

109TH CONGRESS
2^D SESSION

S. 2370

AN ACT

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

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

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. LIMITATION ON ASSISTANCE TO THE PALESTINIAN**
2 **AUTHORITY.**

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

5 (1) to support a peaceful, two-state solution to
6 end the conflict between Israel and the Palestinians
7 in accordance with the Performance-Based Roadmap
8 to a Permanent Two-State Solution to the Israeli-
9 Palestinian Conflict (commonly referred to as the
10 “Roadmap”);

11 (2) to oppose those organizations, individuals,
12 and countries that support terrorism and violently
13 reject a two-state solution to end the Israeli-Pales-
14 tinian conflict;

15 (3) to promote the rule of law, democracy, the
16 cessation of terrorism and incitement, and good gov-
17 ernance in institutions and territories controlled by
18 the Palestinian Authority; and

19 (4) to urge members of the international com-
20 munity to avoid contact with and refrain from sup-
21 porting the terrorist organization Hamas until it
22 agrees to recognize Israel, renounce violence, disarm,
23 and accept prior agreements, including the Road-
24 map.

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

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

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

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

11 “(a) LIMITATION.—Assistance may be provided
 12 under this Act to the Hamas-controlled Palestinian Au-
 13 thority only during a period for which a certification de-
 14 scribed in subsection (b) is in effect.

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

19 “(1) no ministry, agency, or instrumentality of
 20 the Palestinian Authority is effectively controlled by
 21 Hamas, unless the Hamas-controlled Palestinian Au-
 22 thority has—

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

1 “(B) committed itself and is adhering to
2 all previous agreements and understandings
3 with the United States Government, with the
4 Government of Israel, and with the inter-
5 national community, including agreements and
6 understandings pursuant to the Performance-
7 Based Roadmap to a Permanent Two-State So-
8 lution to the Israeli-Palestinian Conflict (com-
9 monly referred to as the ‘Roadmap’); and

10 “(2) the Hamas-controlled Palestinian Author-
11 ity has made demonstrable progress toward—

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

15 “(B) dismantling all terrorist infrastruc-
16 ture within its jurisdiction, confiscating unau-
17 thorized weapons, arresting and bringing terror-
18 ists to justice, destroying unauthorized arms
19 factories, thwarting and preempting terrorist
20 attacks, and fully cooperating with Israel’s se-
21 curity services;

22 “(C) halting all anti-American and anti-
23 Israel incitement in Palestinian Authority-con-
24 trolled electronic and print media and in
25 schools, mosques, and other institutions it con-

1 trols, and replacing educational materials, in-
2 cluding textbooks, with materials that promote
3 peace, tolerance, and coexistence with Israel;

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

8 “(E) ensuring the financial transparency
9 and accountability of all government ministries
10 and operations.

11 “(c) RECERTIFICATIONS.—Not later than 90 days
12 after the date on which the President transmits to Con-
13 gress an initial certification under subsection (b), and
14 every six months thereafter—

15 “(1) the President shall transmit to Congress a
16 recertification that the conditions described in sub-
17 section (b) are continuing to be met; or

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

21 “(d) CONGRESSIONAL NOTIFICATION.—Assistance
22 made available under this Act to the Palestinian Authority
23 may not be provided until 15 days after the date on which
24 the President has provided notice thereof to the appro-
25 priate congressional committees in accordance with the

1 procedures applicable to reprogramming notifications
2 under section 634A(a) of this Act.

3 “(e) NATIONAL SECURITY WAIVER.—

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

7 “(A) the administrative and personal secu-
8 rity costs of the Office of the President of the
9 Palestinian Authority;

10 “(B) the activities of the President of the
11 Palestinian Authority to fulfill his or her duties
12 as President, including to maintain control of
13 the management and security of border cross-
14 ings, to foster the Middle East peace process,
15 and to promote democracy and the rule of law;
16 and

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

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

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

1 “(B) certifying to the appropriate congres-
2 sional committees that—

3 “(i) it is in the national security inter-
4 est of the United States to provide assist-
5 ance otherwise prohibited under subsection
6 (a); and

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

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

19 “(4) TREATMENT OF CERTIFICATION AS NOTI-
20 FICATION OF PROGRAM CHANGE.—For purposes of
21 this subsection, the certification required under
22 paragraph (2)(B) shall be deemed to be a notifica-
23 tion under section 634A and shall be considered in
24 accordance with the procedures applicable to notifi-
25 cations submitted pursuant to that section.

1 “(f) DEFINITIONS.—In this section:

2 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
3 TEES.—The term ‘appropriate congressional com-
4 mittees’ means—

5 “(A) the Committee on International Rela-
6 tions and the Committee on Appropriations of
7 the House of Representatives; and

8 “(B) the Committee on Foreign Relations
9 and the Committee on Appropriations of the
10 Senate.

11 “(2) FOREIGN TERRORIST ORGANIZATION.—
12 The term ‘foreign terrorist organization’ means an
13 organization designated as a foreign terrorist organi-
14 zation by the Secretary of State in accordance with
15 section 219(a) of the Immigration and Nationality
16 Act (8 U.S.C. 1189(a)).

17 “(3) PALESTINIAN AUTHORITY.—The term
18 ‘Palestinian Authority’ means the interim Pales-
19 tinian administrative organization that governs part
20 of the West Bank and all of the Gaza Strip (or any
21 successor Palestinian governing entity), including
22 the Palestinian Legislative Council.”.

23 (c) PREVIOUSLY OBLIGATED FUNDS.—The provi-
24 sions of section 620K of the Foreign Assistance Act of
25 1961, as added by subsection (b), shall be applicable to

1 the unexpended balances of funds obligated prior to the
2 date of the enactment of this Act.

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

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

9 **“SEC. 620L. LIMITATION ON ASSISTANCE FOR THE WEST**
10 **BANK AND GAZA.**

11 “(a) LIMITATION.—Assistance may be provided
12 under this Act to nongovernmental organizations for the
13 West Bank and Gaza only during a period for which a
14 certification described in section 620K(b) is in effect with
15 respect to the Palestinian Authority.

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

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

22 “(2) ASSISTANCE TO PROMOTE DEMOCRACY.—
23 Assistance to promote democracy, human rights,
24 freedom of the press, non-violence, reconciliation,
25 and peaceful co-existence, provided that such assist-

1 ance does not directly benefit Hamas or any other
2 foreign terrorist organization.

3 “(3) ASSISTANCE FOR INDIVIDUAL MEMBERS
4 OF THE PALESTINIAN LEGISLATIVE COUNCIL.—As-
5 sistance, other than funding of salaries or salary
6 supplements, to individual members of the Pales-
7 tinian Legislative Council who the President deter-
8 mines are not members of Hamas or any other for-
9 eign terrorist organization, for the purposes of facili-
10 tating the attendance of such members in programs
11 for the development of institutions of democratic
12 governance, including enhancing the transparent and
13 accountable operations of such institutions, and pro-
14 viding support for the Middle East peace process.

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

17 “(A) determines that the provision of such
18 assistance is in the national security interest of
19 the United States; and

20 “(B) not less than 30 days prior to the ob-
21 ligation of amounts for the provision of such
22 assistance—

23 “(i) consults with the appropriate con-
24 gressional committees regarding the spe-

1 cific programs, projects, and activities to
2 be carried out using such assistance; and

3 “(ii) submits to the appropriate con-
4 gressional committees a written memo-
5 randum that contains the determination of
6 the President under subparagraph (A).

7 “(c) MARKING REQUIREMENT.—Assistance provided
8 under this Act to nongovernmental organizations for the
9 West Bank and Gaza shall be marked as assistance from
10 the American people or the United States Government un-
11 less the Secretary of State or, as appropriate, the Admin-
12 istrator of the United States Agency for International De-
13 velopment, determines that such marking will endanger
14 the lives or safety of persons delivering such assistance
15 or would have an adverse effect on the implementation of
16 that assistance.

17 “(d) CONGRESSIONAL NOTIFICATION.—Assistance
18 made available under this Act to nongovernmental organi-
19 zations for the West Bank and Gaza may not be provided
20 until 15 days after the date on which the President has
21 provided notice thereof to the Committee on International
22 Relations and the Committee on Appropriations of the
23 House of Representatives and to the Committee on For-
24 eign Relations and the Committee on Appropriations of
25 the Senate in accordance with the procedures applicable

1 to reprogramming notifications under section 634A(a) of
2 this Act.

3 “(e) DEFINITIONS.—In this section:

4 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—the term ‘appropriate congressional commit-
6 tees’ means—

7 “(A) the Committee on International Rela-
8 tions and the Committee on Appropriations of
9 the House of Representatives; and

10 “(B) the Committee on Foreign Relations
11 and the Committee on Appropriations of the
12 Senate.

13 “(2) FOREIGN TERRORIST ORGANIZATION.—
14 The term ‘foreign terrorist organization’ means an
15 organization designated as a foreign terrorist organi-
16 zation by the Secretary of State in accordance with
17 section 219(a) of the Immigration and Nationality
18 Act (8 U.S.C. 1189(a)).”.

19 (b) OVERSIGHT AND RELATED REQUIREMENTS.—

20 (1) OVERSIGHT.—For each of the fiscal years
21 2007 and 2008, the Secretary of State shall certify
22 to the appropriate congressional committees not
23 later than 30 days prior to the initial obligation of
24 amounts for assistance to nongovernmental organi-
25 zations for the West Bank or Gaza under the For-

1 eign Assistance Act of 1961 that procedures have
2 been established to ensure that the Comptroller Gen-
3 eral of the United States will have access to appro-
4 priate United States financial information in order
5 to review the use of such assistance.

6 (2) VETTING.—Prior to any obligation of
7 amounts for each of the fiscal years 2007 and 2008
8 for assistance to nongovernmental organizations for
9 the West Bank or Gaza under the Foreign Assist-
10 ance Act of 1961, the Secretary of State shall take
11 all appropriate steps to ensure that such assistance
12 is not provided to or through any individual or entity
13 that the Secretary knows, or has reason to believe,
14 advocates, plans, sponsors, engages in, or has en-
15 gaged in, terrorist activity. The Secretary shall, as
16 appropriate, establish procedures specifying the
17 steps to be taken in carrying out this paragraph and
18 shall terminate assistance to any individual or entity
19 that the Secretary has determined advocates, plans,
20 sponsors, or engages in terrorist activity.

21 (3) PROHIBITION.—No amounts made available
22 for fiscal year 2007 or 2008 for assistance to non-
23 governmental organizations for the West Bank or
24 Gaza under the Foreign Assistance Act of 1961 may
25 be made available for the purpose of recognizing or

1 otherwise honoring individuals who commit, or have
2 committed, acts of terrorism.

3 (4) AUDITS.—

4 (A) IN GENERAL.—The Administrator of
5 the United States Agency for International De-
6 velopment shall ensure that Federal or non-
7 Federal audits of all contractors and grantees,
8 and significant subcontractors and subgrantees,
9 that receive amounts for assistance to non-
10 governmental organizations for the West Bank
11 or Gaza under the Foreign Assistance Act of
12 1961 are conducted for each of the fiscal years
13 2007 and 2008 to ensure, among other things,
14 compliance with this subsection.

15 (B) AUDITS BY INSPECTOR GENERAL OF
16 USAID.—Of the amounts available for each of
17 the fiscal years 2007 and 2008 for assistance to
18 nongovernmental organizations for the West
19 Bank or Gaza under the Foreign Assistance
20 Act of 1961, up to \$1,000,000 for each such
21 fiscal year may be used by the Office of the In-
22 spector General of the United States Agency for
23 International Development for audits, inspec-
24 tions, and other activities in furtherance of the
25 requirements of subparagraph (A). Such

1 amounts are in addition to amounts otherwise
2 available for such purposes.

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

6 It is the sense of Congress that, during any period
7 for which a certification described in section 620K(b) of
8 the Foreign Assistance Act of 1961 (as added by section
9 2(b)(2) of this Act) is not in effect with respect to the
10 Palestinian Authority, the territory controlled by the Pal-
11 estinian Authority should be deemed to be in use as a
12 sanctuary for terrorists or terrorist organizations for pur-
13 poses of section 6(j)(5) of the Export Administration Act
14 of 1979 (50 U.S.C. App. 2405(j)(5)) and section 140 of
15 the Foreign Relations Authorization Act, Fiscal Years
16 1988 and 1989 (22 U.S.C. 2656f).

17 **SEC. 5. DENIAL OF VISAS FOR OFFICIALS OF THE PALES-**
18 **TINIAN AUTHORITY.**

19 (a) IN GENERAL.—Except as provided in subsection
20 (b), a visa should not be issued to any alien who is an
21 official of, under the control of, or serving as a representa-
22 tive of the Hamas-led Palestinian Authority during any
23 period for which a certification described in section
24 620K(b) of the Foreign Assistance Act of 1961 (as added

1 by section 2(b)(2) of this Act) is not in effect with respect
2 to the Palestinian Authority.

3 (b) EXCEPTION.—The restriction under subsection
4 (a) should not apply to—

5 (1) the President of the Palestinian Authority
6 and his or her personal representatives, provided
7 that the President and his or her personal represent-
8 atives are not affiliated with Hamas or any other
9 foreign terrorist organization; and

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

13 **SEC. 6. TRAVEL RESTRICTIONS ON OFFICIALS AND REP-**
14 **RESENTATIVES OF THE PALESTINIAN AU-**
15 **THORITY AND THE PALESTINE LIBERATION**
16 **ORGANIZATION STATIONED AT THE UNITED**
17 **NATIONS IN NEW YORK CITY.**

18 (a) IN GENERAL.—Notwithstanding any other provi-
19 sion of law, and except as provided in subsection (b), the
20 President should restrict the travel of officials and rep-
21 resentatives of the Palestinian Authority and of the Pal-
22 estine Liberation Organization, who are stationed at the
23 United Nations in New York City to a 25-mile radius of
24 the United Nations headquarters building during any pe-
25 riod for which a certification described in section 620K(b)

1 of the Foreign Assistance Act of 1961 (as added by section
2 2(b)(2) of this Act) is not in effect with respect to the
3 Palestinian Authority.

4 (b) EXCEPTION.—The travel restrictions described in
5 subsection (a) should not apply to the President of the
6 Palestinian Authority and his or her personal representa-
7 tives, provided that the President and his or her personal
8 representatives are not affiliated with Hamas or any other
9 foreign terrorist organization.

10 **SEC. 7. PROHIBITION ON PALESTINIAN AUTHORITY REP-**
11 **RESENTATION IN THE UNITED STATES.**

12 (a) PROHIBITION.—Notwithstanding any other provi-
13 sion of law, it shall be unlawful to establish or maintain
14 an office, headquarters, premises, or other facilities or es-
15 tablishments within the jurisdiction of the United States
16 at the behest or direction of, or with funds provided by,
17 the Palestinian Authority during any period for which a
18 certification described in section 620K(b) of the Foreign
19 Assistance Act of 1961 (as added by section 2(b)(2) of
20 this Act) is not in effect with respect to the Palestinian
21 Authority.

22 (b) ENFORCEMENT.—

23 (1) ATTORNEY GENERAL.—The Attorney Gen-
24 eral shall take the necessary steps and institute the

1 necessary legal action to effectuate the policies and
2 provisions of subsection (a).

3 (2) RELIEF.—Any district court of the United
4 States for a district in which a violation of sub-
5 section (a) occurs shall have authority, upon petition
6 of relief by the Attorney General, to grant injunctive
7 and such other equitable relief as it shall deem nec-
8 essary to enforce the provisions of subsection (a).

9 (c) WAIVER.—Subsection (a) shall not apply if the
10 President determines and certifies to the appropriate con-
11 gressional committees that the establishment or mainte-
12 nance of an office, headquarters, premises, or other facili-
13 ties is vital to the national security interests of the United
14 States.

15 **SEC. 8. INTERNATIONAL FINANCIAL INSTITUTIONS.**

16 (a) REQUIREMENT.—The President should direct the
17 United States Executive Director at each international fi-
18 nancial institution to use the voice, vote, and influence of
19 the United States to prohibit assistance to the Palestinian
20 Authority (other than assistance described under sub-
21 section (b)) during any period for which a certification de-
22 scribed in section 620K(b) of the Foreign Assistance of
23 1961 (as added by section 2(b)(2) of this Act) is not in
24 effect with respect to the Palestinian Authority.

1 (b) EXCEPTIONS.—The prohibition on assistance de-
2 scribed in subsection (a) should not apply with respect to
3 the following types of assistance:

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

7 (2) Assistance to promote democracy, human
8 rights, freedom of the press, non-violence, reconcili-
9 ation, and peaceful co-existence, provided that such
10 assistance does not directly benefit Hamas or other
11 foreign terrorist organizations.

12 (c) DEFINITION.—In this section, the term “inter-
13 national financial institution” has the meaning given the
14 term in section 1701(c)(2) of the International Financial
15 Institutions Act (22 U.S.C. 262r(c)(2)).

16 **SEC. 9. DIPLOMATIC CONTACTS WITH PALESTINIAN TER-**
17 **ROR ORGANIZATIONS.**

18 No funds authorized or available to the Department
19 of State may be used for or by any officer or employee
20 of the United States Government to negotiate with mem-
21 bers or official representatives of Hamas, Palestinian Is-
22 lamic Jihad, the Popular Front for the Liberation of Pal-
23 estine, al-Aqsa Martyrs Brigade, or any other Palestinian
24 terrorist organization (except in emergency or humani-
25 tarian situations), unless and until such organization—

- 1 (1) recognizes Israel’s right to exist;
- 2 (2) renounces the use of terrorism;
- 3 (3) dismantles the infrastructure in areas with-
- 4 in its jurisdiction necessary to carry out terrorist
- 5 acts, including the disarming of militias and the
- 6 elimination of all instruments of terror; and
- 7 (4) recognizes and accepts all previous agree-
- 8 ments and understandings between the State of
- 9 Israel and the Palestinian Authority.

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

12 (a) ESTABLISHMENT OF FUND.—Not later than 60
13 days after the date of the enactment of this Act, the Sec-
14 retary of State shall establish a fund to be known as the
15 “Israeli-Palestinian Peace, Reconciliation and Democracy
16 Fund” (in this section referred to as the “Fund”). The
17 purpose of the Fund shall be to support, primarily,
18 through Palestinian and Israeli organizations, the pro-
19 motion of democracy, human rights, freedom of the press,
20 and non-violence among Palestinians, and peaceful coex-
21 istence and reconciliation between Israelis and Palestin-
22 ians.

23 (b) ANNUAL REPORT.—Not later than 60 days after
24 the date of the enactment of this Act, and annually there-
25 after for so long as the Fund remains in existence, the

1 Secretary of State shall submit to the appropriate congres-
2 sional committees a report on programs sponsored and
3 proposed to be sponsored by the Fund.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated to the Secretary of State
6 \$20,000,000 for fiscal year 2007 for purposes of the
7 Fund.

8 **SEC. 11. REPORTING REQUIREMENT.**

9 Not later than 90 days after the date of the enact-
10 ment of this Act, and annually thereafter, the Secretary
11 of State shall submit to the appropriate congressional
12 committees a report that—

13 (1) describes the steps that have been taken by
14 the United States Government to ensure that other
15 countries and international organizations, including
16 multilateral development banks, do not provide di-
17 rect assistance to the Palestinian Authority for any
18 period for which a certification described in section
19 620K(b) of the Foreign Assistance Act of 1961 (as
20 added by section 2(b)(2) of this Act) is not in effect
21 with respect to the Palestinian Authority; and

22 (2) identifies any countries and international
23 organizations, including multilateral development
24 banks, that are providing direct assistance to the

1 Palestinian Authority during such a period, and de-
2 scribes the nature and amount of such assistance.

3 **SEC. 12. DEFINITIONS.**

4 In this Act:

5 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
6 **TEES.**—The term “appropriate congressional com-
7 mittees” means—

8 (A) the Committee on International Rela-
9 tions and the Committee on Appropriations of
10 the House of Representatives; and

11 (B) the Committee on Foreign Relations
12 and the Committee on Appropriations of the
13 Senate.

14 (2) **PALESTINIAN AUTHORITY.**—The term “Pal-
15 estinian Authority” has the meaning given the term
16 in section 620K(e)(2) of the Foreign Assistance Act
17 of 1961 (as added by section 2(b)(2) of this Act).

Passed the Senate June 23, 2006.

Attest:

Secretary.

109TH CONGRESS
2^D SESSION

S. 2370

AN ACT

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