



Anti-Terrorism Clarification Act of 2018 (P.L. 115-253) and U.S. Aid for the Palestinians

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The Anti-Terrorism Clarification Act (ATCA, [P.L. 115-253](#)) became law on October 3, 2018. Congress passed the law in the wake of a [U.S. federal court case](#) dealing with past acts of terrorism by Palestinians (discussed below, “U.S. Policy Implications and Options”). The law amended the Anti-Terrorism Act (ATA) (at 18 U.S.C. 2334) by stating that a defendant consents to personal jurisdiction in U.S. federal court for lawsuits related to international terrorism if the defendant accepts certain types of U.S. foreign aid after the law has been in effect for 120 days.

In December, [Palestinian Authority \(PA\) Prime Minister Rami Hamdallah wrote](#) to Secretary of State Mike Pompeo that the PA would not accept aid that subjected it to federal court jurisdiction. Consequently, [U.S. bilateral aid to the Palestinians ended on January 31, 2019](#). Apparently, it will not resume unless Congress amends or repeals the ATCA, or the Administration channels the aid differently.

The end of bilateral aid has halted U.S.-funded programs that began in 1975 with a focus on economic and humanitarian needs, and were expanded from 1994 (in the context of the Israeli-Palestinian peace process) to assist with security and Palestinian self-governance after the PA was formed. The effect of ending aid is as follows:

- **Economic assistance.** Although the Trump Administration decided in September 2018 to [reprogram all of the FY2017 Economic Support Fund \(ESF\) aid](#) from the West Bank and Gaza to other recipients, some aid projects continued in the West Bank and Gaza using prior-year funding. These projects have now shut down, though [the USAID mission that manages them](#) remains in the region.
- **Security assistance.** After the Administration reprogrammed or discontinued various funding streams for the Palestinians during 2018, the main U.S. aid category remaining was the International Narcotics Control and Law Enforcement account (INCLE). This security assistance account supported [nonlethal train-and-equip programs for PA West](#)

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[Bank security forces \(PASF\)](#). INCLE assistance, along with \$1 million per year in Nonproliferation, Anti-terrorism, Demining, and Related Programs (NADR) assistance, ended due to the ATCA. Reportedly, the office of the U.S. Security Coordinator for Israel and the Palestinian Authority (USSC), [a U.S.-led multilateral mission based in Jerusalem](#), will [continue to conduct a “security cooperation-only mission”](#) that does not involve funding support, but still facilitates Israel-PA security coordination.

Table I. Main U.S. Aid Categories for the Palestinians
(before accounting for the effect of the ATCA; current \$ in millions)

Aid Category	Year Initiated	FY2016	FY2017	FY2018 Estimated	FY2019 Estimated
Economic (ESF and other accounts)	1975	\$206	—	TBD (see notes)	TBD (see notes)
Security (INCLE)	2008	\$55	\$60	\$35	\$35

Sources: U.S. State Department and USAID, adapted by CRS.

Notes: All amounts are approximate. TBD stands for “to be determined.” The Administration’s ESF requests for each of FY2018 and FY2019 were \$215 million, but these amounts would be subject to the [Taylor Force Act](#) (Title X of [P.L. 115-141](#)), as well as the Administration’s discretion for any amounts not suspended under the Taylor Force Act.

U.S. Policy Implications and Options

While the Administration made [drastic reductions to aid for the Palestinians during 2018](#), it had not changed security assistance or halted existing economic assistance projects. That both have ceased in light of the ATCA has implications for U.S. policy. At least [one media report](#) has suggested that the Administration belatedly realized the ATCA’s possible impact, and that it may be concerned about potential complications for a future peace plan.

The Administration reportedly favored [amending the ATCA to allow security assistance to continue](#) because of the priority U.S. officials place on Israel-PA security cooperation, which is highly valued in Israel. [Israeli officials have strongly supported U.S. security assistance facilitated by the USSC](#) as a way to improve PA security capabilities and encourage the PA to coordinate more closely with Israeli security forces. [According to an Israeli news article](#), outgoing Israel Defense Forces Chief of Staff Gadi Eizenkot urged the Israeli cabinet to strengthen the PA security forces in farewell remarks he gave on January 13. Other sources suggested that Israeli officials had reached out to the Administration and Members of Congress in hopes that [some arrangement was able to ensure](#) that U.S. security assistance could continue without “affecting families of terrorist victims.”

It is unclear to what extent ending U.S. security assistance for the PA will affect Israel-PA security cooperation. [One analyst wrote](#) that even without U.S. aid, the PA would have a strong interest in coordinating security with its Israeli counterparts. Media reports routinely suggest that Israel and the PA share a core objective in [countering Hamas in the West Bank](#). However, [the same analyst wrote](#) that over the long term, “termination of the USSC’s work in areas like training, logistics, human resources, and equipment provision will undoubtedly have a negative impact on the PASF’s overall capabilities and professionalism.” [Another analyst said](#) that without U.S. security aid, the PA will have fewer incentives to continue security cooperation with Israel. [A spokesman for PA President Mahmoud Abbas responded](#) to the halt in aid by saying it would “have a negative impact on all, create a negative atmosphere and increase instability.”

Options to amend the ATCA could include

- complete repeal,
- exempting one or more aid categories,
- providing the Administration with waiver authority, or
- suspending the ATCA’s implementation for a period of time.

Some Americans involved in or concerned about litigation related to the ATCA have [expressed concerns](#) about efforts to amend it, based on their [stated views](#) that the PA should be liable for past acts of Palestinian terrorism. On January 24, Senator Chuck Grassley, the original sponsor of the ATCA, sent a [letter to President Trump](#) saying that the State Department rejected a proposal the Senator made “that would delay the ATCA’s impact on certain security assistance programs, while ensuring that U.S. victims of terrorism can still have their day in court.” Instead, according to the Senator, the State Department remains intent on removing a provision from the ATCA “of most concern” to the PA.

Congress passed the ATCA in the wake of a federal lawsuit (known in various incarnations as *Waldman v. PLO* and *Sokolow v. PLO*) [that an appeals court dismissed](#) in 2016. [The court ruled](#) that terrorist attacks committed in the region during the second Palestinian *intifada* (or uprising, which took place between 2000 and 2005), “as heinous as they were, were not sufficiently connected to the United States to provide specific personal jurisdiction” there. Before the suit was dismissed on appeal, the trial jury had awarded hundreds of millions of dollars in damages to U.S. citizens or their families affected by the attacks.