

Background

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What Palestinian Membership Means for UNESCO and the Rest of the United Nations

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Abstract: *In September 2011, the Palestinian Authority requested membership for “Palestine” in the United Nations—violating its commitment under the 1993 Oslo Accords to seek statehood through negotiations with Israel. Prospective U.N. member states must first receive a recommendation from the Security Council. The Obama Administration has vowed to veto, if necessary, such a recommendation for U.N. membership, which the White House correctly perceives as an attempt at isolating Israel that would deal a major setback to Israeli–Palestinian peace prospects. U.N. membership will be unattainable for the Palestinians as long as the U.S. is prepared to exercise its veto in the Security Council. But the U.S. does not have veto power in other U.N. organizations, and on October 31 the Palestinians gained membership in the U.N. Educational, Scientific, and Cultural Organization (UNESCO). As required by law, the U.S. has now ended all funding for UNESCO. Although the U.S. veto blocks Palestinian membership in the U.N., the Palestinians may try to gain elevated status in the U.N. General Assembly, or membership in other U.N. specialized agencies that, like UNESCO, allow non-U.N. member states to become full members. The U.S. should oppose these attempts and continue to enforce U.S. laws that prohibit contributions to organizations that grant membership to the Palestinians. If the U.S. eliminates or weakens these laws, it would encourage these organizations to admit the Palestinians, thereby undermining U.S. and Israeli interests and gravely damaging long-term prospects for a negotiated Israeli–Palestinian peace.*

Talking Points

- The Obama Administration has vowed to veto any Security Council recommendation for Palestinian membership in the United Nations. The White House correctly perceives the Palestinian membership bid as an attempt at isolating Israel that would deal a major setback to Israeli–Palestinian peace prospects.
- U.N. membership will be unattainable for the Palestinians as long as the U.S. is prepared to exercise its veto in the Security Council—but the U.S. does not have veto power in other U.N. organizations.
- The Palestinians will portray membership in any U.N. organization as validation of their unilateral declaration of statehood and use it to circumvent negotiations with Israel.
- The best way the U.S. can convince U.N. agencies to eschew Palestinian membership is to threaten ending financial support—and to mean it.
- If the U.S. ignores its own laws to allow contributions despite Palestinian membership, the U.S. would effectively encourage U.N. agencies to grant membership to the Palestinians.

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The Palestinian Membership Bid in the United Nations

Earlier this year, the president of the Palestinian Authority, Mahmoud Abbas, announced that he would seek Palestinian membership in the United Nations as “Palestine.” Under the U.N. Charter, a recommendation from the U.N. Security Council is required before the General Assembly may admit a new member.¹ The U.S. has a veto in the Security Council and the U.S. has the power to unilaterally block the Palestinian membership bid. As President Barack Obama made clear in his May 19 speech on Middle East policy, the U.S. does not believe that the U.N. is an appropriate venue for addressing the Palestinian statehood issue:

For the Palestinians, efforts to delegitimize Israel will end in failure. Symbolic actions to isolate Israel at the United Nations in September won’t create an independent state. Palestinian leaders will not achieve peace or prosperity if Hamas insists on a path of terror and rejection. And Palestinians will never realize their independence by denying the right of Israel to exist.²

This statement was widely interpreted as a threat by President Obama to use America’s veto in the U.N. Security Council to block the Palestinian membership request. This implicit threat was made explicit by Wendy Sherman, the Administration’s nominee for Undersecretary of State, in early September 2011 when, in response to a question on the issue, she stated that the U.S. would indeed block

the proposal for Palestinian membership in the U.N. by using its veto in the Security Council. This position was later confirmed by the State Department.³

The Obama Administration has taken this position because it correctly perceives the Palestinian push for statehood absent a negotiated agreement with Israel as an attempt to isolate Israel, which would deal a major setback to Israeli–Palestinian peace prospects. Specifically, a unilateral declaration of Palestinian statehood would undermine all internationally accepted frameworks for peace, including U.N. Security Council Resolution 242 and the U.N.-sponsored Road Map for Peace, as well as other U.N. statements that call for a Palestinian state and delineation of borders through a negotiated mutual agreement with Israel. This effort threatens both U.S. and Israeli interests, and the Administration is right to oppose it.

Despite the U.S. veto threat, Abbas submitted a letter requesting U.N. membership⁴ to Secretary-General Ban Ki-moon before making the case for Palestinian membership in his speech to the U.N. General Assembly on September 23.⁵ Shortly after formally receiving the request from the Secretary-General, the Security Council referred Abbas’s application to its Committee on the Admission of New Members. The resulting committee report was unable to make a unanimous recommendation to the Security Council on the Palestinian membership request, instead presenting three broad views—representing those who support the request, those who oppose it, and those who question whether the Palestinians met the requirements for U.N. mem-

1. Brett D. Schaefer and James Phillips, “How the U.S. Should Respond to the U.N. Vote for Palestinian Statehood,” Heritage Foundation *Background* No. 2574, July 6, 2011, at <http://www.heritage.org/Research/Reports/2011/07/How-the-US-Should-Respond-to-the-UN-Vote-for-Palestinian-Statehood>.
2. Press release, “Remarks by the President on the Middle East and North Africa,” The White House, May 19, 2011, at <http://www.whitehouse.gov/the-press-office/2011/05/19/remarks-president-middle-east-and-north-africa> (November 21, 2011).
3. U.S. Department of State, “State Department Daily Press Briefing, September 12,” September 12, 2011, at <http://translations.state.gov/st/english/texttrans/2011/09/20110912184635su.0.2291921.html> (November 21, 2011).
4. Letter from U.N. Secretary-General Ban Ki-moon to the president of the U.N. Security Council conveying the Palestinian application for membership to the United Nations, September 23, 2011, at <http://www.un.int/wcm/webdav/site/palestine/users/YousefZ/public/%2823%20September%202011%29%20Application%20of%20the%20State%20of%20Palestine%20for%20UN%20Membership.pdf> (November 21, 2011).
5. “Full Transcript of Abbas Speech at UN General Assembly,” *Haaretz*, September 23, 2011, at <http://www.haaretz.com/news/diplomacy-defense/full-transcript-of-abbas-speech-at-un-general-assembly-1.386385> (November 21, 2011).

bership.⁶ Because of this discord, the Palestinians fell short of the nine “yes” votes necessary for a resolution to pass the Security Council recommending that “Palestine” be granted U.N. membership, and are expected to continue to fall short, at least for the foreseeable future.⁷ This means that the U.S. likely will not be forced to veto the Palestinians’ membership bid in order to block their membership in the U.N. General Assembly.

It is not certain if the Palestinians will press forward on a vote in the Security Council without nine affirmative votes, or whether they will opt to defer their effort until the Security Council membership shifts in a direction that bolsters support for their membership.⁸ Regardless, U.N. membership will be unattainable as long as the U.S. is prepared to use its veto. However, the Palestinians have known this throughout the process and clearly see rhetorical value or political advantage in pressing for U.N. membership and forcing the U.S. to expend effort in opposing their bid. The Palestinians are unlikely to abandon this tactic as long as they believe that it may eventually succeed or that it provides a political advantage to them or a disadvantage to the U.S. and Israel.

The Palestinian Two-Step

While awaiting Security Council consideration of their U.N. membership request, the Palestinians sought to advance their cause in other U.N. organizations. There are 17 U.N. specialized agencies and related organizations (including the International Atomic Energy Agency, the International Monetary Fund, the World Bank Group, and the World Trade Organization)⁹ that, while considered part of the U.N. system, are effectively autonomous and have their own procedures for admitting member states.

The United Nations Educational, Scientific, and Cultural Organization (UNESCO) is one of these U.N. specialized agencies and its membership is not restricted to the member states of the U.N. General Assembly. Under the UNESCO constitution, “states not members of the United Nations Organization may be admitted to membership of the Organization, upon recommendation of the Executive Board, by a two-thirds majority vote [of members present and voting] of the General Conference.”¹⁰ Most decisions by UNESCO’s executive board, including recommendations on membership, require only a simple majority vote.¹¹ The United States does not have a veto at its disposal to block Palestinian mem-

6. Colum Lynch, “Inside the Security Council Deliberations on Palestine,” *Foreign Policy*, November 9, 2011, at http://turtlebay.foreignpolicy.com/posts/2011/11/09/inside_the_security_council_deliberations_on_palestine (November 21, 2011).
7. Neil MacFarquhar, “Palestinian Bid for U.N. Membership Faces Near-Certain Defeat,” *The New York Times*, November 8, 2011, at <http://www.nytimes.com/2011/11/09/world/middleeast/palestinians-united-nations-bid-faces-near-certain-defeat.html> (November 21, 2011).
8. The U.N. Security Council has five permanent, veto-wielding members (China, France, Russia, the United Kingdom, and the United States), and 10 rotating members that are allotted according to regional groups. The 10 rotating members serve two-year terms, with five elected every other year.
9. United Nations, “Structure and Organization: Specialized Agencies, Related Organizations, Funds, and other UN Entities,” at <http://www.un.org/en/aboutun/structure/> (December 1, 2011).
10. UNESCO, “UNESCO Constitution,” November 16, 1945, at http://portal.unesco.org/en/ev.php-URL_ID=15244&URL_DO=DO_TOPIC&URL_SECTION=201.html (November 21, 2011).
11. UNESCO, “Rules of Procedure of the Executive Board—2010 Edition,” April 6, 2005, at http://portal.unesco.org/en/ev.php-URL_ID=21686&URL_DO=DO_TOPIC&URL_SECTION=201.html (November 21, 2011).

bership in UNESCO. Thus, while the U.S. is a member of UNESCO's 58-member executive board (and was just re-elected to a new term that expires in 2015),¹² and wields influence as the organization's largest financial contributor, the U.S. cannot block Palestinian membership in UNESCO unilaterally.¹³

By circumstance, the 36th session of UNESCO's General Conference was scheduled from October 25 to November 10, 2011. With U.N. membership hung up in the Security Council, the Palestinians seized the opportunity to advance their cause by requesting membership in UNESCO. Despite intense diplomatic engagement by the U.S. delegation, UNESCO's executive board voted 40-to-4, with 14 abstentions, on October 5 to recommend Palestinian membership in UNESCO.¹⁴ On October 31, UNESCO's General Conference officially approved Palestinian membership with a vote of 107 in favor, 14 against, and 52 abstentions.¹⁵

Following their successful bid to become a UNESCO member state, the Palestinians announced that they would immediately focus on gaining membership in 16 other U.N. organizations.¹⁶ Presumably, the Palestinians were referring to the 14 U.N. specialized agencies (excluding UNESCO) and two other related organizations whose membership is not contingent on status in the U.N. General Assembly.¹⁷

Days later, however, Abbas reversed course and instructed his representatives not to apply for membership in any other U.N. agencies, stating that "Our

official position is to only focus at the time being on our bid to win full membership in the UN. All other memberships will come automatically after that." Abbas characterized the UNESCO bid as unrelated to a U.N. membership application, since the Palestinians had initially sought UNESCO membership 22 years ago. Abbas did not explain why the Palestinians were not seeking membership in the World Health Organization, which it had sought in 1989 along with UNESCO membership.

The U.S. Leverage Point: Financial Contributions

The reason for the Palestinian reversal was the U.S. State Department's announcement after UNESCO accepted "Palestine" as a member, that the U.S. would withhold all funding to UNESCO:

Today's vote by the member states of UNESCO to admit Palestine as a member is regrettable, premature, and undermines our shared goal of a comprehensive, just, and lasting peace in the Middle East. The United States remains steadfast in its support for the establishment of an independent and sovereign Palestinian state, but such a state can only be realized through direct negotiations between the Israelis and Palestinians.... Palestinian membership as a state in UNESCO triggers longstanding legislative restrictions which will compel the United States to refrain from making contributions to UNESCO.¹⁸

12. UNESCO, "Composition of the Executive Board for 2011–2013 by Electoral Group," at http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/GBS/SCX/pdfs/ELECTORALGROUPS_2011-2013.pdf (November 21, 2011).

13. "US to Oppose Palestinian UN Bid," Al Jazeera, July 27, 2011, at <http://english.aljazeera.net/video/middleeast/2011/07/201172704517323649.html> (November 21, 2011).

14. Elad Benan, "Clinton: UNESCO May Endanger US Funds if it Admits PA as Member," Israel National News, October 6, 2011, at http://www.israelnationalnews.com/News/News.aspx/148530#.To1_VXluPKc (November 21, 2011).

15. Press release, "General Conference Admits Palestine as UNESCO Member State," UNESCO, October 31, 2011, at http://www.unesco.org/new/en/media-services/single-view/news/general_conference_admits_palestine_as_unesco_member_state/?cHash=2e78f9798af62b5766cb64a26ecabd84 (November 21, 2011).

16. "Palestinians Aim to Join 16 Other UN agencies," Emirates247, November 1, 2011, at <http://www.emirates247.com/news/world/palestinians-aim-to-join-16-other-un-agencies-2011-11-01-1.426493> (November 21, 2011).

17. United Nations, "Structure and Organization: Specialized Agencies, Related Organizations, Funds, and other UN Entities," at <http://www.un.org/en/aboutun/structure/#Others> (November 21, 2011).

18. Press release, "Palestinian Admission to UNESCO," U.S. Department of State, October 31, 2011, at <http://www.state.gov/r/pa/prs/ps/2011/10/176418.htm> (November 21, 2011).

This decision should have been expected. Current U.S. law contains two restrictions that prohibit U.S. funds from going to international organizations that admit Palestine as a member state.¹⁹ U.S. Code Title 22, Section 287e, states:

- “No funds authorized to be appropriated by this Act or any other Act shall be available for the United Nations or any specialized agency thereof which accords the Palestine Liberation Organization the same standing as member states.” (Adopted as Public Law 101-246 in 1990.)
- “The United States shall not make any voluntary or assessed contribution: (1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or (2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood, during any period in which such membership is effective.” (Adopted as Public Law 103-236 in 1994.)

The language in these provisions is clear and provides no discretion for the Obama Administration. However, leading up to the UNESCO vote, U.S. officials had been ambiguous about the consequences of granting the Palestinians membership in UNESCO and implied that the Obama Administra-

tion would find a way to overturn or circumvent the funding prohibition. Indeed, even after the vote, America’s ambassador to UNESCO, David Killion, stated, “We pledge to continue our efforts to find ways to support and strengthen the important work of this vital organization.”²⁰

The U.S. statement that all funding of UNESCO would be immediately and indefinitely suspended communicated clearly that the Obama Administration could not find a loophole to continue funding UNESCO. In addition, statements by both Republican and Democratic Members of Congress clearly indicated that there is little congressional interest in changing the law.²¹

The financial implications for UNESCO are significant. The U.S. had been UNESCO’s largest contributor, providing the organization with more than \$84 million in 2010.²² The White House has already announced a suspension of an anticipated payment of \$60 million this year. The mandated funding prohibition will likely compel significant budgetary adjustments in UNESCO programs and staff.²³

By removing any ambiguity about the financial consequences of UNESCO’s action, the White House let the U.N. member states and officials know that, regardless of its own preferences, it had no choice but to withhold U.S. funding, and that the financial consequences of admitting Palestine to the U.N. or to other U.N. specialized agencies would be real and immediate. Faced with the prospect of losing U.S.

19. For further explanation, see Brett D. Schaefer, “The Price of ‘Palestine,’” National Review Online, October 10, 2011, at <http://www.nationalreview.com/articles/279605/price-palestine-brett-d-schaefer> (December 12, 2011).

20. Josh Levs, “U.S. Cuts UNESCO Funding After Palestinian Membership Vote,” CNN, October 31, 2011, at http://articles.cnn.com/2011-10-31/middleeast/world_meast_unesco-palestinian-membership_1_united-nations-educational-cultural-organization-palestinian-bid/3?_s=PM:MIDDLEEAST (November 21, 2011).

21. Josh Rogin, “Senators Predict Massive U.S. Withdrawal from International Organizations,” *Foreign Policy*, November 1, 2011, at http://thecable.foreignpolicy.com/posts/2011/11/01/senators_predict_massive_us_withdrawal_from_international_organizations (November 21, 2011).

22. Jacob J. Lew, “FY2010 US Contributions to the United Nations System,” Office of Management and Budget, June 6, 2011, at http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/us_contributions_to_the_un_06062011.pdf (November 21, 2011).

23. “U.N. Agency Cutting Operations After U.S. Halts Funding Over Palestinian Vote,” FoxNews, November 10, 2011, at <http://www.foxnews.com/politics/2011/11/10/report-un-agency-suspends-programs-after-us-halts-funding-over-palestinian-vote/> (November 21, 2011); and “UNESCO Eyes Emergency Fund, Savings to Counter U.S. Cuts After Palestinian Membership,” *Haaretz*, November 10, 2011, at <http://www.haaretz.com/news/diplomacy-defense/unesco-eyes-emergency-fund-savings-to-counter-u-s-cuts-after-palestinian-membership-1.394844> (November 21, 2011).

funding, the more responsible U.N. member states and the leadership of the U.N. specialized agencies quickly lost enthusiasm for Palestinian membership and communicated that message to the Palestinians.

Next Steps for the Palestinians

Although frustrated by the twin threats of U.S. financial withholding and its veto in the Security Council, the Palestinians' membership effort is unlikely to stop at UNESCO. There are two likely paths for them to pursue, specifically a General Assembly resolution granting them enhanced status in the body, albeit short of full U.N. membership, and seeking to gain membership in U.N. bodies that are not restricted to member states of the General Assembly even though those organizations would lose U.S. funding if they granted the Palestinians membership.

Without a Security Council recommendation for U.N. membership, a General Assembly resolution is non-binding, regardless of how many countries vote for it, and cannot grant U.N. membership. However, the Palestinians have hinted that they would push for General Assembly recognition of "Palestine" as a state through an elevation of the Palestinian delegation to the U.N. General Assembly from a permanent observer "entity" to that of a "non-member state" permanent observer, a status currently accorded the Holy See.²⁴ Such an elevation in status would be mostly symbolic in that the

resolution would convey few additional privileges to the Palestinians than they currently possess in the U.N. General Assembly.²⁵

Significantly, the lack of full U.N. membership would bar the Palestinians from full membership in most U.N. funds and programs. U.N. funds and programs, unlike the specialized agencies that have separate legal instruments establishing them as autonomous organizations, are typically established through a U.N. General Assembly resolution and are considered subsidiary organs of the General Assembly.²⁶ As such, unless specified otherwise, their membership is generally the same as the membership of the U.N. General Assembly. The U.S. veto stands in the way of Palestinian membership in the U.N. General Assembly and, thereby, Palestinian membership in nearly all of U.N. funds and programs.

A notable exception to this standard is the U.N. Conference on Trade and Development (UNCTAD). The U.N. resolution establishing UNCTAD is unusual in specifying that the "members of the United Nations Conference on Trade and Development...shall be those States which are Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency."²⁷ Thus, the Palestinian membership in UNESCO presumably opens the door to Palestinian membership in UNCTAD should the Palestinians seek it. However, beyond UNCTAD, and possibly

24. United Nations, "Non-Member States and Entities," at <http://www.un.org/en/members/nonmembers.shtml> (December 1, 2011).

25. Schaefer and Phillips, "How the U.S. Should Respond to the U.N. Vote for Palestinian Statehood."

26. UNEP, "United Nations Specialised Agencies Versus United Nations Programmes: Note by the Executive Director," June 7, 2010, at http://www.rona.unep.org/documents/partnerships/IEG/UN_Specialised_Agencies_Vs_UN_Programmes.pdf (November 21, 2011).

27. Unlike most funds and programs, membership in UNCTAD is not based on membership status in the U.N. United Nations General Assembly Resolution 1995 (XIX), "Establishment of the United Nations Conference on Trade and Development as an Organ of the General Assembly," December 30, 1964, p. 1, at <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/210/89/IMG/NR021089.pdf?OpenElement> (November 21, 2011).

the International Trade Center,²⁸ there appears to be little likelihood that the Palestinians will gain full membership in other U.N. funds and programs.

This is not the case for the U.N.'s specialized agencies, which have individualized processes for admitting new members. If they are successful, the Palestinians would undoubtedly exploit an elevation to "non-member state" permanent observer status in the General Assembly to argue that Palestine is a sovereign state deserving of membership in international organizations in a manner consistent with other non-U.N. member states. Considering that the Holy See, which enjoys that status, is currently a member of a handful of U.N. specialized agencies and related bodies, and is a non-member state observer of several more,²⁹ it is easy to see how the Palestinians could argue that, as a non-member state permanent observer in the U.N. General Assembly, they should be accorded the same status as the Holy See in those organizations.

In the end, however, it is up to the individual organizations to decide whether to grant membership to the Palestinians, taking into account their various rules and procedures. The membership procedures for the autonomous U.N. specialized agencies and related organizations (excluding UNESCO) are:

1. Food and Agriculture Organization (FAO).

Under the FAO constitution, the Conference "may by a two-thirds majority of the votes cast,

provided that a majority of the Member Nations of the Organization is present, decide to admit as an additional Member of the Organization any nation which has submitted an application for membership and a declaration made in a formal instrument that it will accept the obligations of the Constitution as in force at the time of admission."³⁰

2. International Atomic Energy Agency (IAEA).

Membership in the IAEA is open to U.N. member states or member states of any of the specialized agencies that signed the IAEA statute within 90 days after it was opened for signature and ratified the treaty. "Other members of the Agency shall be those States, whether or not Members of the United Nations or of any of the specialized agencies, which deposit an instrument of acceptance of this Statute after their membership has been approved by the General Conference upon the recommendation of the Board of Governors."³¹ These decisions are made by majority vote provided a quorum is present. When considering a state for membership, the member states are instructed to give "due consideration to its ability and willingness to act in accordance with the purposes and principles of the Charter of the United Nations."³²

3. International Civil Aviation Organization (ICAO).

Membership in ICAO is defined by "contracting parties," states that have ratified

28. The ITC does not have a distinct membership, basing its membership on that of the World Trade Organization and UNCTAD. It is difficult to say if the prohibition on U.S. funding would apply to the ITC, which receives half of its funding through the U.N.'s regular budget (totaling \$31.7 million in 2010–2011, of which the U.S. pays 22 percent) and half from the World Trade Organization. "Proposed Programme Budget for the Biennium 2012–2013, Part IV: International Cooperation for Development, Section 13: International Trade Centre UNCTAD/WTO," U.N. Document A/66/6 (Sect. 13)/Add.1, September 15, 2011, and DESA/CDP Secretariat, "Multilateral Official Development Assistance (ODA) Survey on LDC-Specific International Support Measures: International Trade Center," at http://webapps01.un.org/ldcportal/c/document_library/get_file?uuid=84e36f46-d078-41ad-a479-646433c4a3d3&groupId=10136 (November 21, 2011).

29. The Holy See is a member of the International Atomic Energy Agency (IAEA), the International Telecommunication Union (ITU), and the United Nations High Commissioner for Refugees (UNHCR), and an observer in UNESCO, the World Trade Organization (WTO), and the Food and Agriculture Organization (FAO).

30. FAO, "Constitution, Article II: Membership and Associate Membership," Basic Texts of the Food and Agriculture Organization of the United Nations, Vols. I and II, 2011, at <http://www.fao.org/docrep/meeting/022/K8024E.pdf> (November 21, 2011).

31. IAEA, "The Statute of the IAEA," Article IV: Membership, at <http://www.iaea.org/About/statute.html#A1.4> (November 21, 2011).

32. *Ibid.*

the Convention on International Civil Aviation, which is “open for adherence by members of the United Nations and States associated with them, and States which remained neutral during [World War II]”; other states “may . . . be admitted to participation in this Convention by means of a four-fifths vote of the Assembly [requiring a quorum of a majority of contracting states] and on such conditions as the Assembly may prescribe: provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary.”³³

4. **International Fund for Agricultural Development (IFAD).** IFAD is “open to any State member of the United Nations or any of its specialized agencies, or of the International Atomic Energy Agency.”³⁴ Other states can become IFAD members if approved by the Governing Council and depositing an instrument of accession. Approval of the Governing Council requires a majority of total votes.³⁵
5. **International Labor Organization (ILO).** The ILO’s constitution states that membership in the organization is open to U.N. member states and the ILO General Conference “may also admit Members to the Organisation by a vote concurred in by two-thirds of the delegates attending the session, including two-thirds of the Government delegates present and voting.”³⁶
6. **International Maritime Organization (IMO).** Membership in the IMO is open to “all states” that are U.N. members or attended the 1948 U.N. Maritime Conference. Other states “may apply through the Secretary-General of the Organization to become a Member and shall be admitted as a Member upon its becoming a party to the Convention...provided that, upon the recommendation of the Council, its application has been approved by two-thirds of the Members other than Associate Members.”³⁷
7. **International Monetary Fund (IMF).** Membership in the IMF is “open to other countries at such times and in accordance with such terms as may be prescribed by the Board of Governors.”³⁸ Each member of the IMF is assigned a quota, which “determines its maximum financial commitment to the IMF, its voting power, and has a bearing on its access to IMF financing.”³⁹ Any adjustment in IMF quotas requires approval of 85 percent of the total voting power.⁴⁰
8. **International Telecommunication Union (ITU).** Membership is open to all U.N. member states; non-member states must apply and be approved by two-thirds of the current members

33. Convention on International Civil Aviation, Articles 48 and 92–93, December 7, 1944, at http://www.spacelaw.olemiss.edu/library/aviation/IntAgr/multilateral/1944_chicago_convention.pdf (November 21, 2011).

34. International Fund for Agricultural Development, “Agreement Establishing the International Fund for Agricultural Development,” Article 3, at <http://www.ifad.org/pub/basic/agree/e/!01agree.pdf> (November 21, 2011).

35. *Ibid.* Articles 6 and 13. IFAD, “Rules of Procedure of the Governing Council,” at <http://www.ifad.org/pub/basic/gc/e/!05govco.pdf> (December 1, 2011). The U.S. controls 7.8 percent of the total votes. IFAD, “Voting Rights of IFAD Member States,” November 30, 2011, at <http://www.ifad.org/governance/ifad/doc/vote.pdf> (December 1, 2011).

36. ILO, “Constitution of the International Labour Organisation,” Article 1, 2010, at <http://www.ilo.org/public/english/bureau/leg/download/constitution.pdf> (November 21, 2011).

37. Convention on the International Maritime Organization, Articles 5–8, as corrected by resolution A.371 (X) of 9 November 1977, at <http://bo.io.gov.mo/bo/i/92/16/out02.asp#eng> (November 21, 2011).

38. IMF, “Articles of Agreement of the International Monetary Fund, Article III: Quotas and Subscriptions, Section 2 (c),” at <http://www.imf.org/external/pubs/ft/aa/index.htm#a2s2> (November 21, 2011).

39. IMF, “IMF Quotas,” at <http://www.imf.org/external/np/exr/facts/quotas.htm> (December 1, 2011).

40. Currently, the United States controls 16.76 percent of IMF votes. IMF, “IMF Executive Directors and Voting Power,” November 22, 2011 (latest update), at <http://www.imf.org/external/np/sec/memdir/eds.aspx> (November 22, 2011).

of the organization, and must be acceding to the ITU Constitution and Convention.⁴¹

9. **U.N. Industrial Development Organization (UNIDO).** The constitution of UNIDO maintains that membership is “open to all States which associate themselves with the objectives and principles of the Organization” and are “State members of the United Nations or of a specialized agency or of the International Atomic Energy Agency” and have ratified or acceded to the Constitution.⁴² States that are not members of the above organizations can become members of UNIDO if they are “approved by the Conference, by a two-thirds majority of the Members present and voting, upon recommendation of the Board [requiring a majority of members present and voting].”⁴³ The U.S. is not a member of UNIDO.
10. **U.N. World Tourism Organization (UNWTO).** World Tourism Organization membership is “open to all sovereign States.” States that were members of the International Union of Official Travel Organizations at the time the statutes of the UNWTO were adopted by that body “shall have the right to become Full Members of the Organization, without requirement of vote, on formally declaring that they adopt the Statutes of the Organization and accept the obligations of membership.” Other states must apply for membership and be approved by the UNWTO General Assembly by a majority of two-thirds of the “Full Members present and voting provided

that said majority is a majority of the Full Members of the Organization.”⁴⁴ The U.S. is not a member of the UNWTO.

11. **Universal Postal Union (UPU).** Any member country of the United Nations may become a member of the UPU. Any non-member country of the United Nations may become a UPU member provided that its request is approved by at least two-thirds of the member countries of the UPU.⁴⁵
12. **World Bank Group.** Membership in the International Bank for Reconstruction and Development is open to members of the IMF “at such times and in accordance with such terms as may be prescribed by the Bank.” Membership in the other organizations in the World Bank Group (the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, and the International Centre for Settlement of Investment Disputes) is based on membership in the IBRD.⁴⁶
13. **World Health Organization (WHO).** WHO membership is “open to all States.”⁴⁷ U.N. members or those states whose governments were invited to the 1946 International Health Conference can join by ratifying the WHO constitution. Other countries “may apply to become Members and shall be admitted as Members when their application has been approved by a simple majority vote of the Health Assembly.”⁴⁸

41. ITU, “State Membership: How to Become a Member State,” at <http://www.itu.int/members/mbstates2/index.html> (November 21, 2011).

42. UNIDO, “Constitution of the United Nations Industrial Development Organization,” Article 3, April 8, 1979, at http://www.unido.org/fileadmin/user_media/UNIDO_Header_Site/About/UNIDO_Constitution.pdf (November 21, 2011).

43. *Ibid.* Articles 3 and 9.

44. UNWTO, “Statutes of the World Tourism Organization,” Articles 4-7, June 2009, at <http://unwto.org/sites/all/files/docpdf/unwtostatuteseng.pdf> (November 21, 2011).

45. UPU, “Member Countries,” at <http://www.upu.int/en/the-upu/member-countries.html> (November 21, 2011).

46. IBRD, “Articles of Agreement, Article II: Membership in and Capital of the Bank, Section 1: Membership,” at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/0,,contentMDK:20049564~pagePK:43912~piPK:36602,00.html#I2> (November 21, 2011). The other World Bank organizations base their membership on the IBRD.

47. Constitution of the World Health Organization, Articles 4–6, “Basic Documents,” 45th edition, Supplement, October 2006, at http://www.who.int/governance/eb/who_constitution_en.pdf (November 21, 2011).

48. WHO, “Countries,” at <http://www.who.int/countries/en/index.html> (November 21, 2011).

14. World Intellectual Property Organization (WIPO). WIPO's convention provides membership to any state that "is a member of the United Nations, or of any of the United Nations' Specialized Agencies, or of the International Atomic Energy Agency, or that is a party to the Statute of the International Court of Justice."⁴⁹ States that are not members of the above organizations can become members of WIPO if they are "a member of the Paris Union for the Protection of Industrial Property, or of the Berne Union for the Protection of Literary and Artistic Works," or are "invited by the WIPO General Assembly to become a Member State of the Organization."⁵⁰

15. World Meteorological Organization (WMO). WMO membership is open to states originally participating in the WMO conference and any U.N. member state "having a Meteorological Service" and any "trust territory or group of trust territories maintaining its own Meteorological Service, and administered by the United Nations" for which the U.N. requests membership. Non-U.N. member states or territories not administered by the U.N. can also gain membership if they maintain their own meteorological service and are approved by two-thirds of the WMO membership.⁵¹

16. World Trade Organization (WTO). Membership in the WTO is open to any "state or customs territory having full autonomy in the conduct of its trade policies" that accedes to the Agreement Establishing the World Trade Organization, which includes other agreements listed in Annexes like the General Agreement on Tariffs and Trade and the Agreement on Trade-Related Aspects of Intellectual Property Rights. Critically, WTO members must agree on the terms of admitting any new member, includ-

ing mutually acceptable bilateral trade commitments that must apply to all WTO member states non-discriminately.⁵²

Prospects for Palestinian Membership in the Specialized Agencies

Because individual procedures for membership in each U.N. specialized agency are not consistent, the potential path for Palestinian membership ranges from relatively easy to very difficult. The more involved the process, the more opportunity for the U.S., other countries, or key actors in the leadership of the U.N. specialized agencies to delay or influence the membership about the implications of Palestinian membership.

The easiest membership targets for the Palestinians are IFAD, UNIDO, WIPO, UNCTAD, and UNWTO. Under the provisions for membership in the founding documents of the first four of these organizations, which declare their membership open to members of other U.N. specialized agencies, the Palestinians could presumably gain membership automatically if they choose to seek it by virtue of already being a member state of a U.N. specialized agency (UNESCO). However, even in these cases, the potential for bureaucratic or procedural delay exists.

The path to membership for the Palestinians is easier in the case of UNIDO and the UNWTO (where the Palestinians would have to be granted membership by a two-thirds vote of the membership, provided a majority of the membership votes) because the U.S. is not a member state of those organizations and, therefore, the prospect of U.S. financial withholding is a non-factor.

On the opposite end of the spectrum, the U.S. is in a position to block or indefinitely delay Palestinian membership in the IMF and the World Bank. Upon becoming a member of the IMF, each country

49. WIPO, "Convention Establishing the World Intellectual Property Organization," Articles 5 and 14, July 14, 1967 (amended September 28, 1979), at http://www.wipo.int/treaties/en/convention/trtdocs_wo029.html (November 21, 2011).

50. *Ibid.*

51. Convention of the World Meteorological Organization, "Part III: Membership," at http://www.wmo.int/pages/governance/congress/documents/WMO_15_07_en.pdf (December 1, 2011).

52. WTO, "How to Join the WTO: The Accession Process," at http://www.wto.org/english/thewto_e/whatis_e/tif_e/org3_e.htm#join (November 22, 2011).

is assigned a quota “based broadly on its relative position in the world economy [which] determines its maximum financial commitment to the IMF, its voting power, and has a bearing on its access to IMF financing.”⁵³ Under IMF rules, any change in quotas, which is necessary for admitting new members, requires approval of at least 85 percent of the total voting power in the organization. Currently, the United States controls 16.8 percent of IMF votes and can block any change in quotas.⁵⁴ This percentage is scheduled to fall to 16.5 percent by late 2012,⁵⁵ but the U.S. will retain its effective veto over changes in IMF quotas for the foreseeable future, and is, therefore, in a position to block Palestinian attempts at joining the IMF. By extension, this effective U.S. veto would also block Palestinian membership in the World Bank, for which IMF membership is a prerequisite.

Likewise, a Palestinian effort to gain membership in the World Trade Organization is likely to fail. The Palestinian leadership can hardly claim to have “full autonomy in the conduct of its trade policies” when it does not even control all of its territory. Moreover, the WTO membership process is highly detailed. The U.S. and Israel could delay Palestinian WTO membership indefinitely through extended negotiations over the terms of admission.

In most cases, U.N. specialized agencies admit new members by a two-thirds majority of the member states that are present and voting, which is the same requirement as for UNESCO. Membership in the WHO is easier, requiring a simple majority of the membership. Membership in the ICAO is more difficult to achieve than in most of the specialized agencies, requiring approval of four-fifths of the member states provided a quorum is present.

The success of Palestinian membership efforts in these organizations depends in large part on

U.S. diplomacy and whether the members of these organizations—and their bureaucratic leadership—are willing to risk losing U.S. financial support as did UNESCO. In most cases, should the specialized agencies want to find excuses to ignore or defer consideration of the Palestinian membership request, they certainly could. History provides a ready example: The Palestine Liberation Organization (PLO) applied for membership in the World Health Organization in 1989; the WHO voted to postpone action on the application and deferred its decision indefinitely because the U.S. threatened to withhold its contribution to the WHO should the PLO be admitted as a member state.

There are also technicalities that could be used to defer consideration of Palestinian membership. For instance, a number of specialized agencies have provisions that distinguish between “states” and “territories” on matters of membership. The FAO constitution distinguishes between a “nation,” which may apply for full membership, and a “territory...which is not responsible for the conduct of its international relations” and is eligible for associate membership without the power to vote.⁵⁶ For organizations whose founding documents make this distinction, the Palestinian request for membership could be sidelined indefinitely, pending a formal legal opinion on its status as a state. The UNESCO decision would influence this process, but would not be necessarily determinative. If they wanted to avoid the issue, the organizations could base this decision on the Palestinian’s lack of full member state status in the U.N. General Assembly.

Moreover, many of the specialized agencies require a prospective member to ratify or accede to the constitution, convention, agreement, or other document establishing the organization prior to being granted formal membership. In these cases, objections could be raised over the legality or legiti-

53. International Monetary Fund, “Factsheet: IMF Quotas,” September 13, 2011, at <http://www.imf.org/external/np/exr/facts/quotas.htm> (December 1, 2011).

54. IMF, “IMF Executive Directors and Voting Power,” November 22, 2011 (latest update), at <http://www.imf.org/external/np/sec/memdir/eds.aspx> (November 22, 2011).

55. Press release, “IMF Executive Board Approves Major Overhaul of Quotas and Governance,” International Monetary Fund, November 5, 2010, at <http://www.imf.org/external/np/sec/pr/2010/pr10418.htm> (November 22, 2011).

56. FAO, “Basic Texts of the Food and Agriculture Organization of the United Nations.”

macy of Palestinian ratification or accession because the Palestinian presidential and parliamentary elections have been postponed indefinitely and the terms for Abbas and the Palestinian parliamentarians have expired.⁵⁷

Another potential impediment could be whether the Palestinians meet individualized membership requirements, such as maintaining their own meteorological service of sufficient sophistication to meet WMO requirements. This determination could be drawn out as long as the member states decide. At the IAEA, member states could legitimately ask whether the Palestinians are fit for membership due to their refusal to recognize the right of Israel, a U.N. member, to exist. After all, IAEA members are instructed to give due consideration to prospective members' "ability and willingness to act in accordance with the purposes and principles of the Charter of the United Nations."

In the end, if the U.N. specialized agencies wish to delay consideration of Palestinian membership there are a number of reasons, that could be seized upon to slow down the process. The prospect of losing U.S. funding gives the membership and leadership of the organizations ample reason to exploit these options.

Withholding Funds to UNESCO: Minimal Impact on U.S. Interests

After the UNESCO vote and the U.S. decision to withhold funding, there were dire predictions that, unless U.S. laws were changed, there would be a "massive U.S. withdrawal from international organizations" as the Palestinians expanded their membership to other U.N. bodies.⁵⁸ Instead, the opposite has occurred. The U.S. withholding decision has

led the Palestinians, at least for the moment, to halt their membership bid in the U.N. specialized agencies whose leadership and member states fear a loss of U.S. funding. For instance, even though Secretary-General Ban Ki-moon had previously called the Palestinian membership bid "understandable,"⁵⁹ after the U.S. announced it would withhold funding to UNESCO, he warned that piecemeal efforts by the Palestinians to join U.N. specialized agencies were "not beneficial for Palestine and not beneficial for anybody," and that he was concerned that the loss of American financial support would adversely affect "millions and millions of people."⁶⁰ Thus, the U.S. prohibition on funding is fulfilling the purpose intended when enacted by slowing or halting the Palestinians' campaign to join U.N. specialized agencies.

Nonetheless, the U.S. Department of State remains intent on amending U.S. law to allow U.S. funding to UNESCO and other U.N. organizations that grant membership to the Palestinians. In a memo to Congress, the State Department urged it to restore funding for UNESCO arguing that

UNESCO programs are serving to sustain the democratic spirit of the Arab Spring, promote peace and nation-building in south Sudan, support democratic reforms in Iraq and Afghanistan, and encourage Holocaust Education in the Middle East and Africa. U.S. contributions to UNESCO leverage funding from other donors for programs that promote media freedom, democratic institution-building, peace and stability, and disaster response and prevention.⁶¹

In fact, the impact of prohibiting U.S. funding of UNESCO on U.S. interests is minimal. The U.S.

57. Elliott Abrams, "Arab Spring and Palestinian 'Democracy,'" *San Francisco Examiner*, August 24, 2011, at <http://www.sfexaminer.com/opinion/op-eds/2011/08/arab-spring-and-palestinian-democracy#ixzz1fypCP8pf> (December 8, 2011).

58. Rogin, "Senators Predict Massive U.S. Withdrawal from International Organizations."

59. "Ban Ki-Moon: Palestine UN Bid 'Understandable,'" September 14, 2011, at http://www.youtube.com/watch?v=t3YquP_MOjA (November 22, 2011).

60. Neil MacFarquhar, "Palestinians Inch Closer to Rejection at U.N. Body," *The New York Times*, November 3, 2011, at http://www.nytimes.com/2011/11/04/world/middleeast/Palestinians-United-Nations-Bid-Moves-Closer-to-Rejection.html?_r=1&emc=tnt&tntemail=y (November 22, 2011).

61. Josh Rogin, "State Still Making the Case for UNESCO Funding," *Foreign Policy*, November 14, 2011, at http://thecable.foreignpolicy.com/posts/2011/11/14/state_still_making_the_case_for_unesco_funding (November 22, 2011).

withdrew from UNESCO in 1984 to protest the agency's growing politicization, anti-Western bias, rampant mismanagement, and advocacy of policies that undermine freedom of the press and free markets.⁶² The U.S. rejoined UNESCO in 2003 as a signal of approval after the organization had implemented management reforms and abandoned its objectionable support of government constraints on the press and markets.⁶³ Core U.S. interests were not damaged by America's long absence from UNESCO, and would not be harmed by ending U.S. financial support of the organization now.

The projects identified by the State Department as potentially suffering from the U.S. funding prohibition are currently funded through voluntary (extra-budgetary) funding, not UNESCO's core budget, of which 22 percent is paid by the U.S. Moreover, in these projects, UNESCO serves, at most, as a manager; in many situations UNESCO is merely a facilitator or advisor for national authorities. Afghan police⁶⁴ and citizen literacy programs,⁶⁵ for instance, are funded by Japanese voluntary contributions and are managed by UNESCO in coordination with the Afghan government, particularly the ministries of education and interior. It is only this management and support function that would be impacted by U.S. withholding to UNESCO.

Even then, since UNESCO is losing 22 percent, not all, of its funding, the agency could easily prioritize this project and maintain current funding in lieu of lower-priority projects. The State Department memo admits as much by stating that the U.S. funding prohibition would "weaken"⁶⁶ UNESCO's ability to take on and manage such projects and programs, but does not say that it would compel the organization to end those projects. It is up to UNESCO to prioritize. Moreover, if UNESCO does choose to end its management of those projects, there are management alternatives, including giving full management authority to the Afghan government, or shifting UNESCO's responsibilities to the U.S. Agency for International Development, Japan's International Cooperation Agency, or another U.N. organization, such as the U.N. Development Program.

Overall, the implication that U.S. withholding would prevent UNESCO from continuing to work on its stated goals—promoting education, free exchange of ideas and knowledge, and "to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms"—is absurd. To the extent that UNESCO has contributed to those goals, it can continue to do so, albeit with a smaller budget.

62. Brett D. Schaefer, "Not the Time for the United States to Rejoin UNESCO," Heritage Foundation *Backgrounder* No. 1405, January 17, 2001, at <http://www.heritage.org/research/reports/2001/01/not-the-time-for-the-united-states>.

63. White House, "Fact Sheet: United States Rejoins Unesco," September 12, 2002, at <http://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020912-4.html> (November 22, 2011).

64. UNESCO, "Arming the Afghan Police with Literacy," June 14, 2011, at <http://www.unescobkk.org/news/article/arming-the-afghan-police-with-literacy/> (November 22, 2011).

65. UNESCO, "Enhancement of Literacy in Afghanistan (ELA)," at <http://www.unesco.org/new/en/kabul/education/enhancement-of-literacy-in-afghanistan-ela/> (November 22, 2011), and UNESCO, "Japan Grants US\$ 19.5 Million to Promote Literacy in Afghanistan," September 3, 2010, at <http://www.unescobkk.org/id/news/article/japan-grants-us-195-million-to-promote-literacy-in-afghanistan/> (November 22, 2011).

66. Rogin, "State Still Making the Case for UNESCO Funding."

Meanwhile, regardless of whether the U.S. maintains membership in UNESCO,⁶⁷ the U.S. will continue to provide significant bilateral and multilateral assistance to a multitude of countries to improve literacy and education, and to support exchange of ideas, the rule of law, and human rights. A prohibition of U.S. funding to UNESCO will not cripple or even significantly affect America's effort to promote its interests in advancing the goals espoused by UNESCO. Quite simply, UNESCO is not the only option, either within the U.N. system or outside it, for financing these activities.

These same arguments apply to the other U.N. specialized agencies and organizations most likely to admit the Palestinians as members in the near term: IFAD, UNCTAD, UNIDO, UNWTO, and WIPO.

- IFAD is focused on “eradicating rural poverty in developing countries...[by] increasing rural poor peoples’ access to financial services, markets, technology, land and other natural resources.” These objectives are shared in whole or part by many U.S. aid programs, as well as by other multilateral organizations, including the FAO, the World Bank, and regional development banks. According to the Office of Management and Budget (OMB), the U.S. provided \$30 million to IFAD in 2010.⁶⁸ If the U.S. decided to do so, this funding could easily be shifted to support similar U.S. bilateral aid projects or those overseen by other international organizations.

- UNCTAD was created to assist developing countries in integrating into the global economy. UNCTAD is, for the most part, an organization whose mission has been overtaken by events. Now that 153 countries are part of the WTO, including many developing countries, UNCTAD has lost much of its original purpose and now serves as a forum for discussions, source of research, data collection, and trade-related technical assistance for developing countries. Other bilateral, multilateral, and non-governmental organizations are capable of providing research, data, and assistance on trade-related matters.⁶⁹ UNCTAD receives the bulk of its funding through the U.N. regular budget. Under the current two-year regular budget for 2010–2011, UNCTAD received \$136.6 million, and is projected to receive a similar amount for 2012–2013.⁷⁰ The U.S. provides 22 percent of the U.N. regular budget. Should “Palestine” become a member of UNCTAD, U.S. law would likely require the U.S. to withhold its share of UNCTAD’s budget—22 percent (about \$15 million per year)—from its contribution to the regular U.N. budget.⁷¹ The U.S. should propose terminating this program and shifting responsibility for its few unique contributions to other organizations like the WTO.
- UNIDO and its activities are not considered worth supporting by the U.S. Indeed, the U.S. withdrew from UNIDO in 1996⁷² at the direction of President Bill Clinton, whose Administration

67. U.S. law requires only a funding stop—not that the U.S. withdraw from UNESCO. Moreover, UNESCO’s constitution does not require expulsion of members for failing to pay contributions. Instead, the document states that member states lose their vote in the UNESCO General Conference “if the total amount of contributions due from it exceeds the total amount of contributions payable by it for the current year and the immediately preceding calendar year.” Withholding contributions would not prevent the U.S. from maintaining UNESCO membership, attending meetings, participating in discussions, making its opinions known to other UNESCO member states, casting a vote in the General Conference (unless its voting privileges are suspended), or casting a vote in UNESCO’s Executive Board (to which it was just re-elected for a term extending through 2015). UNESCO Constitution.

68. Lew, “FY2010 US Contributions to the United Nations System.”

69. Daniella Markheim, “Promoting Free Trade Through the United Nations,” in Brett D. Schaefer, *ConUNdrum: The Limits of the United Nations and the Search for Alternatives* (Lanham, MD: Rowman and Littlefield, 2009).

70. “Proposed Programme Budget for the Biennium 2012–2013, Part IV: International Cooperation for Development, Section 12: Trade and Development,” U.N. Document A/66/6 (Sect. 12), May 2, 2011.

71. In addition, if the U.S. provides voluntary funding to UNCTAD (the body receives about \$38 million in total voluntary funding each year), the U.S. would have to suspend that funding if Palestine became a member.

72. UNIDO, “Former Member States,” at <http://www.unido.org/index.php?id=1000864> (November 22, 2011).

concluded that “UNIDO has not been able to define its purpose and function very well, much less become effective in its programmatic activities.”⁷³ U.S. withdrawal from UNIDO deprived the agency of U.S. contributions, which were 25 percent of its budget. The agency claims that the U.S. owes arrears to UNIDO,⁷⁴ which the U.S. does not acknowledge.⁷⁵ The U.S. currently provides little, if any, direct funding to UNIDO although U.S. funds may indirectly support UNIDO projects that are jointly funded through partnership with other U.N. bodies like the U.N. Environment Program.

- UNWTO “serves as a global forum for tourism policy issues and a practical source of tourism know-how...[and] plays a central and decisive role in promoting the development of responsible, sustainable and universally accessible tourism, paying particular attention to the interests of developing countries.”⁷⁶ The U.S. is not and never has been a member of the UNWTO, provides it with little, if any, direct funding, and has discouraged the U.N. from creating bodies focused on specific industries.
- WIPO is “dedicated to developing a balanced and accessible international intellectual property (IP) system, which rewards creativity, stimulates innovation and contributes to economic development while safeguarding the public interest.”⁷⁷ This is a laudable goal deserving of U.S. support. However, the U.S. State Department grossly exaggerates the potential impact of withholding U.S.

contributions to WIPO on U.S. interests should the Palestinians gain membership. Specifically, the State Department argued that because the United States is a “leading global voice on issues related to patent, copyright, and trademark matters” and since WIPO “supports the global IPR infrastructure and helps U.S. companies protect their intellectual property around the world,” that “should the U.S. be unable to provide its contributions to WIPO, the impact of that voice could be significantly diminished.”⁷⁸

WIPO administers 24 treaties establishing standards for patent, copyright, and trademark matters. The U.S. rightly supports most, if not all, of these treaties and WIPO’s efforts to enhance protection of intellectual property. But the ability of the U.S. government and American businesses and individuals to benefit from these standards is not based on U.S. membership in WIPO or U.S. contributions to that body; it is based on the individual treaties administered by WIPO.

Specifically, WIPO arbitration, mediation, and dispute resolution are not restricted to WIPO member states; they are open to nationals of any state based on well-established procedures and financed through individual charges and fees. Moreover, the benefits arising from U.S. ratification of the treaties administered by WIPO would remain unaffected by the status of U.S. membership in or contributions to WIPO. States that are not members of WIPO—and the businesses and individuals from those states—can avail them-

73. Patrick Goodenough, “U.K. Becomes Latest Donor Country to Withdraw from U.N. Development Agency,” CNSNews.com, March 2, 2011, at <http://cnsnews.com/news/article/uk-becomes-latest-donor-country-withdraw-un-development-agency> (November 22, 2011).

74. UNIDO, “Report of the Programme and Budget Committee on the Work of its Thirteenth Session: Withdrawal of the United States of America (item 11),” September 25, 1997, p. 4, at http://www.unido.org/fileadmin/user_media/PMO/ReportsPBC/IDB.18_2e.pdf (November 22, 2011).

75. Vita Bite, Marjorie Ann Browne, and Lois McHugh, “U.N. Funding, Payment of Arrears and Linkage to Reform: Legislation in the 105th Congress,” Congressional Research Service *Report for Congress*, April 24, 1998, footnote 2, at <http://www.policyarchive.org/handle/10207/bitstreams/440.pdf> (November 22, 2011).

76. UNWTO, “About UNWTO,” at <http://unwto.org/en/content/about-unwto> (December 8, 2011).

77. WIPO, “What is WIPO?” at http://www.wipo.int/about-wipo/en/what_is_wipo.html (November 22, 2011).

78. Office of the Spokesperson, “State Department on Impact of Palestinian Membership in WIPO,” U.S. Department of State, October 31, 2011, at <http://www.uspolicy.be/headline/state-department-impact-palestinian-membership-wipo> (December 1, 2011).

selves of WIPO services (such as those provided for under the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and the Madrid Protocol or the Patent Cooperation Treaty) as long as they are parties to those agreements. Conversely, if they are not party to the treaties, they cannot utilize the treaty-based services regardless of WIPO membership.

Nor would ending U.S. contributions to WIPO have a major financial impact on the organization. WIPO relies on individual fees and payments, not member state contributions, for the overwhelming majority of its budget. In 2010, the U.S. provided only \$1.1 million to WIPO.⁷⁹ As WIPO proudly states:

WIPO is unusual among the family of UN organizations in that it is largely self-financing. Over 90 percent of the Organization's budgeted expenditure of 618.8 million Swiss francs, for the 2010–2011 biennium, comes from revenue from WIPO's global IP services (the PCT, Madrid, Hague and Lisbon systems). The remainder is primarily made up of revenue from WIPO's arbitration and mediation services, plus contributions from member states. These contributions are relatively small, with the five largest contributing countries each donating about one-half percent of the Organization's budget.⁸⁰

American citizens and businesses could avail themselves of WIPO services and arbitration and, unlike the U.S. government, could pay WIPO for these services even if the Palestinians are granted membership.

Finally, contrary to the State Department's argument, America's voice would not be "significantly diminished" if it were not a member of WIPO. WIPO operates as a consensus-building organization seeking to promote protection of intellectual property. Non-member states are welcome to participate in its deliberations as observers. Even if the U.S.

government could no longer provide funding to WIPO or chose to end its membership in WIPO, the organization would be foolish to ignore the opinions of the U.S., which is one of the world's largest trading nations and a key source of new technology and innovation. Nor would the U.S. likely ratify any treaty arising from WIPO discussions that failed to take its concerns into account.

WIPO is a useful organization and deserving of U.S. support. Indeed, by basing its budget primarily on service-based fees that are clearly in demand rather than through mandatory assessments from member states, in many ways WIPO should be a model for how other U.N. organizations should operate. However, U.S. interests and those of American citizens and businesses would not be significantly compromised if the U.S. was forced to end financial contributions to WIPO.

The bottom line is that the U.S. supports these organizations due to historical precedent, to demonstrate support of their goals and objectives, or out of convenience. U.S. contributions to these organizations are not critical to U.S. interests and, generally, alternative bilateral or multilateral options exist for supporting the activities conducted by those bodies.

What the U.S. Should Do

In order to maximize pressure on U.N. organizations to resist Palestinian membership efforts, the U.S. should:

- **Oppose Palestinian membership in the U.N. General Assembly and all U.N. organizations.** The membership request is an attempt by the Palestinians to isolate Israel. Diplomatically and rhetorically, the Palestinians will portray any U.N. membership as validation of its unilateral declaration of statehood and use it to circumvent bilateral negotiations with Israel. Such an action would reflect poorly on those member

79. Lew, "FY2010 US Contributions to the United Nations System."

80. WIPO, "WIPO: A User's Guide: An Introduction to the Organization," at http://www.wipo.int/about-wipo/en/pdf/wipo_publication_1040.pdf (December 1, 2011).

states willing to misuse the U.N. in this fashion and, more broadly, damage the credibility of the U.N. in a manner reminiscent of the “Zionism is racism” resolution adopted by the U.N. General Assembly in the 1970s.

- **Enforce the prohibition on funding for U.N. bodies that grant Palestinian membership.** In the late 1980s, the Palestinians sought membership in UNESCO and the World Health Organization, to bolster their claims of statehood.⁸¹ The U.S. blocked that effort by making a credible threat to withhold contributions to any U.N. organization that admitted the PLO as a member state and later codified that policy through laws enacted in 1990 and 1994. The Palestinians’ successful 2011 membership bid to UNESCO was abetted by a belief that the Obama Administration would try to maintain U.S. funding for UNESCO even if the Palestinians were admitted as a member state.

Since the U.S. announced that all funding to UNESCO would be withheld in compliance with U.S. law, the Palestinians have reversed their previously stated intent to gain membership in 16 other U.N. organizations. Clearly, the threat of U.S. withholding, made credible by the UNESCO decision, led these other U.N. organizations and member states to dissuade the Palestinians from pursuing membership in those bodies right away. The most effective means for preventing future Palestinian membership in U.N. organizations and maintaining U.S. participation in and support for these programs are to maintain and enforce the current funding prohibitions under U.S. law.

- **Refuse to amend the law to permit a presidential waiver of the funding prohibition or preemptively insert exemptions to the law.** As is the case for UNESCO, the U.N. specialized agencies and related organizations that are open to Palestinian membership without a vote, or are the most likely membership targets for the Pal-

estianians, are not critical to U.S. interests. However, U.S. interests are more directly supported by U.N. specialized agencies and related organizations like the IAEA, the WHO, the ICAO, and the IMO. It is uncertain when, if ever, the Palestinians will seek membership in these organizations. In the wake of the UNESCO vote, the U.S. funding prohibition has led these organizations and their member states to tell the Palestinians that their membership is not welcome at this time. The Palestinians may eventually gain membership in these institutions, and the U.S. will have to decide how to react, but preemptively exempting these or other U.N. bodies from the funding prohibition or amending current law to allow the President to waive these prohibitions would effectively be a green light encouraging them to grant membership to the Palestinians.

Conclusion

Diplomatically and rhetorically, the Palestinians will portray membership in any U.N. organization as validation of their unilateral declaration of statehood and use it to circumvent bilateral negotiations with Israel. Although U.N. membership will be unattainable as long as the U.S. is prepared to use its Security Council veto, the Palestinians are unlikely to abandon their efforts to gain membership in the U.N. or U.N. specialized agencies and related organizations as long as they believe that they may eventually succeed or that the effort provides an advantage to them or a disadvantage to the U.S. or Israel. The U.S. was unable to block Palestinian membership in UNESCO, but it should make every effort to prevent other U.N. organizations from granting them similar status because Palestinian membership in the U.N. and other U.N. specialized agencies and related organizations would further encourage the Palestinians to erroneously believe that their objectives can be achieved without direct negotiations with Israel, gravely damaging the long-term prospects for a negotiated Israeli–Palestinian peace.

81. John R. Bolton, “The UNESCO Follies Are Back: The Obama Administration Bungles the Palestinians’ Membership Vote,” *The Weekly Standard*, November 12, 2011, at http://www.weeklystandard.com/articles/unesco-follies-are-back_607777.html (December 1, 2011).

Moreover, the Palestinian Authority could also use membership in these organizations to launch diplomatic, political, and legal challenges to Israel. In 2009 the Palestinians asked the International Criminal Court (ICC) to extend its jurisdiction to the Palestinian territories and investigate crimes allegedly committed by Israel.⁸² The ICC has yet to decide on that request. In another example, the Palestinians have previously sought to register Jewish and Christian holy sites as Palestinian “World Heritage” sites under the UNESCO program, including the towns of Hebron and Bethlehem, and the Church of the Nativity.⁸³ The Palestinians have already announced that one of their first actions after gaining UNESCO membership would be to resubmit these World Heritage requests.

The most influential means available to the U.S. to convince the U.N.’s specialized agencies and other bodies to eschew Palestinian membership is the threat of ending U.S. financial support. If the U.S. eliminates, modifies, or otherwise weakens its own laws to allow U.S. contributions despite Palestinian membership, the U.S. would effectively encourage these organizations to admit the Palestinians as a member.

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82. International Criminal Court, “Palestine,” at <http://www.icc-cpi.int/Menus/ICC/Structure+of+the+Court/Office+of+the+Prosecutor/Comm+and+Ref/Palestine/> (November 22, 2011).

83. Tom Perry, “Palestinians to Push Heritage Agenda at UNESCO,” Reuters, October 10, 2011, at <http://www.reuters.com/article/2011/10/10/us-palestinians-israel-unesco-idUSTRE7991LS20111010> (November 22, 2011).

U.N. Specialized Agencies and Related Organizations Open to Palestinian Membership (Page 1 of 3)

Organization	U.S. Membership	U.S. Assessment	2010 U.S. Contribution	Membership Rules and Procedures
Food and Agriculture Organization (FAO)	Yes	22 percent	\$161.3 million	The FAO Conference "may by a two-thirds majority of the votes cast, provided that a majority of the Member Nations of the Organization is present, decide to admit as an additional Member of the Organization any nation which has submitted an application for membership and a declaration made in a formal instrument that it will accept the obligations of the Constitution as in force at the time of admission."
International Atomic Energy Agency (IAEA)	Yes	25.6 percent	\$185.5 million	The initial members of the IAEA were those U.N. member states or member states of any of the specialized agencies that signed the IAEA statute within 90 days after it was opened for signature and ratified the treaty. "Other members of the Agency shall be those States, whether or not Members of the United Nations or of any of the specialized agencies, which deposit an instrument of acceptance of this Statute after their membership has been approved by the General Conference upon the recommendation of the Board of Governors [requiring a majority of members present and voting]."
International Civil Aviation Organization (ICAO)	Yes	25 percent	\$22.8 million	Membership is open to U.N. member states; other states "may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly [a quorum of a majority of all member states is required] and on such conditions as the Assembly may prescribe; provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary."
International Fund for Agricultural Development (IFAD)	Yes	7.8 percent of total votes	\$30 million	Membership is open to "any state member of the United Nations or any of its specialized agencies, or of the International Atomic Energy Agency." Other states can become IFAD members if approved by the Governing Council and depositing an instrument of accession. Approval of the Governing Council requires a majority of total votes.
International Labour Organization (ILO)	Yes	22 percent	\$132.5 million	Membership is open to U.N. member states. The ILO General Conference "may also admit Members to the Organisation by a vote concurred in by two-thirds of the delegates attending the session, including two-thirds of the Government delegates present and voting."
International Maritime Organization (IMO)	Yes	3.2 percent	\$1.4 million	Membership in the IMO is open to "all states" that are U.N. members or attended the 1948 U.N. Maritime Conference. Other states "may apply through the Secretary-General of the Organization to become a Member and shall be admitted as a Member upon its becoming a party to the Convention ... provided that, upon the recommendation of the Council, its application has been approved by two-thirds of the Members other than Associate Members."
International Monetary Fund (IMF)	Yes	17.7 percent of quota (16.8 percent of total votes)	\$65.7 billion*	"Membership shall be open to other countries at such times and in accordance with such terms as may be prescribed by the Board of Governors." Upon joining the IMF, however, each member is assigned a quota. Any adjustment in IMF quotas requires approval of 85 percent of the total voting power.
International Telecommunication Union (ITU)	Yes	7.3 percent	\$9.4 million	Membership is open to all U.N. member states; non-member states must apply and be approved by two-thirds of the current members of the organization, and must be acceding to the ITU Constitution and Convention.
United Nations Educational, Scientific and Cultural Organization (UNESCO)	Yes	22 percent	\$84.5 million	"Membership of the United Nations Organization shall carry with it the right to membership of the United Nations Educational, Scientific and Cultural Organization." Other states "may be admitted to membership of the Organization, upon recommendation of the Executive Board, by a two-thirds majority vote of the General Conference."

* Cumulative contributions, subscriptions, obligations, or share of capital stock.

U.N. Specialized Agencies and Related Organizations Open to Palestinian Membership (Page 2 of 3)

Organization	U.S. Membership	U.S. Assessment	2010 U.S. Contribution	Membership Rules and Procedures
United Nations Industrial Development Organization (UNIDO)	No	n/a	n/a	Members of the "United Nations or of a specialized agency or of the International Atomic Energy Agency may become Members of the Organization by becoming parties to [UNIDO's] Constitution." Other states may become members by becoming parties to the Constitution and being approved by a "majority of the Members present and voting, upon recommendation of the Board [requiring a majority of members present and voting]."
United Nations World Tourism Organization (UNWTO)	No	n/a	n/a	Membership is "open to all sovereign States." States that were members of the International Union of Official Travel Organizations as the statutes of the UNWTO were adopted by that body "shall have the right to become Full Members of the Organization, without requirement of vote, on formally declaring that they adopt the Statutes of the Organization and accept the obligations of membership." Other states must apply for membership and be approved by the UNWTO General Assembly by a majority of two-thirds of the "Full Members present and voting provided that said majority is a majority of the Full Members of the Organization."
Universal Postal Union (UPU)	Yes	5.9 percent	\$2.4 million	Any member country of the United Nations may become a member of the UPU. Any non-member country of the United Nations may become a UPU member provided that its request is approved by at least two-thirds of the member countries of the UPU.
WORLD BANK GROUP				
International Bank for Reconstruction and Development (IBRD)	Yes	16.5 percent of subscriptions (16.1 percent of total votes)	\$32 billion*	"Membership shall be open to other members of the International Monetary Fund, at such times and in accordance with such terms as may be prescribed by the Bank."
International Development Association (IDA)	Yes	21 percent of subscriptions and contributions (11 percent of total votes)	\$42.9 billion*	"Membership shall be open to other members of the Bank [IBRD] at such times and in accordance with such terms as the Association may determine."
International Finance Corporation (IFC)	Yes	24 percent of capital stock	\$569.4 million*	"Membership shall be open to other members of the Bank [IBRD] at such times and in accordance with such terms as may be prescribed by the Corporation."
Multilateral Investment Guarantee Agency (MIGA)	Yes	18.4 percent of subscriptions (15 percent of total votes)	\$352 million*	"Membership in the Agency shall be open to all members of the Bank [IBRD] and to Switzerland."
International Centre for Settlement of Investment Disputes (ICSID)	Yes	n/a	Contributions from IBRD and fees*	Membership is open to members of the International Bank for Reconstruction and Development and "any other State, which is a party to the Statute of the International Court of Justice, on the invitation of the ICSID Administrative Council by a vote of two-third of its members."

* Cumulative contributions, subscriptions, obligations, or share of capital stock.

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U.N. Specialized Agencies and Related Organizations Open to Palestinian Membership (Page 3 of 3)

Organization	U.S. Membership	U.S. Assessment	2010 U.S. Contribution	Membership Rules and Procedures
World Health Organization (WHO)	Yes	22 percent	\$387 million	Members of the U.N. may become members of WHO by adopting the WHO Constitution. Other states "may apply to become Members and shall be admitted as Members when their application has been approved by a simple majority vote of the Health Assembly."
World Intellectual Property Organization (WIPO)	Yes	6.6 percent	\$1.1 million	Membership is open to any state that is a member of the Paris Union for the Protection of Industrial Property or of the Berne Union for the Protection of Literary and Artistic Works or is a member of the "United Nations, any of the Specialized Agencies brought into relationship with the United Nations, or the International Atomic Energy Agency, or is a party to the Statute of the International Court of Justice" or is "invited by the General Assembly to become a party to this Convention."
World Meteorological Organization (WMO)	Yes	21.6 percent	\$15.1 million	Membership is open to states originally participating in the WMO conference and any U.N. member state "having a Meteorological Service" and any "trust territory or group of trust territories maintaining its own Meteorological Service, and administered by the United Nations" for which the U.N. requests membership. Non-U.N. member states or territories not administered by the U.N. can also gain membership if they maintain their own meteorological service and are approved by two-thirds of the WMO membership
World Trade Organization (WTO)	Yes	12.4 percent	\$26.4 million	Membership in the WTO is open to any "state or customs territory having full autonomy in the conduct of its trade policies" that accedes to the Agreement Establishing the World Trade Organization. Bilateral negotiations over trade tariffs, market access, and other policies must be negotiated before the membership terms can be drafted. These final terms must be approved by a two-thirds majority of WTO member states.

Sources and Notes:

U.S. Assessment

Sources: Marjorie Ann Browne, "United Nations System Funding: Congressional Issues," Congressional Research Service, January 14, 2011; FAO, "Regular Programme Contributions Largest 25 Contributors," October 31, 2011; IFAD, "Voting Rights of IFAD Member States," November 30, 2011; IMF, "IMF Executive Directors and Voting Power," November 22, 2011; IBRD, "Financial Statements and Internal Control Reports," June 30, 2011; IDA, "Financial Statements and Internal Control Reports," June 30, 2011; IFC, "Financials and Projects," 2011 (annual report); MIGA, "Annual Report: Insuring Investments, Ensuring Opportunities," 2011 (data presented are total U.S. subscriptions of which \$67 million is paid in as of June 30, 2011); and WTO, "Members' Contributions to the WTO Budget and the Budget of the Appellate Body for the Year 2011."

Note: Data for the IMF and World Bank Group members reflect total U.S. contributions, subscriptions, obligations, or share of capital stock. Where different, U.S. voting shares are noted.

2010 U.S. Contributions

Sources: Office of Management and Budget, "FY2010 US Contributions to the United Nations System," June 6, 2011; Marjorie Ann Browne, "United Nations System Funding: Congressional Issues," Congressional Research Service, January 14, 2011; IMF, "United States: Financial Position in the Fund as of September 30, 2011" (based on SDR Valuation (1 SDR = \$1.56034) on December 2, 2011); IBRD, "Financial Statements and Internal Control

Reports" (data presented are total U.S. subscriptions to capital stock of which \$1.998 billion is paid in), June 30, 2011; IDA, "Financial Statements and Internal Control Reports" (data presented are total U.S. subscriptions and contributions), June 30, 2011; IFC, "Financials and Projects," 2011 (annual report; data presented are total U.S. share of IFC capital stock as of June 30, 2011); MIGA, "Annual Report: Insuring Investments, Ensuring Opportunities," 2011 (data presented are total U.S. subscriptions of which \$67 million is paid in as of June 30, 2011); and WTO, "Members' Contributions to the WTO Budget and the Budget of the Appellate Body for the Year 2011," (based on exchange rate of 1 CHF=\$1.0927 on December 2, 2011).

Note: Data for the IMF and World Bank Group members are cumulative contributions, subscriptions, share of capital stock, or obligations, not 2010 contributions.

Membership Rules and Procedures

Information is a summary of rules and procedures, supplemented by detailed quotations, derived and taken from the respective agreements, constitutions, conventions, statutes, and other documents establishing the respective institutions or codifying their voting procedures. In some instances, the information is taken from a summary provided by the institution on its Web site. For full citations, see the footnotes in the paper.

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