 25-mile radius of*
10 *the United Nations headquarters building during any pe-*
11 *riod for which a certification described in section 620K(b)*
12 *of the Foreign Assistance Act of 1961 (as added by section*
13 *2(b)(2) of this Act) is not in effect with respect to the Pales-*
14 *tinian Authority.*

15 **SEC. 8. PROHIBITION ON PALESTINIAN AUTHORITY REP-**
16 **RESENTATION IN THE UNITED STATES.**

17 (a) *PROHIBITION.—Notwithstanding any other provi-*
18 *sion of law, it shall be unlawful to establish or maintain*
19 *an office, headquarters, premises, or other facilities or estab-*
20 *lishments within the jurisdiction of the United States at*
21 *the behest or direction of, or with funds provided by, the*
22 *Palestinian Authority or the Palestine Liberation Organi-*
23 *zation during any period for which a certification described*
24 *in section 620K(b) of the Foreign Assistance Act of 1961*
25 *(as added by section 2(b)(2) of this Act) is not in effect*
26 *with respect to the Palestinian Authority.*

1 (b) *ENFORCEMENT.*—

2 (1) *ATTORNEY GENERAL.*—*The Attorney General*
3 *shall take the necessary steps and institute the nec-*
4 *essary legal action to effectuate the policies and provi-*
5 *sions of subsection (a).*

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

12 (c) *WAIVER.*—

13 (1) *AUTHORITY.*—*The President may waive the*
14 *application of subsection (a) for a period of 180 days*
15 *if the President determines and certifies to the appro-*
16 *priate congressional committees that such waiver is*
17 *vital to the national security interests of the United*
18 *States and provides an explanation of how the failure*
19 *to waive the application of subsection (a) would be*
20 *inconsistent with the vital national security interests*
21 *of the United States.*

22 (2) *RENEWAL.*—*The President may renew the*
23 *waiver described in paragraph (1) for successive 180-*
24 *day periods if the President makes the determination*

1 *and certification described in such paragraph for each*
2 *such period.*

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

4 (a) *UNITED STATES POLICY.—It shall be the policy*
5 *of the United States that the United States Executive Direc-*
6 *tor at each international financial institution shall use the*
7 *voice, vote, and influence of the United States to prohibit*
8 *assistance to the Palestinian Authority during any period*
9 *for which a certification described in section 620K(b) of the*
10 *Foreign Assistance of 1961 (as added by section 2(b)(2) of*
11 *this Act) is not in effect with respect to the Palestinian Au-*
12 *thority.*

13 (b) *DEFINITION.—In this section, the term “inter-*
14 *national financial institution” has the meaning given the*
15 *term in section 1701(c)(2) of the International Financial*
16 *Institutions Act.*

17 **SEC. 10. DIPLOMATIC CONTACTS WITH PALESTINIAN TER-**
18 **ROR ORGANIZATIONS.**

19 *It shall be the policy of the United States that no offi-*
20 *cer or employee of the United States Government shall nego-*
21 *tiate or have substantive contacts with members or official*
22 *representatives of Hamas, Palestinian Islamic Jihad, the*
23 *Popular Front for the Liberation of Palestine, al-Aqsa Mar-*
24 *tyrs Brigade, or any other Palestinian terrorist organiza-*
25 *tion, unless and until such organization—*

- 1 (1) *recognizes Israel’s right to exist;*
2 (2) *renounces the use of terrorism;*
3 (3) *dismantles the infrastructure necessary to*
4 *carry out terrorist acts, including the disarming of*
5 *militias and the elimination of all instruments of ter-*
6 *ror; and*
7 (4) *recognizes and accepts all previous agree-*
8 *ments and understandings between the State of Israel*
9 *and the Palestine Liberation Organization and the*
10 *Palestinian Authority.*

11 **SEC. 11. DEFINITIONS.**

12 *In this Act:*

13 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
14 *TEES.—The term “appropriate congressional commit-*
15 *tees” means—*

16 (A) *the Committee on International Rela-*
17 *tions and the Committee on Appropriations of*
18 *the House of Representatives; and*

19 (B) *the Committee on Foreign Relations*
20 *and the Committee on Appropriations of the*
21 *Senate.*

22 (2) *PALESTINIAN AUTHORITY.—The term “Pales-*
23 *tinian Authority” has the meaning given the term in*
24 *section 620K(e)(2) of the Foreign Assistance Act of*
25 *1961 (as added by section 2(b)(2) of this Act).*

Chairman SENSENBRENNER. Because the hour is late, and we would like to get this bill out, the chair will put his opening statement in the record at this time by unanimous consent and suggest that everybody else do the same.

[The prepared statement of Mr. Sensenbrenner follows:]

PREPARED STATEMENT OF THE HONORABLE F. JAMES SENSENBRENNER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN, AND CHAIRMAN, COMMITTEE ON THE JUDICIARY

H.R. 9 reauthorizes for an additional 25 years and amends provisions of the Voting Rights Act set to expire on August 6, 2007.

The Voting Rights Act was enacted in 1965, and reauthorized in 1970, 1975, 1982, and 1992, each time with strong bipartisan support. Like the preceding reauthorization efforts, this bill also has strong support from Republicans and Democrats alike.

On August 6, 2005, our nation celebrated the 40th anniversary of the VRA, which has been one of the most important pieces of civil rights legislation enacted during the 20th Century. The enactment of the VRA resulted from the efforts of many who fought to eliminate our country's sad legacy of racial discrimination and ensure that the rights guaranteed by the Constitution were protected for all Americans.

There is no right more fundamental than the right to vote, because in a democracy, only the right to vote can protect all other rights. This right is so central to our system of government that it is protected by five separate amendments to our Constitution, including the 14th, 15th, 19th, 24th, and 26th Amendments.

History reveals, however, that States and localities have not always been faithful to the rights and protections afforded by our Constitution. Sadly, some have tried to disenfranchise African-American and other minority voters through means ranging from violence and intimidation to subtle changes in voting rules. As a result, many minorities were unable to fully participate in the political process for nearly a century.

The VRA changed this and successfully transformed our Nation's electoral process, and the makeup of our local, State, and Federal governments. Since its enactment, the VRA has been instrumental in remedying past injustice by restructuring the relationship between States with a history of discrimination and the Federal government.

Section 5 prohibits States with a history of discrimination from changing election practices and processes without first submitting the changes to the Department of Justice or the District Court for the District of Columbia. Section 5 has helped ensure minority citizens have an equal opportunity to participate in our country's political process and—with other provisions of the VRA—has helped increase minority participation in elections as well as the number of minorities serving in elected positions.

Last summer, I, along with Ranking Member Conyers and Congressional Black Caucus Chairman Watt, pledged to have the VRA's temporary provisions reauthorized for an additional 25 years. Since last fall, the Subcommittee on the Constitution has been examining the VRA in great detail, focusing on the provisions set to expire in 2007. During these hearings, the Subcommittee examined the impact two Supreme Court decisions, *Bossier II* and *Georgia v. Ashcroft*, have had on Section 5's ability to protect minorities from discriminatory voting changes, particularly in State and Congressional redistricting initiatives.

As a result, H.R. 9 includes language that makes clear that a voting rule change motivated by *any* discriminatory purpose cannot be precleared, and clarifies that the purpose of the preclearance requirements is to protect the ability of minority citizens to elect their preferred candidates of choice.

The Committee record shows that while the VRA has been successful, our work is not yet complete. Discrimination in the electoral process continues to exist and threatens to undermine the progress that has been made over the last forty years. By extending the VRA for an additional 25 years, H.R. 9 ensures that the gains made by minorities are not jeopardized.

As previously noted, this legislation has strong bipartisan support, including that of Speaker Hastert and Minority Leader Pelosi. This bill is also supported by many religious and civil rights organizations including the Leadership Conference on Civil Rights, the ACLU, MALDEF, the NAACP, and the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund.

(I ask unanimous consent to include in the record a letter dated May 3, 2006 sent by the Leadership Conference on Civil Rights and co-signed by an extensive list of civil rights and religious organizations).

The Majority Leader's office has indicated that H.R. 9 will be considered on the House floor next week. I strongly urge my colleagues to support this legislation.

Mr. CONYERS. Mr. Chairman, I would like to introduce my statement into the record at this time.

[The prepared statement of Mr. Conyers follows:]

PREPARED STATEMENT OF THE HONORABLE JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND RANKING MEMBER, COMMITTEE ON THE JUDICIARY

H.R. 4681 is a necessary response to the recent election of Hamas to the leadership of the Palestinian Authority. Hamas is an officially designated terrorist organization responsible for over 500 deaths in terrorist attacks since the 1980s. Their control over the Palestinian Authority greatly stymies any chance of progress towards peace in Israel and the Palestinian territories.

This bill is complicated and it raises some difficult issues, but I am inclined to support it. A legislative response is necessary to send a clear signal that the United States will not continue to support political developments in the Palestinian territories under the leadership of a terrorist organization. In that vein, the provisions the Judiciary Committee has jurisdiction over play an important role in sanctioning the Hamas leadership.

While existing law forbids the entry of terrorists into the United States, we want to make it clear that under Hamas leadership, the officials of the Palestinian Authority are not welcome here, nor will we support the establishment of Palestinian Authority offices in this country until the Authority takes significant steps renounce its terrorist connections.

To the extent that there are members of the Palestinian Legislative Council who are not a part of a terrorist faction, and it is in the U.S. national interest to grant them a visa, the bill gives the President authority to waive the visa ban.

Chairman SENSENBRENNER. Without objection, so ordered. Without objection, all Members' opening statements will be placed in the record at this time.

Are there any amendments?

The gentleman from New York, Mr. Weiner.

Mr. WEINER. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 4681 offered by Mr. Weiner of New York. Page 22, line 5 insert before the period the following.

Chairman SENSENBRENNER. Without objection the amendment will be considered as read, and the gentleman from New York Mr. Weiner will be recognized for 5 minutes.

[The amendment follows:]

AMENDMENT TO H.R. 4681
OFFERED BY MR. WEINER OF NEW YORK

Page 22, line 5, insert before the period the following: “, including steps necessary to apply the policies and provisions of subsection (a) to the Permanent Observer Mission of Palestine to the United Nations”.

Mr. ISSA. Mr. Chairman, I reserve a point of order.

Chairman SENSENBRENNER. The point of order is reserved by the gentleman from California. The gentleman is recognized for 5 minutes.

Mr. WEINER. Mr. Chairman, I have no intention of taking the 5 minutes. This is essentially a technical amendment which is the reason we in this Committee, to your credit, got a referral for this bill. It is very simple. The International Relations Committee talks about the prohibition on Palestinian Authority representation in the United States, and it says it shall be unlawful to establish or maintain an office, headquarters, premises or other facilities or establishment within the jurisdiction of the United States.

That language was taken directly from 1986 legislation to deal with the Palestinian Liberation Organization at the time. After that legislation had passed this House, passed the Senate, was signed by the President, it was determined that there was a loophole that was unintended by Congress. Since there was other legislation that had been passed creating the United Nations and its missions, there were two pieces of legislation passed by the House and Senate and signed by the President and left some disagreement about where missions of the United Nations fell. It was litigated by one Rudy Guliani, coincidentally enough, where the Justice Department said, clearly, Congress intended these missions to be included. They said, and it was decided by the courts, clearly Congress has the power to include those missions but because the ambiguity was unable to be determined by the courts, they essentially said that mission remains open.

What we are doing here today is taking the portion of the bill that we were given that gives guidance to the Attorney General on how to enforce this law, that is all we are doing, and saying, we are giving you guidance on this ambiguity in the law. This ambiguity was left by the International Relations Committee. We simply want to make clear that the Permanent Observer Mission of Palestine to the United Nations is included in the prohibitions that are included in section A.

I want to make it very clear that it was clearly the intent of the authors to include this provision. It was now our job with this referral to give guidance on how to enforce it. That is our job. We are doing oversight of the Justice Department. We are doing oversight of the Attorney General provisions, and under enforcement, we are giving guidance to enforcement. We are not in any way reaching beyond what the International Relations Committee—they themselves have pretty clear language: an office, headquarters, premises or facilities or establishment.

I want to remind my colleagues that if we don't include this language, what will be the effect of the overall law? All of the Palestinian assets that we seek to ban are going to go to that one place because of the failure to include this language. So it is something that the Parliamentarian has said, and we are going to get into a discussion perhaps later, that it is clearly germane to our section of the bill. The only question is whether we are somehow expanding or narrowing jurisdiction that we don't have.

But I want to remind my colleagues, this is exactly why Mr. Sensenbrenner fought for jurisdiction, so we can perfect what the International Relations Committee did because they unwittingly

left this loophole the same way they did in 1986. I urge a yes vote, and I yield back the balance of my time.

Chairman SENSENBRENNER. Does the gentleman from California insist on his point of order?

Mr. ISSA. Yes, I do, Mr. Chairman.

Chairman SENSENBRENNER. The gentleman will state his point of order.

Mr. ISSA. I make the point of order that the amendment goes to subject matter outside the scope of the referral, which is based on the Committee's jurisdiction, and if I may, serving also on the International Relations Committee, this Committee does not have the jurisdiction to do what accidentally may not have been done in the International Relations Committee. I certainly sympathize with the gentleman but insist on my point of order.

Chairman SENSENBRENNER. Does the gentleman from New York wish to respond?

Mr. WEINER. Yes, I do.

Mr. Chairman, if we are to take the gentleman's explanation of the parliamentary objection he is making, that is since section A which refers throughout section B under enforcement, then there is nothing we can do to it and the referral to this Committee is meaningless. All we are doing is giving guidance on enforcement. That is what we are doing here today. You can say we shouldn't have gotten this referral. Thankfully, we did. Thankfully, at every turn over the course of the last several years, the Chairman stood up and said, it might be a little inconvenient for some, but we are going to make sure that we get jurisdiction and we don't lose any of it. If we are going to take the argument that you are saying, all of the enforcement provisions are outside of the jurisdiction, why did we even get the referral?

All we are doing is giving guidance to the Attorney General on how to interpret or how to do the enforcement. This is exactly why we got this referral. Simply put, the good folks at International Relations, with great respect, did not cure this problem. That is why we got the referral.

And if you are—if we allow this to pass as it is with this imperfection, I am going to tell you what is going to happen: We are going to follow the provisions on pages 21 under the section; they are going to close their offices, their headquarters, premises, and other facilities or establishments; and then they are going to have this, U.S. District Court for the Southern District of New York, June 29th, 1988, where the court said Congress absolutely has within their authority to do this.

Chairman SENSENBRENNER. Is the gentleman arguing his amendment or arguing the point of order?

Mr. WEINER. I am arguing the point of order.

Chairman SENSENBRENNER. The chair is prepared to rule.

Mr. WEINER. Would it be your guidance, sir, that further argument is necessary or is not necessary?

Chairman SENSENBRENNER. The chair would never want to ever be accused of shutting the gentleman from New York up, but he is prepared to rule.

Mr. WEINER. Mr. Chairman, let me just say in closing that I believe very strongly that this is a question of jurisdiction of this

Committee, and it is also our moment to make it clear whether or not we believe in this.

Chairman SENSENBRENNER. The gentleman from California, Mr. Issa, raises a point of order that the amendment is not germane under rule X, which gives Committees of the House jurisdiction over various issues. Section 8(b) deals with the enforcement of the prohibition on Palestinian Authority representation in the United States. It gives specific duties to the Attorney General on how to enforce the provisions of this law.

This Committee has the jurisdiction over all aspects of the Justice Department over which the Attorney General presides, and because this deals with both enforcement of the law which would require ultimately the Attorney General to file a suit in an appropriate Federal court as well as duties placed upon the Attorney General, the chair feels that the amendment offered is within the jurisdiction of the Committee and overrules the point of order.

The question is on the amendment offered by the gentleman from New York, Mr. Weiner. Those in favor will say aye. Opposed, no. The ayes appear to it have it. The ayes have it, and the amendment is agreed to.

Are there further amendments?

Ms. JACKSON LEE. I have an amendment at the desk.

Chairman SENSENBRENNER. The gentlewoman from Texas.

The Clerk will report the amendment.

Ms. JACKSON LEE. I believe the amendment is amendment 253.

The CLERK. Amendment to H.R. 4681—

Mr. SMITH. Mr. Chairman, I receive a point of order.

Mr. SENSENBRENNER. Point of order is reserved by the gentleman from Texas. The Clerk will continue to read.

The CLERK. Offered by Ms. Jackson Lee of Texas. Page 10, after line 3, insert the following new subsection (f), additional requirements, the President shall establish and implement procedures to allow the government of Israel an opportunity to submit evidence—

Chairman SENSENBRENNER. Without objection the amendment is considered as read and the gentlewoman from Texas is recognized for 5 minutes.

[The amendment follows:]

AMENDMENT TO H.R. 4681
OFFERED BY MS. JACKSON-LEE OF TEXAS

Page 10, after line 3, insert the following new subsection:

1 “(f) **ADDITIONAL REQUIREMENT.**—The President
2 shall establish and implement procedures to allow the Gov-
3 ernment of Israel an opportunity to submit evidence on
4 whether certification or recertification under this section
5 is warranted. In the event that Israel submits such evi-
6 dence, it shall be submitted by the President with any no-
7 tification he gives Congress in connection with a certifi-
8 cation or recertification.”.

Page 10, line 4, redesignate subsection (f) as subsection (g).

Ms. JACKSON LEE. I thank the distinguished Chairman. We know that the Palestinian Anti-Terrorism Act follows the same line of thinking as H.R. 575, a resolution asserting that the foundation for the Israeli-Palestinian peace process was Palestinian recognition of Israel's right to exist and a solemn obligation to end terrorism and violence.

The provisions that we have jurisdiction over as a Member of the Judiciary Committee speaks directly to an opportunity for additional information to be had. As currently written, the bill directs the President to submit a certification to the Congress on the status of the Palestinian Authority's involvement with terrorism, its recognition of Israel's right to exist, and that the Palestinian Authority has made demonstrable progress to improve security services and defeating internal terrorism. Every 6 months thereafter, the President is also to submit a recertification explaining the status of these items.

My amendment contributes language to allow the government of Israel an opportunity to submit evidence on whether certification or recertification is warranted. As a vital regional stakeholder, a partner of peace with the United States and a democracy with demonstrated intelligence gathering, Israel is an expert. Allowing the government of Israel the opportunity to contribute evidence on this matter provides the President with additional advisory counsel as well as an opportunity to strengthen relations with Israel.

Maybe we can finally have an opportunity as well to all get along. Maybe in the course of negotiations between Israel and the Palestinian Authority, Israel might offer as well evidence that peace is on the way.

And so I believe any opportunity for diplomacy, any opportunity for discussion, any opportunity for input should be allowed, and I ask my colleagues to support the amendment.

Chairman SENSENBRENNER. Does the gentlewoman yield back?

Ms. JACKSON LEE. I yield back.

Chairman SENSENBRENNER. Does the gentleman from Texas insist upon his point of order?

Mr. SMITH. Yes, I do.

Chairman SENSENBRENNER. The gentleman will state his point of order.

Mr. SMITH. Mr. Chairman, this amendment is not germane because the certification process to which it refers regarding Israel is outside the Committee's jurisdiction as determined by its grant of referral. I will yield back balance of my time.

Chairman SENSENBRENNER. Does the gentlewoman from Texas wish to respond?

Ms. JACKSON LEE. I do, Mr. Chairman. As we well know in this Committee, we are apt to be able to waive points of order, but I would suggest that the certification process goes very comfortably with the idea of the visa certification process and that in fact it is a legitimate basis, and I would ask the Chairman for his consideration of the validity of this amendment. I yield back.

Chairman SENSENBRENNER. The chair is prepared to rule. The amendment proposed by the gentlewoman from Texas, Ms. Jackson Lee, proposes to amend section 620(k)(3), which contains the definition section that says in part in this subsection the determined appropriate congressional Committees means the Committee on

International Relations and the Committee on Appropriations of the House of Representatives.

This deals with withholding of foreign assistance. The amendment proposes the statutory scheme where a foreign government, in this case the government of Israel, would be able to forward information to the President. This is clearly not within the jurisdiction of this Committee, and consequently the chair sustains the point of order.

Are there further amendments?

Ms. JACKSON LEE. I have an amendment at the desk.

Chairman SENSENBRENNER. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 4681.

Mr. SMITH. Mr. Chairman, I reserve a point of order.

Chairman SENSENBRENNER. Point of order is reserved. The Clerk will continue to read.

The CLERK. Offered by Ms. Jackson Lee of Texas. Page 20, after line 22, insert the following new subsection, section (c), additional requirement, the President shall establish and implement a procedure for aliens denied a visa under subsection to submit evidence to show a waiver is warranted. The decision on whether to grant a waiver is not reviewable.

[The amendment follows:]

AMENDMENT TO H.R. 4681
OFFERED BY MS. JACKSON-LEE OF TEXAS

Page 20, after line 22, insert the following new subsection:

1 (c) **ADDITIONAL REQUIREMENT.**—The President
2 shall establish and implement a procedure for aliens de-
3 nied a visa under subsection (a) to submit evidence to
4 show that a waiver is warranted. The decision on whether
5 to grant a waiver is not reviewable.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes.

Ms. JACKSON LEE. I thank the distinguished Chairman and Ranking Member. I hold in my hand a humanitarian request for Palestinian Americans here in the United States to offer humanitarian assistance to the Palestinian people who, of course, in many instances are innocent of government leadership. My amendment says, in section 6, the bill provides for the denial of visas for officials of the Palestinian Authority if certification as described in section 2 of this bill and requiring the Palestinian Authority to recognize Israel's right to exist, denounce terrorism, break down terrorist-supporting infrastructure. The denial of a visa is tempered with the President's ability to issue a visa if the President determines that it is vital to the national security initiative of the United States.

My amendment, remaining consistent with the State Department's visa policy and not in any way diluting the President's responsibility, simply requires the President to establish and implement a procedure for those denied a visa under this provision to submit evidence to show that a waiver is warranted, so if there is a humanitarian basis that is necessary for visas to be extended, for there to be a medical emergency that individuals need to secure our humanitarian assistance, there is an opportunity for this evidence to be presented.

I close by simply saying, as this legislation makes its way to the floor, it is important that we realize there will be innocent victims of this statement we will be making by the United States Congress. I would hope that in the course of the debate that we would recognize the importance of humanitarian aid and the humanitarian needs of those who may be able to secure a visa or others who wish to. With that, I ask my colleagues to support this amendment.

Chairman SENSENBRENNER. Does the gentleman from Texas insist on his point of order?

Mr. SMITH. Mr. Chairman, I do not, and I will withdraw the point of order.

Chairman SENSENBRENNER. The chair recognizes himself in opposition to the amendment. The chair will be very brief. This amendment undermines Presidential authority and accountability in the White House. The text of the bill on page 20 says that if the President determines and certifies to the appropriate congressional Committees, that means us, 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, then a waiver should be granted.

What the amendment proposed by the gentlewoman from Texas proposes to do is to allow the President to kick this down to a bureaucrat. Seems to me, if the President does want to bring somebody from the Palestinian Authority and someone who is affiliated with Hamas, he ought to take the responsibility himself and tell us why the waiver should be granted.

This amendment will allow the President to dodge the bullet and say that some bureaucrat did it, and I don't think that is a good idea. I hope it is defeated.

I yield to the gentleman from New York, Mr. Weiner.

Mr. Weiner, I was told you would like—I yield back balance of my time.

The gentleman from New York, Mr. Nadler.

Mr. NADLER. Mr. Chairman, I rise in opposition to this amendment. I don't see the point of it, frankly. The bill says that a visa should not be issued to any person who is an official of, affiliated with or serving as a representative the Palestinian Authority. You are not talking about thousands of people; you are talking about official representatives of the Palestinian Authority.

It then gives the President the authority to issue a waiver on a case-by-case basis as long as he tells the congressional Committee why. That certainly implies that the President is entitled to receive any evidence as to why he should give a waiver.

I don't see why you need a special amendment to say that he shall establish and implement the procedure for these aliens to submit evidence to show that a waiver is warranted. There is already a provision that he can grant waivers. Obviously, if someone thinks someone is affiliated with the Palestinian Authority and can get a waiver, he will ask for it and submit whatever evidence, and the President or the President's people will make a judgment on that.

This amendment, frankly, I don't understand what it does. It may imply that, under the current law as written, there is no authority for a Palestinian who is affiliated with the Palestinian Authority who wants a waiver to submit a request and the supporting documents to it, which I think is ridiculous.

Ms. JACKSON LEE. Would the gentleman yield?

Mr. NADLER. Obviously, the President would consider or not consider as he deems fit. I don't see the point of this amendment, and I oppose it.

Ms. JACKSON LEE. Would the gentleman yield?

Mr. NADLER. Yes.

Ms. JACKSON LEE. I thank the gentleman very much. I appreciate the comments being made, and I want to appreciate the fact that the gentleman did yield. I asked to be yielded to before.

Let me just say that there is a basis of this amendment. It gives the person denied a visa the right to ask for it through presenting evidence. I think it is an important point. I want to further discuss it and work on this issue.

I offered an example of a letter that I had in my hand that suggested an interest in humanitarian aid. That is a separate issue that I didn't bring to this Committee.

But I think there are overlapping concerns. We want fairness on all sides. And this does not diminish the power of the President. It allows the denied visa recipient to be able to present evidence and to ask for a visa.

Mr. NADLER. Reclaiming my time.

Ms. JACKSON LEE. May I finish by saying, with that in mind, I want to work on this issue, and I ask unanimous consent to withdraw the amendment.

Chairman SENSENBRENNER. Amendment is withdrawn.

Are there further amendments?

The gentlewoman from California, Ms. Waters, for what purpose do you seek recognition?

Ms. WATERS. I move to strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes.

Ms. WATERS. I am sorry, I have an amendment at the desk, Mr. Chairman.

Chairman SENSENBRENNER. Okay. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 4681, as reported by the Committee—

Mr. SMITH. Mr. Chairman, I will reserve a point of order.

Chairman SENSENBRENNER. Point of order is reserved.

The CLERK. Offered by Ms. Waters of California. In section 8, redesignate subsections (b) and (c) as subsections (c) and (d), and insert after subsection (a), the following, subsection (b), Sudan, (1) 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 other than a mission to the United Nations at the behest or direction of, or with funds provided by the government of Sudan during any period for which a certification described—

Chairman SENSENBRENNER. Without objection, the amendment is considered as read and subject to the point of order being reserved, the gentlewoman from California is recognized for 5 minutes.

[The amendment follows:]

**AMENDMENT TO H.R. 4681, AS REPORTED BY
THE COMMITTEE ON INTERNATIONAL RELATIONS
OFFERED BY MS. WATERS OF CALIFORNIA**

In section 8, redesignate subsections (b) and (c) as subsections (c) and (d) and insert after subsection (a) the following:

1 (b) SUDAN.—

2 (1) PROHIBITION.—Notwithstanding any other
3 provision of law, it shall be unlawful to establish or
4 maintain an office, headquarters, premises, or other
5 facilities or establishments within the jurisdiction of
6 the United States (other than a mission to the Un-
7 tied Nations) at the behest or direction of, or with
8 funds provided by, the Government of Sudan during
9 any period for which a certification described in
10 paragraph (2) is not in effect.

11 (2) CERTIFICATION.— A certification described
12 in this subsection is a certification transmitted by
13 the President to Congress that contains a deter-
14 mination of the President that—

15 (A) no ministry, agency, or instrumentality
16 of the Government of Sudan is engaged in ter-
17 rorist attacks or is affiliated with the genocide

1 perpetrated by the Janjaweed militia in Sudan;
2 and

3 (B) the Government of Sudan has taken
4 effective steps and made demonstrable progress
5 toward—

6 (i) ending the genocide in Darfur,
7 Sudan;

8 (ii) dismantling the Janjaweed militia,
9 arresting and bringing individuals in the
10 Janjaweed militia to justice, destroying un-
11 authorized arms factories, and thwarting
12 and preempting Janjaweed attacks;

13 (iii) ensuring democracy, the rule of
14 law, and an independent judiciary, and
15 adopting other reforms such as ensuring
16 transparent and accountable governance;
17 and

18 (iv) ensuring the financial trans-
19 parency and accountability of all govern-
20 ment ministries and operations.

21 (3) RECERTIFICATION.—Not later than 90 days
22 after the date on which the President transmits to
23 Congress an initial certification under paragraph
24 (2), and every six months thereafter—

1 (A) the President shall transmit to Con-
2 gress a recertification that the requirements
3 contained in paragraph (2) are continuing to be
4 met; or

5 (B) if the President is unable to make
6 such a recertification, the President shall trans-
7 mit to Congress a report that contains the rea-
8 sons therefor.

In subsection (c) of section 8 (as redesignated)—

(1) in paragraph (1), insert “or (b)” after
“(a)”; and

(2) in paragraph (2)—

(A) insert “or (b)” after “(a)” the first
place it appears; and

(B) insert “or (b), as the case may be”
after “(a)” the second place it appears.

In subsection (d) of section 8 (as redesignated)—

(1) insert “or (b)” after “(a)” the first place it
appears; and

(2) insert “or (b), as the case may be,” after
“(a)” the second place it appears

Ms. WATERS. Thank you very much.

Mr. Chairman and Members, I have a real appreciation for Mr. Weiner's amendment because it is one thing to have sanctions, it is one thing to talk about certification, but we really do have to have some kind of enforcement and accountability.

We all supported H.R. 3127. That basically was the bill that created sanctions against the Sudanese government that is basically responsible for the genocide in Darfur. We have all worked very, very hard, and this entire Congress has been involved in all kinds of efforts. We have had so many Members that have traveled to the Sudan, who have been to Darfur. They have tried to convince the Sudanese government to stop the genocide.

On my visits there, a codel that we took where we met with a number of the members of the Sudanese government, they admitted to us that they had given support to and supplied the Janjaweed, and the Janjaweed is basically responsible for the genocide, carrying out the genocide.

My bill would somewhat mirror Mr. Weiner's—my amendment would somewhat mirror his amendment and basically create some enforcement opportunities for the sanctions that we have placed in law under 3127.

I would ask not only that the Members of this Committee would support my amendment but, hopefully, that they too would all be involved in helping us to eliminate the genocide that is going on and has gone on for so long up in the Sudan.

Mr. WEINER. Would the gentlelady yield?

Ms. WATERS. I would yield.

Mr. WEINER. I rise in support of the amendment. Again, it is an effort, ability for us to enforce some of the language that we have gone on record on here. It provides the full point of the sword to make it clear how serious we are about what is going on in Darfur and also how serious we are about enforcing previous efforts of this Congress. And I support the gentlelady's amendment, and I yield back.

Ms. JACKSON LEE. Would you yield? Let me thank the gentlelady for the strength of this amendment, and it is unfortunate that earlier amendments were again attacked by germaneness, but I think that this amendment has merit and so did the previous amendment on this issue had merit, and unfortunately, they are both—well, the previous one was ruled out of order.

I hope that we can see the intertwining of these two issues and understand the crisis in Sudan, and it needs that kind of response.

I yield back.

Chairman SENSENBRENNER. Does the gentleman from Texas insist upon his point of order?

Mr. SMITH. Yes, Mr. Chairman, I do.

Chairman SENSENBRENNER. State your point of order.

Mr. SMITH. Mr. Chairman, regardless of the merits or demerits, this amendment is not germane because it is not directly related to any of the subjects that are actually mentioned in the bill itself. I will yield back.

Chairman SENSENBRENNER. Chair is prepared to rule. The gentleman from Texas has made a point of order that the amendment is not germane. The amendment is not germane for two reasons: First, the amendment proposes to deal with a different class, mean-

ing the activities of the government of Sudan, than the class in the base bill, which is the activities of the Palestinian Authority.

Secondly, it is clear that the subject matter of the amendment deals with or falls within the jurisdiction of the Committee on International Relations and, under rule X, is not within the jurisdiction of the Judiciary Committee, so for both of these reasons, the chair sustains the point of order.

Are there further amendments? If there are no further amendment, a reporting quorum is present. The question is on reporting the bill, H.R. 4681, favorably, as amended. Those in favor will say aye—excuse me, strike that. Without objection, the version of the bill reported by the International Relations Committee, laid down as the base text, is adopted as amended.

Now the chair declares a reporting quorum is present. The question occurs on the motion to report the bill, H.R. 4681, favorably, as amended. All those in favor will say aye. Opposed, no. The ayes appear to have it. The ayes have it, and the motion to report favorably is agreed to.

Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute incorporating the amendments adopted here today. Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days as provided by the House rules in which to submit additional dissenting supplemental or minority views.

The chair thanks all of the Members for their patience, and the agenda set forth in the notice of this markup has been completed, and without objection, the Committee stands adjourned.

[Whereupon, at 12:50 p.m., the Committee was adjourned.]

