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U.S.-Israel Relations in a Time of Transition

For decades, strong bilateral relations have fueled and reinforced significant U.S.-Israel cooperation in many areas, including regional security. Nonetheless, at various points throughout the relationship, U.S. and Israeli policies have diverged on some important issues. Significant differences regarding regional issues—notably Iran and the Palestinians—arose or intensified during the Obama Administration.¹ Since President Donald Trump’s inauguration, he and Israeli Prime Minister Binyamin Netanyahu have discussed ways “to advance and strengthen the U.S.-Israel special relationship, and security and stability in the Middle East.”²

Since late 2016, a number of developments involving President Trump, the Obama Administration, Israeli leaders, and various other actors (including Members of Congress) have affected U.S. policy. They include several controversies regarding Israeli-Palestinian issues amid the U.S. presidential transition, including the following.

- The future of U.S. policy regarding a two-state solution and regional Arab involvement.
- Israeli settlements in the West Bank and East Jerusalem.
- A possible move of the U.S. embassy in Israel to Jerusalem.

Amid the transition, Netanyahu and other Israeli leaders have also sought to influence the incoming Administration’s stance on the 2015 Iran nuclear deal (the Joint Comprehensive Plan of Action, or JCPOA) and Iran’s role in the region.

Also, in early January 2017, a legal probe of Prime Minister Netanyahu turned into a criminal investigation—in connection with allegations of bribery and receipt of improper gifts—that some observers speculate could threaten his term of office.³ Netanyahu has dismissed the allegations.⁴

For background information and analysis, see CRS Report RL33476, *Israel: Background and U.S. Relations*, by (name redacted); CRS Report RL33222, *U.S. Foreign Aid to Israel*, by (name redacted); and CRS Report R44281, *Israel and the Boycott, Divestment, and Sanctions (BDS) Movement*, coordinated by (name redacted)

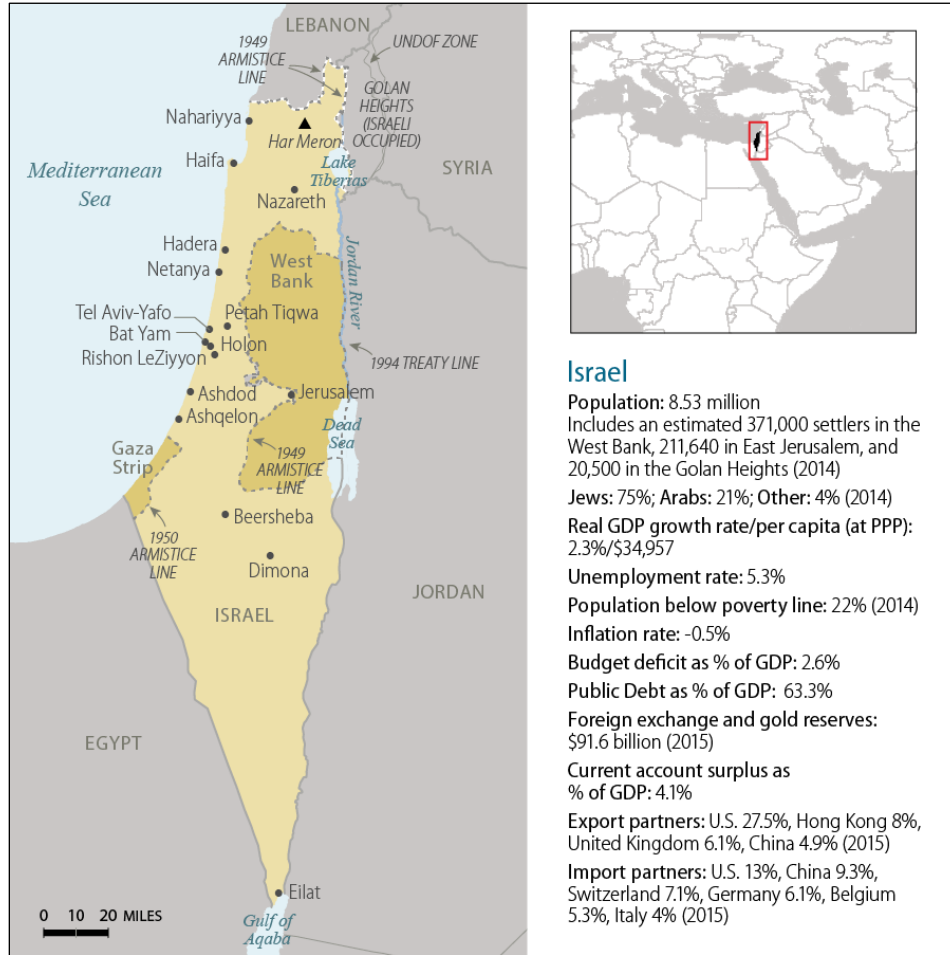
¹ See, e.g., Jeffrey Goldberg, “The Obama Doctrine,” *The Atlantic*, April 2016; Jason M. Breslow, “Dennis Ross: Obama, Netanyahu Have a ‘Backdrop of Distrust,’” PBS Frontline, January 6, 2016; Sarah Moughty, “Michael Oren: Inside Obama-Netanyahu’s Relationship,” PBS Frontline, January 6, 2016.

² White House Office of the Press Secretary, “Readout of the President’s Call with Prime Minister Netanyahu of Israel,” January 22, 2017.

³ Mazal Mualem, “Will Netanyahu’s Allies Abandon Him?” *Al-Monitor Israel Pulse*, January 26, 2017.

⁴ *Ibid.*

Figure I. Israel: Map and Basic Facts



Sources: Graphic created by CRS. Map boundaries and information generated by (name redacted) using Department of State Boundaries (2011); Esri (2013); the National Geospatial-Intelligence Agency GeoNames Database (2015); DeLorme (2014). Fact information from CIA, *The World Factbook*; Economist Intelligence Unit; IMF World Outlook Database; Israel Central Bureau of Statistics. All numbers are estimates and as of 2016 unless specified.

Notes: United Nations Disengagement Observer Force (UNDOF) withdrew to Israeli-controlled territory in the Golan Heights in September 2014. The West Bank is Israeli-administered with current status subject to the 1995 Israeli-Palestinian Interim Agreement; permanent status to be determined through further negotiation. The status of the Gaza Strip is a final status issue to be resolved through negotiations. Israel proclaimed Jerusalem as its capital in 1950, but the United States, like nearly all other countries, retains its embassy in Tel Aviv-Yafo. Boundary representation is not necessarily authoritative.

Israeli-Palestinian Issues

U.S. Policy Options and Context

President Trump's advisors on Israeli issues include his senior advisor Jared Kushner (who is also his son-in-law) and lawyer David Friedman—the President's nominee to be U.S. ambassador to Israel. Friedman's nomination—subject to Senate approval—has attracted attention because of his past statements and financial efforts in support of controversial Israeli settlements in the West Bank,⁵ and his sharp criticism of the Obama Administration, some Members of Congress, and some American Jews.⁶

Speculation surrounds what actions the President and Congress might take on Israeli-Palestinian issues in the coming months. Trump has stated aspirations to help broker a final-status Israeli-Palestinian agreement. Other possible presidential or legislative initiatives could address these:

- U.S. aid to Israel and the Palestinians.
- U.S. policy on a two-state solution and other issues of dispute.
- U.S. contributions to and participation at the United Nations and other international bodies.⁷
- U.S. approaches to other regional and international actors that have roles on Israeli-Palestinian issues.

Some aspects of the Israeli-Palestinian conflict appear unchanged by recent diplomatic developments. Israel maintains overarching control of the security environment in Israel and the West Bank. Palestinians remain divided between a PA administration with limited self-rule in specified West Bank urban areas, led by the Fatah movement and President Mahmoud Abbas, and a de facto Hamas administration in the Gaza Strip. Both the PA and Hamas face major questions regarding future leadership and succession. There has been little or no change in the gaps between Israeli and Palestinian positions on key issues of dispute since the last round of direct talks broke down in April 2014. Since 2011, Arab states that have traditionally championed the Palestinian cause have been more preoccupied with their own internal concerns, and many have built or strengthened informal ties with Israel based on common concerns regarding Iran and its regional influence.

Questions About a Two-State Solution and Regional Involvement

Since the Israeli-Palestinian peace process began in the early 1990s, U.S. policy had largely anticipated a negotiated conflict-ending outcome that would result in two states.⁸ In a White House press conference on February 15, 2017, with Prime Minister Netanyahu, President Trump

⁵ “David Friedman, Trump’s Israel envoy pick, reportedly behind newly approved settler homes,” Jewish Telegraphic Agency (JTA), February 9, 2017; Judy Maltz, “David Friedman Raised Millions for Radical West Bank Jewish Settlers,” *Ha’aretz*, December 16, 2016.

⁶ See, e.g., Matthew Rosenberg, “Trump Chooses Hard-Liner as Ambassador to Israel,” *New York Times*, December 15, 2016; At Friedman’s February 16, 2017, nomination hearing before the Senate Foreign Relations Committee, he apologized for and expressed regret regarding many of the critiques he previously directed at specific people.

⁷ See, e.g., Julian Pecquet, “Congress takes aim at UN over Israel stance,” *Al-Monitor Congress Pulse*, February 2, 2017.

⁸ Peter Baker, “U.S. Won’t Press a Two-State Path to Mideast Peace,” *New York Times*, February 16, 2017.

said the following in response to a question about how his vision for Middle East peace relates to those of his predecessors regarding a two-state solution:

So I'm looking at two-state and one-state, and I like the one that both parties like. I'm very happy with the one that both parties like. I can live with either one.

Questions remain about whether Trump's statement signals a major departure from past U.S. policy, or whether his focus on leaving options open is more a tactical change than a substantive one. Ambassador Nikki Haley, the U.S. Permanent Representative to the United Nations, was quoted as saying on February 16 that the United States still supports a two-state solution, but that the President is looking for "thinking outside the box."⁹ When the President was asked in a late February interview whether he had backed away from a two-state solution, he said, "No, I like the two-state solution. But I ultimately like what [both] parties like." He added that a two-state solution has not worked to this point.¹⁰

Two-State Solution: Selected Past Developments

November 1947 – U.N. General Assembly adopts Resolution 181 (also known as the U.N. Partition Plan) recommending the establishment of both a Jewish and an Arab state after the withdrawal of the British from Palestine.

1949-1950 – Armistice agreements and other international developments following first Arab-Israeli War leave Israel in control of present-day Israel and West Jerusalem, Jordan in control of the West Bank (including East Jerusalem), and Egypt in control of the Gaza Strip.

June 1967 – Israel gains control of West Bank and Gaza Strip in "six-day" Arab-Israeli War.

November 1967 – U.N. Security Council adopts Resolution 242, which sets forth land-for-peace formula that has been the basis for subsequent Arab-Israeli peace efforts.

September 1978 – Israel and Egypt sign Camp David Accords (brokered and witnessed by the United States). In addition to anticipating a peace treaty between Israel and Egypt (signed in 1979), the Accords contemplate a transitional arrangement for self-governance in the West Bank and Gaza pending negotiations between Israel, Egypt, Jordan, and Palestinian representatives on the territories' final status.

April 1987 – Secret London meeting between Israeli Foreign Minister Shimon Peres and Jordanian King Hussein contemplates a possible resolution of the Arab-Israeli conflict with Jordan representing Palestinian interests. Peres is unable to obtain Israeli cabinet approval of the arrangement. King Hussein relinquishes Jordanian claims to the West Bank in 1988.

Late 1988 – Palestine Liberation Organization (PLO) Chairman Yasser Arafat makes various statements appearing to contemplate the establishment of a Palestinian state alongside Israel.

September 1993 – The Israel-PLO Declaration of Principles (Oslo Accord)—signed in Washington, DC—anticipates a transitional Palestinian limited self-rule arrangement (subsequently established as the Palestinian Authority) in the West Bank and Gaza pending final-status negotiations. In an exchange of letters, the PLO expresses its recognition of Israel's right to exist.

January 2001 – Late in his Administration, President Clinton says, "I think there can be no genuine resolution to the conflict without a sovereign, viable, Palestinian state that accommodates Israelis' security requirements and the demographic realities."

June 2002 – President Bush says, "My vision is two states, living side by side in peace and security."

June 2009 – Prime Minister Netanyahu says that if Israel receives an acceptable "guarantee regarding demilitarization and Israel's security needs, and if the Palestinians recognize Israel as the state of the Jewish people, then we will be ready in a future peace agreement to reach a solution where a demilitarized Palestinian state exists alongside the Jewish state." In the final days of the March 2015 Israeli electoral campaign, Netanyahu says that a Palestinian state will not be established under his watch, but after the elections he asserts that he still supports a two-state solution.

⁹ Kambiz Foroohar, "Trump Team Sows Confusion on Two-State Solution for Mideast," Bloomberg, February 16, 2017

¹⁰ Steve Holland, "Exclusive: Trump likes two-state solution, but says he will leave it up to Israelis, Palestinians," Reuters, February 23, 2016.

The larger U.S. policy context could affect various observers' views on whether the Trump Administration's statements signal a change in position on a two-state solution, and how influential any such change might be. The Administration has appeared less critical than the Obama Administration of the Israeli government's actions on settlements, and more sympathetic to its overall narrative.¹¹ Moreover, relevant actors may anticipate less robust U.S. political engagement in the region than in past decades.¹² Saeb Erekat, chief negotiator for the Palestine Liberation Organization (PLO), called for "concrete measures" to save the two-state solution shortly after the press conference,¹³ while countries such as Egypt, Jordan, the United Kingdom, and France have reemphasized their longtime support for two states.¹⁴

At the White House press conference, Netanyahu voiced support for an effort to involve "newfound Arab partners in the pursuit of a broader peace with the Palestinians" that Israel had previously proposed and that the Administration is reportedly exploring.¹⁵ In 2016, then Secretary of State John Kerry reportedly made some initial efforts aimed at securing Israeli, Palestinian, and Arab state participation in a regional peace initiative.¹⁶ Nevertheless, it is unclear whether Arab states would be willing and able to facilitate a conflict-ending resolution between the two parties.¹⁷

At the press conference, Netanyahu insisted on two "prerequisites for peace": (1) Palestinian recognition of Israel as a Jewish state,¹⁸ and (2) an indefinite Israeli security presence in the Jordan Valley area of the West Bank. Given Netanyahu's conditions, Senate Foreign Relations Committee Chairman Bob Corker inquired during the February 16 nomination hearing for Ambassador-designate Friedman as to whether policymakers are "helping the situation by continually talking about a two-state solution when having a military presence in the West Bank ad infinitum forever by Israel is really something different than a two- state solution?"

In a poll taken in December 2016 and released in February 2017, 54.7% of Israelis (49.9% of Israeli Jews) and 44.3% of Palestinians indicated support for a two-state solution.¹⁹ The same poll posed the following question:

¹¹ See, e.g., Mazal Mualem, "Trump leaves Israelis, Palestinians to own fate," *Al-Monitor Israel Pulse*, February 17, 2017.

¹² See, e.g., Liz Sly, "Russia's new influence may limit Trump's scope in Middle East," *Washington Post*, January 22, 2017.

¹³ Ian Fisher, "Palestinians Dismayed at U.S. Shift on Policy," *New York Times*, February 16, 2017.

¹⁴ "Egypt and Jordan: Don't give up on two-state solution," JTA, February 21, 2017; Foroohar, *op. cit.*; Julian Borger, "US ambassador to UN contradicts Trump's position on two-state solution," *Guardian*, February 16, 2017.

¹⁵ Baker, "U.S. Won't Press a Two-State Path to Mideast Peace," *op. cit.*

¹⁶ Barak Ravid, "Exclusive-Kerry Offered Netanyahu Regional Peace Plan in Secret 2016 Summit With al-Sissi, King Abdullah," *Ha'aretz*, February 19, 2017.

¹⁷ Ben Caspit, "3 alternatives to two-state or one-state solution for Mideast peace," *Al-Monitor Israel Pulse*, February 20, 2017.

¹⁸ Although the Palestine Liberation Organization (PLO) explicitly recognized Israel's right to exist in 1993, PLO leaders have been reluctant to publicly accept that Israel is the "nation-state of the Jewish people" because of concerns that doing so could contribute to negative effects for the Arab citizens who make up approximately 20% of Israel's population, as well as undermine the claims of Palestinian refugees to a "right of return" to their original or ancestral homes in present-day Israel.

¹⁹ Poll taken December 8-10, 2016, by the Tami Steinmetz Center for Peace Research, Tel Aviv University, and the Palestinian Center for Policy and Survey Research, with a margin of error of 3%. Results available at http://www.pcpsr.org/sites/default/files/Table%20of%20Findings_English%20Joint%20Poll%20Dec%202016_12Feb2017.pdf. According to the poll, support among Israelis and Palestinians for specific parameters linked with a two-state solution fluctuates depending on the parameters.

Given the growing belief that the two-state solution is no longer viable, the idea of [a one-state-for-two-people] solution by which Palestinians and Jews will be citizens of the same state and enjoy equal rights is gaining some popularity. Do you support or oppose such a one-state solution?

In response to this question, 24.3% of Israelis (18.3% of Israeli Jews) and 36.2% of Palestinians indicated support.²⁰ Many Israelis express concern that a single-state arrangement would unacceptably compromise Israel's Jewish character.²¹

Settlements and Diplomatic Initiatives

Settlements Overview and U.S. Policy

Since 1967, hundreds of thousands of Israeli civilians have settled in territory that Israel has occupied militarily since that year's Arab-Israeli War. Approximately 371,000 Israelis live in West Bank settlements, with nearly 212,000 more in East Jerusalem.²² These residential communities are located in areas that Palestinians claim as part of their envisioned future state. Israelis who defend the settlements' legitimacy generally cite some combination of legal, historical, strategic, nationalistic, or religious justifications, although Israeli opinion varies about different types of settlements in different locations.²³

Since Israeli settlement construction began, it has attracted U.S. and international criticism. The international community generally considers Israeli construction on territory occupied in the 1967 war to be illegal.²⁴ For background on the issue and U.S. policy, see CRS Report RL33476, *Israel: Background and U.S. Relations*, by (name redacted)

An April 2004 letter from President George W. Bush to then Israeli Prime Minister Ariel Sharon explicitly acknowledged that "in light of new realities on the ground, including already existing major Israeli populations (sic) centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949." The letter came a few months after Sharon had introduced a disengagement plan whereby Israel contemplated withdrawing from or relocating settlements that "will not be included in the territory of the State of Israel in the framework of any possible future permanent agreement."²⁵

²⁰ Ibid.

²¹ See, e.g., Holland, op. cit.

²² CIA World Factbook estimates as of 2014.

²³ For more information on the history of the settlements and their impact on Israeli society, see Naval Postgraduate School, *Religious Zionism and Israeli Settlement Policy*, 2014; Charles Selengut, *Our Promised Land: Faith and Militant Zionism in Israeli Settlements*, Rowman & Littlefield, 2015; Gershon Gorenberg, *The Accidental Empire: Israel and the Birth of the Settlements, 1967-1977*, New York: Times Books, 2006.

²⁴ The most-cited international law pertaining to Israeli settlements is the Fourth Geneva Convention, Part III, Section III, Article 49 *Relative to the Protection of Civilian Persons in Time of War*, August 12, 1949, which states in its last sentence, "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." Israel counters that the West Bank does not fall under the international law definition of "occupied territory," but is rather "disputed territory" because the previous occupying power (Jordan) did not have an internationally recognized claim to it. Israel claims that, given the demise of the Ottoman Empire at the end of World War I and the end of the British Mandate in 1948, no international actor has a superior legal claim.

²⁵ Israel Ministry of Foreign Affairs, Address by PM Ariel Sharon at the Fourth Herzliya Conference, December 18, 2003.

The Obama Administration sought relatively greater constraints on settlement activity than the Bush Administration.²⁶ Although President Obama backed off his initial proposal to completely freeze settlement activity within a few months, some U.S.-Israel tension on the issue continued throughout most of his presidency. In July 2016, the United States and other members of the international Quartet²⁷ (European Union, Russia, the U.N. Secretary-General) released a report saying, among other things, that the “continuing policy of settlement construction and expansion, designation of land for exclusive Israeli use, and denial of Palestinian development is steadily eroding the viability of the two-state solution.”²⁸ In September 2016, Quartet representatives released a statement reiterating their opposition to settlement construction and expansion, and further specifying concerns with regard to “the retroactive ‘legalization’ of existing units.”²⁹

Amid anticipation that the Trump Administration would be less critical of official Israeli actions and statements on settlements and other Palestinian-related issues, Israeli officials continued announcing settlement plans or construction-related activities during the last months of the Obama Administration.

To date, the Trump Administration has been less critical than the Obama Administration of Israeli settlement-related announcements and construction activity. However, in February 2017, after settlement-related announcements in connection with more than 5,000 housing units and Netanyahu’s announcement of the possible construction of a new settlement as a compensatory measure for the early February evacuation of a West Bank outpost known as Amona, the White House Press Secretary released a statement with the following passage:

While we don’t believe the existence of settlements is an impediment to peace, the construction of new settlements or the expansion of existing settlements beyond their current borders may not be helpful in achieving that goal. As the President has expressed many times, he hopes to achieve peace throughout the Middle East region.³⁰

Also, at his February 15 White House press conference with Netanyahu, President Trump told Netanyahu that he wanted to see Israel “hold back on settlements for a little bit.”

Domestic Israeli Developments

In the context of the U.S. presidential transition, right-of-center Israeli figures appear to be more assertive in their efforts to consolidate Israeli claims to key areas of the West Bank.³¹ For

²⁶ U.S. and Israeli leaders publicly differed on whether Obama’s expectations of Israel contradicted statements that the George W. Bush Administration had made. Some Israeli officials and former Bush Administration officials said that the United States and Israel had reached an unwritten understanding that “Israel could add homes in settlements it expected to keep [once a final resolution with the Palestinians was reached], as long as the construction was dictated by market demand, not subsidies.” Glenn Kessler and Howard Schneider, “U.S. Presses Israel to End Expansion,” *Washington Post*, May 24, 2009. This article quotes former Bush Administration deputy national security advisor Elliott Abrams as saying that the United States and Israel reached “something of an understanding.” The accounts of former Bush Administration officials diverge in their characterization of U.S.-Israel talks on the subject, but the Obama Administration insisted that if understandings ever existed, it was not bound by them. Ethan Bronner, “Israelis Say Bush Agreed to West Bank Growth,” *New York Times*, June 3, 2009.

²⁷ The Quartet formed in 2002 as an effort by the members to pool their efforts in mitigating conflict and promoting the peace process.

²⁸ The report, dated July 1, 2016, is available at <http://www.state.gov/p/nea/rls/rpt/259262.htm>. It also lamented terrorist attacks against civilians and Palestinian incitement to violence.

²⁹ The statement is available at <http://www.state.gov/r/pa/prs/ps/2016/09/262344.htm>.

³⁰ White House Office of the Press Secretary, Statement by the Press Secretary, February 2, 2017.

³¹ “Unsettled: Mr Netanyahu, Mr Trump and the settlers,” *Economist*, January 28, 2017.

example, Naftali Bennett (a Netanyahu coalition partner with extensive settler support) supports an initiative that would reportedly see the settlement of Ma'ale Adumim (approximate population: 40,000) just east of Jerusalem “annexed as a first step toward applying Israeli law and ending military rule” over the 60% of the West Bank that is under Israeli control.³² In light of many Israelis’ regard for their country’s international political and economic profile, Netanyahu has countered calls for bold unilateral moves by saying, “This is no time for off-the-cuff decisions or political dictations, and this is no time for surprises. This is the time for considered, responsible diplomacy among friends.”³³

Netanyahu supported the advancement of legislation in the Knesset known as the Regulation Law, but the timing of its passage in early February reportedly ran counter to Netanyahu’s preferences.³⁴ The law is expected by many observers to be overturned by Israel’s Supreme Court.³⁵ Pending judicial action, the law authorizes the Israeli government to expropriate private Palestinian property in order to provide a basis for the legality (under Israeli law) of perhaps more than half of the approximately 100 settlement outposts in existence.³⁶

According to an Israeli journalist, Israel’s government plans to actively seek the Trump Administration’s acknowledgment of Israel’s future sovereignty in “settlement blocs”³⁷—areas anticipated by Israeli leaders to be within the boundaries of Israel if the issue of borders is eventually finalized with the Palestinians via negotiations. However, hundreds of the housing units included in the early 2017 approvals mentioned above are in the West Bank settlement of Ariel, whose status as part of a bloc is disputed by Palestinians who assert that its inclusion would unfairly infringe upon Palestinians’ territorial contiguity and claims to water rights.³⁸ At least a few of the approved units are for a settlement well outside the blocs identified by Israel.³⁹

³² Ilan Evyatar, “Hemmed in from All Sides,” *Jerusalem Report*, January 23, 2017.

³³ Isabel Kershner, “A Bolder Israel Plans to Expand Its Settlements,” *New York Times*, January 25, 2017.

³⁴ “Netanyahu asks to delay settlements bill vote so he can coordinate with US,” *Times of Israel*, February 5, 2017.

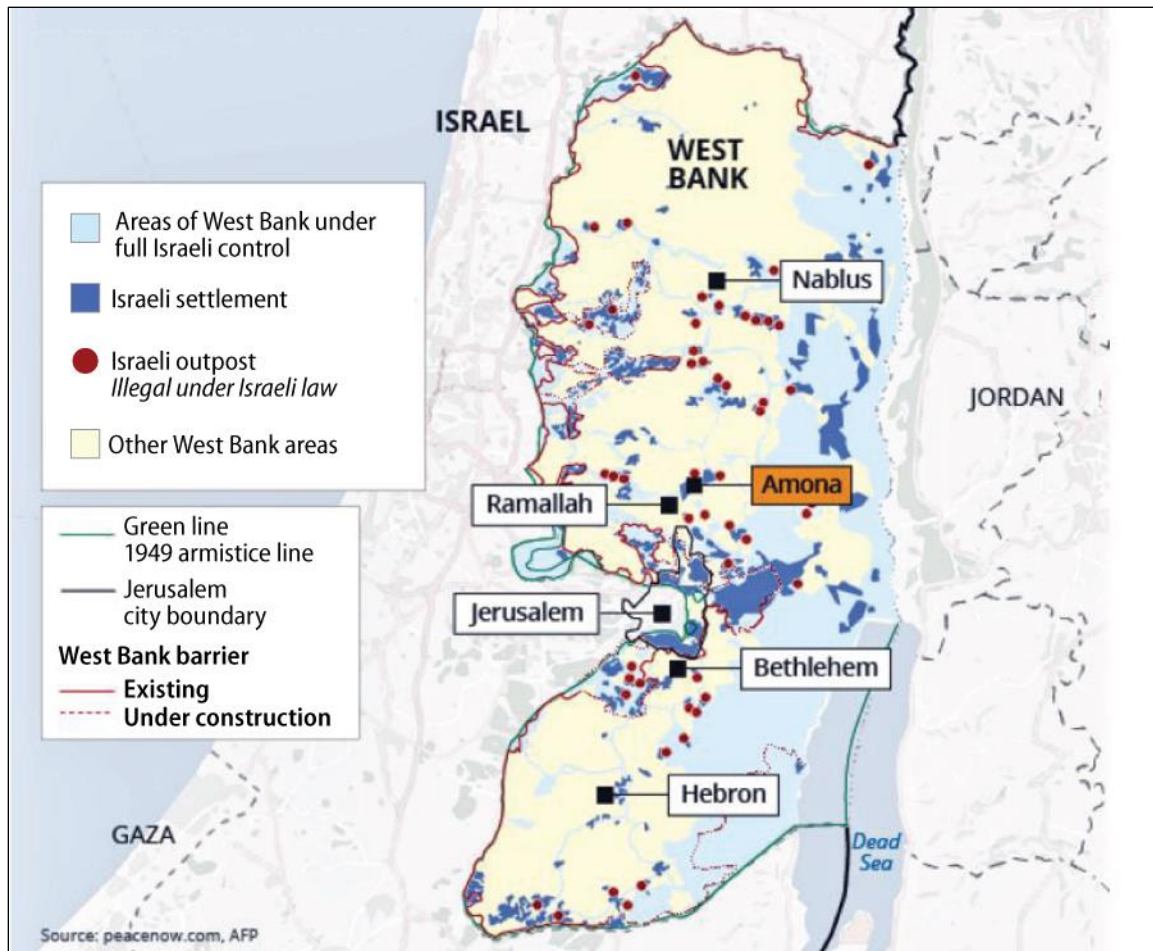
³⁵ Ian Fisher, “Israel Passes Provocative Legislation to Retroactively Legalize Settlements,” *New York Times*, February 7, 2017.

³⁶ Joe Dyke, “Clashes as Israel evicts wildcat settlers,” Agence France Presse, February 1, 2017.

³⁷ Uri Savir, “Who will have upper hand in Trump’s Mideast policy?” *Al-Monitor Israel Pulse*, January 29, 2017.

³⁸ Kershner, *op. cit.*

³⁹ *Ibid.*

Figure 2. Israeli Settlements in the West Bank

Sources: Middle East Eye, 2016, with some modifications to the legend by CRS.

Notes: All areas are approximate.

UNSCR 2334 and Past U.N. Security Council Activity

On December 23, 2016, the U.N. Security Council adopted Resolution 2334 by a vote of 14 in favor, zero against, and one abstention by the United States. The resolution, among other things:

- Reaffirms that settlements established by Israel in “Palestinian territory occupied since 1967, including East Jerusalem,” constitute “a flagrant violation under international law” and a “major obstacle” to a two-state solution and a “just, lasting and comprehensive peace.”
- Reiterates the Council’s demand that Israel “immediately and completely cease all settlement activities.”
- Underlines that the Council will not recognize changes to 1949-1967 armistice lines demarcating the West Bank other than those agreed by the parties through negotiations.
- Calls upon all states to “distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967.”

- Calls for immediate steps to prevent acts of violence against civilians and to clearly condemn all acts of terrorism.
- Calls upon both parties to act on the basis of international law and their previous agreements and obligations, and to “refrain from provocative actions, incitement and inflammatory rhetoric.”
- Urges the intensification and acceleration of international and regional diplomatic efforts and support aimed at achieving without delay a “comprehensive, just and lasting peace in the Middle East.”

In February 2011, the Obama Administration had vetoed a draft U.N. Security Council resolution (UNSCR)—approved by all 14 other members of the Security Council—that also would have characterized Israeli settlements in the West Bank and East Jerusalem as illegal, and demanded cessation of settlement activities. The 2011 draft UNSCR did not contain language similar to UNSCR 2334 condemning terrorism and calling for actors to prevent violence and refrain from incitement.⁴⁰ Susan Rice, then-U.S. Permanent Representative to the United Nations, clarified that despite its veto, the Obama Administration opposed settlement construction as illegitimate and at cross-purposes with peace efforts.⁴¹

Over the course of several decades and Administrations, U.S. decisions to support, abstain from, or veto draft UNSCRs relating to Israeli-Palestinian issues have varied. In 1980, UNSCR 465, which was adopted unanimously, determined that Israel’s practices of settling parts of its population in territories occupied since 1967 constituted a “flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War.” Some subsequent UNSCRs that were adopted featured language appearing to criticize settlements.⁴² As with the Obama Administration’s February 2011 veto, some other Administrations have vetoed draft UNSCRs relating to Israeli-Palestinian issues, including 1983 and 1997 draft UNSCRs relating specifically to settlements.⁴³

Various observers and policymakers have debated the impact of UNSCR 2334. One media report characterized UNSCR 2334 as “largely symbolic” because it did not include specific references to sanctions or other punitive measures against Israel.⁴⁴ On January 5, 2017, the House passed H.Res. 11, which objected to UNSCR 2334 and the Obama Administration’s abstention, by a 340-80 vote (with four voting “present”). A Senate resolution objecting to UNSCR 2334 (S.Res. 6) has been introduced in the Senate, and was co-sponsored by 78 Senators as of February 24, 2017. On September 20, 2016, 88 Senators had signed a letter to Obama urging him to “make it clear that you will veto any one-sided UNSC resolution that may be offered in the coming months ... whether focused on settlements or other final-status issues.”⁴⁵ In April 2016, 394 Representatives had signed a similar letter to President Obama.⁴⁶

⁴⁰ For an analysis, which indicates that the violence and incitement references in UNSCR 2334 may have contributed to perceptions among U.S. officials and others that UNSCR 2334 was less unfavorable to Israel than the 2011 draft UNSCR, see Michal Hatuel Radoshitzky, “Analysis: Four factors that paved the way for UN vote on settlements,” *jpost.com*, December 27, 2016.

⁴¹ “United States vetoes Security Council resolution on Israeli settlements,” UN News Centre, February 18, 2011.

⁴² See, e.g., <https://peacenow.org/WP/wp-content/uploads/US-Israel-UNSCRs-1967-present.pdf>.

⁴³ Jewish Virtual Library, U.N. Security Council: U.S. Vetoes of Resolutions Critical to Israel.

⁴⁴ Josef Federman, “Israel’s Humbled Benjamin Netanyahu Places Hopes in Donald Trump,” Associated Press, December 25, 2016.

⁴⁵ The text of the letter is available at [https://www.gillibrand.senate.gov/newsroom/press/release/senators-gillibrand-and-rounds-lead-bipartisan-initiative-urging-president-obama-to-reject-and-if-needed-veto-any-one-sided-resolutions-\(continued...\)](https://www.gillibrand.senate.gov/newsroom/press/release/senators-gillibrand-and-rounds-lead-bipartisan-initiative-urging-president-obama-to-reject-and-if-needed-veto-any-one-sided-resolutions-(continued...))

Following the adoption of UNSCR 2334, then Secretary of State John Kerry gave a speech to explain the U.S. abstention and to set forth guidance on borders, the two-state principle, Palestinian refugees, Jerusalem, security, and end-of-conflict as a possible basis for future Israeli-Palestinian negotiations.⁴⁷

Trump, as President-elect, publicly advocated a U.S. veto of UNSCR 2344 before the vote,⁴⁸ and indicated after the vote and the Kerry speech that his approach to Israeli-Palestinian issues would be different.⁴⁹ Prime Minister Netanyahu vehemently denounced the resolution.

U.S. Embassy Move to Jerusalem?

Background

Successive U.S. Administrations of both political parties since 1948 have maintained that the fate of Jerusalem is to be decided by negotiations and have discouraged the parties from taking actions that could prejudice the final outcome of those negotiations. The Palestinians envisage East Jerusalem as the capital of their future state. However, the House of Representatives passed H.Con.Res. 60 in June 1997, and the Senate passed S.Con.Res. 21 in May 1997. Both resolutions called on the Clinton Administration to affirm that Jerusalem must remain the undivided capital of Israel.

A related issue is the possible relocation of the U.S. embassy from Tel Aviv to Jerusalem. Proponents argue that Israel is the only country where a U.S. embassy is not in the capital identified by the host country, that Israel's claim to West Jerusalem—where an embassy may be located—is unquestioned, and/or that Palestinians must be disabused of their hope for a capital in Jerusalem. Opponents say such a move would undermine prospects for Israeli-Palestinian peace and U.S. credibility with Palestinians and in the Muslim world, and could prejudice the final status of the city. The Jerusalem Embassy Act of 1995 (P.L. 104-45) provided for the embassy's relocation by May 31, 1999, but granted the President authority, in the national security interest, to suspend limitations on State Department expenditures that would be imposed if the embassy did not open. Presidents Clinton, Bush, and Obama consistently suspended these spending limitations, and the embassy has remained in Tel Aviv. President Obama issued the most recent six-month suspension of limitations on December 1, 2016.⁵⁰

Over successive Congresses, various Members have periodically introduced substantially similar versions of a Jerusalem Embassy and Recognition Act or thematically related bills or resolutions. Such legislative initiatives seek the embassy's relocation and would remove or advocate the removal of the President's authority to suspend the State Department expenditure limitations cited above. New versions (S. 11, H.R. 257, and H.R. 265) were introduced in January 2017.

(...continued)

at-the-united-nations.

⁴⁶ Its text is available at http://kaygranger.house.gov/sites/granger.house.gov/files/Letter%20to%20President%20Obama%20supporting%20direct%20negotiations%20%E2%80%93signed%20by%20394%20Members%20of%20Congress_1.pdf.

⁴⁷ State Department transcript of Kerry's remarks, Washington, DC, December 28, 2016.

⁴⁸ Peter Baker, "President-Elect Moves to Shape Mideast Policy," *New York Times*, December 23, 2016.

⁴⁹ "Trump after Kerry speech: Israel treated 'very, very unfairly,'" *Jewish Telegraphic Agency*, December 30, 2016.

⁵⁰ <https://www.whitehouse.gov/the-press-office/2016/12/01/presidential-determination-suspension-limitations-under-jerusalem>.

Prospective Trump Administration Action and Potential Reaction

As a candidate, Donald Trump—like Bill Clinton and George W. Bush when they were presidential candidates—pledged to move the embassy to Jerusalem. After the election a number of Trump’s top aides reportedly stated that Trump intended to follow through on the pledge,⁵¹ and Trump himself said in response to a question on the subject shortly before his inauguration that he does not break promises.⁵² However, shortly after his inauguration, President Trump said it was too early to discuss a move.⁵³ Prime Minister Netanyahu has voiced support for the relocation of the U.S. embassy and all other countries’ embassies to Jerusalem, but has not made specific, time-based demands.⁵⁴ At his February 15 press conference with Netanyahu, the President said, “As far as the embassy moving to Jerusalem, I’d love to see that happen. We’re looking at it very, very strongly. We’re looking at it with great care.”

Some observers claim that moving the U.S. embassy could lead to a number of negative consequences. Before leaving office, former Secretary Kerry predicted that such a move could lead to an “explosion” in the region, and Israeli authorities reportedly have contemplated scenarios involving possible violent responses by Palestinians.⁵⁵ The PLO’s chief negotiator has threatened to reverse the recognition it has accorded Israel to date.⁵⁶ An opponent of the move has argued that it would be “in direct violation” of the 1993 Declaration of Principles (also known as the Oslo Accord).⁵⁷ Some observers appear to base their stated concerns about an embassy move not on an imminent expectation of security problems or dramatic diplomatic backlash, but on the possibility that a move could undermine promising opportunities for Israel to work with Arab states.⁵⁸

However, proponents of a move downplay such concerns. One proponent has asserted that widespread de facto acceptance of West Jerusalem as part of Israel means that relocating the embassy to Jerusalem would not prejudice the U.S. stance on the city’s ultimate status, including that of the Old City and the holy sites.⁵⁹ Another proponent has stated that an embassy move could change the atmosphere in such a way that a resumption of peace talks becomes more likely.⁶⁰ A former senior U.S. official on Israeli-Palestinian issues wrote in January 2017 that coupling an embassy move with a larger diplomatic initiative regarding Jerusalem’s status could possibly aid the peace process, under certain circumstances.⁶¹

⁵¹ Daniel Estrin, “Trump Favors Moving U.S. Embassy to Jerusalem, Despite Backlash Fears,” NPR, November 15, 2016.

⁵² Ian Fisher, “Netanyahu Says U.S. Should Move Its Embassy,” *New York Times*, January 30, 2017.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Barak Ravid, “Netanyahu Briefed on Scenarios of Violence Should Trump Move Embassy to Jerusalem,” *haaretz.com*, January 21, 2017.

⁵⁶ Eli Lake, “Israel Needs Its Arab Friends More Than U.S. Embassy Move,” *Bloomberg*, December 21, 2016.

⁵⁷ Danny Seidemann, “Moving the U.S. Embassy in Israel to Jerusalem: A Hard Look at the Arguments and Implications,” *Insiders’ Jerusalem*, January 3, 2017. See Article V, Section 3 of the Oslo Accord, which states that permanent status negotiations “shall cover remaining issues, including: Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbors, and other issues of common interest.” <http://www.mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/Declaration%20of%20Principles.aspx>. Israel and the PLO were the two parties to the Oslo Accord. The United States and Russia both witnessed the document.

⁵⁸ Lake, *op. cit.*

⁵⁹ Amiad Cohen, “Please, America, Move Your Embassy to Jerusalem,” *nytimes.com*, December 27, 2016.

⁶⁰ “Moving the US embassy to Jerusalem,” *Economist*, December 24, 2016.

⁶¹ Martin Indyk, “The Jerusalem-first option,” *New York Times*, January 6, 2017.

Jordan and Jerusalem

Perhaps more than any other Arab state, Jordan has a significant stake in any development affecting the status of Jerusalem. Jordan and its king, Abdullah II, maintain a custodial role—recognized by Israel and the Palestinians—over the Old City’s Temple Mount/Haram al Sharif and its holy sites. This area is the third-holiest in Islam (after Mecca and Medina in Saudi Arabia). Also, Palestinians make up a large portion (probably a majority) of Jordan’s population, so any situation involving possible discontent or unrest among Palestinians has the potential to affect Jordan.⁶²

In January 2017, a Jordanian government spokesperson warned that a U.S. embassy move to Jerusalem would cross a “red line” and would “have catastrophic implications on several levels,” indicating that it could bolster extremism in the region and would affect Israel’s relations with Jordan and probably with other Arab states.⁶³ It is unclear how such a development would affect U.S.-Jordan relations, including the two countries’ close military and intelligence cooperation, such as against the Islamic State (also known as ISIS, ISIL, or by the Arabic acronym *Da’esh*). During a late January 2017 visit to Washington, DC, King Abdullah met with President Trump and reportedly spoke about the possible embassy move in a meeting with Vice President Mike Pence.⁶⁴ In a meeting with congressional leaders, the king “warned that moving the US embassy to Jerusalem will have regional consequences that will diminish the opportunity for peace and reaching the two-state solution.”⁶⁵

Media sources and other observers have speculated about how the incoming Administration might logistically handle an embassy move. They have discussed the use of sites owned or leased by the U.S. government as possible venues for an embassy in Jerusalem.⁶⁶ They have also raised the possibility of Trump designating the existing U.S. Consulate General in Jerusalem (which currently only deals with Palestinians in the West Bank, East Jerusalem, and Gaza) as an embassy or an embassy annex.⁶⁷ If the Senate confirms Friedman’s nomination as ambassador, some sources have speculated that another way the Administration could claim to follow through on Trump’s campaign pledge could be for Friedman to conduct official business in Jerusalem, where he owns a residence.⁶⁸

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⁶² Josh Lederman, “Trump courts Jordan’s king amid embassy, refugee concerns,” Associated Press, January 30, 2017.

⁶³ Jack Moore, “Jordan Tells Trump: Moving U.S. Embassy to Jerusalem a ‘Red Line,’” *Newsweek*, January 6, 2017.

⁶⁴ Lederman, op. cit.

⁶⁵ Jordanian Royal Hashemite Court website, King meets members, committees of US Congress, January 31, 2017.

⁶⁶ Raphael Ahren, “Jerusalem of Trump: Where the president-elect might put the US embassy,” *Times of Israel*, December 13, 2016; Tamar Pileggi, “Trump’s team already exploring logistics of moving embassy to Jerusalem — report,” *Times of Israel*, December 12, 2016.

⁶⁷ Efraim Cohen, “How Trump Could Make Quick Move to Jerusalem for U.S. Israel Embassy,” *New York Sun*, December 13, 2016.

⁶⁸ See, e.g., Julie Hirschfeld Davis, “Trump Speaks With Netanyahu, Seeking to Thaw U.S. Relations,” *New York Times*, January 23, 2017.

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