



RSC Policy Brief: The Palestinian Authority's Unilateral Attempt at Statehood through the United Nations

September 19, 2011

On November 22, 1974, the United Nations General Assembly passed [Resolution 3237](#). This resolution granted the Palestine Liberation Organization (PLO) observer status in the U.N. as the representative of the Palestinian people.

On September 23, 2011, the Palestinian Authority (PA) is [expected](#) to pursue a resolution at the United Nations (U.N.) that would recognize an independent Palestinian state, forever changing the course of Middle East peace negotiations.

The PA is currently recognized by the U.N. as a “non-voting observer entity.” They are the only entity with this status, and they are seeking to become a U.N. member state (via the U.N. Security Council), or a “non-member observer state” (via the U.N. General Assembly). On [September 16, 2011](#), Palestinian President Abbas announced he would seek for the Palestinian territories to become a member state through the U.N. Security Council. Mr. Abbas stated, “We need to have full membership at the U.N.” and he went on to say “We need a state, a seat at the United Nations and nothing more.”

Many Members of Congress, both Republicans and Democrats, oppose this unilateral declaration of statehood. A meaningful two-state solution to the peace process, which would ultimately lead to the recognition of a democratic Palestinian state, can only be achieved through direct negotiations between the Israelis and the Palestinians, which the House of Representatives supported when it passed [H.Res. 268](#), on July 6, 2011, by a [roll call vote of 407-6-13](#).

The PA has yet to release the text of their “Declaration of Statehood,” which will be the basis of the U.N. resolution. The text is extremely important because it will contain details on their intended borders, rights of return of refugees, status of Jerusalem, etc. Regardless of the text, this bid for a unilateral declaration of statehood paves the way for confrontation and disaster, and this bid is a direct violation of the underlying principles of previous peace agreements between Israel and the Palestinian Authority.

Administration Stance: The Obama Administration has previously stated that it does [not support](#) this attempt by the PA at statehood recognition, and that any attempts to create a state should come about through direct negotiations with Israel. The Obama Administration has vowed to veto the resolution, should it come before the U.N. Security Council.

Possible Moves by the PA: It is uncertain whether the PA will first go through the U.N. Security Council or go directly to the U.N. General Assembly. Options the PA could take:

- Seek U.N. member state status through the U.N. Security Council (which the U.S. has vowed to veto);

- If the U.N. Security Council member state request fails, then the Palestinian Authority could petition the U.N. General Assembly to upgrade the PA’s status from “observer” to “non-member observer state;” or
- They could directly petition the U.N. General Assembly without having first been denied U.N. member statehood through the U.N. Security Council.

U.N. Member State: A motion to make the Palestinian territories a member of the United Nations would first have to be recommended by the U.N. Security Council, before a vote by the General Assembly. This motion would be sponsored by the Palestinians themselves. The Obama Administration has [announced](#) they will veto this recommendation if it comes before the U.N. Security Council. According to the [U.N.](#): “Decisions on procedural matters are made by an affirmative vote of at least nine of the 15 members. Decisions on substantive matters require nine votes, including the concurring votes of all five permanent members. This is the rule of “great Power unanimity,” often referred to as the ‘veto’ power.” Any permanent member of the Security Council has the ability to veto a recommendation.

If the Security Council recommended to create Palestine and then make it a member state of the U.N., then the General Assembly would have to approve (by a two-thirds majority) Palestine’s membership. In accordance with Rule 136 of the U.N.’s [Rules of Procedure](#), in this vote the General Assembly would consider whether “the applicant is a peace-loving State and is able and willing to carry out the obligations contained in the Charter.”

The U.N. Security Council is composed of five permanent members and 10 non-permanent members (whose membership concludes at the end of the year stated below).

Non-Permanent Members:

Bosnia and Heregovina (2011)
 Brazil (2011)
 Colombia (2012)
 Gabon (2011)
 Germany (2012)
 India (2012)
 Lebanon (2011)
 Nigeria (2011)
 Portugal (2012)
 South Africa (2012)

Permanent Members:

United States
 China
 France
 Russian Federation
 United Kingdom

Status Upgrade: It is important to remember that a motion to upgrade the PLO’s status to a “non-member state observer” in the General Assembly **could not** be vetoed by the U.S. This motion at the U.N. General Assembly could be made regardless of whether the U.N. Security Council considered the PA’s request to become a U.N. member state.

Under this scenario, a U.N. member state that is supportive of the P.A. would sponsor a resolution to the General Assembly that would recommend the status upgrade of a Palestinian state. This resolution would only have to pass the General Assembly by a simple majority vote.

This status upgrade would mean that the U.N. recognizes Palestine as a “state” but as a “non-member” of the U.N.

Current Non-Member States include the [Holy See](#) Mission (commonly referred to as the Vatican). Therefore, a potential vote by the U.N. General Assembly next week could put the PLO on the same level

as the Vatican. For more information about Non-Member States and Entities of the U.N., visit [this U.N. page](#).

This elevated status would allow the newly recognized State of Palestine to join various U.N. panels, including (but not limited to) the International Criminal Court. In theory, once a member of the Court, they could attempt to sue Israel for alleged war crimes or home construction in the West Bank.

U.S. Ambassador to the U.N. [Susan Rice](#) has stated there is “no question” that any resolution proposed by the PA at the U.N. General Assembly “will have an overwhelming majority.”

Violation of the Oslo Accords: The [Declaration of Principles](#) (otherwise known as the Oslo Accords) were an attempt to resolve the conflict between Israel and the Palestinian Authority. The underlying principle (or requirement) of the Oslo Accords is that a two-state solution to the Israeli-Palestinian conflict will only come about through direct negotiations and agreements, rather than unilateral actions.

The U.N. recognition of a Palestinian state (whether through an elevated U.N. status, or U.N. membership) would be unilateral, because it was not agreed upon with Israel, and therefore would be a critical breach of the Oslo Accords. The Oslo Accords paved the way for future agreements, such as the Agreement on the [Gaza Strip and the Jericho Area](#), the Interim Agreement on the West Bank and the Gaza Strip (known as [Oslo II](#)), and others.

The Oslo Accords were signed by the Government of Israel and the Palestinian Authority, and witnessed by the U.S. and the Russian Federation on September 13, 1993.

Violation of U.N. Security Council Resolution 242: U.N. Security Council Resolution 242 established principles that are to serve as guidelines for the Israel-Palestinian peace process. The ultimate goal of this resolution is to achieve a “peaceful and **accepted** settlement” [emphasis added], which means a negotiated agreement between the two, rather than a unilateral declaration. This resolution was adopted by the U.N. Security Council on [November 22, 1967](#).

Violation of the Road Map for Peace: A Performance-Based Road Map to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly referred to as the “Road Map for Peace”) was developed by the Quartet (U.S., European Union, U.N., and Russia) and was presented to Israel and the Palestinian Authority on [April 30, 2003](#). An underlying principle of the Road Map was that a meaningful solution to the Israeli-Palestinian conflict would come only through direct negotiations.

Member Responses: Members of Congress, both Democrats and Republicans, have expressed opposition to the U.N recognition of a Palestinian state. This statehood attempt is a unilateral step in a conflict that can only effectively be resolved by direct negotiations. Additionally, Members of both parties have introduced the following legislation:

On April 15, 2011, Rep. Shelly Berkley (D-NV) introduced H.R. 1592. This legislation would prohibit U.S. assistance to the Palestinian Authority if the President certifies to Congress that they have unilaterally declared a Palestinian state.

On May 13, 2011, Majority Leader Eric Cantor (R-VA) introduced H.Res. 268, which reaffirmed the United States' commitment to a negotiated settlement of the Israeli-Palestinian conflict through direct Israeli-Palestinian negotiations. This legislation passed the House on July 7, 2011, by a [roll call vote](#) of 407-6-13.

On May 16, 2011, Sen. Ben Cardin (D-MD) introduced S.Res. 185. This resolution reaffirms the commitment of the United States to a negotiated settlement of the Israeli-Palestinian conflict through direct Israeli-Palestinian negotiations, reaffirming opposition to the inclusion of Hamas in a unity government unless it is willing to accept peace with Israel and renounce violence, and declaring that Palestinian efforts to gain recognition of a state outside direct negotiations demonstrates absence of a good faith commitment to peace negotiations, and will have implications for continued United States aid. This resolution passed the Senate on June 28, 2011, by unanimous consent.

On June 3, 2011, Rep. Steve Chabot (R-OH) introduced H.Res. 297, which expresses that it is the sense of the House that the Secretary of State should withhold United States contributions to the regularly assessed biennial budget of the United Nations for purposes of the General Assembly of the United Nations if the General Assembly adopts a resolution in favor of recognizing a state of Palestine outside of or prior to a final status agreement negotiated between, and acceptable to, the State of Israel and the Palestinians.

On June 16, 2011, Rep. Stevan Pearce (R-NM) introduced H.Res. 314, which declares that it is the policy of the United States to support its ally Israel in seeking peace with its neighbors, particularly toward a two-state solution that results in a free, non-militarized Palestinian state living side-by-side in peace and security with the Jewish State of Israel, the home of the Jewish people.

On June 21, 2011, Rep. Thaddeus McCotter (R-MI) introduced H.R. 2261. This legislation would withhold U.S. contributions from the regularly assessed United Nations budget, assessed contributions to peacekeeping operations, and voluntary contributions to the United Nations, if the United Nations adopts a resolution or supports the recognition of an independent Palestinian state.

On July 7, 2011, Rep. Joe Walsh (R-IL) introduced H.R. 2457, the Palestinian Accountability Act. Among its various provisions, the Palestinian Accountability Act will require the following actions from the Palestinian Authority as prerequisites for any U.S. aid: (1) That it end corruption, promote democracy, and stop influencing elections in Palestinian territories; (2) Strongly condemn terrorism, bring terrorists to justice, and end the incitement to violence and hatred; (3) Recognize Israel's right to exist as a Jewish state; and (4) And either exclude Hamas from government or publicly bind it to this Act's requirements. In addition, should the United Nations or any of its entities unilaterally recognize a Palestinian state, the United States will withhold funding from the United Nations until the Secretary of State has certified that the Palestinian Authority has met this Act's requirements.

On August 30, 2011, Chairman of the House Foreign Affairs Committee Ileana Ros-Lehtinen (R-FL) introduced H.R. 2829, United Nations Transparency, Accountability, and Reform Act of 2011, which, among other provisions, will cut off U.S. contributions to any UN entity that grants membership or any other upgraded status to the Palestinian leadership.

On September 8, 2011, Rep. Joe Walsh (R-IL) introduced H.Res. 394 which supports Israel's right to annex Judea and Samaria in the event that the Palestinian Authority continues to press for unilateral recognition of Palestinian statehood at the United Nations.

In Conclusion: The U.S. Administration, along with many Members of Congress, believe that this attempt by the Palestinian Authority to gain an elevated status is the wrong way to resolve long standing issues between Israel and the Palestinians. This attempt by the PA does not resolve, or address, the key issues (borders, water rights, rights of refugees, control of Jerusalem, etc) that have been obstacles to an agreement. Such differences will only be resolved through direct negotiations leading to a peace treaty fully accepted by Israel and the Palestinian Authority.

The Palestinian Authority [recently agreed](#) to peace negotiations if Israeli Prime Minister Netanyahu reinstates a freeze on “settlement” construction, or if Israel declares that the borders of the Palestinian state will be based on the pre-1967 lines with mutually agreed land swaps.

Israeli Prime Minister Netanyahu, who agreed to a 10-month “settlement”-building freeze, which expired in September of 2010 (which [Secretary Clinton](#) praised as “unprecedented”), has rejected any further suspension of new construction. If housing and commercial construction were truly [major obstacles](#) to peace, as stated by the Palestinian observer at the U.N., Riyad Mansour, then the Palestinian Authority would have come to the peace table during the moratorium last year.

This unilateral attempt at statehood would be a breach of existing agreements that would increase Israel’s concerns that the Palestinian Authority was walking away from current diplomatic commitments, and it would presumably prevent Palestinians from coming to the negotiating table with Israel to make the hard decisions that are necessary for a lasting peace. Democrats and Republicans agree; the only way to ensure a lasting peace between Israel and the PA is through direct negotiations.

On [September 13, 2011](#), the Palestine Liberation Organization’s ambassador to the U.N. indicated that the newly formed State of Palestine should not contain Jews. He specifically stated, “After the experience of the last 44 years of military occupation and all the conflict and friction, I think it would be in the best interest of the two people to be separated.” On [September 16, 2011](#), the PA’s Minister of Religious Affairs, Mahmoud Habbash, stated, “The future Palestinian state will be open to all its citizens, regardless of their religion.” The Minister went on to say, “We want a civil state, which in it live all the faiths, Muslim, Christian and Jews also **if they agree, (and) accept to be Palestinian citizens**” [emphasis added].

According to [CRS](#), since the signing of the Oslo Accords in 1993, the U.S. has committed more than \$4,000,000,000 in assistance to the Palestinians. Perhaps it is time for this funding to cease.

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Note: Not every member initiative featured above is necessarily endorsed by the RSC.