

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

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<http://oversight.house.gov>

January 9, 2017

The Honorable John F. Kerry
Secretary
U.S. Department of State
2201 C Street NW
Washington, D.C. 20520

Dear Mr. Secretary:

On December 23, 2016, the United States abstained from voting on United Nations (UN) Security Council Resolution 2334 and allowed the resolution to pass by refusing to exercise veto power. Resolution 2334 states that “the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law.”¹

This language implies that Israel’s presence in the Jewish Quarter of the Old City of Jerusalem, where Judaism’s holiest site, the Western Wall, is located, is a settlement with “no legal validity.”² The resolution’s call for countries to “distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967” will empower those who would delegitimize and isolate Israel in the international arena.³

The decision to allow this resolution to pass represents a significant change in U.S. policy. The U.S. has traditionally opposed UN resolutions condemning Israel, most recently on February 18, 2011, when the United States vetoed a draft resolution with similar content. At that time, U.S. Ambassador to the United Nations Susan Rice noted the “only way” to resolve the Israeli-Palestinian conflict was “through direct negotiations between the parties, with the active and sustained support of the United States and the international community,” and “we think it unwise for [the UN Security Council] to attempt to resolve the core issues that divide Israelis and Palestinians.”⁴

¹ S.C. Res. 2334 ¶ 1 (Dec. 23, 2016).

² *Id.*

³ *Id.* ¶ 5.

⁴ Ambassador Susan Rice, Explanation of Vote on the Resolution on the Situation in the Middle East, in the Security Council Chamber (Feb. 18, 2011) (*available at* <https://usun.state.gov/remarks/4978>).

In an address to the UN General Assembly later that year, President Obama reaffirmed this policy by stating, “[p]eace will not come through statements and resolutions at the United Nations—if it were that easy, it would have been accomplished by now” and “[u]ltimately, it is the Israelis and the Palestinians—not us—who must reach agreement on the issues that divide them: on borders and on security, on refugees and Jerusalem.”⁵

Recent press reports raise questions whether the United States secretly played a role in organizing, advancing, or supporting this resolution.⁶ In your December 28, 2016, remarks on Israel, you stated the U.S. “did not draft or originate this resolution, nor did we put it forward.”⁷ Israel’s Prime Minister Benjamin Netanyahu stated, however, that Israel has “absolutely incontestable evidence that the United States organized, advanced, and brought this resolution to the United Nations Security Council.”⁸

To help the Committee understand why the U.S. allowed Resolution 2334 to pass and so we can assess the facts and circumstances related to U.S. involvement in the vote, please provide all documents and communications referring or relating to Resolution 2334 as soon as possible, but no later than 5:00 p.m. on January 17, 2017. Additionally, please provide a briefing to committee staff on this topic on or before that date.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at “any time” investigate “any matter” as set forth in House Rule X.

When producing documents to the Committee, please deliver production sets to the Majority staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter contains additional instructions for responding to the Committee’s request.

⁵ President Barack Obama, Address to the United Nations General Assembly (Sept. 21, 2011) (*available at* <https://www.whitehouse.gov/the-press-office/2011/09/21/remarks-president-obama-address-united-nations-general-assembly>).

⁶ See, e.g., Stephen Collinson et. al., *US Abstains as UN Demands End to Israeli Settlements*, CNN.COM, Dec. 24, 2016, <http://www.cnn.com/2016/12/23/politics/israel-official-rips-obama-un-settlements/>; Barak Ravid, *Leaked Document: U.S. Colluded With Palestinians 10 Days Before UN Settlements Vote*, HAARETZ, Dec. 28, 2016, <http://www.haaretz.com/israel-news/1.761741>.

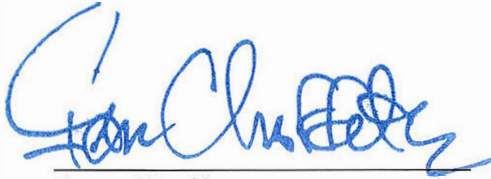
⁷ Secretary John Kerry, Remarks on Middle East Peace (Dec. 28, 2016) (*available at* <https://www.state.gov/secretary/remarks/2016/12/266119.htm>).

⁸ Prime Minister Benjamin Netanyahu, Remarks on Secretary Kerry’s Remarks on Middle East Peace (Dec. 28, 2016) (*available at* <http://edition.cnn.com/TRANSCRIPTS/1612/28/cnr.05.html>).

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Please contact Ari Wisch of the Majority staff at (202) 225-5074 to schedule the briefing or with any questions regarding this request. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman



Ron DeSantis
Member of Congress

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
The Honorable Stephen F. Lynch, Member of Congress

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTHOUR, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.