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*Subcommittees on Middle East and North Africa and Africa, Global Health,  
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Israel, the Palestinians,  
and the United Nations:  
**Challenges for the  
New Administration**

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Chairman Ros-Lehtinen, Chairman Smith, Ranking Member Deutch, Ranking Member Bass, and distinguished members of these subcommittees, on behalf of the Foundation for Defense of Democracies, thank you for the opportunity to testify. My testimony will address the policy options for the Palestinian-Israeli conflict that former president Barack Obama was considering at the end of his term. From there, I will discuss the deleterious impact of United Nations Security Council Resolution 2334. I will also present new FDD research that raises troubling questions about the role of the Palestine Liberation Organization (PLO) and the Palestinian Authority (PA) in the ongoing campaign to delegitimize Israel. Finally, I present a number of recommendations for Congress and the new administration to consider.

## **Obama’s Policy Options on the Palestinian-Israeli Conflict**

In the months leading up to his departure, outgoing president Barack Obama tasked various officials within the U.S. bureaucracy to prepare policy options for ways he could, as one U.S. official put it to me, “level the playing field” between the Palestinians and Israelis, with the assumption that US policy was too supportive of Israel. This official noted, “all options [were] on the table” for the President to either punish Israel for its policies in the disputed territories or to increase Palestinian leverage in its effort to gain international recognition.<sup>1</sup>

Of course, it is not unheard of for a president to engage in last minute maneuvers to further the cause of Palestinian-Israeli peace. President Ronald Reagan initiated a dialogue with the PLO in the waning days of his Administration in an effort to give the Bush Administration cover to launch a process that brought both sides to the table.<sup>2</sup> The Clinton Administration fought until its last days to bring both sides together. What is notable about both of these examples is that these were efforts to cajole both sides to engage in diplomacy. Neither was designed to be a punitive measure against Israel. By contrast, Obama’s menu of options appeared to be largely punitive in nature, and seemed to be designed to influence the next president’s relationship with Israel.

Below are the major options that were under consideration:

1. *A U.N. Security Council Resolution to guide the final outcome of negotiations.* The Administration was considering a binding measure before the UN Security Council. The resolution, as envisioned, would lay out new parameters for diplomacy and replace UNSCR 242 in future negotiations. FDD assessed that this was not likely because the administration had promised publicly that it would not do this. Second, the White House understood that a process of this magnitude at the United Nations might begin with one set of parameters, but could become very unwieldy and ultimately yield a very different resolution than the U.S. had in mind. Third, the President had already stated in 2011, “it is up to Israelis and Palestinians to take action. No peace can be imposed upon them.”<sup>3</sup> Finally, in handing this

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<sup>1</sup> Interview with U.S. officials, September 14, 2016.

<sup>2</sup> Robert Pear, “U.S. Agrees to Talks with PLO, Saying Arafat Accepts Israel and Renounces All Terrorism,” *The New York Times*, December 15, 1988. (<http://www.nytimes.com/1988/12/15/world/us-agrees-talks-with-plo-saying-arafat-accepts-israel-renounces-all-terrorism.html?pagewanted=all>)

<sup>3</sup> “Remarks of President Barack Obama – As Prepared for Delivery – ‘A Moment of Opportunity,’” *The White House*, May 19, 2011. (<https://www.whitehouse.gov/the-press-office/2011/05/19/remarks-president-barack-obama-prepared-delivery-moment-opportunity>)

file to the U.N., the White House would effectively be ceding its role as primary mediator in the Israeli-Palestinian conflict to the international community.

2. *Abstaining or Voting for Recognition of a Palestinian State at the U.N.* In 2011, the Palestinian Authority sought to declare statehood at the UN Security Council.<sup>4</sup> The United States declared its intention to veto the move, and the Palestinian Authority ultimately took the vote the following year to the General Assembly where the vote, even while overwhelmingly approved, was nonbinding.<sup>5</sup> The Palestinians continued to voice their intention to declare statehood again at the UN Security Council.<sup>6</sup> And while Obama might have been inclined to pave the way for this, he understood that Congress had leverage. If the U.N. recognized a Palestinian state, certain members of Congress warned they would cut U.S. aid to the United Nations. That is more than 22% of the U.N.'s total budget.<sup>7</sup> This is pursuant to the prohibition on U.S. funding of U.N. agencies that recognize a Palestinian state as stipulated in two pieces of legislation that were signed into law by President George H.W. Bush in 1990 and President Bill Clinton in 1994.<sup>8</sup>
3. *Executive Order Against Settlement Activity.* The Administration was apparently briefed on a possible executive order sanctioning Israeli officials or entities for engaging in further settlement activity, even natural growth within existing communities in the West Bank. The executive order could extend to other foreign nationals or even American citizens. One official ceded to me that such an effort would raise "legal issues."<sup>9</sup> With no similar executive order against countries involved in similar territorial disputes in Turkey, Morocco, or China, for example, the door would be open for legal challenges from Congress. A measure of this severity this late in a presidential term would have elicited a severe backlash at home.
4. *Internal Revenue Service Regulations on Settlement Supporters.* Obama reportedly weighed the idea of revoking the tax-exempt status of U.S. nonprofits that provide material support to organizations facilitating settlements in the West Bank. With his measure, the White House could have also instructed the IRS to begin investigations into nonprofit activities.<sup>10</sup> This could have disrupted as many as 50 known U.S.-based organizations supporting communities

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<sup>4</sup> Mahmoud Abbas, "The Long Overdue Palestinian State," *The New York Times*, May 16, 2011. (<http://www.nytimes.com/2011/05/17/opinion/17abbas.html>)

<sup>5</sup> Ethan Bronner & Christine Hauser, "U.N. Assembly, in Blow to U.S., Elevates Status of Palestine," *The New York Times*, November 29, 2012. (<http://www.nytimes.com/2012/11/30/world/middleeast/Palestinian-Authority-United-Nations-Israel.html>)

<sup>6</sup> "Abbas Seeks to Re-Submit Statehood Bid to U.N. Security Council," *Reuters*, January 4, 2015. (<http://www.reuters.com/article/us-mideast-palestinians-idUSKBN0KD0K120150104>)

<sup>7</sup> "Assessment of Member States' Contributions to the United Nations Regular Budget for the Year 2015," *United Nations Secretariat*, December 29, 2014. ([http://www.un.org/ga/search/view\\_doc.asp?symbol=ST/ADM/SER.B/910](http://www.un.org/ga/search/view_doc.asp?symbol=ST/ADM/SER.B/910))

<sup>8</sup> Limitation on Contributions to the United Nations and Affiliated Organizations, Pub. L. 103-236, 108 Stat. 454, codified as amended at 103 U.S.C. §410. (<http://graphics8.nytimes.com/packages/pdf/world/PLO-UN-legislation.pdf>) & Membership of the Palestine Liberation Organization in United Nations Agencies, Pub. L. 101-246, 104 Stat. 70, codified as amended at 101 U.S.C. §414. (<http://graphics8.nytimes.com/packages/pdf/world/PLO-UN-legislation.pdf>)

<sup>9</sup> Interview with U.S. officials, September 14, 2016.

<sup>10</sup> Eugene Kontorovich, "The Problem with Using the Tax Code to Punish Israeli Settlements," *Tablet*, October 6, 2016. (<http://www.tabletmag.com/scroll/215286/the-problem-with-using-the-tax-code-to-punish-israeli-settlements>)

in Israel.<sup>11</sup> One alternative, according to a Congressional tax expert, was to encourage the IRS to issue informal guidance. One official noted in September that this approach would have been “legally challenging.” In addition to creating an unprecedented backlash from Congress and the pro-Israel community in America, it would likely have prompted dozens of lawsuits.

5. *A Statement of “Obama Parameters.”* Obama was contemplating a public speech outlining his vision for a peace agreement to form the basis of United States policy, and perhaps inform new multilateral initiatives.<sup>12</sup> The move would be nonbinding, but perhaps influence the next round of diplomacy between the Palestinians and Israelis. Of course, it was ultimately former Secretary of State John Kerry who issued his parameters on December 28, 2016, in a 70-minute speech that placed the blame for the lack of diplomatic progress at the feet of the Israelis.<sup>13</sup>
6. *A U.N. Security Council Resolution on Settlements.* Finally, Obama was mulling a UN resolution against settlement activity by Israel. Such a measure would not be described as a new initiative designed to isolate Israel, but rather as an extension of UNSCR 446 from March 1979, with updates.<sup>14</sup> The goal was not to initiate the resolution, but rather abstain or even vote for a measure that another country introduced. And while it was never articulated, it was widely understood that the move would energize the Boycott, Divestment and Sanctions (BDS) campaign against Israel. Obama understood the damage that such a resolution could cause. This is why the Administration used its veto power in 2011 when a resolution on settlements was brought to the Security Council.<sup>15</sup> But as we now know, Obama instructed his UN ambassador, Samantha Power, to abstain on the measure followed by a speech in which she, rather remarkably, excoriated the UN for singling out Israel.<sup>16</sup>

As we all know, Obama chose two of the six options noted above. He also made a surprising and unforeseen move in the waning hours of his presidency when he attempted to send \$221 million to the Palestinian Authority. The money was held up by legislators on both sides of the aisle.<sup>17</sup>

## Assessing the Damage from UNSCR 2334

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<sup>11</sup> Uri Blau, “U.S. Donors Gave Settlements More Than \$220 Million in Tax-Exempt Funds Over Five Years,” *Haaretz*, December 7, 2015. (<http://www.haaretz.com/settlementdollars/1.689683>)

<sup>12</sup> Mark Landler, “Obama Seeks to Pave Way to Mideast Deal After He Leaves Office,” *The New York Times*, March 8, 2016. (<http://www.nytimes.com/2016/03/09/world/middleeast/obama-seeks-a-way-to-save-israeli-palestinian-gains.html>)

<sup>13</sup> “Kerry Blasts Israeli Government, Presents Six Points of Future Peace Deal,” *Haaretz*, December 28, 2016, <http://www.haaretz.com/israel-news/1.761881>

<sup>14</sup> “Resolution 446 (1979),” *U.N. Security Council*, March 22, 1979. (<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/370/60/IMG/NR037060.pdf?OpenElement>)

<sup>15</sup> Ed Pilkington, “U.S. Vetoes UN Condemnation of Israeli Settlements,” *The Guardian*, February 18, 2011. (<https://www.theguardian.com/world/2011/feb/19/us-veto-israel-settlement>)

<sup>16</sup> “U.S. Ambassador to the UN Samantha Power’s Full Speech at the Security Council,” *Haaretz*, December 24, 2016. <http://www.haaretz.com/israel-news/1.761017>

<sup>17</sup> Alexander Lockie, “Why Obama sent the Palestinians \$221 million during his last hours in office,” *Business Insider*, January 24, 2017. <http://www.businessinsider.com/obama-quietly-sends-221-million-to-palestine-2017-1>

In the end, Kerry's parameter's speech had little legal impact. And the Trump Administration blocked Obama's furtive transfer of funds to the Palestinians shortly after the news broke.<sup>18</sup> But UNSCR 2334 is likely to leave a mark.

First, Resolution 2334 was a dramatic break in U.S. policy. Previous presidents have protected Israel against a UN system that they all recognized as biased, primarily because it singles out the Jewish state at every possible opportunity. Obama in 2011 instructed his first US ambassador to the UN, Susan Rice, to reject a similar resolution because it would not help advance the cause of peace. Yet he instructed Samantha Power to abstain, implying this time that the measure would somehow advance diplomacy.

As former Bush administration officials Elliott Abrams and Michael Singh have noted, Resolution 2334 did little to advance diplomacy. In one important way, it was a setback. It ignored the outcome of previous negotiations, which assumed that the major settlement blocs along the 1967 lines would become part of Israel, not a part of a future Palestinian state. Specifically, it contradicted the Bush-Sharon letter of 2004, which sought to find reasonable new borders for Israel in light of its departure from Gaza, new facts on the ground in the West Bank, and Israel's evolving security needs. Instead, the resolution seeks to enshrine 1949 lines as the basis for future negotiations, which is a nonstarter for Israel's defense establishment.<sup>19</sup>

Moreover, Resolution 2334 characterizes Israelis that build in neighborhoods and territory that have been long administered by Israel as in violation of international law. According to the resolution, Israel cannot build or grow the area around the plaza at the Western Wall. This was shocking to Israelis, as the Western Wall is the holiest site in the world for Jews.<sup>20</sup> As one Israeli official recently lamented, "the Palestinians now get a veto over the Western Wall. And Jerusalem is no longer disputed but occupied."<sup>21</sup> Indeed, the resolution equates buildings in the Jewish Quarter of the Old City with settlement outposts deep in the West Bank.

The language in Resolution 2334 also implicitly encourages the International Criminal Court (ICC) to open a formal investigation of individuals linked to building homes in the West Bank and Jerusalem. The Security Council did not formally refer an investigation to the ICC, but the language used in the resolution mirrors that of the Rome Statute, which lays out criteria for charging individuals with war crimes.<sup>22</sup> Indeed, while the ICC cannot charge a country with war crimes, it can charge political leaders who have implemented state policy.

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<sup>18</sup> Avi Issacharoff, "Palestinians say Obama's last-minute \$221 million payout frozen by Trump," *Times of Israel*, January 25, 2017. <http://www.timesofisrael.com/palestinians-say-trump-freezes-obamas-last-minute-221-million-payout/>

<sup>19</sup> Elliott Abrams & Michael Singh, "The United States Just Made Middle East Peace Harder," *Washington Post*, December 23, 2016. ([https://www.washingtonpost.com/opinions/the-united-states-just-made-middle-east-peace-harder/2016/12/23/d0ecc3ea-c923-11e6-bf4b-2c064d32a4bf\\_story.html?utm\\_term=.af7e412405af](https://www.washingtonpost.com/opinions/the-united-states-just-made-middle-east-peace-harder/2016/12/23/d0ecc3ea-c923-11e6-bf4b-2c064d32a4bf_story.html?utm_term=.af7e412405af))

<sup>20</sup> Michael Koplow, "UNSC 2334," *Matzav Blog*, December 27, 2016. (<http://www.matzavblog.com/2016/12/unsc-2334/>)

<sup>21</sup> Interview with senior Israel official in Jerusalem, January 23, 2017.

<sup>22</sup> Orde F. Kittrie, "What UNSCR 2334 Could Mean Beyond the United Nations, and How the Trump Administration Can Respond," *Lawfare Blog*, December 27, 2017. <https://www.lawfareblog.com/what-unscr-2334-could-mean-beyond-united-nations-and-how-trump-administration-can-respond>

Finally, the resolution provided momentum to the international movements that seek to delegitimize Israel, including the global BDS campaign. While Resolution 2334 itself was brought under Chapter VI at the UN, which does not formally call for sanctions against Israel,<sup>23</sup> the BDS movement has been invigorated on the international scale and the resolution may provide the impetus for countries, sovereign wealth funds, financial institutions, NGOs, and businesses to boycott or divest their assets from Israel. In other words, the resolution helped spur on an anti-Israel economic warfare campaign, an extension of the Arab League boycott. The goal of this extended campaign is not only Israel's ouster from the disputed territories, but every square inch of Israel.

### **PLO and US involvement in 2334**

The PLO appears to have been intimately involved in the crafting and roll out of Resolution 2334. In the months leading up to the drama in December, reports suggested that the PLO was working in coordination with the French.<sup>24</sup> Then, in early December 2016, Israeli reports suggested that the Palestinian delegation to the United Nations was disseminating a draft resolution condemning Israeli settlements.<sup>25</sup>

Surprisingly, after the resolution was ratified at the UN, Israeli Prime Minister Benjamin Netanyahu accused the Obama administration of secretly colluding with the Palestinians on the text.<sup>26</sup> The Israelis pointed to leaked transcripts from an Egyptian newspaper claiming there was a meeting between senior American and Palestinian officials with the purpose of coordinating the UN action.<sup>27</sup> The document suggests that there may have been more than one meeting.<sup>28</sup> News reports also indicated that the U.S. pressured the Ukraine to support the resolution.<sup>29</sup>

The State Department denied these reports vociferously.<sup>30</sup> Some officials pointed to an item in the British press suggesting that it was the UK that helped Palestinians to smooth out the language of the draft resolution, which ultimately passed with 14 votes in favor and one abstention.<sup>31</sup> But as one senior Israeli official separately told me late last month, "we are very confident of our evidence of the [Obama administration] arranging the language of 2334. They coordinated and guided the text."<sup>32</sup>

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<sup>23</sup> <http://www.un.org/en/sections/un-charter/chapter-vii/>

<sup>24</sup> [http://news.xinhuanet.com/english/2016-01/24/c\\_135039075.htm](http://news.xinhuanet.com/english/2016-01/24/c_135039075.htm)

<sup>25</sup> "Palestinians Preparing New Security Council Draft – Report," *The Times of Israel*, December 14, 2016. (<http://www.timesofisrael.com/palestinians-preparing-new-security-council-draft-report/>)

<sup>26</sup> "Israeli PM Netanyahu Accuses Obama of Orchestrating U.N. Vote," *NBC News*, December 25, 2016. (<http://www.nbcnews.com/nightly-news/video/israeli-pm-netanyahu-accuses-obama-of-orchestrating-u-n-vote-841401411626>)

<sup>27</sup> "Transcript Claims to Show U.S. Worked with Palestinians on U.N. Resolution," *The Times of Israel*, December 27, 2016. (<http://www.timesofisrael.com/transcript-claims-to-show-us-worked-with-palestinians-on-un-resolution/>)

<sup>28</sup> <https://twitter.com/omriceren/status/814316579970289665>

<sup>29</sup> "Israel: US pressured Ukraine to support anti-settlement resolution," *Times of Israel*, December 28, 2016, <http://www.timesofisrael.com/israel-us-pressured-ukraine-to-support-anti-settlement-resolution/>

<sup>30</sup> <https://twitter.com/statedeptspox/status/813879765681709057>

<sup>31</sup> Patrick Wintour, "U.K.'s Key Role in Brokering UN Resolution on Israeli Settlements Confirmed," *The Guardian*, December 28, 2016. (<https://www.theguardian.com/world/2016/dec/28/uks-key-role-in-brokering-un-resolution-on-israeli-settlements-confirmed>)

<sup>32</sup> Interview with senior Israel official in Jerusalem, January 23, 2017.

The possible involvement of the Obama administration in coordinating and guiding the text of Resolution 2334 is troubling on several levels. For one, the White House insisted that it would not do so. But it also would seem to echo reports that FDD received in November from sources in the West Bank that the US and the Palestinian UN delegation coordinated their messages ahead of Palestinian President Mahmoud Abbas' September 22 speech at Turtle Bay.<sup>33</sup> In that speech, Abbas slammed Israeli settlement construction and called for international action.<sup>34</sup> Indeed, that speech could be seen as the predicate for Resolution 2334 only three months later.

According to sources in the West Bank, the US may have transferred funds to the PLO embassy in Washington and the UN delegation in New York to help the Palestinians lobby other delegations to either protest or boycott Israeli Prime Minister Benjamin Netanyahu speech at Turtle Bay.<sup>35</sup> A Congressional inquiry into possible State Department money transfers to the Palestinians in August or September might be logical now, given that we know President Obama already transferred funds to the Palestinians on at least one other occasion without telling Congress until just hours before he left office.<sup>36</sup>

## The PLO and BDS

Whether or not the Obama administration colluded with the PLO over Resolution 2334, it is clear that the PLO was a driving force. The PLO's goal was to delegitimize Israel, not merely for building in the West Bank, but as a nation-state with a right to exist. As I noted above, Resolution 2334 will almost certainly supercharge the economic warfare campaign known as BDS.

FDD recently concluded research revealing the extensive efforts of the PLO in the Boycott, Divestment and Sanctions (BDS) campaign against Israel.<sup>37</sup> Through an Arabic-speaking team that conducted a number of interviews throughout the West Bank, we learned the following

1. *The Palestinian National Fund (PNF) is likely a key source of funding for the BDS movement.* The PNF is the PLO's powerful treasury.<sup>38</sup> Headquartered in Amman, it manages the majority of the organization's assets worldwide. It reportedly pays the salaries of the group's members, as well as students, who received tens of millions of dollars in support of BDS activities each year. The PLO has an obvious interest in strengthening the BDS movement, given that the target is Israel.

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<sup>33</sup> Conveyed by two Palestinian officials in the West Bank, November 2016.

<sup>34</sup> "Full text of PA President Mahmoud Abbas's speech at the UN," *Times of Israel*, September 22, 2016, <http://www.timesofisrael.com/full-text-of-pa-president-mahmoud-abbas-speech-at-the-un/>

<sup>35</sup> Conveyed by Palestinian official in the West Bank, November 2016.

<sup>36</sup> [https://www.washingtonpost.com/politics/congress/us-sent-221-million-to-palestinians-in-obamas-last-hours/2017/01/23/a8e2caee-e1af-11e6-a419-eefe8eff0835\\_story.html?utm\\_term=.f40002ca782a](https://www.washingtonpost.com/politics/congress/us-sent-221-million-to-palestinians-in-obamas-last-hours/2017/01/23/a8e2caee-e1af-11e6-a419-eefe8eff0835_story.html?utm_term=.f40002ca782a)

<sup>37</sup> This research included dozens of interviews with Palestinian officials and activists in the West Bank, Europe, and the United States between June and December 2016.

<sup>38</sup> Doron Peskin, "Abbas and the Mysterious Multi-Billion Dollar Fund," *Ynet News*, October 19, 2015. <http://www.ynetnews.com/articles/0.7340.L-4713280.00.html>

2. The PLO mission in Belgium appears to be sponsoring an “operations room” to coordinate the activities of BDS activists in Europe. The operatives involved in this effort, almost entirely embassy personnel, reportedly receive directives from Ramallah. The “operations room” is believed to be funded through an account at Allied Irish Bank, and could cost the PLO mission as much as one million euro per month to run. FDD is currently working to confirm the names of the individuals reportedly involved in the activities of the “operation room.”
3. The PLO embassy in Washington is said to be actively promoting campus BDS activity in the US. PLO operatives in Washington, DC are reportedly involved in coordinating the activities of Palestinian students in the U.S. who receive funds from the PLO to engage in BDS activism. This, of course, suggests that the BDS movement is not a grassroots activist movement, but rather one that is heavily influenced by PLO-sponsored persons.

We have received other reports about the PLO’s direct involvement in the BDS movement, and they will take some time to assess. I hope to be able to return to share that information.

## **Recommendations**

The Trump Administration recently indicated that it was prepared to significantly reduce US contributions to the United Nations.<sup>39</sup> It appears that the UN, in its support of Resolution 2334, has backfired. It has only served to sharpen the focus of Congress and the Administration on the need for UN reform. I fully support that initiative and I provide specific suggestions on the UN below.

There have also been calls from Congress to cut funding to the Palestinian Authority. I support targeted line item cuts, but remain concerned about a full cessation of funds. Indeed, Israeli officials continue to point to security coordination and other activities that make the PA a valuable partner in the region. But I do believe that it is time for Congress to take action against the PLO and its leaders. I provide some suggestions on that, as well.

Finally, I provide a few legislative and bureaucratic suggestions that Congress and the executive branch might consider. I believe these steps could help strengthen the relationship between Israel and the United States after eight years of strain.

## ***Recommendations Regarding the UN***

1. Reform the UN 1267 Committee. The UN since 1999 has maintained a terrorism sanctions list. Designations are coordinated on a multilateral basis through the State and Treasury Departments. Currently, the groups designated by the UN 1267 Committee include only al-Qaeda, the Taliban, and the Islamic State.<sup>40</sup> The Palestinian terrorist faction Hamas and the Lebanese terrorist group Hezbollah are not included. Congress, in coordination with the Trump administration, should initiate the process of adding

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<sup>39</sup>Max Fisher, “Aiming at Global Funding and Treaties,” *New York Times*, January 25, 2017, [https://www.nytimes.com/2017/01/25/us/politics/united-nations-trump-administration.html?\\_r=0](https://www.nytimes.com/2017/01/25/us/politics/united-nations-trump-administration.html?_r=0)

<sup>40</sup><https://www.un.org/sc/suborg/en/sanctions/1267>

Hezbollah, Hamas, and other US-designated terror groups to the UN terrorist list. This would ensure the isolation of these groups globally.

2. Reform and Phase Out UNRWA. Founded in December 1949, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (*UNRWA*) is a dedicated UN agency that, instead of resettling Palestinian refugees from the 1948 and 1967 wars, has only served to grow and exacerbate the Palestinian refugee issue. As it stands now, there are likely somewhere between 30,000 to 50,000 original refugees still alive.<sup>41</sup> But UNRWA recognizes the children, grandchildren and great grandchildren of the original estimated 800,000 refugees. The number officially cited by UNRWA now exceeds 5 million.<sup>42</sup> Meanwhile, as David Horvitz of the *Times of Israel* notes, Jerusalem “has charged that UNRWA employed Hamas members on its vast, 30,000-strong payroll...an allegation that one previous UNRWA commissioner-general seemed to acknowledge.”<sup>43</sup> Hamas was also believed to be storing some of its weapons in UNRWA facilities during the 2014 Gaza war.<sup>44</sup> UNRWA needs to be reformed and ultimately phased out, with the goal of transferring its vital services to the Palestinian Authority. Congress began in this effort during the Obama administration.<sup>45</sup> It should now work with the Trump administration to this end. The goal should be to address the refugee question in a realistic way.
3. Eradicate the UN Human Rights Council. Formed in 2006, the HRC is perhaps the most Orwellian of all the UN’s component parts. I had an opportunity to attend a session in Geneva in 2015, where I witnessed Iran, Cuba, Venezuela, Syria, Saudi Arabia and other rogue states lambast Israel for alleged human rights violations, while failing to hold one another to account for actual crimes. In March the UNHRC voted in favor of creating a blacklist of companies that do business in the West Bank, Jerusalem, and the Golan Heights.<sup>46</sup> Congress and the Administration should work together to ensure that this blacklist is scuttled. It should further work together to end the tenure of this grotesque body that undermines US human rights policies and detracts from the overall credibility of the UN.
4. Conduct a review of UNIFIL. The United Nations Interim Force in Lebanon, under the terms of U.N. Security Council Resolution 1701, prompted by the 2006 war, was to be part of the U.N. effort to ensure that Hezbollah did not rearm.<sup>47</sup> By all accounts,

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<sup>41</sup> Arthur Hughes, “Israeli-Palestinian Peace: The Palestinian Refugee Challenge,” *Middle East Institute*, September 5, 2012. (<http://www.mei.edu/content/israeli-palestinian-peace-palestinian-refugee-challenge>)

<sup>42</sup> <https://www.unrwa.org/palestine-refugees>

<sup>43</sup> David Horowitz, “The Trouble With UNRWA,” *Times of Israel*, July 31, 2014, <http://www.timesofisrael.com/the-trouble-with-unrwa/>

<sup>44</sup> Ilan Ben Zion, “Rockets found in UNRWA school, for third time,” *Times of Israel*, July 30, 2014 <http://www.timesofisrael.com/rockets-found-in-unrwa-school-for-third-time/>

<sup>45</sup> Jonathan Schanzer, “Status Update,” *Foreign Policy*, May 21, 2012, <http://foreignpolicy.com/2012/05/21/status-update/>

<sup>46</sup> Peter Beaumont, “UN rights council to vote on list of firms that trade in occupied territories,” *The Guardian*, March 24, 2016, <https://www.theguardian.com/world/2016/mar/24/occupied-territories-un-vote-list-firms-trade-palestinian-israel>

<sup>47</sup> Claudia Rosett, “Failure of U.N. Peacekeeping in Lebanon,” *FDD Policy Brief*, January 6, 2014, <http://www.defenddemocracy.org/media-hit/failure-of-un-peacekeeping-in-lebanon/#sthash.JTRjyoGB.dpuf>

Hezbollah has grown more lethal thanks to an arsenal of some 150,000 rockets furnished by Iran,<sup>48</sup> and UNIFIL has done nothing to stop it. The administration and Congress should work together to determine whether UNIFIL is worthy of reauthorization. I suspect it is not, unless Washington demands real reform.

## Recommendations Regarding the PLO

1. *Investigate the PLO.* Congress has long expressed concern that the PLO is involved in paying the salaries of terrorists in Israeli jails. It has also expressed concern over PLO-sponsored incitement. The PLO is technically the peace negotiating body for the Palestinians, but it has become an impediment to peace. It is a bloated organization that lacks transparency and has consistently stymied diplomacy with Israel rather than accepting compromise. It now appears to be directing BDS activities in Europe and the United States, as well. Congress should investigate the activities of the PLO and might also rethink its diplomatic recognition in Washington, particularly in light of recent direct diplomatic confrontations with the new administration.<sup>49</sup>
2. *Investigate the PNF.* The Palestine National Fund is the main financial body of the PLO.<sup>50</sup> The PNF receives funding from the Palestinian Authority budget, to which America contributes some 20 percent annually.<sup>51</sup> The PNF has in the past used its funds to “to help families of ‘martyrs,’ and to educate refugees, as well as funding Palestinian media organs.”<sup>52</sup> Congress should determine whether the U.S. directly or indirectly funds the PNF, and take action accordingly.
3. *Plan for the Departure of Mahmoud Abbas.* While Mahmoud Abbas is often rightly touted as a Palestinian leader committed to nonviolence, this is not the same as being a proponent of peace. As head of the PLO, he has for more than eight years refused to negotiate for peace, and appears to be a proponent of BDS. Now 12 years into a four-year term with no successor in sight, Abbas lacks the legitimacy to lead. As my FDD colleague Grant Rumley notes, now is the time to help Palestinians plan for an orderly transition.<sup>53</sup> We need to find new leaders committed to good governance and peaceful coexistence with the Jewish state.

## Recommendations for Congress and the Executive Branch

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<sup>48</sup> Avi Issacharoff, “Israel Raises Hezbollah Rocket Estimate to 150,000,” *Times of Israel*, November 12, 2015, <http://www.timesofisrael.com/israel-raises-hezbollah-rocket-estimate-to-150000/>

<sup>49</sup> Adam Rasgon, “Fatah Official: Palestinian Leadership Should Downgrade US Ties if Embassy is Moved,” *Jerusalem Post*, January 23, 2017. <http://www.jpost.com/Arab-Israeli-Conflict/Fatah-official-to-Pal-leadership-Downgrade-US-ties-if-embassy-is-moved-479352>

<sup>50</sup> “Palestine Liberation Organization (PLO),” Embassy of the State of Palestine in Malaysia, ([www.palestineembassy.org/plo.html](http://www.palestineembassy.org/plo.html))

<sup>51</sup> “PA 2013 Draft Budget Excludes Fuel Revenues,” Ma’an News Agency, April 6, 2013. ([www.maannews.net/eng/ViewDetails.aspx?ID=576647](http://www.maannews.net/eng/ViewDetails.aspx?ID=576647))

<sup>52</sup> “Jaweed al-Ghussein: PLO Treasurer Kidnapped by Arafat,” *The Independent*, August 27, 2008. ([www.independent.co.uk/news/obituaries/jaweed-alghussein-plo-treasurer-kidnapped-by-arafat-909610.html](http://www.independent.co.uk/news/obituaries/jaweed-alghussein-plo-treasurer-kidnapped-by-arafat-909610.html))

<sup>53</sup> Grant Rumley, *The Race to Replace Mahmoud Abbas: Understanding and Shaping Palestinian Succession*, FDD Press, September 2015.

([http://www.defenddemocracy.org/content/uploads/publications/Rumley\\_Understanding\\_Palestinian\\_Succession.pdf](http://www.defenddemocracy.org/content/uploads/publications/Rumley_Understanding_Palestinian_Succession.pdf))

1. *Include Israel in new U.S. trade deals.* The Trump administration is walking away from trade agreements negotiated under the Obama administration. This provides a new opportunity to engage foreign governments to influence their positions on trade with Israel. The BDS campaign has influenced foreign governments to boycott companies that do business with Israel or sell Israeli products.<sup>54</sup> Some European governments bankroll NGOs engaged in BDS activities.<sup>55</sup> The U.S. can convince these countries to cease this behavior as part of a renegotiated deal. Indeed, the 114<sup>th</sup> Congress already passed legislation that would make combating BDS a major trade negotiation objective.<sup>56</sup> This policy should be extended to future trade deals negotiated by the U.S. Trade Representative
2. *Update the Export Administration Act.* Congress should consider changes to the anti-boycott provisions of the Export Administration Act to stymie BDS. The anti-boycott provisions of the EAA, as written, were designed to combat the Arab League boycott and impose penalties on countries that engage in the practice.<sup>57</sup> U.S. law should be updated to target non-governmental entities that engage in BDS. From there, the Office of Anti-boycott Compliance (OAC) at the U.S. Department of Commerce should be empowered to not only deter boycotts against Israel, but also to fend off economic warfare campaigns against the United States and any of its allies. Congress should ensure that the OAC has the staffing and resources to meet these challenges head-on.
3. *Update the Export Administration Regulations.* Despite our flourishing bilateral ties, Israel is still restricted from purchasing defense products and working with U.S. defense contractors in many areas that could be mutually beneficial. Congress should promote Israel, through the Strategic Trade Authorization, from tier 2 to tier 1, which would put Israel on par with other tier 1 countries such as Canada, the UK, Japan, and France, as opposed to tier 2 countries like Albania and South Africa.<sup>58</sup> Updating the Export Administration Regulations would ensure that Israel is able to procure key military components in a timely manner during periods of conflict. In other words, Israel's Qualitative Military Edge and strategic cooperation with the US would be enhanced.

Madam Chairman, Mr. Chairman, there are many issues that I did not address in this testimony. If I have missed anything you wish to discuss, I am happy to answer your questions.

On behalf of the Foundation for Defense of Democracies, I thank you again for inviting me to testify.

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<sup>54</sup> <http://www.ngo-monitor.org/nm/wp-content/uploads/2016/04/BDS-English.pdf>

<sup>55</sup> <http://www.ngo-monitor.org/reports/eu-funding-ngos-active-anti-israel-bds-campaigns/>

<sup>56</sup> [https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/02/25/obama-signs-israel-anti-boycott-provisions-into-law-settlements-and-all/?utm\\_term=.9f221e5f731a](https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/02/25/obama-signs-israel-anti-boycott-provisions-into-law-settlements-and-all/?utm_term=.9f221e5f731a)

<sup>57</sup> <https://www.bis.doc.gov/index.php/enforcement/oac>

<sup>58</sup> <https://www.bis.doc.gov/index.php/forms-documents/compliance-training/export-administration-regulations-training/596-license-exception-sta/file>