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Durban II: The Administration Moves in the Right Direction

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The Bush Administration has justifiably expressed its opposition to the 2009 Durban Review Conference, commonly referred to as Durban II. Durban II is the follow-up to the disastrous 2001 United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The 2001 conference, held in Durban, South Africa, fell victim to nations and non-governmental organizations (NGOs) that hijacked it to criticize Israel and the United States. After unsuccessfully trying to counter those efforts, the U.S. delegation walked out of the 2001 conference.

Durban II is following in the footsteps of the 2001 conference. Recent clarifications of U.S. policy and the decision to withhold funding from the U.N. Human Rights Council (HRC) and from the HRC-administered preparatory process for Durban II are warranted and a welcome reinforcement of the Administration's policy of opposing a repeat of the 2001 U.N. conference.

The Durban I Agenda. The 2001 United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance started as a seemingly well-intentioned effort to focus the international community on fighting racism. However, it was quickly derailed as those intent on condemning Israel and America managed to dominate the agenda, the drafting of documents, and the events surrounding the conference. Pre-conference drafts condemned Israel for allegedly pursuing a racist Zionist agenda and committing crimes against humanity. NGOs exerted enormous

pressure on the conferees to criticize the U.S. for a litany of perceived crimes, including widespread racism, a foreign policy that was "responsible for racial oppression around the world," denial of economic "rights," and refusal to adopt U.N. treaties without reservations.¹

Efforts to resolve these disputes before and during the conference were largely unsuccessful. In the end, the 2001 Durban conference degenerated into a noxious series of speeches and statements dominated by anti-Semitism and anti-Americanism. When it became obvious that the conference would not be a useful venue for combating racism, discrimination, xenophobia, or intolerance, the U.S. and Israeli delegations walked out.²

The Problems with Durban II. Despite the black mark left by its predecessor, the U.N. is busy setting the stage for Durban II in 2009. In its 61st session, the U.N. General Assembly passed a resolution calling for a "Durban Review Conference" to be funded through the U.N. regular budget, of which the U.S. is expected to pay 22 percent. The resolution passed despite the concerns expressed by Australia, Canada, Israel, members of the European Union, the U.S., and other prominent member states.³

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There are numerous troubling signs that the review conference will be a repeat of 2001, including:

- **Oversight by the gravely disappointing U.N. Human Rights Council (HRC).** The General Assembly placed responsibility for organizing Durban II with the HRC. The council has been a grave disappointment in fulfilling its role as the premier U.N. human rights body. Since its creation in 2006 to replace the discredited U.N. Commission on Human Rights, the Human Rights Council has failed to address ongoing repression in Belarus, China, Cuba, North Korea, Zimbabwe, and many other places around the world.

This is hardly surprising, since the members of the Human Rights Council include Cuba, China, Russia, Saudi Arabia, and other noted human rights abusers. These countries use their influence to undermine efforts by the council to carry out its mandate. While the council has passed relatively mild condemnations of Sudan and Burma, it has saved its strongest criticism for Israel, condemning it in 19 separate decisions and resolutions.⁴

- **Organization by repressive and anti-Semitic governments.** The HRC decided that it will act as the Preparatory Committee for Durban II, with Libya as chair, electing 19 other countries to serve on the bureau for the Preparatory Committee that will set the agenda and objectives for

the Review Conference. Among the 19 vice-chairs are Cuba, Iran, Pakistan, Russia, and South Africa, none of which has distinguished itself as a champion of equality or human rights during its tenure on the HRC.

Libya and Iran are particularly ill-suited to overseeing preparations for Durban II. Both countries are strong supporters of the Organization of the Islamic Conference (OIC), which has historically been hostile to Israel. Libya is also a member of the League of Arab States, whose Arab Charter on Human Rights calls for the elimination of “Zionism,” and Iranian President Mahmoud Ahmadinejad has infamously stated that Israel “must be wiped off the map” and that “Zionists are the true manifestation of Satan.”⁵

Moreover, the 2001 Durban Declaration contains positions and provisions with which the U.S. strongly disagrees. Since the stated purpose of Durban II is to further the implementation of the Durban Declaration, it makes little sense for the U.S. to participate in a process that would expand on an outcome that is incompatible with American interests.

American Opposition to Durban II. The U.S. has expressed its concerns explicitly and has adopted a policy of voting against proposals for a follow-up to the Durban conference, forgoing participation in the preparatory meetings, and voting against the U.N. budget that included funding for

1. For a narrative, see John Fonte, “Durban vs. America: NGOs Take on Racism, Poverty, and the First Amendment,” Hudson Institute, August 21, 2001, at www.hudson.org/index.cfm?fuseaction=publication_details&id=961; John Fonte, “Boycott Durban,” Hudson Institute, August 31, 2001, at www.hudson.org/index.cfm?fuseaction=publication_details&id=968; and Tom Lantos, “The Durban Debacle: An Insider’s View of the UN World Conference Against Racism,” Tufts University, Fletcher School of Law and Diplomacy, *Fletcher Forum of World Affairs*, Vol. 26, No. 1 (Winter/Spring 2002), at <http://fletcher.tufts.edu/forum/archives/pdfs/26-1pdfs/Lantos9.pdf>.
2. Secretary of State Colin L. Powell, “World Conference Against Racism,” U.S. Department of State, September 3, 2001, at www.state.gov/secretary/former/powell/remarks/2001/4789.htm.
3. United Nations Department of Public Information, “General Assembly Adopts 46 Third Committee Texts on Human Rights Issues, Refugees, Self-Determination, Racism, Social Development,” General Assembly Document GA/10562, December 19, 2006, at www.un.org/News/Press/docs/2006/ga10562.doc.htm; United Nations, “Official Records,” General Assembly Document A/61/PV.81, 81st Plenary Meeting, December 19, 2006, at <http://daccessdds.un.org/doc/UNDOC/GEN/N06/669/66/PDF/N0666966.pdf>.
4. See UN Watch, “Anti-Israel Resolutions at the HRC,” at <http://www.unwatch.org/site/c.bdKKISNqEmG/b.3820041>, and Eye on the UN, “Human Rights Action,” at <http://www.eyeontheun.org/browse-un.asp?ya=1&ua=1&sa=1&tpa=1>.
5. Mahmoud Ahmadinejad, speech at “The World Without Zionism” Conference, Tehran, October 26, 2005, at www.nytimes.com/2005/10/30/weekinreview/30iran.html, and “Ahmadinejad in Sudan: ‘Zionists Are the True Manifestation of Satan,’” Haaretz, March 1, 2007, at www.haaretz.com/hasen/spages/832229.html.

Durban II. The U.S. also announced its intention to boycott Durban II if it looks as if it will be a repeat of the 2001 conference.⁶

Recent State Department statements, however, have clarified the U.S. position and announced the decision to withhold the U.S. portion of the \$6.8 million expected costs for Durban II as well as that portion of its U.N. regular budget assessment that would go to fund the HRC. This decision was first announced by Assistant Secretary of State for International Organization Affairs Kristin Silverberg during her April 2, 2008, testimony before the Subcommittee on International Organizations, Human Rights, and Oversight of the House Committee on Foreign Affairs. Shortly thereafter, U.S. Permanent Representative to the United Nations Zalmay Khalilzad offered more clarity when he said:

The U.S. voted against [resolutions to convene Durban II] because we do not believe there will be a meaningful review of any of the problematic aspects of the original Durban Conference, and that therefore the expenditure of any UN funds on preparatory meetings or the “review” conference itself would be a colossal and irresponsible waste of such funds.

In fact, in December 2007, the U.S. voted against the entire UN budget in part because of our staunch opposition to the inclusion of funding for Durban II....

We will not participate [in Durban II] unless it is proven that the conference will not be used as a platform for anti-Semitic behavior....

Because of our concerns, the United States will withhold a portion of its 2008 funding for the United Nations—specifically, an amount equivalent to the U.S. share of the Human Rights Council budget, including amounts that would pay for the HRC-administered preparatory process for a Durban II conference tentatively scheduled for 2009.⁷

While this sentiment may be identical to earlier U.S. statements, Ambassador Khalilzad expressed the policy in clearer, stronger language. Using the word “proven” establishes a higher bar than that used in previous statements, which indicated that the decision to participate would be based on whether the U.S. was “confident” that Durban II would not be a repeat of Durban I. Although the difference is slight, diplomacy is based on language, and this formulation shifts the onus of participation from a U.S. judgment call to one based on clear evidence provided by the conference organizers to the U.S. that Durban II will not be a repeat of Durban I.

Khalilzad’s statement also provides a more specific metric for determining participation: namely, that “that the conference will not be used as a platform for anti-Semitic behavior.” Previous statements indicated that the U.S. decision will be based on whether the U.S. concludes that Durban II would “avoid the problems of Durban I” without stating the specific problems. Considering that the agenda will be set in part by Iran and Libya and that the same NGOs that distorted the 2001 conference will again participate, it is hard to see what proof could be provided that Durban II will not be used as a platform for anti-Semitic behavior.

The most desirable aspect of these recent statements, however, is the decision to withhold the U.S. portion of the U.N. regular budget that funds the Human Rights Council and the funds for the preparatory process for a Durban II conference. Congress prohibited funding for the U.N. Human Rights Council in the Consolidated Appropriations Act of 2008 (P.L. 110-161) but had included a waiver that would have permitted the Administration to provide funds to the HRC.⁸ Rightly, the Administration decided not to exercise that waiver based on the council’s ineffectiveness in promoting fundamental human rights and extreme bias in criticizing Israel. This decision also will withhold the funds that

6. For more information, see Brett D. Schaefer, “The U.S. Should Boycott the U.N.’s Durban II Conference on Racism,” Heritage Foundation *Backgrounder* No. 2112, March 6, 2008, at www.heritage.org/Research/InternationalOrganizations/bg2112.cfm#_ftn7.
7. U.S. Permanent Representative to the United Nations Zalmay Khalilzad, Statement on the Durban II Conference and the Human Rights Council to the Conference of Presidents of Major Jewish Organizations, April 8, 2008, at http://www.usunnewyork.usmission.gov/press_releases/20080408_075.html.

would pay for the Durban II preparatory process administered by the HRC.

Historically, the only proven way to get the U.N. and the other member states to take U.S. objections seriously is to withhold funds. Simply voicing displeasure over U.N. actions or activities makes a minimal impression on the organization, and diplomacy has a limited impact on U.N. budgetary matters. For instance, the U.S. repeatedly objected to including funds for Durban II in the 2008/2009 U.N. regular budget. Eventually the U.S. voted no on the budget, based in significant part on the inclusion of funds for Durban II.⁹ The other member states applauded following the approval of the U.N. budget over the objections of the U.S. This left little option for the U.S. if it wished to prevent taxpayer dollars from supporting Durban II.

While withholding the proportional U.S. share of the HRC budget and Durban II would have little direct effect on those activities because the withholding would be spread across all U.N. activities funded through the regular budget, it would clearly signal U.S. displeasure and be the only practical means for trying to prevent U.S. taxpayer funds from supporting the dysfunctional HRC and the pending disaster of Durban II. To make sure that this policy has the broadest effect, however, the U.S. should clarify that it opposes the use of any U.S. funds to support the conference.

Conclusion. Canada and Israel have announced that they will boycott Durban II because they have determined that it will be a repeat of 2001. The U.S. has also expressed its concern that Durban II will devolve into yet another platform for anti-Israel and anti-America rhetoric.

To its credit, the Bush Administration has steadfastly refused to attend preparatory meetings on Durban II and has voted against U.N. resolutions supporting the conference. However, statements by Administration officials implied that the Administration was reluctant to boycott Durban II outright.

Recent statements by the State Department and Khalilzad provide a welcome clarification of the administration's position and raise the bar against U.S. participation. These officials have also announced a welcome decision to withhold the proportional U.S. share of the U.N. regular budget that funds the Human Rights Council and the HRC-administered preparatory process for a Durban II conference. While the Administration could remove lingering doubts by clearly stating that the U.S. will boycott Durban II, the recent statements and the decision to withhold funding are a welcome and necessary reinforcement of U.S. opposition to Durban II.

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8. The legislation specifically instructed that “None of the funds appropriated by this Act may be made available for a United States contribution to the United Nations Human Rights Council” unless “the Secretary of State certifies to the Committees on Appropriations that the provision of funds to support the United Nations Human Rights Council is in the national interest of the United States” or if the “United States is a member of the Human Rights Council.” Consolidated Appropriations Act of 2008, Public Law 110-161, Section 695.
9. Ambassador Mark Wallace, “Explanation of Vote on Agenda Item 128: Questions Relating to the Proposed Program Budget for the Biennium 2008–2009, in the Fifth Committee of the General Assembly,” United States Mission to the United Nations, USUN Press Release No. 387(07), December 22, 2007, at www.un.int/usa/press_releases/20071222_387.html.