



**U.S. Department of Justice**

Office of Legislative Affairs

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*Office of the Assistant Attorney General*

*Washington, DC 20530*

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

Dear Speaker,

Consistent with 28 U.S.C. 530D(a)(1)(A)(i)'s 30-day notification requirement, I write to advise you of a recent implementation of the Executive Branch's longstanding enforcement policy with respect to the Anti-Terrorism Act of 1987 ("ATA"), Pub. L. No. 100-204, tit. X, 101 Stat. 1331, 1406 (1987), codified at 22 U.S.C. §§ 5201–5203, in cases where enforcement would impermissibly impinge upon the President's exclusive Article II authorities.

Since the ATA's enactment during the Reagan Administration, the Executive Branch has taken the view that the statute—which prohibits, among other things, the expenditure of funds from the Palestine Liberation Organization ("PLO") in the United States to further the PLO's interests, see 22 U.S.C. § 5202(2)—is unconstitutional as applied to certain PLO activities that have an impact upon the President's conduct of diplomacy. In 2018, the Office of Legal Counsel of the Department of Justice ("OLC") published an opinion concluding that the statute could not constitutionally be enforced to prohibit certain PLO activities in the United States that were authorized by the Secretary of State. See *Statutory Restrictions on the PLO's Washington Office*, 42 Op. O.L.C. \_\_ (Sept. 11, 2018), <https://www.justice.gov/sites/default/files/opinions/attachments/2021/01/19/2018-09-11-plo-office.pdf>.

After President Biden's July 2022 meeting in Bethlehem with President Abbas of the Palestinian Authority (who also serves as PLO chairman), the State Department determined that a visit to the U.S. capital by a Palestinian delegation that included PLO representatives, for diplomatic meetings with Executive Branch officials, would significantly facilitate diplomatic engagement between the United States and the Palestinians and thereby help to advance the important objectives the President has identified, in order to secure a lasting peace in the Middle East. Before the State Department extended an invitation to the Palestinian delegation, it asked the Department of Justice about the possible application of the ATA to expenditures that PLO representatives might make while they would be in the United States for the planned diplomatic engagements.

Consistent with the Executive Branch's longstanding views, OLC advised the Acting Legal Adviser of the State Department that, in light of the President's exclusive Article II authorities to receive foreign ministers and to determine the manner in which the Executive Branch engages in diplomatic communications with foreign representatives, expenditures of PLO funds by the PLO representatives for meetings in Washington between that delegation and Executive Branch officials would be legal, notwithstanding the ATA. OLC also concluded that a reasonable expenditure of PLO funds on activities that are necessary incidents of those diplomatic engagements, such as lodging, food, and transportation for the delegation during its visit, would also be lawful. On October 28, 2022, the Assistant Attorney General for OLC issued the attached opinion to the Acting Legal Adviser, memorializing the basis for the advice OLC had conveyed before the Palestinian visit. OLC's constitutional analysis differed in certain respects from that contained in its 2018 opinion; in particular, OLC concluded that some of the broader statements in the 2018 opinion are in tension with the principle the Supreme Court set forth in *Zivotofsky v. Kerry*, 576 U.S. 1, 28–29 (2015), that Congress may exercise its textual authorities in a way that has an incidental effect on the President's diplomatic objectives as long as it does not prevent the Executive Branch from accomplishing its constitutionally assigned functions. Yet OLC's conclusion with respect to the particular expenditures at issue was consistent with the advice OLC provided to the State Department regarding similar PLO expenditures in 2018.

The Palestinian delegation visited Washington between October 2-5, 2022, for purposes of diplomatic engagements with the Executive Branch, after being advised by the State Department that its expenditures should be limited to those incident to the diplomatic engagements. In accordance with OLC's legal analysis, the Department of Justice did not take steps to enforce the ATA with respect to such PLO expenditures. See 22 U.S.C. § 5203(a), (b) (authorizing the Attorney General to petition a district court to enjoin violations of the ATA).

Sincerely,

**CARLOS**  
**URIARTE**

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Carlos Felipe Uriarte  
Assistant Attorney General