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U.S. Foreign Aid to the Palestinians

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Summary

Since the signing of the Oslo Accord in 1993 and the establishment of limited Palestinian self-rule in the West Bank and Gaza Strip in 1994, the U.S. government has committed over $3.5 billion in bilateral assistance to the Palestinians. Since the death of Yasser Arafat in November 2004, U.S. assistance to the Palestinians has been averaging about $400 million a year. During the 1990s, U.S. foreign aid to the Palestinians averaged approximately $75 million per year. Despite more robust levels of assistance this decade, Israeli-Palestinian conflict and Hamas's heightened role in Palestinian politics have made it more difficult to implement effective and lasting aid projects that serve U.S. interests.

U.S. aid to the Palestinians has fluctuated considerably over the past five years, largely due to Hamas's changing role within the Palestinian Authority (PA). After Hamas led the PA government for over a year, its forcible takeover of the Gaza Strip in June 2007 led to the creation of a non-Hamas government in the West Bank—resulting in different models of governance for the two Palestinian territories. Since then, the United States has dramatically boosted aid levels to bolster the PA in the West Bank and President Mahmoud Abbas vis-à-vis Hamas. The United States has appropriated or reprogrammed nearly $2 billion since 2007 in support of PA Prime Minister Salam Fayyad's security, governance, development, and reform programs, including $650 million for direct budgetary assistance to the PA and nearly $400 million (toward training, non-lethal equipment, facilities, strategic planning, and administration) for strengthening and reforming PA security forces and criminal justice systems in the West Bank. The remainder is for programs administered by the U.S. Agency for International Development and implemented by non-governmental organizations in humanitarian assistance, economic development, democratic reform, improving water access and other infrastructure, health care, education, and vocational training. In December 2009, Congress approved $500 million in total FY2010 assistance pursuant to P.L. 111-117, the Consolidated Appropriations Act, 2010.

In addition to its bilateral assistance to the Palestinians, the United States is the largest single-state donor to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), which provides food, shelter, medical care, and education for many of the original refugees from the 1948 Arab-Israeli war and their descendants—now comprising approximately 4.8 million Palestinians in Jordan, Syria, Lebanon, the West Bank, and Gaza. Since UNRWA's inception in 1950, the United States has provided the agency with nearly $4 billion in contributions. U.S. contributions to UNRWA have steadily increased over the past decade, with nearly $228 million thus far for FY2010. Whether UNRWA's role is beneficial overall, however, is a polarizing question, particularly with respect to UNRWA's presence in Hamas-controlled Gaza.

Because of congressional concerns that, among other things, U.S. funds might be diverted to Palestinian terrorist groups, much of this aid is subject to a host of vetting and oversight requirements and legislative restrictions. Experts advise that PA stability appears to hinge on improved security, economic development, Israeli cooperation, and the continuation of high levels of foreign assistance. The possibility of a consensus or unity government to address the problem of divided rule among Palestinians could lead to a full or partial U.S. aid cutoff if Hamas is included in the government and does not change its stance toward Israel. Even if the immediate objectives of U.S. assistance programs for the Palestinians are met, lack of progress toward a politically legitimate and peaceful two-state solution could undermine the utility of U.S. aid in helping the Palestinians become more cohesive, stable, and self-reliant over the long term.

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Introduction

Since the signing of the Oslo Accord in 1993 and the establishment of limited Palestinian self-rule in the West Bank and Gaza Strip in the mid-1990s, the U.S. government has committed over $3.5 billion in bilateral assistance to the Palestinians. This assistance, which includes $500 million appropriated in December 2009 pursuant to the Consolidated Appropriations Act, 2010 (P.L. 111-117), has focused on the further development of the Palestinian economic, social services, and civil society sectors; and on strengthening the processes, governance, and security-providing capacities of Palestinian Authority (PA) institutions, through partnerships with U.S. and Palestinian organizations. Nevertheless, significant legislative conditions, limitations, and restrictions remain attached to certain aid given to Palestinians.[1]

Since the death of Yasser Arafat in November 2004, U.S. assistance to the Palestinians has been averaging close to $400 million a year, with funding levels spiking to more than double the average for FY2009 to address (1) humanitarian needs in Gaza during and after the December 2008-January 2009 Israel-Hamas Gaza conflict; and (2) reform, security, and development priorities in the West Bank. Since 2007, the United States has appropriated or reprogrammed nearly $2 billion in support of PA Prime Minister Salam Fayyad's security, governance, development, and reform programs, including $650 million for direct budgetary assistance to the PA and nearly $400 million in security and criminal justice sector assistance for the PA in the West Bank. The remainder is for project assistance administered by the U.S. Agency for International Development (USAID). During the 1990s, U.S. foreign aid to the Palestinians averaged approximately $75 million per year. Despite more robust levels of assistance in the past decade, Israeli-Palestinian conflict and Hamas's heightened role in Palestinian politics have made it more difficult to implement effective and lasting aid projects. Contributions from the United States to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) (which have been made since the time of UNRWA's inception in 1950) have continued.

Overview and Recent Developments

The level of U.S. assistance to the Palestinians—among the largest per capita recipients of foreign aid worldwide[2]—has fluctuated considerably since it was initiated following the establishment of limited Palestinian self-rule in the mid-1990s. Fluctuations have been particularly significant over the past four years—due mainly to the on-again, off-again role of Hamas within the Palestinian Authority (PA). Hamas is designated as a Foreign Terrorist Organization (FTO) by the U.S. State Department. After the 2006 Hamas victory in Palestinian Legislative Council elections, U.S. assistance to the Palestinians was restructured and reduced. The United States halted direct foreign aid to the PA but continued providing humanitarian and project assistance to the Palestinian people through international and non-governmental organizations (NGOs). The ban on direct assistance continued during the brief tenure of a Hamas-led unity government (February to June 2007). During that time, the United States and the other members of the international

[1] See P.L. 111-117, Secs. 7034-7040. These conditions include a restriction on aid to Hamas (including Hamas affiliates and any government of which Hamas is a member) or to a Palestinian state unless commitments toward peaceful coexistence with Israel are made and other requirements met by certain Palestinian parties.

[2] See U.N. Development Programme 2007/08 Human Development Report 18: Flows of Aid, Private Capital and Debt at http://hdrstats.undp.org/indicators/171 html.

Quartet (the United Nations, the European Union, and Russia) unsuccessfully demanded that Hamas accept the "Quartet principles"—recognition of Israel's right to exist, renunciation of violence, and acceptance of previous Israeli-Palestinian agreements.

Subsequent events, however, altered the situation dramatically. In June 2007, Hamas forcibly took control of the Gaza Strip. PA President Mahmoud Abbas (head of the Fatah party), calling the move a "coup," dissolved the unity government and tasked the politically independent technocrat Salam Fayyad to serve as prime minister and organize a new PA "caretaker" government in the West Bank. Within days, the United States lifted its economic and political embargo on the PA.

The Bush Administration and Congress then boosted U.S. aid levels in hopes of fostering an economic and security climate conducive to Palestinian statehood. The revival of Israeli-Palestinian negotiations for a final-status agreement in conjunction with the Annapolis Conference of November 2007 provided further impetus for U.S. economic support of the institutional and societal building blocks deemed crucial for Palestinian self-governance. The Obama Administration has thus far advocated a similar approach.

In March 2009, the Obama Administration pledged $900 million in U.S. assistance to the Palestinians to address both humanitarian needs in the wake of the Gaza conflict and reform and development priorities in the West Bank. The pledge was exceeded by appropriations made in the Omnibus Appropriation Act, 2009 (P.L. 111-8) and the Supplemental Appropriations Act, 2009 (P.L. 111-32). P.L. 111-117 provides $500 million in bilateral assistance to the Palestinians for FY2010. The Administration has requested $550 million for FY2011 (see **Table 1** for details).

The United States and others within the international community have publicized their efforts to facilitate post-conflict recovery in Gaza. However, Hamas's control of Gaza presents a conundrum. No one, including Israel and the PA, has figured out how to assist Gaza's population without bolstering Hamas, and thus aside from humanitarian assistance, the issue has been largely ignored, despite aspirational pledges otherwise.[3] Many observers believe that either Hamas's positions on the Quartet principles or its control over Gaza would have to change before the United States might consider dedicating substantial resources toward the reconstruction of buildings and infrastructure in Gaza, with the exception of U.N. facilities and other special cases such as international schools.

In May 2010, Israeli special forces raided one of six ships trying to break the Israeli blockade of Gaza (the Turkish-flagged *MV Mavi Marmara*, on which 9 Turkish citizens, including a Turkish-American, were killed). Reports say that some of the ship's passengers provoked or actively resisted the Israeli special forces troops who boarded the ship in international waters. The incident led to renewed international outcries seeking the lifting or significant loosening of the Israeli/Egyptian closure regime (Egypt controls Gaza's southernmost border crossing at Rafah).[4] The naval blockade and a general closure of land crossings have been enforced since 2007, ostensibly to prevent weapons, money, and dual use items from reaching Hamas, but possibly also to squeeze the Gazan people economically in hopes that they would turn against Hamas.

[3] See, e.g., *Failing Gaza: No rebuilding, no recovery, no more excuses (A report one year after Operation Cast Lead)*, Amnesty International UK, et al., December 2009, available at http://www.amnesty.org.uk/uploads/documents/doc_20012.pdf.

[4] See CRS Report R41275, *Israel's Blockade of Gaza, the Mavi Marmara Incident, and Its Aftermath*, by Carol Migdalovitz.

Nevertheless, Israel and Egypt have not gone beyond limited and/or temporary measures to relax restrictions on the movement of people and goods in and out of Gaza (although Egypt has relaxed more restrictions than Israel).

Shortly after the flotilla incident, on June 9, the Obama Administration announced that it was prepared to move forward with "up to $400 million in projects for the West Bank and Gaza that will help increase access to clean drinking water, create jobs, build schools, expand the availability of affordable housing, and address critical health and infrastructure needs." Of this amount, only $160 million are slated for humanitarian and project assistance through USAID contractors and international and non-governmental organizations (all of which come from funds appropriated for FY2009 and FY2010), and only $40 million of this amount—new FY2010 contributions to UNRWA to "help improve educational and health services, increase job creation, and repair shelters in Gaza" and to address core humanitarian needs in the West Bank—represent assistance newly set aside for the Palestinians.[5]

Types of U.S. Bilateral Aid to the Palestinians

Table 1. U.S. Bilateral Assistance to the Palestinians, FY2004-FY2011

(regular and supplemental appropriations; current year $ in millions)

Account	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011[a]
ESF	74.5	224.4	148.5	50.0	389.5	776.0	400.4	400.4
P.L. 480 Title II (Food Aid)	-	6.0	4.4	19.488	-	20.715	-	
INCLE[b]	-	-	-	-	25.0	184.0	100.0	150.0
NADR[c]	-	-	-	-	-	-	2.5[d]	-
Transition Aid	-	-	0.343	-	-	-	-	-
Total	**74.5**	**230.4**	**153.243**	**69.488**	**414.5**	**980.715**	**502.9**	**550.4**

Sources: U.S. Department of State, USAID.

Notes: All amounts are approximate; for purposes of this table and this report, "bilateral assistance" does not include U.S. contributions to UNRWA or other international organizations from the Migration and Refugee Assistance (MRA) or Emergency Refugee and Migration Assistance (ERMA) accounts, regardless of how the term is defined in legislation.

a. Amounts stated for FY2011 have been requested but not yet appropriated; see FY2011 Congressional Budget Justification for Foreign Operations, Department of State (Volume 2), pp. 78, 95, available at http://www.state.gov/documents/organization/137936.pdf.

b. INCLE stands for International Narcotics Control and Law Enforcement. INCLE figures do not include $86.362 million reprogrammed into the INCLE account by President Bush in January 2007 (see "Direct Assistance to the Palestinian Authority" below).

c. NADR stands for Nonproliferation, Anti-terrorism, Demining and Related Programs.

[5] Information provided to Congressional staffers from the State Department, June 2010. The other $240 million are amounts to be invested by the Overseas Private Investment Corporation (OPIC) in an ongoing West Bank mortgage finance program intended to expand homeownership.

d. According to the State Department, the counterterrorism training program for which this funding was contemplated is no longer slated to take place during FY2010.

Table 2. Proposed Spending Plan for FY2010 Bilateral Assistance

Amount	Purpose
Economic Support Fund ($400.4 million total)	
$150 million	Direct budgetary assistance to Palestinian Authority (PA) in West Bank (helping to discharge PA debt obligations, which are primarily incurred in order to pay the salaries of PA employees)
$250.4 million	Assistance for the West Bank and Gaza (through USAID)[a] • $38 million – governance, rule of law, civil society • $93.5 million – health, education, social services • $95 million – economic development • $23.9 million – humanitarian assistance
International Narcotics Control and Law Enforcement ($100 million total)	
$96 million	Training, non-lethal equipment, and garrisoning assistance to PA security forces in the West Bank, supporting efforts by the U.S. Security Coordinator
$4 million	Governance, rule of law, human rights, and institution-building assistance, including to strengthen PA ministries and the justice system and to encourage judicial independence

Source: FY2010 Congressional Budget Justification for Foreign Operations, Department of State

Notes: All amounts are approximate.

a. See footnote 6.

Project Assistance Through USAID

Types of Funding Programs

Most aid to the Palestinians is appropriated through the Economic Support Fund (ESF) account and provided by USAID to U.S.-based non-governmental organizations operating in the West Bank and the Gaza Strip.[6] Funds are allocated in this program for projects in sectors such as humanitarian assistance, economic development, democratic reform, improving water access and

[6] The FY2010 Congressional Budget Justification for Foreign Operations, Department of State (Book II), p. 459, available at http://www.state.gov/documents/organization/124072.pdf, stated that "All assistance programs for Gaza funded under this request will, consistent with legislative requirements, work through vetted non-governmental or international organizations to meet U.S. Government objectives in Gaza. Beyond immediate humanitarian relief, successful implementation of programs in Gaza is dependent on the establishment of a durable ceasefire, the creation of an operating environment in which Hamas does not interfere with U.S.-funded programs and activities and greater access for essential materials and commodities to Gaza. The U.S. Government will work with the PA and implementing partners to follow established safeguards that will ensure funding is only used where and by whom it is intended. It will similarly work with the Government of Israel to develop an effective crossings regime that enables the flow of humanitarian and commercial goods without compromising Israeli security concerns."

other infrastructure, health care, education, and vocational training (currently most, if not all, funds for the Gaza Strip are dedicated to humanitarian assistance and economic recovery needs). See **Table 2** above for the Obama Administration's proposed spending plan for FY2010 ESF West Bank/Gaza assistance.

Vetting Requirements and Procedures

USAID's West Bank and Gaza program is subject to a vetting process (for non-U.S. organizations) and to yearly audits intended to ensure that funds are not diverted to Hamas or other organizations classified as terrorist groups by the U.S. government.[7] This vetting process has become more rigorous in recent years in response to allegations that U.S. economic assistance was indirectly supporting Palestinian terrorist groups, and following an internal audit in which USAID concluded it could not "reasonably ensure" that its money would not wind up in terrorist hands.[8]

A February 2009 statement from USAID described its revamped vetting procedures as follows:

> All NGOs applying for grants from USAID are required to certify, before award of the grant will be made, that they do not provide material support to terrorists.... Before making an award of either a contract or a grant to a local NGO, the USAID West Bank/Gaza Mission checks the organization and its principal officers, directors and other key personnel against lists maintained by the Office of Foreign Assets Control (OFAC) within the U.S. Department of Treasury. The Mission also checks these organizations and individuals through law enforcement and intelligence community systems accessed by USAID's Office of Security. At present, the Mission collects additional information up front in addition to the individual's full [four-part] name, such as a government issued photo-ID number and the individual's date and place of birth.... [USAID's] West Bank/Gaza program possess[es] the most comprehensive partner vetting system for foreign assistance throughout the U.S. Government.[9]

Other sources corroborate the assertion made in USAID's statement that its West Bank and Gaza program is one of the most, if not the most, rigorously vetted USAID programs worldwide.[10] A

[7] P.L. 111-117, Sec. 7039(b) sets forth the legal requirements for vetting: "Prior to the obligation of funds appropriated by this Act under the heading 'Economic Support Fund' for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity nor, with respect to private entities or educational institutions, those that have as a principal officer of the entity's governing board or governing board of trustees any individual that has been determined to be involved in, or advocating terrorist activity or determined to be a member of a designated foreign terrorist organization: *Provided*, That the Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution which the Secretary has determined to be involved in or advocating terrorist activity."

[8] "Audit: Terrorists Got U.S. Aid; Agency's Screening Called Inadequate," *Chicago Tribune*, November 16, 2007; Testimony of Henrietta Fore, USAID Administrator and Director of U.S. Foreign Assistance, House Appropriations Subcommittee on State, Foreign Operations, and Related Programs Holds Hearing on the Fiscal 2009 Budget for the U.S. Agency for International Development, February 27, 2008.

[9] Statement issued by USAID to CRS on February 5, 2009. USAID does not subject U.S. organizations to vetting due to U.S. privacy law concerns. See U.S. Government Accountability Office (GAO), *Measures to Prevent Inadvertent Payments to Terrorists Under Palestinian Aid Programs Have Been Strengthened, but Some Weaknesses Remain*, GAO Foreign Assistance Report 09-622, May 2009, available at http://www.gao.gov/new.items/d09622.pdf.

[10] See Walter Pincus, "Plan for Terror Screening of Aid Groups Cut Drastically," *Washington Post*, August 30, 2007; *Federal Register*, vol. 2, no. 36, pp. 39042-39044.

May 2009 Government Accountability Office (GAO) report found that USAID had strengthened its antiterrorism politics and procedures in response to recommendations GAO had made in a 2006 report.[11]

Direct Assistance to the Palestinian Authority

According to annual foreign operations appropriations laws, congressionally approved funds for the West Bank and Gaza Strip cannot be given directly to the PA unless the President submits a waiver to Congress stating that doing so is in the interest of national security, and the Secretary of State certifies that there is a single PA treasury account, civil service roster, and payroll.[12] Current law also places conditions on aid to any power-sharing PA government "of which Hamas is a member" (for further discussion, see "Hamas and a "Unity Government"?" below). Even after money is transferred to the PA's treasury account, the United States retains prior approval of any transactions from that account, along with a three-year power of audit over those funds.[13]

Recent instances in which the United States has provided direct assistance to or for the benefit of the PA as a result of special presidential action include the following:

- In January 2007, President Bush reprogrammed $86.362 million in prior-year funding into the International Narcotics Control and Law Enforcement (INCLE) account to support PA civil security forces loyal to President Abbas (see "U.S. Security Assistance to the Palestinian Authority" below).[14] Chairwoman Nita M. Lowey of the House Appropriations Subcommittee for State, Foreign Operations, and Related Programs put a hold on the funds in February 2007, reportedly seeking assurances that they would only be used for non-lethal assistance.[15] Obligation of the funds for non-lethal purposes eventually began in June 2007, the month that the Hamas-led unity government was dissolved and the new Fayyad PA government was formed.[16]
- In June 2007, President Bush issued a waiver to provide an additional $18 million in direct assistance to the PA to be used for a variety of purposes, including democracy assistance and security assistance.[17]

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[11] See GAO, op. cit. A schematic detailing USAID's vetting process is found on page 42 of the report. GAO did recommend in the report that USAID take steps to ensure that it and its primary contractors use the same rigor at the subcontractor level that they employed in requiring antiterrorism clauses and certifications during their contracting process.

[12] See P.L. 111-117, Sec. 7040 ("Limitation on Assistance for the Palestinian Authority"). In the event of a presidential waiver, Sec. 7040 requires the President to submit a report to the Committees on Appropriations "detailing the justification for the waiver, the purposes for which the funds will be spent, and the accounting procedures in place to ensure that the funds are properly disbursed. The report shall also detail the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons and dismantle the terrorist infrastructure."

[13] Congressional briefing with State Department and USAID officials, July 9, 2009.

[14] Presidential Determination No. 2007-11. Under Chapter 8 of Part I (Section 481) of the 1961 Foreign Assistance Act (as amended): "Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of narcotic and psychotropic drugs and other controlled substances, or for other anticrime purposes."

[15] See "Splits Between U.S. and Europe Over Aid for Palestinians," *International Herald Tribune*, February 22, 2007.

[16] CRS conversation with U.S. Department of State official, September 16, 2008.

[17] Presidential Determination No. 2007-20.

- In February 2008, President Bush issued a waiver to provide $150 million in budgetary assistance to the PA from the ESF account to "avert a serious and immediate financial crisis."[18] Chairwoman Lowey again declared a hold, requesting greater details about the funds' allocation.[19] The funds were disbursed to the PA after the State Department delivered a certification (dated March 14, 2008) directly to Chairwoman Lowey stating that the PA had established a single treasury account and a single civil service payroll roster.[20]
- In October 2008, another $150 million in budgetary assistance from the ESF account were provided to the PA via presidential waiver.[21]
- In July 2009, $200 million in ESF money were transferred to the PA in the wake of a waiver issued by President Obama.[22]
- In November 2009, $75 million in budgetary assistance were provided to the PA under the July presidential waiver as an advance on FY2010 ESF funds, pursuant to a continuing resolution (later appropriated pursuant to P.L. 111-117).
- In April 2010, another $75 million in budgetary assistance from the ESF account were provided to the PA via presidential waiver.[23]

U.S. Security Assistance to the Palestinian Authority[24]

As mentioned above, aid has been given to train, reform, advise, house, and provide non-lethal equipment for PA civil security forces in the West Bank loyal to President Abbas in an effort both to counter militants from organizations such as Hamas and Palestinian Islamic Jihad, and to establish the rule of law for an expected Palestinian state. A small amount of training assistance also has been provided to strengthen and reform the PA criminal justice sector. This assistance has come from the INCLE account—to which a total of $395.4 million (including $100 million in FY2010 funding—see **Table 2** above for a description) has been appropriated or reprogrammed for use in the West Bank since 2007. The Obama Administration has requested an additional $150 million in FY2011 INCLE funding.

Since Hamas gained control of the Gaza Strip, the U.S. Security Coordinator (USSC) for Israel and the Palestinian Authority (a three-star U.S. general, supported by staff and by military officers from the United Kingdom, Canada, and Turkey) has worked in coordination with the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) to help train roughly 400 Presidential Guardsmen and 2,700 National Security Forces troops at the International Police Training Center near Amman, Jordan. The USSC reportedly plans to help

[18] Presidential Determination No. 2008-12.

[19] "Appropriator Wants Palestinian Authority Aid on Hold Until Accountability in Place," *CQToday*, March 4, 2008.

[20] The certification was required by the 2008 foreign operations appropriations bill. See Consolidated Appropriations Act, 2008 (P.L. 110-161), Division J, Title III, Economic Support Fund.

[21] Presidential Determination No. 2009-02.

[22] Presidential Determination No. 2009-23.

[23] See Presidential Memorandum 2010-06, available at http://www.whitehouse.gov/the-press-office/presidential-determination-waiver-restriction-providing-funds-palestinian-authority.

[24] For further information on this subject, see CRS Report R40664, *U.S. Security Assistance to the Palestinian Authority*, by Jim Zanotti.

organize and train five additional 500-man NSF battalions. Most reports agree that law and order have improved where these PA forces have been deployed. Yet, uncertainty remains over the durability of these improvements and their connection with broader Palestinian economic and civil society development and with progress on Israeli-Palestinian negotiations, as well as over the willingness and ability of the forces to incapacitate militants. The USSC/INL program exists alongside a European Union police and justice sector train-and-equip program (known as EUPOL COPPS—the EU Police Co-ordinating Office for Palestinian Police Support), and alongside other assistance and training programs reportedly provided to Palestinian security forces and intelligence organizations by various countries, including probable covert U.S. assistance programs.[25] The aspiration to coordinate international security assistance efforts and to consolidate the various PA security forces under unified civilian control that is accountable to rule of law and to human rights norms remains largely unfulfilled.

Some Palestinians and outside observers assert that the effectiveness and credibility of PA operations are undermined by Israeli restrictions—including curfews, checkpoints, no-go zones, and limitations on international arms and equipment transfers—as well as by Israel's own security operations in the West Bank[26] and its closure regime/blockade vis-à-vis Gaza. Israel claims that its continuing operations in the West Bank are necessary in order to reduce the threat of terrorism. These operations underscore the fact that the Israeli-Palestinian agreements that authorized the creation of Palestinian security forces in the 1990s in areas of limited Palestinian self-rule contained clauses that preserved Israel's prerogative to conduct operations in those areas for purposes of its own security.

U.S. Contributions to UNRWA

Overview

The United States is the largest single-state donor to UNRWA, which provides food, shelter, medical care, and education for many of the original refugees from the 1948 Arab-Israeli war and their descendants—now comprising approximately 4.8 million Palestinians in Jordan, Syria, Lebanon, the West Bank, and Gaza.[27] U.S. contributions to UNRWA—separate from U.S. bilateral aid to the West Bank and Gaza—come from the Migration and Refugee Assistance (MRA) account and the Emergency Refugee and Migration Assistance (ERMA) account. Since UNRWA's inception in 1950, the United States has provided the agency with nearly $4 billion in contributions (see **Table 3** below).

[25] See, e.g., Ian Cobain, "CIA working with Palestinian security agents," *guardian.co.uk*, December 17, 2009; Yezid Sayigh, "'Fixing Broken Windows': Security Sector Reform in Palestine, Lebanon and Yemen," Carnegie Endowment for International Peace, October 2009, available at http://www.carnegieendowment.org/files/security_sector_reform.pdf.

[26] See International Crisis Group, *Ruling Palestine II: The West Bank Model?* Middle East Report No. 79, July 17, 2008, available at http://www.crisisgroup.org/library/documents/middle_east___north_africa/arab_israeli_conflict/79_ruling_palestine_ii___the_west_bank_model.pdf.

[27] For further information on UNRWA, see CRS Report RS21668, *United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)*, by Rhoda Margesson.

The budget for UNRWA's core activities (general fund) in 2009 was $545.6 million, funded mainly by Western governments, international organizations, and private donors.[28] UNRWA also creates special emergency funds for pressing humanitarian needs, such as in the wake of the 2008-2009 Gaza conflict. U.S. contributions (which are made from the Migration and Refugee Assistance (MRA) and Emergency Refugee and Migration Assistance (ERMA) accounts managed by the State Department's Bureau of Population, Refugees, and Migration (PRM)) have totaled $228 million thus far for FY2010 ($120 million for the general fund, $108 for emergency funds and special projects), and totaled $268 million for FY2009 ($116 and $152 million, respectively) and $185 million for FY2008 ($100 and $85 million, respectively).

Table 3. Historical U.S. Government Contributions to UNRWA

(in $ millions)

Fiscal Year(s)	Amount	Fiscal Year(s)	Amount
1950-1989	1,473.3	2000	89.0
1990	57.0	2001	123.0
1991	75.6	2002	119.3
1992	69.0	2003	134.0
1993	73.8	2004	127.4
1994	78.2	2005	108.0
1995	74.8	2006	137.0
1996	77.0	2007	154.2
1997	79.2	2008	184.7
1998	78.3	2009	268.0
1999	80.5	2010	227.8[a]
		TOTAL	**3,889.1**

Source: U.S. Department of State

Notes: All amounts are approximate.

a. Thus far

Until the 1990s, Arab governments refrained from contributing to UNRWA's budget in an effort to keep the Palestinian refugee issue on the international agenda and to press Israel to accept responsibility for their plight. Since then, most Arab states have made relatively small annual contributions.

In Gaza, most observers acknowledge that the role of UNRWA in providing basic services (i.e., food, health care, education) takes much of the governing burden off Hamas. As a result, some complain that this amounts to UNRWA's enabling of Hamas and is an argument militating for its activities to be discontinued or scaled back. However, many others, U.S. and Israeli officials

[28] According to UNRWA's website (http://www.unrwa.org/userfiles/file/financial_updates/2009/Total_Contributions_to_UNRWA_2009_All_Donors.pdf), U.S. contributions in 2009 constituted approximately 20% of the UNRWA General Fund budget and 27% of the total budget. Aggregate contributions from the European Commission and European states (including both EU members and non-members) and regions constituted approximately 52% of the total budget.

included, believe that UNRWA plays a valuable role by providing stability and serving as the eyes and ears of the international community in Gaza. They generally prefer UNRWA to the uncertain alternative that might emerge if UNRWA were removed from the picture.[29]

Issues for Congress

Some observers, including a former general counsel for UNRWA, have criticized UNRWA for, among other things, insufficient or flawed vetting procedures and engaging in political advocacy.[30] UNRWA and its supporters, however, maintain that UNRWA officials are fulfilling their mandated roles as well as can be expected under challenging circumstances (i.e., UNRWA's lack of a robust policing capability and other operational limitations, political pressures, security concerns). [31]

In testimony before the House Appropriations Subcommittee on State, Foreign Operations and Related Programs on April 23, 2009, Secretary of State Hillary Rodham Clinton spoke for the Obama Administration regarding U.S. oversight of contributions to UNRWA:

> We have made it clear to UNRWA, the United Nations Relief And Works Agency, that we intend to carefully track any aid that they receive. They have taken additional steps, partly at our urging, to make their process more transparent, consistent with both United Nations commitments and U.S. legislation. They conduct background checks on employees. They share staff lists with us and with Israel. They prohibit staff participation in political activities. They launch investigations upon receiving information from Israel, us, or anyone else about any staff member engaging in inappropriate or illicit activities. They are actually investigating staff members right now who were elected in internal elections within Gaza. And we have pressed them very hard because they have to earn our confidence in this.[32]

Vetting of UNRWA Contributions

The primary concern raised by some Members of Congress is that U.S. contributions to UNRWA might be used to support terrorists. Section 301(c) of the 1961 Foreign Assistance Act (P.L. 87-195), as amended, says that "No contributions by the United States shall be made to [UNRWA] except on the condition that [UNRWA] take[s] all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving

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[29] See FY2011 Congressional Budget Justification for Foreign Operations, Department of State (Volume 2), p. 86, available at http://www.state.gov/documents/organization/137936.pdf: "U.S. government support for UNRWA directly contributes to the U.S. strategic interest of meeting the humanitarian needs of Palestinians, while promoting their self-sufficiency. UNRWA plays a stabilizing role in the Middle East through its assistance programs, serving as an important counterweight to extremist elements."

[30] See James G. Lindsay, *Fixing UNRWA: Repairing the UN's Troubled System of Aid to Palestinian Refugees*, Washington Institute of Near East Policy Policy Focus #91, January 2009, available at http://www.thewashingtoninstitute.org/pubPDFs/PolicyFocus91.pdf. See also James Phillips, "The Gaza Aid Package: Time to Rethink U.S. Foreign Assistance to the Palestinians," The Heritage Foundation WebMemo No. 2333, March 9, 2009, available at http://www heritage.org/Research/MiddleEast/wm2333.cfm.

[31] A direct written rebuttal by Israeli academic Maya Rosenfeld to the former UNRWA general counsel's critiques was carried by UNRWA's website and is available at http://rete-eco.it/attachments/5172_Rejoinder%20to%20Lindsay_jan09.pdf.

[32] Transcript of remarks by Secretary of State Hillary Rodham Clinton, House Appropriations Subcommittee on State, Foreign Operations and Related Programs hearing: "Supplemental Request," April 23, 2009.

military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism."

The May 2009 GAO report said that, since a previous GAO report in 2003, UNRWA and the State Department had strengthened their policies and procedures to conform with Section 301(c) legal requirements, but that "weaknesses remain."[33] Neither report found UNRWA to be in noncompliance with Section 301(c), and to date, no arm of the U.S. government has made such a finding. The following are some points from the 2009 report and subsequent developments related to it:

- In the 2009 GAO report, State officials said compliance is evaluated based on State's "internal level of confidence that UNRWA has taken all possible measures to ensure that terrorists are not receiving assistance, such as having procedures in place and taking measures to respond to issues that arise."[34] State has not defined the term "all possible measures," nor has it defined what would constitute noncompliance with Section 301(c).
- The report said that State had not established written criteria to use in evaluating UNRWA's compliance with Section 301(c), and recommended that State consider doing so.[35] In November 2009, State and UNRWA signed a non-binding "Framework for Cooperation" for 2010. The document agreed that, along with the compliance reports UNRWA submits to State biannually, State would use 15 enumerated criteria "as a way to evaluate" UNRWA's compliance with Section 301(c).[36]
- UNRWA said that it screens its staff and contractors every six months and that it screened all 4.6 million Palestinian refugees and microfinance clients in December 2008 (and intends to make this a routine procedure) for terrorist ties to Al-Qaida and the Taliban, pursuant to a list established pursuant to U.N. Security Council Resolution 1267. UNRWA said that it is unable to screen those of its beneficiaries who are displaced persons from the 1967 war because it does not collect information on those persons.[37]
- UNRWA's UN 1267 terrorist screening list does not include Hamas, Hezbollah, or most other militant groups that operate in UNRWA's surroundings. UNRWA is unwilling to screen its contractors and funding recipients against a list supplied by only one U.N. member state. Nevertheless, UNRWA officials did say that if notified by U.S. officials of potential matches, they would "use the information as a trigger to conduct their own investigation," which led to the report's recommendation that the State Department consider screening UNRWA

[33] GAO, op. cit.

[34] Ibid.

[35] Ibid.

[36] "Framework for Cooperation Between UNRWA and the Government of the United States of America for 2010," available at http://www.state.gov/documents/organization/133753.pdf. The 15 enumerated criteria are found in Annex 4 of the framework document.

[37] GAO, op. cit. In 2006, an organization that advocates for Palestinian refugees estimated the total number of 1967 displaced persons to be between 800,000 and 850,000. See BADIL Resource Center for Palestinian Residency & Refugee Rights, *Survey of Palestinian Refugees and Internally Displaced Persons 2004-2005*, May 2006, available at http://www.badil.org/Publications/Books/Survey2004-2005.pdf.

contractors.[38] In response, State says that it now screens quarterly against the Excluded Parties Lists System (EPLS, which is a list of parties excluded throughout the U.S. government from receiving federal contracts[39])

> the names of vendors of contracts equal to or exceeding $100,000, as provided by UNRWA. Each of UNRWA's 83 contract awardees of over $100,000 for the 2nd Quarter (April-June 2010) was screened twice by separate PRM staff. The analysis resulted in no matches against the EPLS.[40]

- UNRWA has established procedures to investigate inappropriate staff behavior. UNRWA [said] that it seeks information from authorities whenever staff are detained, convicted, or refused a permit or targeted by Israeli military forces. UNRWA officials said they share the names of all UNRWA staff annually with the governments of Egypt, Israel, Jordan, Lebanon, Syria, and the Palestinian Authority but have received no information on staff members from these governments."[41]
- UNRWA officials said that UNRWA provides assistance "in the context of its humanitarian mandate, meaning that agency policy is generally not to deny education or primary healthcare benefits." The officials said that if a refugee was denied benefits because of suspected militant or terrorist activities or ties, his or her child "would not be disqualified from attending an UNRWA school."[42]

Concerns Over Possible Resettlement of Palestinian Refugees

During the consideration of the Omnibus Appropriations Act, 2009 (P.L. 111-8), concerns surfaced over rumors being spread via the Internet that part of the Obama Administration's $20.3 million contribution to UNRWA, the International Committee of the Red Cross, and the U.N. Office for the Coordination of Humanitarian Affairs made on January 27, 2009, from the Emergency Refugee and Migration Assistance (ERMA) account in the wake of the Gaza conflict might go toward resettlement of Gazan refugees in the United States. Senator John Kyl proposed S.Amdt. 629 ("To provide that no funds may be used to resettle Palestinians from Gaza into the United States"). Kyl, however, withdrew S.Amdt. 629 after receiving a letter from the State Department assuring him that U.S. funds were not being used to resettle Gazans in the United States. It is unclear whether the parties fueling the rumors were aware that ERMA contributions have been routinely made to UNRWA during past presidential administrations and that aid provided to UNRWA generally goes toward basic living needs and services (i.e., food, health care, education) for the Palestinian refugees over which its mandate exists in the places the refugees are already located (the West Bank and the Gaza Strip, Jordan, Syria, Lebanon). Notwithstanding the State Department's assurances that ERMA funds are not being used to resettle Gazans in the United States, some have persisted in voicing their concerns on this issue.

According to the State Department, some Palestinian refugees from Iraq are being resettled in the United States:

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[38] GAO, op. cit.

[39] U.S. General Services Administration website at https://www.acquisition.gov/faqs_whatis.asp.

[40] CRS correspondence with State Department, August 9, 2010.

[41] GAO, op. cit.

[42] Ibid.

> Since 2008, 679 Palestinians from Iraq have arrived for resettlement in nearly all 50 states across the U.S. through the U.S. Refugee Admissions Program (USRAP). PRM expects additional arrivals over the next two months, thus this number will increase by the end of this fiscal year. [The U.N. High Commissioner for Refugees (UNHCR)] referred 1,350 Palestinians to the USRAP for resettlement in [the United States] since FY2008. Processing of this group has taken place in two locations: at the Al Waleed camp located on the Iraqi-Syrian border and in the International Zone in Baghdad. The USRAP will process more Palestinians for resettlement if they are referred by UNHCR.[43]

The State Department says that it has not contributed to the resettlement costs of Palestinian refugees from Iraq.[44] According to the website of the U.S. Citizenship and Immigration Services bureau of the Department of Homeland Security, refugees relocating to the United States generally receive loans from the International Organization for Migration for their transportation expenses. They are "expected to repay the cost of their transportation once they are established in the United States."[45]

The State Department has said that Palestinian refugees from Iraq who are potentially relocating to the United States are screened for potential security risks.

> Palestinians from Iraq undergo screening as if they were Iraqi citizens, including the enhanced security checks undergone by all Iraqi refugee applicants. These procedures consist of name and biometric checks against various additional U.S. Government databases to ensure that the applicants pose no known security risks.[46]

The State Department has made $4.7 million in FY2009 and FY2010 "special project" contributions (from the MRA account) to UNRWA specifically dedicated to assisting Palestinian refugees from Iraq who have relocated to Syria. According to State, "While Palestinians from Iraq fall under UNHCR's mandate, UNHCR and UNRWA closely coordinate assistance to this population to allow Palestinians from Iraq to access services from either agency as many families live on the outskirts of Palestinian refugee camps and do not feel safe traveling to UNHCR's office. In 2009 UNHCR and UNRWA established a joint registration process for Palestinians from Iraq in order to ensure that families are not receiving the same assistance from both agencies."[47] The special project contributions provide the refugees with basic services such as food, education, and emergency shelter.[48]

Legislation

Critiques of UNRWA's operations are routinely raised, and some Members of Congress have supported legislation or resolutions aimed at increasing oversight of the agency, strengthening its vetting procedures, and/or capping U.S. contributions. H.Rept. 111-151 contained a provision from the joint explanatory statement capping contributions to UNRWA at $119 million for its

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[43] CRS correspondence with State Department, August 2010.

[44] Ibid.

[45] U.S. Citizenship and Immigration Services bureau website at http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=e4eabcf527f93210VgnVCM100000b92ca60aRCRD&vgnextchannel=385d3e4d77d73210VgnVCM100000082ca60aRCRD.

[46] CRS correspondence with State Department, July 2009.

[47] CRS correspondence with State Department, August 2010.

[48] Ibid.

operations in the West Bank and Gaza from FY2009 funds appropriated pursuant to P.L. 111-32. This provision also required a report from the Secretary of State to the Committees on Appropriations no later than 45 days following the enactment of P.L. 111-32 on various UNRWA self-policing and transparency-promoting activities, including measures UNRWA takes to comply with Section 301(c) of the 1961 Foreign Assistance Act relating to preventing assistance to terrorists.[49] The same reporting requirement, without an accompanying cap on contributions, applies under P.L. 111-117 for FY2010.

Factors for Congress in Determining Future Aid

Effectiveness of U.S. Assistance in Strengthening the PA in the West Bank

Instability in the Palestinian territories is, paradoxically, both a major reason for the increases in U.S. assistance over the past three years and a factor that could lead some to oppose maintaining or boosting current aid levels. After Hamas's takeover of the Gaza Strip and dismissal from the PA in June 2007, the United States made assisting the PA with economic development and civil security—aimed at bolstering the standing of President Abbas and the Fayyad government—a higher priority. Yet, if the PA in Ramallah is unable, at a minimum, to achieve and maintain popular legitimacy and competent control in the West Bank, U.S. reluctance to provide resources and training might increase, given concerns that aid could be used against Israel or Palestinian civilians, either by falling into the hands of Hamas or otherwise. Some observers argue that U.S. assistance does not enhance the legitimacy of Abbas and the PA, but rather detracts from it by leading some Palestinians to conclude that the PA is too beholden to the United States.[50]

Economic Development and International Donor Assistance

The appointment in June 2007 of Salam Fayyad, a former World Bank and International Monetary Fund official, as PA prime minister raised hopes for Palestinian reform and economic growth that have been realized in part. Fayyad produced a Palestinian Reform and Development Plan for 2008-2010 (PRDP) that helped garner major international donor assistance pledges and promises of investment. International pledges of support, however, have routinely proven

[49] See H.Rept. 111-151, Joint Explanatory Statement of the Committee of Conference, Title XI, "Migration and Refugee Assistance." Also during the 111th Congress, Representative Ileana Ros-Lehtinen, the Ranking Minority Member on the House Committee for Foreign Affairs, has sponsored H.R. 557 (United Nations Transparency, Accountability, and Reform Act of 2009), which includes a section entitled "Withholding of United States Contributions to UNRWA," with over 100 co-sponsors; and Representative Steven Rothman has sponsored H.Con.Res. 29 ("Expressing the sense of Congress that the United Nations should take immediate steps to improve the transparency and accountability of the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) in the Near East to ensure that it is not providing funding, employment, or other support to terrorists") with over 30 co-sponsors.[49] Both H.R. 557 and H.Con.Res. 29 were referred to the House Committee on Foreign Affairs in January 2009. Ranking Member Ros-Lehtinen subsequently introduced H.R. 5065 (UNRWA Humanitarian Accountability Act) with over 20 co-sponsors. H.R. 5065 is nearly identical to the section pertaining to UNRWA found in H.R. 557, and was referred to the House Committee on Foreign Affairs in April 2010.

[50] See Sherifa Zuhur, Ali Abunimah, Haim Malka, Shibley Telhami, "Symposium: Hamas and the Two-State Solution: Villain, Victim or Missing Ingredient?" *Middle East Policy*, vol. 15, issue 2, July 1, 2008; Transcript of National Public Radio interview ("All Things Considered") with Robert Malley, June 16, 2007.

insufficient to cover the PA's budgetary expenses, occasionally requiring efforts by Fayyad to obtain last-minute assistance and/or private financing. As of August 2010, the State Department is projecting a $338 million budget shortfall for the PA for 2010.[51] The ultimate success of Fayyad's PRDP appears to hinge on two factors: keeping the public sector solvent enough to sustain long-term private sector development, and getting Israeli restrictions loosened or lifted on the movement of goods and people both within and out of the West Bank and Gaza.[52]

Several high-profile projects—housing developments, industrial parks, superstores, entertainment complexes—have been completed or are in various stages of proposal or construction in and around Ramallah, Bethlehem, Jericho and the northern West Bank in an effort to jumpstart private sector development.[53] The International Monetary Fund and Palestinian Central Bureau of Statistics estimate that real GDP in the West Bank and Gaza grew 6.8% (8.5% in the West Bank) in 2009 and that unemployment declined.[54] Yet, most analysts advise against drawing the conclusion that the overall West Bank economy (let alone that of Gaza) has turned a corner.[55]

Congress has indicated an interest in staying abreast of the economic assistance Arab states provide to the West Bank and the PA. The joint explanatory statement to the conference report attached to P.L. 111-117 reads:

> The conferees direct the Secretary of State to provide a report to the Committees on Appropriations not later than 180 days after enactment of this Act on international participation, including by Arab states, in the economic development of the West Bank and support for the Palestinian Authority, similar to that proposed by the House. This report may be submitted in classified form, if necessary.[56]

Arab states (especially Gulf states) provided large amounts of aid to the Hamas-led PA government in 2006-2007 after the United States and European Union withdrew their aid, but following the reinstitution of U.S. and EU aid in mid-2007, most of them reduced contributions.[57]

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[51] Figure provided to CRS by State Department, August 10, 2010.

[52] For additional information on economic development prospects in the Palestinian territories, see CRS Report RL34074, *The Palestinians: Background and U.S. Relations*, by Jim Zanotti. Israeli restrictions on movement have been a key factor in the Palestinian economic downturn since the second Palestinian *intifada* (which began in late 2000), and the closure of Gaza crossings and ports following the Hamas takeover in June 2007 has led to a near economic standstill there. The International Crisis Group has referred to a UNDP official's estimate that it would take five years for Gaza to be restored simply to the unenviable state in which it was immediately before the recent conflict began in December 2008. International Crisis Group, *Gaza's Unfinished Business*, Middle East Report No. 85, April 23, 2009.

[53] Some of these ventures have been supported by U.S. organizations—including the Overseas Private Investment Corporation (OPIC), the Aspen Institute, the Center for American Progress, and CHF International—affiliated or involved with a public-private partnership known as the Middle East Investment Initiative. See http://meiinitiative.org.

[54] The World Bank, *Towards a Palestinian State: Reforms for Fiscal Strengthening—Economic Monitoring Report to the Ad Hoc Liaison Committee*, April 13, 2010, available at http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WorldBankReportAHLCApril2010Final.pdf.

[55] Many Israelis and Western analysts emphasize the West Bank's recent economic growth and the loosening of some Israel Defense Forces obstacles to Palestinian movement. Nonetheless, many Palestinians and international analysts assert that actual and prospective economic development should not be overstated because the Palestinian economy continues to be propped up by external aid and continues to recover from historic economic lows precipitated from the conflicts of the past decade. Furthermore, uncertainty remains regarding movement and access and regarding progress in negotiations with Israel. See The World Bank, op. cit.; Zahi Khouri, "The West Bank's Deceptive Growth," *New York Times*, September 8, 2009.

[56] H.Rept. 111-366.

[57] See Glenn Kessler, "Arab Aid to Palestinians Often Doesn't Fulfill Pledges," *Washington Post*, July 27, 2008; (continued...)

Routinely, they make generous pledges (including over $1.8 billion dollars in the wake of the 2008-2009 Gaza conflict) of aid to the Palestinians, but often fulfill them only in part and after significant delay. Their reluctance to fulfill pledges may stem from misgivings over "picking sides" in Palestinian factional disputes and from concerns that without imminent prospects either for domestic political unity or for progress on the peace process, any money contributed could be a waste. On the part of the Gulf states in particular, reluctance may also stem from a feeling that they are less responsible historically for the Palestinians' current situation than Israel, the United States, and Europe.

Hamas and a "Unity Government"?

If efforts at unifying Palestinians in the West Bank and Gaza under the leadership of President Abbas or those who might succeed him in the Fatah movement and the PLO—either through elections or political achievements that increase Fatah's legitimacy—appear unlikely to succeed, cohesion might be promoted through a consensus or unity PA government that is acceptable to both Fatah and Hamas. Egyptian-facilitated efforts to reach agreement on such a government have been unsuccessful since the collapse of the last one following Hamas's takeover of Gaza in June 2007. Reportedly, the unity negotiations have been complicated by differing factional views on various questions. These questions include how to integrate PA and Hamas security operations, when and how to conduct Palestinian presidential and legislative elections, and whom to appoint to government positions.[58] A consensus or unity government may significantly depart from the development and reform objectives set by the Fayyad government that are used as a major justification for current U.S. aid levels. The continuation of U.S.-sponsored PA security reform efforts (see "U.S. Security Assistance to the Palestinian Authority" above), which are aimed at consolidating all Palestinian forces under a single, civilian-led chain of command, could be particularly difficult for Hamas and its militia to accept.

Regardless of the objectives of a consensus or unity PA government, were it to include Hamas without the acceptance of the "Section 620K principles" (recognition of "the Jewish state of Israel's right to exist" and acceptance of previous Israeli-Palestinian agreements—named after the section in the Palestinian Anti-Terrorism Act of 2006 (P.L. 109-446) that sets them forth) by all of the government's ministers, current law would require the United States to cease direct aid to the PA,[59] and there could be calls for cessation or for limits on other economic assistance to the West Bank and Gaza. Future debates might focus on whether to relax or to tighten these restrictions, on which Palestinian party/ies should be answerable for accepting and complying with the Section 620K principles, and on whether the President might be granted discretion to waive aid restrictions relating to a unity government under certain conditions and/or for specific purposes.

To defend the hypothetical notion of tolerating the possibility of Hamas members serving in a PA government that would accept the Quartet principles and/or the Section 620K conditions, Secretary of State Hillary Rodham Clinton pointed out at an April 2009 hearing that "we are

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(...continued)

"Falling Short," *Washington Post*, July 27, 2008, available at http://www.washingtonpost.com/wp-dyn/content/graphic/2008/07/27/GR2008072700095 html?sid=ST2008072700226.

[58] Various proposals regarding government composition include a government composed fully of independent "technocrats," one with formally non-aligned technocrats who have various factional leanings, and one with actual Fatah and Hamas members.

[59] See P.L. 111-32, Sec. 1107. See also Palestinian Anti-Terrorism Act of 2006 (P.L. 109-446).

currently funding the Lebanese government, which has Hezbollah in it" because of a U.S. interest in supporting a government working to prevent the "further incursion of extremism."[60] She also drew comparisons between the Israeli-Palestinian peace process and the peace process in Northern Ireland during the 1990s (with which she was acquainted as First Lady).

Assuming that the United States chooses not to engage with and/or contribute to a PA government that includes Hamas, future debates might take place over the degree to which the United States should actively dissuade others in the international community—particularly European and Arab actors—from engagement and contributions.[61]

Questions Regarding a Two-State Solution

Even assuming that the immediate objectives of U.S. assistance to the Palestinians—relieving humanitarian needs in Gaza and improving security and facilitating development in the West Bank—are met, a failure to achieve progress toward a politically legitimate and peaceful two-state solution could undermine the utility of U.S. aid in helping the Palestinians become more cohesive, stable, and self-reliant over the long term.

Many factors may complicate prospects for a negotiated two-state solution in the near term. One is discord within and among Palestinian factions—reflected geographically by divided rule in the West Bank and Gaza. Another is the right-wing Israeli government in power since April 2009 under Prime Minister Benjamin Netanyahu that has attached provisos—such as demilitarization—to any consideration on its part of the concept of an independent Palestinian state. Yet another is the physical entrenchment of Israeli settlers in the West Bank and of obstacles to Palestinian movement within the West Bank and in and out of both the West Bank and Gaza, together with its political and socioeconomic consequences. A fourth is the possibility of course-changing events—such as a major terrorist attack, a surprise election outcome, or an outbreak of war—occurring in the Palestinian territories, Israel, or elsewhere in the region.[62]

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[60] Transcript of House Appropriations Subcommittee on State, Foreign Operations and Related Programs hearing: "Supplemental Request," April 23, 2009.

[61] On the previous occasions in which Hamas participated in the PA government from 2006-2007, the European Union joined the United States in refusing to provide direct assistance to the PA. There are indications, however, that Europeans might be less willing to follow the U.S. lead in the event that another PA government including Hamas is formed. See Muriel Asseburg and Paul Salem, "No Euro-Mediterranean Community without peace," EU Institute for Security Studies and European Institute of the Mediterranean, September 2009, available at http://www.iss.europa.eu/uploads/media/10Papers-01.pdf; Andrew Rettman, "EU Countries Practice 'Secret' Diplomacy, Hamas Says," *euobserver.com*, September 14, 2009; "British Official Calls on Hamas to Reject Violence," *Agence France Presse*, April 1, 2009; Anne Penketh, "Europe Opens Covert Talks with 'Blacklisted' Hamas," *The Independent* (UK), February 19, 2009. For further discussion of possible policy responses to a PA government that includes Hamas, see the section entitled "The Role of Hamas" in CRS Report R40092, *Israel and the Palestinians: Prospects for a Two-State Solution*, by Jim Zanotti.

[62] For further discussion of this issue, see CRS Report R40092, *Israel and the Palestinians: Prospects for a Two-State Solution*, by Jim Zanotti.

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