

ISSUE BRIEF

No. 4329 | JANUARY 12, 2015

Provocative Palestinian U.N. Actions Require Strong U.S. Response

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The U.S. has provided billions of dollars in assistance to facilitate peace negotiations between Israel and the Palestinians. Despite America's financial support and its repeated diplomatic efforts, the Palestinian Authority (PA) has demonstrated little serious interest in negotiating a peace agreement that recognizes Israel's right to exist, commits the Palestinians to preventing terrorist activity against Israel, and resolves disagreements over borders, security arrangements, Israeli settlements, and Palestinian refugees.

Instead, the PA has sought to use the United Nations and other international organizations to achieve its objectives absent negotiations. Most recently, the Palestinians proffered a Security Council resolution setting a deadline for withdrawal of Israel to its pre-1967 borders. When the resolution did not pass, the Palestinians applied for accession to the International Criminal Court (ICC). This is a continuation of Palestinian tactics over the past few years to exploit the U.N. and other international organizations to bolster its unilateral statehood claims in a deliberate attempt to isolate and delegitimize Israel and avoid concessions that would be necessary in negotiating a peace agreement. This effort runs counter to U.S. policy and U.S. interests and

should elicit a firm response, including ending U.S. bilateral assistance to the PA and all U.S. funding to international organizations that grant the Palestinians membership and support treaties to which they become a party.

U.S. Support for Peace Negotiations

For decades, the United States has advocated and facilitated efforts to resolve the Israeli–Palestinian issue through a negotiated peace agreement as called for in Security Council Resolution 242 and the United Nations–sponsored Road Map for Peace. These and other documents outline the parameters of a peaceful resolution of the situation.

According to the Congressional Research Service, the U.S. has provided approximately \$5 billion in bilateral assistance to the Palestinians since the mid-1990s to bolster stability and economic growth in support of the peace process, to prevent terrorism against Israel, and to address humanitarian requirements.¹ The U.S. has provided billions more to support the activities of the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and other international organizations in the region. Specifically, the U.S. has provided over \$4.9 billion to the UNRWA since the organization was founded in 1950.

Using the U.N.

U.S. assistance has been generous, but legitimate concerns about Palestinian commitment to the peace process led Congress to attach various legislative restrictions and prohibitions to U.S. assistance to the Palestinians and other appropriations. These concerns have proved well founded. For the past several years, the PA has sought to use the U.N. and

This paper, in its entirety, can be found at
<http://report.heritage.org/ib4329>

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other international organizations to bolster its unilateral statehood claims absent a negotiated peace with Israel. Specifically, the Palestinians:

- **Sought** full membership in the United Nations in September 2011.² Under the terms of the U.N. Charter, membership is approved by a decision of the General Assembly, but only after the Security Council has recommended it. The Obama Administration threatened to use America's veto, and the Palestinian membership bid failed.
- **Applied and won** full membership in the U.N. Educational, Scientific and Cultural Organization (UNESCO) over U.S. objections in October 2011.³
- **Sought and won** elevation in status in the U.N. from observer entity to non-member observer state in November 2012, again over U.S. objections.⁴
- **Signed** letters of accession to 15 multilateral treaties and conventions on April 1, 2014, following the announcement of a new unity government between Fatah and Hamas that led Israel to suspend peace negotiations.⁵
- **Convinced** Jordan to offer a resolution in the Security Council demanding the withdrawal of Israel to the pre-1967 borders and recognition of

a Palestinian state by 2017. The U.S. voted no but did not need to veto the resolution since it did not garner the nine votes necessary to pass.⁶

- **Submitted** documents of accession in early January 2015 to 16 international treaties including the Rome Statute of the International Criminal Court.⁷ Reportedly, Palestinian Authority President Mahmoud Abbas also asked the ICC to investigate Israel for alleged war crimes committed during the Gaza conflict in the summer of 2014.⁸

A Strong U.S. Response Is Needed

Contrary to the claims of the Palestinian Authority, this effort is not intended to breathe new life into the peace process. It is a deliberate attempt to: (1) avoid negotiating a peace accord in which the Palestinians would have to recognize Israel's right to exist as a Jewish state and compromise on the "right of return" of Palestinian refugees; (2) demonstrate through repeated votes Israel's unpopularity internationally; and (3) use membership in international organizations and treaties to condemn and harass Israel and its policies as it has done in UNESCO. There is no sign that the Palestinians intend to earnestly reengage in peace negotiations. On the contrary, President Abbas has stated that he will again submit the failed resolution to the Secu-

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1. Jim Zanotti, "U.S. Foreign Aid to the Palestinians," Congressional Research Service *Report for Congress*, July 3, 2014, p. 1, <http://fas.org/sgp/crs/mideast/RS22967.pdf> (accessed January 8, 2015).
 2. Letter from U.N. Secretary-General Ban Ki-moon to the president of the U.N. Security Council conveying the Palestinian application for membership to the United Nations, September 23, 2011, <http://www.un.int/wcm/webdav/site/palestine/users/YousefZ/public/%2823%20September%202011%29%20Application%20of%20the%20State%20of%20Palestine%20for%20UN%20Membership.pdf> (accessed January 8, 2015).
 3. Press release, "General Conference Admits Palestine as UNESCO Member State," UNESCO, October 31, 2011, http://www.unesco.org/new/en/media-services/single-view/news/general_conference_admits_palestine_as_unesco_member_state/?cHash=2e78f9798af62b5766cb64a26ecabd84 (accessed January 8, 2015), and press release, "Palestinian Admission to UNESCO," U.S. Department of State, October 31, 2011, <http://www.state.gov/r/pa/prs/ps/2011/10/176418.htm> (accessed January 8, 2015).
 4. United Nations, "General Assembly Votes Overwhelmingly to Accord Palestine 'Non-Member Observer State' Status in United Nations," GA/11317, November 29, 2012, <http://www.un.org/press/en/2012/ga11317.doc.htm> (accessed January 8, 2015).
 5. Brett D. Schaefer, Steven Groves, and James Phillips, "Palestinian Intent to Accede to 15 Treaties and U.S. Response," Heritage Foundation *Issue Brief* No. 4209, April 30, 2014, <http://www.heritage.org/research/reports/2014/04/palestinian-intent-to-accede-to-15-treaties-and-us-response>.
 6. "UN Security Council Action on Palestinian Statehood Blocked," U.N. News Centre, December 30, 2014, <http://www.un.org/apps/news/story.asp?NewsID=49709#.VKwpX18o7cs> (accessed January 8, 2015).
 7. United Nations, "Depositary Notifications (CNs) by the Secretary-General," January 6, 2015, <https://treaties.un.org/pages/CNs.aspx> (accessed January 8, 2015).
 8. RT, "Palestinian Authority Submits Documents to UN to Join International Criminal Court," January 2, 2015, <http://rt.com/news/219439-palestine-icc-un-join/> (accessed January 8, 2015).
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rity Council in 2015, when the newly elected members may prove more supportive, forcing the U.S. to veto the resolution to stop it.⁹

As stated by Ambassador Samantha Power when the U.S. voted against the Palestinian resolution in the Security Council in December,

We voted against it because we know what everyone here knows, as well—peace will come from hard choices and compromises that must be made at the negotiating table. Today’s staged confrontation in the UN Security Council will not bring the parties closer to achieving a two-state solution.¹⁰

Unfortunately, the Obama Administration’s actions have undermined its rhetoric. Specifically, two U.S. restrictions enacted in the early 1990s prohibit U.S. funding of any U.N. organization that “accords the Palestine Liberation Organization the same standing as member states” or “grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood.”¹¹ These prohibitions have no waiver provision, and the U.S. suspended all funding to UNESCO in 2011 after the Palestinians were granted membership. The Obama Administration has repeatedly sought to change the law to allow renewed U.S. funding of UNESCO even though it would encourage other international organizations to grant membership to the Palestinians.

These mixed signals encourage the Palestinians to continue their efforts and the U.N. to abet them. If the Palestinians are to be deterred and pressured to resume earnest negotiations, the U.S. needs to adopt a clear and consistent policy by:

- **Stating that it will veto any Security Council resolution on unilateral Palestinian statehood prior to a mutually acceptable negotiated peace agreement.**
- **Maintaining and enforcing the prohibition of funding U.N. organizations that grant full membership to the Palestinians.** The Administration should cease its efforts to amend the law to allow funding.
- **Challenging the validity of Palestinian instruments of accession.** The status of Palestinian statehood and the authority of Abbas to join international treaties are highly dubious.¹² The U.S. State Department has recently argued that because “Palestine” is not a sovereign state it “doesn’t qualify to join the ICC.”¹³ This would also apply to other instruments that the Palestinians have sought to join.
- **Applying U.S. funding prohibitions to treaty bodies affiliated with and/or funded through the budgets of the U.N. or other international organizations.** Many of the treaties targeted by the Palestinians for accession have treaty bodies funded through the U.N. regular budget or other international organizations. The U.S. should withhold its proportional share of funding supporting any treaty body or activity funded through the U.N. or U.N.-affiliated organizations to which “Palestine” is permitted to ratify or accede prior to a negotiated peace with Israel.
- **Suspending U.S. bilateral aid to the Palestinian Authority.** The fiscal year 2015 Omnibus appropriations bill included a prohibition on providing Economic Support Fund assistance to the Palestinian Authority if “the Palestinians obtain the same standing as member states or full membership as a state in the United Nations or any specialized agency thereof outside an agreement negotiated between Israel and the Palestinians” or “the Palestinians initiate an International Criminal Court judicially authorized investiga-

9. Sofia News Agency, “Palestine to Resubmit Resolution to UN Security Council,” January 5, 2015, <http://www.novinite.com/articles/165768/Palestine+to+Resubmit+Resolution+to+UN+Security+Council> (accessed January 8, 2015).

10. Samantha Power, U.S. Permanent Representative to the United Nations, “Explanation of Vote at the Security Council Session on the Situation in the Middle East, Including the Palestinian Question,” December 30, 2014, <http://usun.state.gov/briefing/statements/235547.htm> (accessed January 8, 2015).

11. 22 U.S. Code § 287e.

12. Schaefer et al., “Palestinian Intent to Accede to 15 Treaties and U.S. Response.”

13. Reuters, “U.S. Says Palestine Not Qualify to Be Part of ICC: State Department,” January 7, 2015, <http://www.reuters.com/article/2015/01/07/us-palestinians-israel-un-usa-idUSKBN0KG1YL20150107> (accessed January 8, 2015).

tion, or actively support such an investigation, that subjects Israeli nationals to an investigation for alleged crimes against Palestinians.” The Palestinians have violated both conditions and the U.S. should immediately suspend all affected assistance and zero out such funding in future appropriations bills.¹⁴

Conclusion

The U.S. needs to announce and follow through on imposing serious diplomatic and economic consequences to signal to Palestinian leaders that the only avenue to Palestinian statehood that America will support is an honest peace negotiation with Israel.

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14. The Palestinians were granted full membership in UNESCO and the ICC has confirmed that the Palestinians have submitted documents alleging that Israeli forces committed war crimes in the Gaza conflict in the summer of 2014. See Yonah Jeremy Bob, “ICC announces Palestinians File for Investigations on 2 Tracks,” *The Jerusalem Post*, January 5, 2015, <http://www.jpost.com/Arab-Israeli-Conflict/ICC-announces-Palestinians-file-for-investigations-on-2-tracks-386753> (accessed January 8, 2015).