

PUBLIC LAW 109-446—DEC. 21, 2006

PALESTINIAN ANTI-TERRORISM ACT OF 2006

Public Law 109-446
109th Congress

An Act

Dec. 21, 2006
[S. 2370]

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

Palestinian Anti-Terrorism Act of 2006.
22 USC 2378b note.

22 USC 2378b note.

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

SECTION 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 violently reject a two-state solution to end the Israeli-Palestinian conflict;

(3) to promote the rule of law, democracy, the cessation of terrorism and incitement, and good governance in institutions and territories controlled by the Palestinian Authority; and

(4) to urge members of the international community to avoid contact with and refrain from supporting the terrorist organization Hamas until it agrees to recognize Israel, renounce violence, disarm, and accept prior agreements, including the Roadmap.

(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.—Assistance may be provided under this Act to the Hamas-controlled Palestinian Authority only during a period for which a certification described in subsection (b) is in effect.

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

22 USC 2378a.

22 USC 2378b.

President.

“(1) no ministry, agency, or instrumentality of the Palestinian Authority is effectively controlled by Hamas, unless the Hamas-controlled Palestinian Authority has—

“(A) publicly acknowledged the Jewish state of Israel’s right to exist; and

“(B) committed itself and is adhering to all previous agreements and understandings with the United States Government, with the Government of Israel, and with 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

“(2) the Hamas-controlled Palestinian Authority has made demonstrable progress toward—

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

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

“(C) halting all anti-American and anti-Israel incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and replacing educational materials, including textbooks, with materials that promote peace, tolerance, 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 conditions described 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 appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of this Act.

“(e) NATIONAL SECURITY WAIVER.—

“(1) IN GENERAL.—Subject to paragraph (2), the President may waive subsection (a) with respect to—

“(A) the administrative and personal security costs of the Office of the President of the Palestinian Authority;

“(B) the activities of the President of the Palestinian Authority to fulfill his or her duties as President, including to maintain control of the management and security of

Deadlines.
President.

Reports.

Effective date.

border crossings, to foster the Middle East peace process, and to promote democracy and the rule of law; and

“(C) assistance for the judiciary branch of the Palestinian Authority and other entities.

“(2) CERTIFICATION.—The President may only exercise the waiver authority under paragraph (1) after—

“(A) consulting with, and submitting a written policy justification to, the appropriate congressional committees; and

“(B) certifying to the appropriate congressional committees that—

“(i) it is in the national security interest of the United States to provide assistance otherwise prohibited under subsection (a); and

“(ii) the individual or entity for which assistance is proposed to be provided is not a member of, or effectively controlled by (as the case may be), Hamas or any other foreign terrorist organization.

“(3) REPORT.—Not later than 10 days after exercising the waiver authority under paragraph (1), the President shall submit to the appropriate congressional committees a report describing how the funds provided pursuant to such waiver will be spent and detailing the accounting procedures that are in place to ensure proper oversight and accountability.

“(4) TREATMENT OF CERTIFICATION AS NOTIFICATION OF PROGRAM CHANGE.—For purposes of this subsection, the certification required under paragraph (2)(B) shall be deemed to be a notification under section 634A and shall be considered in accordance with the procedures applicable to notifications submitted pursuant to that section.

“(f) DEFINITIONS.—In this section:

“(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) 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)).

“(3) 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) PREVIOUSLY OBLIGATED FUNDS.—The provisions of section 620K of the Foreign Assistance Act of 1961, as added by subsection (b), shall be applicable to the unexpended balances of funds obligated prior to the date of the enactment of this Act.

Applicability.

22 USC 2378b
note.

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), is further amended by adding at the end the following new section:

“SEC. 620L. LIMITATION ON ASSISTANCE FOR THE WEST BANK AND GAZA. 22 USC 2378c.

“(a) LIMITATION.—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) is in effect with respect to the Palestinian Authority.

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

“(1) ASSISTANCE TO MEET BASIC HUMAN NEEDS.—Assistance to meet food, water, medicine, health, or sanitation needs, or other assistance to meet basic human needs.

“(2) ASSISTANCE TO PROMOTE DEMOCRACY.—Assistance to promote democracy, human rights, freedom of the press, non-violence, reconciliation, and peaceful coexistence, provided that such assistance does not directly benefit Hamas or any other foreign terrorist organization.

“(3) ASSISTANCE FOR INDIVIDUAL MEMBERS OF THE PALESTINIAN LEGISLATIVE COUNCIL.—Assistance, other than funding of salaries or salary supplements, to individual members of the Palestinian Legislative Council who the President determines are not members of Hamas or any other foreign terrorist organization, for the purposes of facilitating the attendance of such members in programs for the development of institutions of democratic governance, including enhancing the transparent and accountable operations of such institutions, and providing support for the Middle East peace process.

“(4) OTHER TYPES OF ASSISTANCE.—Any other type of assistance if the President—

“(A) determines that the provision of such assistance is in the national security interest 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).

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

“(d) 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

President.

Deadline.

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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) DEFINITIONS.—In this section:

“(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) 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)).”.

(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 each of the fiscal years 2007 and 2008 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 fiscal year 2007 or 2008 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 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 Federal or non-Federal 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 for each of the fiscal years 2007 and 2008 to ensure, among other things, compliance with this subsection.

Certification.
Deadline.

(B) AUDITS BY INSPECTOR GENERAL OF USAID.—Of the amounts available for each of the fiscal years 2007 and 2008 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.

SEC. 4. DESIGNATION OF TERRITORY CONTROLLED BY THE PALESTINIAN AUTHORITY AS TERRORIST SANCTUARY.

22 USC 2378b
note.

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. 5. DENIAL OF VISAS FOR OFFICIALS OF THE PALESTINIAN AUTHORITY.

22 USC 2378b
note.

(a) IN GENERAL.—Except as provided in subsection (b), a visa should not be issued to any alien who is an official of, under the control of, or serving as a representative of the Hamas-led 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) EXCEPTION.—The restriction under subsection (a) should not apply to—

(1) the President of the Palestinian Authority and his or her personal representatives, provided that the President and his or her personal representatives are not affiliated with Hamas or any other foreign terrorist organization; and

(2) members of the Palestinian Legislative Council who are not members of Hamas or any other foreign terrorist organization.

SEC. 6. TRAVEL RESTRICTIONS ON OFFICIALS AND REPRESENTATIVES OF THE PALESTINIAN AUTHORITY AND THE PALESTINE LIBERATION ORGANIZATION STATIONED AT THE UNITED NATIONS IN NEW YORK CITY.

22 USC 2378b
note.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), the President should 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.

(b) EXCEPTION.—The travel restrictions described in subsection (a) should not apply to the President of the Palestinian Authority and his or her personal representatives, provided that the President

and his or her personal representatives are not affiliated with Hamas or any other foreign terrorist organization.

22 USC 2378b
note.

SEC. 7. 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 during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

(b) ENFORCEMENT.—

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

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

(c) WAIVER.—Subsection (a) shall not apply if the President determines and certifies to the appropriate congressional committees that the establishment or maintenance of an office, headquarters, premises, or other facilities is vital to the national security interests of the United States.

22 USC 2378b
note.

SEC. 8. INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) REQUIREMENT.—The President should direct the United States Executive Director at each international financial institution to use the voice, vote, and influence of the United States to prohibit assistance to the Palestinian Authority (other than assistance described under subsection (b)) 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) EXCEPTIONS.—The prohibition on assistance described in subsection (a) should not apply with respect to the following types of assistance:

(1) Assistance to meet food, water, medicine, or sanitation needs, or other assistance to meet basic human needs.

(2) Assistance to promote democracy, human rights, freedom of the press, non-violence, reconciliation, and peaceful coexistence, provided that such assistance does not directly benefit Hamas or other foreign terrorist organizations.

(c) 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 (22 U.S.C. 262r(c)(2)).

22 USC 2378b
note.

SEC. 9. DIPLOMATIC CONTACTS WITH PALESTINIAN TERROR ORGANIZATIONS.

No funds authorized or available to the Department of State may be used for or by any officer or employee of the United States Government to negotiate 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 (except in emergency or humanitarian situations), unless and until such organization—

- (1) recognizes Israel's right to exist;
- (2) renounces the use of terrorism;
- (3) dismantles the infrastructure in areas within its jurisdiction 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 Palestinian Authority.

SEC. 10. ISRAELI-PALESTINIAN PEACE, RECONCILIATION AND DEMOCRACY FUND.

22 USC 2378b note.

Deadline.

(a) ESTABLISHMENT OF FUND.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall establish a fund to be known as the “Israeli-Palestinian Peace, Reconciliation and Democracy Fund” (in this section referred to as the “Fund”). The purpose of the Fund shall be to support, primarily, through Palestinian and Israeli organizations, the promotion of democracy, human rights, freedom of the press, and non-violence among Palestinians, and peaceful coexistence and reconciliation between Israelis and Palestinians.

(b) ANNUAL REPORT.—Not later than 60 days after the date of the enactment of this Act, and annually thereafter for so long as the Fund remains in existence, the Secretary of State shall submit to the appropriate congressional committees a report on programs sponsored and proposed to be sponsored by the Fund.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State \$20,000,000 for fiscal year 2007 for purposes of the Fund.

SEC. 11. REPORTING REQUIREMENT.

22 USC 2378b note.

Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall submit to the appropriate congressional committees a report that—

(1) describes the steps that have been taken by the United States Government to ensure that other countries and international organizations, including multilateral development banks, do not provide direct assistance to the Palestinian Authority for 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; and

(2) identifies any countries and international organizations, including multilateral development banks, that are providing direct assistance to the Palestinian Authority during such a period, and describes the nature and amount of such assistance.

SEC. 12. DEFINITIONS.

22 USC 2378b note.

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).

Approved December 21, 2006.

LEGISLATIVE HISTORY—S. 2370 (H.R. 4681):

HOUSE REPORTS: No. 109-462, Pt. 1 (Comm. on International Relations) and Pt. 2 (Comm. on the Judiciary), both accompanying H.R. 4681.

CONGRESSIONAL RECORD, Vol. 152 (2006):

June 23, considered and passed Senate.

Dec. 7, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):

Dec. 21, Presidential statement.

