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September 14, 2011, “Promoting Peace? Reexamining U.S. Aid to the Palestinian
Authority, Part II.”
U.S. House Committee on Foreign Affairs

Madame Chairman, Ranking Member Berman, and Distinguished Members of the Committee: Thank you for the opportunity to appear before this Committee this morning to discuss a subject whose future holds great importance for U.S. foreign policy.

Because the issue of U.S. aid to the Palestinian Authority has become intertwined with the upcoming Palestinian bid for United Nations membership, I feel it is necessary to address these two issues together.

I would like to say, from the outset, that I do not support the Palestinian appeal to the UN. This measure would only be appropriate if Israel was unwilling to directly negotiate an end to this ongoing, tragic conflict. Israel, however, has repeatedly called for such direct talks. I will return shortly to the question of whether it is possible to avoid a political confrontation at the United Nations. If not, the question then becomes whether its possible on-the-ground implications are containable, or whether it will lead to violence.

The Palestinian leadership’s UN approach is wrong-headed and contrary to longstanding Palestinian commitments. Should the Palestinians follow through with it, there should be a price to pay in their relations with Washington. That said, I am not convinced that a reflexive decision to cut off assistance to the Palestinians is the best possible response. Rather, in considering future aid levels for the Palestinians, we should consider the totality of the effect of that aid. In this case, the significant levels of assistance that Congress has provided since FY08 have produced unprecedented levels of West Bank stability, prosperity, and improved governance, as well as previously unimaginable levels of Israeli-Palestinian security cooperation. This has benefited not only the Palestinians, but the Israelis as well. That is not to say that assistance levels should remain automatically intact in the face of Palestinian unilateralism at the UN. Any changes should be carefully calibrated, however, so as not to undermine the benefits that accrue beyond the Palestinian arena. Moreover, the U.S. could consider imposing other, non-financial measures as well. For example, measures could be taken against the PLO office in Washington, and senior-level U.S. officials could suspend meetings with Palestinian leaders. A total suspension of assistance would certainly be warranted if the Palestinian Authority took a premeditated turn towards a third intifada, as it did in 1987-1990 and 2000-2004. But I do not believe that that is President Abbas’ intent; indeed, his words and his record suggest otherwise.

Policymakers must always ask themselves a crucial question: who benefits from their actions? I fear that the group that stands to gain the most from a cutoff of U.S. aid to the Palestinian Authority would be Hamas, a terrorist organization that does not accept

Israel's existence. In stark contrast, the Palestinian Authority's cooperation and security relationship with Israel over the last four years has never been better. Even Israeli security officials insist that this security cooperation is vital and must continue. There is no question that this cooperation has produced real favorable change. In 2002, 410 Israelis were killed by suicide bombings and other attacks emanating from the West Bank. From 2007-2010, Israel suffered one fatality from a suicide attack.¹ Imams calling for suicide attacks against Israel have been removed from around 1,300 mosques in the West Bank. New teachers in the West Bank are now vetted to ensure that there are none purveying the ideals of Hamas. Gone is the revolving door of the Arafat era, when terrorists would be put in jail only to be released when others were not looking. The Congressionally supported U.S. Security Coordinator Program has played a large role in the strengthening of this Palestinian – Israeli security cooperation.

If Congressional aid to the Palestinian Authority is suspended and Palestinian security officials engaged in this security cooperation go unpaid, the risk of terror attacks against Israel will grow. So who pays the price for such a cut-off? Let us not kid ourselves. We know what the consequences will be.

Thanks to American and European financial support, Palestinian security cooperation with Israel has gone hand-in-hand with Prime Minister Salam Fayad's success in institution building. There is no doubt that improved law and order in the West Bank, along with Israel's lifting of most of its major manned checkpoints, has been a key contribution to what the World Bank has cited as the 9.3 percent growth enjoyed by the West Bank in 2010, at a time of worldwide recession. However, without U.S. aid, which could also play a role in ensuring that Israel continues its monthly transfer of 380 million shekels (around \$107 million dollars) in customs clearances to the PA,² the odds are greater that PM Fayad will resign, imperiling both security cooperation and the institution building effort. As many of us know, PM Fayad has been the greatest obstacle to Fatah-Hamas reconciliation efforts. If an unintended consequence of a U.S. cutoff of aid is Fayad's resignation, we remove that obstacle. In other words, withholding of U.S. aid will undermine the people we want to help, and help the people that we want to undermine.

Although the Palestinian Authority may pay a price in its relations with the U.S. for its misguided venture at the UN regardless, it is worth waiting to see if their bid for full membership is scaled back to a less maximalist resolution that nods more broadly to their national aspirations. Either way, a resolution that has profound negative consequences for both Israelis and Palestinians will negatively affect U.S.-Palestinian relations. President Obama, whose last bilateral meeting with Abbas was in 2010, faces many domestic and foreign policy challenges at the moment, and may not soon find time for

¹ Israeli Security Agency, "Analysis of Attacks in the Last Decade," 2010, <http://www.shabak.gov.il/SiteCollectionImages/english/TerrorInfo/decade/SuicideAttacks.pdf>

² Barak Ravid, "Finance Minister reneges on deal to give early payment to Palestinian Authority," *Haaretz*, August 31, 2011, <http://www.haaretz.com/misc/article-print-page/finance-minister-reneges-on-deal-to-give-early-payment-to-palestinian-authority-1.381624?trailingPath=2.169,2.225,2.226>,

another bilateral meeting. It is advisable to wait and see the scope of the Palestinian resolution before pledging further punitive measures at this time.

I would now like to return to the Palestinian bid for UN membership in greater detail.

Currently, the statehood bid appears headed for one of two routes. The PA's first preference is for the Security Council to vote on its membership application. Per the UN Charter, any country seeking membership must first apply to the secretary general, confirming that its request is in keeping with the Charter. The secretary-general then refers the application to the Security Council, which meets to consider the proposed membership. If nine of the fifteen members vote in favor and none of the five permanent members (the United States, France, Britain, China, Russia) casts a veto, the vote is then sent to the General Assembly, where it must be confirmed by a two-thirds majority of the 193 member states.

Yet this route seems very unlikely in the Palestinian case. On May 19, President Obama delivered a seminal Middle East speech at the State Department in which he made clear that the UN is not the appropriate venue for addressing the issue of Palestinian statehood.³ This signaled that the United States would veto any Security Council resolution granting membership to a Palestinian state. On September 7, Wendy Sherman—the administration's nominee for the State Department post of undersecretary for policy—confirmed this stance, telling the Senate Foreign Relations Committee, “The administration has been very clear as well...if any such resolution were put in front of the Security Council, that we would veto it.”⁴ When asked how the Palestinians would react to such a move, chief negotiator Saeb Erekat replied that the PA would instead seek enhanced status at the UN General Assembly as a “nonmember state,” similar to the status granted to the Vatican.⁵ In short, although it is unclear whether the Palestinians will go through the motions of seeking a Security Council vote in order to force a U.S. veto, the issue will likely reach the General Assembly through one route or another. PA president Mahmoud Abbas is already scheduled to address the UN on September 21, though the content of his speech is uncertain. Whatever the case, the United States does not wield veto power in the General Assembly, and the Palestinians believe they would draw the backing of an automatic majority due to the historic support they have enjoyed from the unaligned bloc.

For example, on December 15, 1988, 104 UN member states—a two-thirds majority at the time—voted in favor of General Assembly Resolution 43/177, which “acknowledged” the Palestinian declaration of statehood made the previous month (the United States and Israel voted against it, and thirty-six members abstained). The

³ President Barak Obama, “Remarks by the President on the Middle East and North Africa,” May 19, 2011, White House, Office of the Press Secretary, <http://www.whitehouse.gov/the-pressoffice/2011/05/19/remarks-president-middle-east-and-north-africa>

⁴ See Josh Rogin, “Wendy Sherman Promises US Veto of Palestinian Statehood at UN,” *Foreign Policy*, September 7, 2011

⁵ Khaled Abu Toameh, Herb Keinon, “Abbas: We’ll Go to the UN General Assembly If U.S. Uses Veto,” *Jerusalem Post*, July 19, 2011, <http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=229998>.

resolution stipulated that the Palestine Liberation Organization observer would henceforth be referred to as “Palestine,” but without prejudice to its observer status.⁶ The PA was thus established, and numerous countries thereafter recognized Palestinian statehood. This history virtually guarantees that the Palestinians would be able to secure a majority in any new General Assembly vote.

The implications of the Palestinian statehood bid will be discussed below. First, however, it is important to understand the motivations of each side in the brewing conflict.

The origins of the Palestinians’ UN initiative are unclear. Statements made by PA prime minister Salam Fayad as early as two years ago sought to frame the West Bank institution-building effort—which has won international praise—as a state-building effort. In August 2009, he drafted a detailed, two-year plan for the PA to establish the fundamental infrastructures of a Palestinian state, titled “Palestine—Ending the Occupation, Establishing the State.” Yet it is Abbas, not Fayad, who has consistently pressed for a statehood bid at the UN. In fact, in a June 2011 interview, Fayad voiced skepticism that a UN move could be anything but symbolic. When asked whether UN recognition would change any realities on the ground, he replied: “My answer to you is no. Unless Israel is part of that consensus, it won’t, because to me, it is about ending Israeli occupation.”⁷

According to Abbas, however, the UN initiative is rooted in his conviction that negotiations with Israeli prime minister Binyamin Netanyahu’s government are futile. PA leaders believe that they are justified in their refusal to resume negotiations so long as Israeli settlement construction continues, and endless whispers of European diplomats questioning Netanyahu’s commitment to a deal have only reinforced this instinct.

Abbas has also made clear his disappointment that President Obama has not done more to extract Israeli concessions. Even as Abbas was relying on the United States to press Israel on the territorial issue, Washington was apparently urging him to hold direct talks with Israel. Indeed, Abbas spent most of the 2009 settlement moratorium period insisting that a de facto construction slowdown in east Jerusalem was insufficient. In response, the United States claimed that this was valuable time lost and called on him to resume negotiations.

Abbas therefore believes that the PA must seek independence from the UN, where the Palestinians have won more resolutions of support than any other liberation movement. In the same vein, Israel is often excoriated at the UN, usually due to persistent differences regarding the Palestinian issue.

Beyond the UN’s historically welcoming embrace, Abbas’s motivations for pursuing the initiative cannot be divorced from this year’s Arab upheavals. Having lost an ally in the

⁶ The full text of Resolution 43/177 is available at <http://unispal.un.org/UNISPAL.NSF/0/146E6838D505833F852560D600471E25>.

⁷ Karin Laub, “Palestinian PM Skeptical of Statehood Bid,” *Associated Press*, June 28, 2011, <http://abcnews.go.com/International/wireStory?id=13947859>.

fall of Egyptian leader Hosni Mubarak, who was long a patron of the Palestinian cause, Abbas has apparently been casting about for a bold diplomatic move that would captivate the hearts and minds of not just the Palestinian people, but the Arab public writ large. Put another way, the turmoil in the Arab world seems to have pushed him toward the UN as a means of avoiding a popular rebellion. Moreover, Palestinians recognize that they cannot afford to rely exclusively on Arab support and initiatives at the moment because neighboring regimes are preoccupied with their own survival.

Abbas is also driven by fear that if he backs down from this initiative, the Palestinian public may interpret it as a capitulation and a sign of weakness. Reinforcing this belief is his bitter memory of 2009, when Hamas ridicule in the Arab media forced him to reverse course on his initial decision to delay a controversial UN Human Rights Council vote regarding an investigation of the 2008–2009 Gaza war (i.e., the Goldstone report). Abbas is not eager to repeat that experience.

Finally, some Palestinian officials argue that a victory at the UN would position Abbas to negotiate unconditionally with Israel afterward. Yet Israelis are skeptical of this view given the many other potential implications of a UN resolution.

Israel views the UN track as inherently contradictory to the negotiations track. It also views the UN bid as a breach of the Oslo Accords, which stipulated that neither side would endeavor to change the status of the West Bank. (Palestinians claim that Israeli settlement construction already violates the accords. Yet although one might argue that such activity goes against the spirit of Oslo, it does not violate the letter of the accords, as Israel strenuously resisted making such a commitment during the Oslo talks.) Furthermore, referring to the most basic definition of statehood, Israel believes that because the PA does not control the entire West Bank, let alone Gaza, it does not meet the requirements for a state.

Israel also rejects Abbas's explanation for the lack of negotiations, viewing his comments on the futility of talks as disingenuous. As Prime Minister Netanyahu often points out, the two leaders have held only two weeks of talks (in September 2010) since he came to power. Accordingly, Israel views the Palestinian move as an attempt to short-circuit peacemaking and gain the prize of an independent state without making the difficult concessions that a peace agreement would require. In fact, the Israeli government suspects that Abbas is incapable of making such concessions and is therefore attempting to shift the onus onto Israel by demanding preconditions for negotiations (i.e., a settlement freeze and acceptance of the pre-1967 borders as a baseline for territorial negotiations).

Regarding the statehood bid itself, Israel sees several possible ramifications emerging if the Palestinians are successful at the UN. First, Israel believes that the Palestinian strategy is designed to either sidestep peacemaking altogether or, at minimum, avoid compromises regarding the shape of a future state's borders by having them determined at the UN rather than through direct negotiations. In either case, this could close the door on negotiations in the eyes of Israel.

Second, Israelis fear that enhanced Palestinian status at the UN would encourage the PA to exploit the UN machinery to its fullest advantage at Israel's political expense. For example, this could mean seeking prosecution of Israeli officials by the International Criminal Court for alleged war crimes related to either the Palestinian intifada of 2000–2004 or the Gaza war of 2008–2009. Israel takes this scenario very seriously—such a move might accelerate what Israel regards as its ongoing delegitimization, produce a major downward spiral in Israeli-Palestinian relations, and effectively prevent a return to peacemaking for the foreseeable future.

Indeed, in a *New York Times* op-ed earlier this year, Abbas wrote, “Palestine’s admission to the United Nations would pave the way for the internationalization of the conflict as a legal matter, not only a political one. It would also pave the way for us to pursue claims against Israel at the United Nations, human rights treaty bodies and the International Court of Justice.”⁸ Similarly, on January 22, 2009, PA justice minister Ali Khashan visited International Criminal Court prosecutor Luis Moreno-Ocampo at The Hague and filed a declaration that the “Government of Palestine” accepts the court’s jurisdiction.⁹ The ICC responded by stating that the Prosecutor’s Office “will carefully examine all relevant issues related to the jurisdiction of the Court, including whether the declaration by the Palestinian National Authority accepting the exercise of the jurisdiction by the ICC meets statutory requirements, whether the alleged crimes fall within the category of crimes defined in the Statute, and whether there are national proceedings in relation to those crimes.”¹⁰ Moreno-Ocampo has not yet ruled on the matter, but if the UN recognizes a Palestinian state, he would be more inclined to acknowledge ICC jurisdiction over Palestinian issues, leaving the door open for Palestinians to file criminal cases.

Third, Israel fears that the Palestinians will take advantage of UN recognition to assert sovereignty. This could mean suspension of the bilateral security cooperation seen over the past four years, laying the ground for confrontation in the West Bank. In fact, a

⁸ Mahmoud Abbas, “The Long Overdue Palestinian State,” *New York Times*, May 16, 2011, <http://www.nytimes.com/2011/05/17/opinion/17abbas.html>.

⁹ Ali Khashan, “Declaration Recognizing the Jurisdiction of the International Criminal Court,” Palestinian National Authority, Ministry of Justice, January 21, 2009, <http://www.icc-cpi.int/NR/rdonlyres/74EEE201-0FED-4481-95D4-C8071087102C/279777/20090122PalestinianDeclaration2.pdf>. The declaration states: “In conformity with Article 12, Paragraph 3 of the Statute of the International Criminal Court, the Government of Palestine hereby recognizes the jurisdiction of the Court for the purpose of identifying, prosecuting and judging the authors and accomplices of acts committed on the territory of Palestine since 1 July, 2002. As a consequence, the Government of Palestine will cooperate with the Court without delay or exception, in conformity with Chapter IX of the Statute. This declaration, made for an indeterminate duration, will enter into force upon its signature. Material supplementary to and supporting this declaration will be provided shortly in a separate communication. Signed in The Hague, the Netherlands, 21 January 2009, For the Government of Palestine, Minister of Justice Ali Khashan.”

¹⁰ “Visit of the Minister of Justice of the Palestinian National Authority, Mr. Ali Khashan, to the ICC,” press release, International Criminal Court, Office of the Prosecutor, January 22, 2009, <http://www.icc-cpi.int/NR/rdonlyres/979C2995-9D3A-4E0D-8192-105395DC6F9A/280603/ICCOTP20090122Palestinerev1.pdf>.

political showdown at the UN could trigger confrontation in the West Bank regardless of whether or not the Palestinians assert sovereignty, as discussed later in this paper.

A successful UN bid could also spur the PA to accuse Israel of occupying another state's sovereign territory, as Iraq occupied Kuwait. In a recent interview with the Israeli daily *Maariv*, Erekat explained that once the Palestinians are granted statehood,

“the whole language of negotiations will be held as a state, member of the UN, occupying another state, which is also a member of the UN. Nothing will be the same. From a technical perspective, [Abbas] will still need authorization from the occupying power if he wants to travel to Jordan, but this step will present Israel as it is: a state occupying another state. Once this happens, there is a long line of economic, political and legal steps that can be taken.”¹¹

Yet it seems unlikely that such a move would trigger international sanctions against Israel in the near future.

Given the high stakes involved, Israeli officials have warned that the PA's UN initiative could lead to a variety of retaliatory steps. In private conversation, some senior officials speculated that these could include a major settlement construction push, largely in geographic blocs adjacent to Israel, or even unilateral annexations. Other officials, including Foreign Minister Avigdor Liberman, have gone so far as to call for severing relations with the PA.¹² Finance Minister Yuval Steinitz has also threatened to suspend the transfer of funds from the various taxes Israel collects on behalf of the PA, which are key to the Palestinian budget.¹³

In a recent interview, Israeli ambassador to the United States Michael Oren expressed his country's formal position: “We have a lot of agreements with the Palestinian Authority; we have no agreements with a ‘Government of Palestine.’ He added, “It's just a fact, we have no agreements with a ‘Government of Palestine.’ It puts us in a different realm.” In his view, existing bilateral agreements—covering everything from imports-exports to water sharing to security cooperation—would be invalidated by a unilateral Palestinian declaration of statehood at the UN. “It's not just our agreements with the Palestinian Authority, it's America's agreements with the Palestinian Authority” [that are at risk], Oren said: “America is a cosignatory to the Oslo Accord, and this would seriously undermine it...Unilateral steps would have legal, economic, and political ramifications for us and for America as a cosignatory.”¹⁴

¹¹ Saeb Erekat, interviewed by Amit Cohen, “We Want to Achieve Full Membership at the UN” [in Hebrew], *Maariv*, August 28, 2011, <http://www.nrg.co.il/online/1/ART2/276/240.html?hp=1&cat=404>.

¹² Barak Ravid, “Lieberman: Israel Should Cut all Ties with the Palestinian Authority,” *Haaretz*, August 7, 2011, <http://www.haaretz.com/news/diplomacy-defense/lieberman-israel-should-cut-all-ties-with-palestinian-authority-1.377421>.

¹³ “September Hyteria,” (editorial) *Haaretz*, Aug. 12, 2011, <http://www.haaretz.co.il/hasite/spages/1237966.html>.

¹⁴ Josh Rogin, “Israeli Amb: Palestinian Vote Would End All Agreements with Israel and America,” *The Cable*, August 30, 2011, http://thecable.foreignpolicy.com/posts/2011/08/30/israeli_amb_palestinian_statehood_vote_would_end_all_pa_agreements_with_israel_and_.

Of course, ominous rhetoric has long been a part of Israeli-Palestinian diplomatic warfare, and neither of the parties will necessarily act upon any of the above threats—certainly not without a thorough cost-benefit analysis. Palestinians have much to lose by sparking such confrontations given their dependency on Israel. Similarly, Israelis do not want a faceoff that results in the PA’s collapse, since that would bury prospects for peace, strengthen Hamas, and force Israel to reassume its pre-Oslo responsibility for overseeing Palestinian daily life.

“The UN statehood bid could have profound implications even apart from possible Israeli reactions. In November 2010, Secretary of State Hillary Clinton indicated that the United States had given the PA approximately \$600 million during that calendar year, with \$225 million going to direct budgetary assistance and the remainder to Palestinian projects.¹⁵ Yet the statehood initiative will likely damage U.S.-Palestinian relations and threaten this funding if carried through. In July, 407 of the 435 members of the House of Representatives voted for a resolution affirming that the Palestinian UN initiative “will have serious implications for the United States assistance programs for the Palestinians and the Palestinians Authority.”¹⁶

Around the same time, 87 of 100 members of the Senate passed a similar resolution. And both houses of Congress called on Obama to veto any statehood resolution at the UN Security Council.

Because the United States is the PA’s largest individual donor, a suspension of congressional aid would drastically impair its functioning. Pushing forward on the UN bid would therefore be “a very, very bad thing to do,” explained Rep. Kay Granger (R-TX), chairwoman of the House Appropriations Subcommittee on State-Foreign Operations, which oversees foreign aid. “It would be a very serious step. It also could affect our funding at the UN.”¹⁷ Similarly, House Minority Whip Steny Hoyer (D-MD) stated that he discussed the potential aid suspension with Abbas and Fayad during his August visit to the West Bank. When asked by a reporter whether the Palestinian leadership realized that they risked losing U.S. aid, Hoyer replied, “There’s no doubt that they know that will be a risk.”¹⁸

An aid suspension would most negatively impact Israeli-Palestinian security cooperation, especially salaries to PA security officials. Because Hamas might stand to benefit from such a development, some observers have wondered whether Congress might spare the

¹⁵ “Clinton Announces Aid to Palestinian Authority, Meets with Egyptian Counterpart,” *Voice of America*, November 10, 2010, <http://www.voanews.com/english/news/middle-east/US-Announces-Additional-Palestinian-Aid--107047048.html>.

¹⁶ Natasha Mozgovaya, “U.S. House Passes Resolution Threatening to Suspend Aid to Palestinians,” *Haaretz*, July 8, 2011, <http://www.haaretz.com/news/diplomacy-defense/u-s-house-passes-resolution-threatening-to-suspend-aid-to-palestinians-1.372112>.

¹⁷ Hilary Krieger, “Palestinian State Declaration Would Hurt US Aid to the PA,” *Jerusalem Post*, April 16, 2011, <http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=216892>.

¹⁸ Marin Cogan and Jake Sherman, “Hill Fight Simmers over Palestine Statehood Vote,” *Politico*, August 18, 2011, <http://www.politico.com/news/stories/0811/61638.html>.

portion of aid designated for security cooperation. Yet it would be politically difficult for the PA to accept only those funds, since many Palestinians could view them as serving American and Israeli interests alone.

The troublesome implications of the statehood bid extend beyond the budgetary realm. The Arab rebellions of 2011 have demonstrated the potential efficacy of mass nonviolent demonstrations, though this idea remains fairly new to the Israeli-Palestinian area. Palestinian leaders have called for massive peaceful demonstrations on September 20 to draw international sympathy before Abbas delivers his UN speech the following day. Yet large demonstrations could arise afterward as well, and any post-vote protests would be more likely to spin out of control, especially if the United States vetoes the request in the Security Council. In such a politically charged atmosphere, would Israeli and Palestinian security forces be able to contain major demonstrations given their dearth of experience with crowd control on that scale? And if UN recognition of a Palestinian state is not met by changes on the ground, will disappointed Palestinian demonstrators turn against the PA, perhaps with encouragement from Hamas? Although one Palestinian figure close to Abbas privately opined that Hamas leaders would be cautious about any such move because they have little support in the West Bank, such views may not prove true. The group could also fire rockets from Gaza or allow other factions there to do so.

Given these potential consequences, Israel views the Palestinian UN bid as a threat to its core interests. Indeed, the initiative creates profound risks for Israeli-Palestinian political confrontation and could put the PA's future in danger. Accordingly, Washington should look into how it might avert a confrontation at the UN.

Two strategies for doing so have emerged so far. One would involve relaunching peace negotiations and thereby sidestepping a UN vote altogether, while the other advocates an alternative UN resolution that would remove some of the most objectionable elements of the Palestinian proposal.

If the Palestinians want the support of a large majority that includes the European vote, they may have to adopt one of these alternative courses of action. Privately, Palestinian officials have indicated that they would view the UN move as a failure without the support of the twenty-seven European Union states, even if they gain recognition from a two-thirds majority in the General Assembly. They recognize that the EU states would be critical in generating political momentum in the wake of a vote. Indeed, if an alternative resolution does become the preferred course of action, its final content is likely to be shaped by European-Palestinian consultations.

Given the EU's pivotal role, Washington embarked on a campaign this summer to forge a joint strategy based on a new statement by the Middle East Quartet (i.e., the United States, EU, UN, and Russia). This was a departure from the Obama administration's previous view of the Quartet as a venue for validating U.S. Middle East diplomacy rather than crafting joint texts. Washington's new strategy seeks a Quartet statement that calls

for the resumption of direct Israeli-Palestinian talks, premised largely on President Obama's May 19 and May 22 speeches on the Middle East.¹⁹

Although European states had long pressed the administration to declare that U.S. policy on the Israeli-Palestinian conflict would be guided by a return to the pre-1967 boundaries plus a land exchange (known in diplomatic shorthand as "swaps"), the May speeches were the first occasion on which Obama did so. Senior administration officials cited the May 26–27 G-8 summit as one of the primary reasons behind the timing of the speeches. The hope was that the summit participants would use the speeches to draw Israel and the Palestinians back to the negotiating table, thereby avoiding the need for a controversial European vote at the UN in September. As stated in the speeches, the administration viewed a potential UN statehood vote as both a source of confrontation and a threat to the viable option of negotiations. Yet Obama's remarks failed to jumpstart new talks.

In Washington's view, a Quartet statement would both circumvent the UN route and put pressure on Abbas by lining up Quartet members against the statehood bid. In theory, such a statement would give Abbas a credible explanation for abandoning the UN plan. Yet Abbas is skeptical that any impending Quartet statement could provide acceptable and sufficient "quasi terms of reference" for negotiations, as one U.S. official privately called them. It should be pointed out that European, Russian, and UN officials in Washington also balked at a July 11 draft of said text. Since then, Quartet Middle East envoy Tony Blair has struggled to bridge the gaps. And his mere involvement reflects two important realities: first, that he hopes his longstanding relationship with EU foreign policy coordinator Lady Catherine Ashton will be beneficial; second, and more critical, that the Obama administration is preoccupied with domestic economic issues and wants to avoid further confrontation with Israel while entering a reelection cycle.

The prospect of a Quartet Statement has also exposed hidden tensions between the United States and EU. From Washington's perspective, the good news is that the Europeans do not relish a September trip to the UN. At the same time, there are many doubts about the EU's willingness to move toward the U.S. position.

Specifically, the United States believes that European leaders do not want a contentious General Assembly vote for fear that it would divide their ranks at a time when they deem it essential to maintain unity. A UN statehood vote would be one of the first tests of how the union deals with division among its members on a key foreign policy question. Given public and private statements by various officials, many assume that Spain, Portugal, the Scandinavian countries, and probably France might vote in favor of a resolution, while Germany, Italy, Netherlands, the Czech Republic, and Hungary are opposed.²⁰ Yet one

¹⁹ The May 22 speech was delivered at the American Israel Public Affairs Committee. The full text is available at <http://www.whitehouse.gov/the-press-office/2011/05/22/remarks-president-aipac-policy-conference-2011>.

²⁰ See for example German foreign minister Guido Westerwelle's remarks in "Palestinian Statehood Bid 'Papers Ready,'" *Aljazeera English*, September 4, 2011, <http://english.aljazeera.net/news/americas/2011/09/201194145150327397.html>, and Dutch foreign minister Uri Rosenthal's remarks in "EU States Divided on Palestinian Statehood Bid," *Reuters*, September 2, 2011,

must be careful in predicting a precise head count because the text of the resolution will be the key determinant of European support, and some countries could abstain. In August, the State Department dispatched a formal diplomatic message to more than seventy countries urging them to oppose any unilateral Palestinian move at the UN. Delivered by American ambassadors, the message argued that a statehood vote would destabilize the region and undermine peace efforts.²¹

In general, while some European states are more sympathetic to the Palestinian position than others, even those that are amenable to the UN initiative realize that a statehood resolution might not be an unalloyed victory for the PA, since it would not change realities on the ground. In particular, it would not establish Palestinian sovereignty, nor would it likely improve the mood of the people, since it would build expectations of statehood on which the PA could not tangibly deliver.

Nevertheless, a key question is whether the remaining members of the Quartet are willing to pay the political price of saying anything new via a joint statement, as President Obama did with his May speeches. Even Netanyahu did not like Obama's ideas about pre-1967 borders plus swaps, and the EU did not reciprocate those views with a corollary "tough love" speech to the Palestinians. That is, despite embracing the idea that Israel must cross such a threshold in accepting such terms, the EU has balked at calling on the PA to cross its own historic threshold by, for example, recognizing Israel as a Jewish state. (It should be pointed out that leaders from several countries—including Britain, France, Germany, and Russia—have made their own statements to this effect in past years, though usually while visiting Israel.) It is legitimate to question why the administration did not anticipate this and withhold the president's May declarations until receiving guaranteed European reciprocity on the issues that have delayed a Quartet statement: namely, the language regarding swaps and Israel's Jewish identity.

In short, although the United States may not mind issuing a Quartet statement that is not entirely to Israel's liking, the other members have not yet warmed to this approach. Until recently, they have not wished to defy Palestinian demands, in part because Abbas does not want them to agree to anything at the Quartet that might diminish Palestinian support at the UN. Yet U.S. officials have been quietly persuading their EU counterparts that Europe needs to stake out a position that is more independent of Abbas. According to this argument, allowing Abbas to be the arbiter of the European position is not only wrong, but also detrimental to Abbas, since any compromises will make him appear complicit. A better strategy is to work with him to manage the Palestinian response.

Unfortunately, there is little time left. If a Quartet statement does not emerge in the last week or so before the UN General Assembly convenes, it will likely become a politically irrelevant option.

<http://af.reuters.com/article/worldNews/idAFTRE7816AT20110902?pageNumber=2&virtualBrandChannel=0>.

²¹ Steven Lee Myers and Mark Landler, "U.S. Is Appealing to Palestinians to Stall UN Vote," *New York Times*, September 3, 2011, <http://www.nytimes.com/2011/09/04/world/middleeast/04mideast.html?pagewanted=all>.

Accordingly, the best route to producing a viable Quartet formula may involve guaranteeing that it would be translated into a UN Security Council resolution laying out distinct terms of reference for direct talks. The council would be able to accept such a formula without any significant wording changes, as it did when it adopted Resolution 1515 in November 2003—an endorsement of the Roadmap previously drafted by the Quartet. As key Israeli officials familiar with Netanyahu’s thinking have privately expressed, the prime minister might find a resolution that included recognition of Israel as a Jewish state very appealing, since it would represent the official stance of the international community. Indeed, Netanyahu has emphatically declared that such recognition would change history.²² And addressing the issue of mutual recognition up front could jumpstart bilateral negotiations and provide a precedent for Arab states to follow.

Unfortunately, the Palestinians do not seem to view the prospect of a Quartet statement as beneficial unless it contains binding terms of reference for bilateral talks. Short of that, the chances of the Quartet route convincing them to abandon the UN route seem low, especially since they probably fear that upcoming U.S. elections will lead Washington to press for a less pro-Palestinian text. In an exchange with reporters on September 8, Abbas did not refer to his position on a Quartet text per se but stated that U.S. efforts to halt the UN bid were “too late.”²³

Another potential means of avoiding political confrontation over a maximalist Palestinian resolution at the UN is for the Europeans to field their own resolution. In fact, such efforts may already be underway.

Because Obama has already stated that he does not view the UN as the proper venue for settling such issues, the United States is likely to oppose this approach unless persuaded otherwise. And this opposition will likely increase over time given the administration’s desire to avoid political friction with Israel in the pre-election season. To convince Washington otherwise, the EU would have to win Israel’s tacit support for an alternative resolution despite the latter’s pro forma opposition to the Palestinians’ unilateral bid. Such a resolution would stand a greater chance of garnering Israeli and U.S. support if it included calls for bilateral negotiations, security cooperation, and the resolution of any issues precluding an end to all claims and conflict.

An alternative resolution would also require Palestinian acceptance, since the Europeans would not want dueling drafts. They would have to convince the Palestinians that only a European-led resolution would draw the support of the twenty seven EU countries, as well as the two dozen other countries that often vote alongside the EU. Alternatively,

²² Hussein Ibish, “Should the Palestinians Recognize Israel as a Jewish State?” *Foreign Policy*, May 25, 2011, http://www.foreignpolicy.com/articles/2011/05/25/should_the_palestinians_recognize_israel_as_a_jewish_state.

²³ Isabel Kershner, “Palestinian Leader Says US Is too Late on UN Bid,” *New York Times*, September 8, 2011, <http://www.nytimes.com/2011/09/09/world/middleeast/09palestinians.html?ref=world>.

individual EU states could engage the PA regarding its resolution and attempt to strike a deal of support in return for textual changes.

The Palestinians may therefore need to choose between a weaker resolution that enjoys European support and a more maximalist resolution with less support. So far, they have not even crafted their own resolution, according to Ashton's comments during a September 2 European foreign ministers meeting.²⁴

In short, any European resolution would need to avoid the most contentious components of the Palestinian resolution while still elevating the PA's UN status to something between observer and member-state. Potential stipulations for such a resolution include the following:

The Palestinians will gain the powers of statehood only as a result of a mutually satisfactory outcome of bilateral negotiations with Israel. Any upgraded status at the UN should not be confused with the powers of statehood. This means no Palestinian assertion of sovereignty over the West Bank and east Jerusalem after the UN vote, and no opening of full-fledged foreign embassies. This would also prevent a "Government of Palestine" from challenging territorial control and effectively severing security coordination with Israel.

To avoid confusion, references to Israel's occupation of the West Bank should not describe it as "illegal," making clear that the conflict is a political one that must be resolved at the negotiating table. Additional language should be explored to ensure that any enhanced status would not be construed as justification for filing criminal cases with the ICC.

The resolution should not include demarcation of borders. There is a crucial difference between supporting the establishment of a Palestinian state along pre-1967 lines and supporting its establishment along pre-1967 borders with swaps, which enables creativity and calls for negotiations. Nevertheless, the United States and many European countries would definitely oppose a formulation that demarcates the state of Palestine as anything beyond the pre-1967 lines, based on the broad understanding that the situation on the ground is highly complex and requires maximum creativity.

U.S. officials have also made clear that they do not want other parties to cherry-pick President Obama's May speeches, arguing that any calls for territorial solutions should be matched by mutual recognition: Palestine as a state for the Palestinians, and Israel as a state for the Jewish people.

If the Palestinian UN initiative is not averted, the PA runs the risk of collapse, whether the resolution fails or resoundingly succeeds. Palestinian polling thus far indicates a rather sober view of what can be achieved at the UN. In late June, a leading local survey

²⁴ See "Remarks by High Representative Catherine Ashton upon Arrival to Gymnich, Informal Meeting of the EU Foreign Ministers," press release, European Union, September 2, 2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/124496.pdf.

agency led by respected pollster Khalil Shikaki concluded that 76 percent of Palestinians believe the United States will veto any statehood bid at the UN. Furthermore, 66 percent believe Israel would make the occupation worse and increase settlement activity if the UN agreed to statehood, while only 13 percent believe conditions would improve.²⁵ Yet if the resolution is put forward but does not pass, Palestinians might still perceive it as apolitical failure and call for Abbas to resign, which would in turn empower Hamas.

Alternatively, a decisive PA victory at the UN—meaning wide international support for a General Assembly resolution based on a maximalist Palestinian text—would most likely spur retaliatory steps from Israel, including the withholding of an estimated \$300 million in customs clearances. Such moves would not be automatic, of course. Precisely because the stakes are so very high, one cannot rule out the possibility that Israel would defer an immediate reaction, or that Netanyahu would play down the vote as just one more in a series of pro Palestinian resolutions at the UN. How Israel publicly frames the issue will be key, though domestic politics or events on the ground could render these considerations moot.

As noted previously, a maximalist PA resolution could also mean the suspension of U.S. aid, which would harm both the PA and Israeli-Palestinian security coordination. Taken altogether, these developments could trigger the PA's total collapse. Although that outcome is less likely than others, it cannot be discounted if the United States and Israel—the PA's largest donors—withhold their funds. And even if Washington decided not to suspend aid, the PA's security, trade, and economic relationships with Israel could suffer greatly. Moreover, it is unclear whether the PA can control the dynamic that it would be unleashing among its public if the resolution passes (see the "Avoiding Confrontation on the Ground" section below for more on this point).

A decisive Palestinian victory could also force Washington's hand in other, unexpected ways. For example, if the PA emerged with a resolution declaring a Palestinian state on all pre-1967 territories, the Obama administration would have to do more than simply distance itself from the vote. In addition to reiterating the necessity of territorial swaps in general terms, the president might also feel compelled to be more explicit than before on the subject—namely, he could decide to reassure Israel by specifying that the swaps should include areas in which a large majority of settlers live (i.e., around 5 percent of the land in dispute).

A decisive Palestinian victory might also spur Israel to mount a major settlement construction initiative, which the United States could in turn try to forestall, perceiving it as a further escalation of the crisis. To secure this concession from Israel, Washington could press the Quartet to issue an explicit statement regarding Israel's status as a Jewish state. Yet it is unclear whether such a move would be sufficient to stave off Israeli concerns.

²⁵ Palestinian Center for Policy and Survey Research, "Palestinians Are Determined to Go to the UN in September and Not to Return to Negotiations with Netanyahu, in Line with Israelis' Expectations," press release, June 28, 2001, <http://www.pcpsr.org/survey/polls/2011/p40ejoint.html>.

In light of the above risks, Washington should make clear to the PA that any General Assembly resolution must include certain key elements if it is to avoid harming U.S.-Palestinian relations. These elements match the previously listed stipulations for an alternative European-led resolution:

- The Palestinians will gain the powers of statehood only after mutually satisfactory bilateral negotiations with Israel.
- Although the United States cannot permit or prevent ICC action within the UN machinery, it should seek ironclad guarantees that no resolution will include an option allowing the Palestinians to go to the ICC as a vehicle for redressing their political grievances. This will help ensure that the Israeli-Palestinian conflict does not turn into an endless legal battle that prevents the parties from forging bonds of trust in the future.
- The demarcation of borders should occur at the negotiating table and as part of a broader peace package, not within a unilateral statehood resolution.

At the same time, the administration should make clear that it would do everything in its power to ensure Congressional funds to the PA are not suspended if these elements are included.

Washington should also make clear that any deliberate PA-led violence in the West Bank would hurt relations with the United States and trigger an aid cutoff. Given Abbas's past criticism of violence, it seems unlikely that the PA would incite it during any demonstration related to the statehood resolution. Yet as mentioned previously and discussed below, the PA has already called for nonviolent mass demonstrations, and such events could easily spin out of control and descend into violence. In short, the potential for manageable diplomatic conflict in New York triggering unmanageable Israeli-Palestinian violence in the West Bank is disturbingly real.

PLO secretary-general Yasser Abed Rabbo has urged Palestinians to engage in massive nonviolent protests on September 20, the eve of Abbas's speech at the UN General Assembly, in order to engender worldwide empathy for the statehood bid.²⁶ As mentioned previously, however, neither Israeli nor Palestinian security forces have extensive experience in crowd control on a massive level (i.e., involving many tens of thousands of demonstrators). And even if the PA made every attempt to prevent eruptions at pre- or post-vote gatherings, individuals or radical groups like Hamas could view such events as an opportunity to foment violence against Israel or even the PA. Of course, if the PA itself decided to foment potentially dangerous confrontations in the wake of a U.S. veto at the UN, security measures would have little hope of quietly containing the resulting conflict. Yet as described above, any such move would exact a heavy toll on the PA's relationships with the United States and Israel.

²⁶ "Palestinians Plan Mass Demonstrations against Israel on Eve of UN Vote," *Haaretz*, August 1, 2011, <http://www.haaretz.com/news/diplomacy-defense/palestinians-plan-mass-demonstrations-against-israel-on-eve-of-un-vote-1.376457>.

In the worst-case scenario, the PA could be unleashing forces beyond its control at a time when withheld aid and lack of security cooperation render it impotent. The prospect of a Palestinian demonstration that turns against its leadership—possibly in violent fashion—might seem fanciful, even alarmist, especially to those who downplay the UN’s significance. Yet given the upheaval that has unfolded across the Middle East this year, there remains a distinct possibility that events could spin out of control and become a disaster for all sides.

To prepare for possible confrontations in the West Bank, the Israel Defense Forces (IDF) have reportedly made significant efforts to delineate a geographic red line around each settlement, indicating the point at which soldiers are permitted to shoot at the legs of Palestinian demonstrators who get too close. The military is also planning to provide settlers with tear gas and stun grenades to aid in their defense.²⁷ Indeed, Israel alone must calibrate the best way to provide security for its people. Yet it must also consider ways to avoid widespread violence, particularly given the presence of actors who might deliberately seek to provoke a harsh Israeli response. The following steps are particularly important:

- Israeli-PA security cooperation must remain strong, and any international, U.S., or Israeli measures that could facilitate the PA’s collapse—including the withholding of funds—should be averted if possible. The parties should also come to a common definition of what is and is not acceptable during demonstrations. (A joint Israeli-Palestinian definition of violence and nonviolence would help, but that may not be feasible.)
- PA-endorsed demonstrations should be held in Area A only (i.e., Palestinian-controlled urban areas in the West Bank), ensuring that they do not take place near Israeli checkpoints or settlements. This will help avoid friction with the IDF. Such coordination was successful even during the 2008–2009 war in Gaza, so there is reason to believe it could succeed again.
- Both sides should train their security forces in crowd-control techniques to avoid hair-trigger reactions.

The U.S. security coordinator should deploy to the area during all of September–October, serving as a backchannel for communication between Israeli and Palestinian forces and averting heightened security tensions on the ground. This means open communication before, during, and after the UN saga. Regarding speculation that Washington has downgraded the coordinator’s role to a narrower “train and equip” mission for Palestinian forces, senior U.S. officials privately deny that the position’s broad mandate has been changed.

Although Israel must protect its interests, there are ways of doing so without dealing a decisive blow to Abbas. Israelis readily acknowledge that the past four years have marked the pinnacle of their security relationship with the Palestinians. They have also

²⁷ Chaim Levinson, “IDF Training Israeli Settlers Ahead of ‘Mass Disorder’ Expected in September,” *Haaretz*, August 30, 2011, <http://www.haaretz.com/news/diplomacy-defense/idf-training-israeli-settlers-ahead-of-mass-disorder-expected-in-september-1.381421>.

witnessed very solid Palestinian economic growth in the West Bank. Although these benefits are unlikely to accrue indefinitely in the absence of peace negotiations, for now the strong practical cooperation serves as a welcome contrast to poor diplomatic cooperation. Israel does not want Abbas to resign, nor does it want Fayad's institution-building campaign to fall apart.

Accordingly, Israel hopes to navigate between two unwelcome scenarios: on the one hand, the collapse of Abbas's government, and on the other hand, a maximalist Palestinian victory at the UN that could undermine Israeli interests. From this perspective, aid to the PA is good for Israel, and suspending it could have dire consequences. Israel must therefore give serious thought to how aid suspensions might affect the excellent security cooperation and other sectors.

If the parties can find an acceptable way out of the potential statehood minefield at the UN, the question then becomes whether they can find a way back to the negotiating table. There are doubts about their willingness to make big decisions regarding the final disposition of the West Bank if Washington is preoccupied with other foreign, economic, and political priorities. What, then, would bilateral talks focus on if they do in fact resume?

One possibility is that the parties could tackle second-order issues, demonstrating their ability to engage in substantive talks without posturing even if certain larger issues are postponed. In addition, it is important for the Netanyahu government to broaden its engagement with the PA and show the Palestinian people that Israel intends to decrease the impact of the West Bank occupation. This could be accomplished in a variety of ways, some of which could take place even in the absence of negotiations:

- Israel could grant the Palestinians greater economic access to Area C, which comprises 60 percent of the West Bank. Such a move would not necessarily have to include territorial control. Currently, U.S. officials estimate that Palestinians have economic access to a mere 6 percent of the area. Of course, Israel would seek quid pro quos for any such concessions.
- □□ Israel could make clear to the PA that, barring exceptional circumstances, it will discontinue incursions into Area A if the Palestinian security forces prove successful at policing that territory. Although such incursions have decreased dramatically, they have not ceased altogether. A more complete halt would incentivize improvements in Palestinian security performance while also casting security cooperation with Israel as part of the broader state-building effort. As above, however, a quid pro quo may be required for such a concession—Israel believes that it has already eliminated all of its military bases in the northern West Bank to no political avail.
- Regardless of when direct talks resume, informal consultations may be preferable to formal negotiations that could lead to another deadlock. The Obama administration has introduced a new “preparatory phase” that would require each side to demonstrate that it understands and will address the other's concerns. Such a meeting of the minds might be the best way to proceed next

year given Washington's preoccupation with other priorities. And if Abbas wants to explore the possibility of reaching an agreement with Israel without high-profile formal talks that risk public accusations of failure, this informal approach would be in his interest. Otherwise, the absence of consultations regarding Israeli and Palestinian demands will likely impede all other forms of conflict management, from security cooperation to institution-building. If there is no hope of a political horizon, then one cannot realistically expect either party to continue investing in such joint ventures.

Whether or not the two sides make progress, they must establish high-level channels of communication on issues other than security. Washington is troubled by the fact that the informal channels of the past no longer exist. Given that the U.S. role in the peace process is likely to diminish as the next election year unfolds, such channels are more crucial than ever. The United States is no substitute for bilateral communication and will be even less inclined to play that role in the near term.

The Palestinian bid for statehood via the UN is a potential Pandora's box. A variety of factors may have led the Obama administration to conclude that the issue is manageable, and that playing it and making Tony Blair the diplomatic point man leading up to the UN vote made sense. For instance, Washington may believe that the political costs required to positively affect the local Israeli-Palestinian dynamic are too great for the United States to bear at the moment given its many other foreign and economic challenges. Yet senior U.S. officials say the exact opposite in private—that is, the administration seems to believe time is on its side, since the parties' dependence on the United States will only grow as a UN vote approaches. According to these officials, the parties wish to avoid a confrontation with the United States (though without providing specifics on how to prevent that very outcome), while Israel may soon come to realize that its only ally in this battle is Washington.

As of this writing, the provisions of the potential UN resolution are not yet known, so it is too soon to determine whether this is a “diplomatic tsunami”—as Israeli defense minister Ehud Barak put it in a speech to Israel's Institute for National Security Studies earlier this year²⁸—or just a passing storm. Yet the stakes are certainly high given the possible consequences for Palestinians and Israelis alike. The issue is not just what happens at the UN, but also its aftermath. If the UN bid proves unavoidable, the question then becomes whether the situation is containable on the ground. If not handled carefully, the aftermath could destabilize the West Bank and upend the relative quiet of the past four years.

Whatever unfolds, the situation is a reminder that the lack of a peace agreement makes the Israeli-Palestinian relationship particularly fragile. Israel has a right to protect its interests and is therefore unlikely to let Abbas declare a decisive victory. Yet Israel also has an interest in avoiding a PA collapse. The alternative strategies discussed in this paper—a Quartet statement or a European-led resolution with more viable wording—are designed with that purpose in mind. Indeed, all means of preserving the path of credible

²⁸ Barak Ravid, “Barak: Israel Must Advance Peace or Face a Diplomatic Tsunami,” *Haaretz*, March 13, 2011, <http://www.haaretz.com/news/diplomacy-defense/barak-israel-must-advance-peace-or-face-a-diplomatic-tsunami-1.348973>.

Israel-Palestinian negotiations should be under consideration at the moment. As the parties weigh their options at the UN this month and in the months to come, they must remain mindful of the ramifications they might set in motion and the potentially profound impact they might have on their relationships.

United States House of Representatives
Committee on Foreign Affairs

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Clause 2(g) of rule XI of the Rules of the House of Representatives and the Rules of the Committee require the disclosure of the following information. A copy of this form should be attached to your written testimony and will be made publicly available in electronic format, per House Rules.

1. Name: David Makovsky	2. Organization or organizations you are representing: The Washington Institute for Near East Poli +
3. Date of Committee hearing: Wednesday, September 14, 2011	
4. Have <u>you</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	5. Have any of the <u>organizations you are representing</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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