

111TH CONGRESS
1ST SESSION

H. R. 3231

To refund United States taxpayer dollars expended on the Durban Review Conference, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2009

Ms. ROS-LEHTINEN (for herself, Mr. GARRETT of New Jersey, Mr. PENCE, Mr. McCOTTER, Mr. HOEKSTRA, Mr. BACHUS, Mr. BUYER, Mr. YOUNG of Alaska, Mr. PRICE of Georgia, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. ROYCE, Mr. ROHRABACHER, Mr. HENSARLING, Mrs. MYRICK, Mr. WOLF, Mrs. BLACKBURN, Mr. KIRK, Mr. LINDER, Mr. LOBIONDO, Mr. TERRY, Mr. PLATTS, Mr. SHUSTER, Mr. BISHOP of Utah, Ms. GINNY BROWN-WAITE of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. NUNES, Mr. MCHENRY, Mrs. BACHMANN, Mr. BUCHANAN, Mr. LAMBORN, and Mr. BROUN of Georgia) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To refund United States taxpayer dollars expended on the Durban Review Conference, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Durban Taxpayer Re-
5 fund Act of 2009”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The United States is opposed to racism, ra-
4 cial discrimination, xenophobia, and related intoler-
5 ance, and has long been a party to the Convention
6 on the Elimination of Racial Discrimination.

7 (2) Expensive and politically skewed inter-
8 national conferences can disserve and undermine the
9 worthy goals that they are ostensibly convened to
10 support.

11 (3) The goals of the 2001 United Nations
12 World Conference Against Racism—held in Durban,
13 South Africa, and commonly referred to as the
14 “Durban Conference”—were undermined by hateful,
15 anti-Jewish rhetoric and anti-Israel political agen-
16 das, prompting both Israel and the United States to
17 withdraw their delegations from the Conference.

18 (4) The official government declaration adopted
19 by the World Conference Against Racism, the “Dur-
20 ban Declaration and Program of Action”, focused on
21 the “plight of the Palestinian people under foreign
22 occupation”, and thereby singled out one regional
23 conflict for discussion and implicitly launched a false
24 accusation against Israel of racism towards the Pal-
25 estinians.

1 (5) On September 3, 2001, Secretary of State
2 Colin Powell explained the withdrawal of the United
3 States delegation from the World Conference
4 Against Racism by stating that “you do not combat
5 racism by conferences that produce declarations con-
6 taining hateful language, some of which is a throw-
7 back to the ‘days of Zionism’ equals racism; or sup-
8 ports the idea that we have made too much of the
9 Holocaust; or suggests that apartheid exists in
10 Israel; or that singles out only one country in the
11 world—Israel—for censure and abuse”.

12 (6) The late United States Representative Tom
13 Lantos, who participated as a member of the United
14 States delegation to the Durban Conference, sup-
15 ported that delegation’s withdrawal and wrote in
16 2002 that the conference “provided the world with
17 a glimpse into the abyss of international hate, dis-
18 crimination and, indeed, racism”.

19 (7) On December 19, 2006, the United Nations
20 General Assembly approved a resolution initiating
21 preparations for a Durban Review Conference (com-
22 monly referred to as “Durban II”), which was held
23 between April 20 and 24, 2009, in Geneva, Switzer-
24 land.

1 (8) The chair of the preparatory committee for
2 the Durban Review Conference was Libya, and the
3 co-chairs included Iran and Cuba.

4 (9) Throughout the preparatory process for the
5 Durban Review Conference, member states of the
6 Organization of the Islamic Conference urged that
7 the conference again focus criticism on Israel and
8 single out the Israeli-Palestinian conflict for discus-
9 sion, and also urged that the conference advocate
10 global speech codes that would impose restrictions
11 contrary to fundamental freedoms recognized in the
12 provisions of the Universal Declaration of Human
13 Rights.

14 (10) In testimony before the House of Rep-
15 resentatives on April 2, 2008, then-Assistant Sec-
16 retary of State for International Organizations
17 Kristen Silverberg stated that the United States had
18 decided against participating in preparatory activi-
19 ties for the Durban Review Conference because
20 “[there is] absolutely no case to be made for partici-
21 pating in something that is going to be a repeat of
22 Durban I. We dont have any confidence that this
23 will be any better than Durban I”.

24 (11) On September 23, 2008, the House of
25 Representatives passed House Resolution 1361,

1 which, among other things, called on the President
2 to “urge other heads of state to condition participa-
3 tion in the 2009 Durban Review Conference on con-
4 crete action by the United Nations and United Na-
5 tions Member States to ensure that it is not a forum
6 to demonize any group, or incite anti-Semitism, ha-
7 tred, or violence against members of any group or to
8 call into question the existence of any state” and
9 urged all United Nations Member States “not to
10 support a 2009 Durban Review Conference process
11 that fails to adhere to established human rights
12 standards and to reject an agenda that incites ha-
13 tred against any group in the guise of criticism of
14 a particular government or that seeks to forge a
15 global blasphemy code”.

16 (12) The present United Nations High Com-
17 missioner for Human Rights and Secretary-General
18 of the 2009 Durban Review Conference, Dr.
19 Navanethem Pillay, has repeatedly sought to down-
20 play the level of hateful, anti-Jewish rhetoric and
21 anti-Israel political agendas present at the 2001
22 Durban Conference, describing it as merely “the vir-
23 ulent anti-Semitic behavior of a few non-govern-
24 mental organizations on the sidelines” and praising
25 the biased Durban Declaration and Program of Ac-

1 tion as “[t]he legacy of this Conference”, has re-
2 peatedly sought to downplay the level of hateful,
3 anti-Jewish rhetoric and anti-Israel political agendas
4 present at the 2009 Durban Review Conference and
5 its preparatory activities, and has repeatedly praised
6 and urged the full implementation of the 2001 Dur-
7 ban Declaration and Program of Action.

8 (13) High Commissioner Pillay has repeatedly
9 and publicly criticized nations, including the United
10 States, which announced that they would not partici-
11 pate in the Durban Review Conference, but has al-
12 most never publicly criticized governments who suc-
13 ceeded in using the conference and its preparatory
14 activities to single out Israel for criticism and to at-
15 tempt to restrict fundamental freedoms.

16 (14) A United Nations press release on Sep-
17 tember 8, 2008, regarding an address by High Com-
18 missioner Pillay, disturbingly dismissed objections
19 raised by non-governmental organizations to the
20 Durban Review Conference as “ferocious, and often
21 distorted, criticism by certain lobby groups focused
22 on single issues”.

23 (15) During February of 2009, the United
24 States actively participated in intergovernmental
25 consultations on the Durban Review Conference’s

1 “draft outcome document” and engaged in high-level
2 diplomatic efforts to dramatically reverse the path of
3 the Durban Review Conference by directing it to-
4 wards meaningful efforts to combat intolerance and
5 bigotry and directing it away from efforts to under-
6 mine the cause of fighting discrimination through
7 singling out Israel for implicit criticism and calling
8 for restrictions on fundamental freedoms.

9 (16) On February 27, 2009, State Department
10 spokesman Robert Wood stated that, despite United
11 States efforts to redirect the path of the Durban Re-
12 view Conference, “the document being negotiated
13 has gone from bad to worse, and the current text of
14 the draft outcome document is not salvageable . . .
15 A conference based on this text would be a missed
16 opportunity to speak clearly about the persistent
17 problem of racism” and therefore, the United States
18 would not participate in further consultations and
19 negotiations regarding the “draft outcome docu-
20 ment,” and would not participate in the Durban Re-
21 view Conference itself unless the “draft outcome
22 document” was radically shortened and revised to
23 eliminate objectionable material.

24 (17) On April 17, 2009, the third and final ses-
25 sion of the preparatory committee for the Durban

1 Review Conference proposed a final “draft outcome
2 document” that contained a number of provisions
3 advocating restrictions on freedom of expression,
4 and that also implicitly singled out and criticized
5 Israel for racism by reaffirming, in its very first
6 paragraph, the 2001 Durban Declaration and Pro-
7 gram of Action.

8 (18) On April 18, 2009, State Department
9 spokesman Robert Wood announced that “the
10 United States will not join the [Durban] review con-
11 ference,” noting that “The current document . . .
12 still contains language that reaffirms in toto the
13 Durban Declaration and Programme of Action
14 (DDPA) from 2001, which the United States has
15 long said it is unable to support . . . The United
16 States also has serious concerns with relatively new
17 additions to the text regarding ‘incitement’, that run
18 counter to the U.S. commitment to unfettered free
19 speech.”.

20 (19) On April 19, 2009, the President stated at
21 a press conference that “I would love to be involved
22 in a useful conference that addressed continuing
23 issues of racism and discrimination around the globe
24 . . . we expressed in the run-up to this conference
25 our concerns that if you incorporated—if you adopt-

1 ed all the language from 2001, that’s just not some-
2 thing we could sign up for . . . our participation
3 would have involved putting our imprimatur on
4 something that we just don’t believe . . . Hopefully
5 . . . we can partner with other countries on to actu-
6 ally reduce discrimination around the globe. But this
7 wasn’t an opportunity to do it.”.

8 (20) Canada, Israel, Italy, Germany, the Neth-
9 erlands, Poland, Australia, and New Zealand also
10 did not participate in the Durban Review Con-
11 ference, and the Czech Republic walked out of the
12 Conference during its proceedings, never to return.

13 (21) Libya was the chair of the Main Com-
14 mittee of the Durban Review Conference, and vice
15 presidents of the Durban Review Conference in-
16 cluded Libya, Iran, and Cuba.

17 (22) Speaking at the Durban Review Con-
18 ference on April 20, 2009, Iranian leader Mahmoud
19 Ahmadinejad called the democratic State of Israel
20 “totally racist” and “the most cruel and repressive
21 racist regime”, and called for Israel’s destruction,
22 stating that “Efforts must be made to put an end
23 to the abuse by Zionists . . . Governments must be
24 encouraged and supported in their fights aimed at
25 eradicating this barbaric racism”.

1 (23) In his speech at the Durban Review Con-
2 ference, Ahmadinejad also propagated anti-Semitic
3 conspiracy theories by saying that “Those who con-
4 trol huge economic resources and interests in the
5 world . . . mobilize all the resources, including their
6 economic and political influence and world media, to
7 render support in vain to the Zionist regime”.

8 (24) Disgusted by Ahmadinejad’s biased and
9 incendiary statements, delegates from about two
10 dozen nations walked out of the assembly hall in
11 protest, but most delegations remained, and a large
12 number of delegations and observers repeatedly ap-
13 plauded Ahmadinejad’s remarks.

14 (25) On April 21, 2009, the Durban Review
15 Conference adopted by consensus an “outcome docu-
16 ment” that contained a number of provisions advo-
17 cating restrictions on freedom of expression, and
18 that also implicitly singled out and criticized Israel
19 for racism by reaffirming, in its very first para-
20 graph, the 2001 Durban Declaration and Program
21 of Action.

22 (26) Throughout the Durban Review Con-
23 ference, many speakers singled out Israel for criti-
24 cism or called for restrictions on fundamental free-
25 doms, including representatives of Iran, Libya,

1 Cuba, Sudan, Syria, Venezuela, Vietnam, Saudi Ara-
2 bia, Pakistan, Indonesia, Qatar, Algeria, the United
3 Arab Emirates, Kuwait, Egypt, Lebanon, Yemen,
4 Bahrain, Tunisia, Bangladesh, Switzerland, the Or-
5 ganization of the Islamic Conference, the Arab
6 League, the Palestine Liberation Organization, and
7 a number of other organizations and countries.

8 (27) During the Durban Review Conference,
9 several speakers who sought to draw attention to
10 genuine instances of racism, racial discrimination,
11 xenophobia, related intolerance, and human rights
12 violations by the governments of Iran, Libya, and
13 China were repeatedly interrupted by the delegations
14 from those governments and instructed by the con-
15 ference's chair to not refer specifically to those gov-
16 ernments.

17 (28) The 2001 World Conference Against Rac-
18 ism and the 2009 Durban Review Conference have
19 made little or no demonstrable contribution to com-
20 bating racism, racial discrimination, xenophobia, and
21 related intolerance.

22 (29) To date, over \$2,000,000 from the United
23 Nations regular budget has been expended on the
24 Durban Review Conference and its preparatory ac-
25 tivities.

1 (30) On December 24, 2008, the United Na-
2 tions General Assembly approved a program budget
3 for the biennium 2008–2009 that, over the objec-
4 tions of the United States, the European Union,
5 Canada, Australia, and other prominent Member
6 States, provided a significant portion of the funding
7 for the Durban Review Conference and its pre-
8 paratory activities from the United Nations regular
9 budget.

10 (31) The United States is the largest contrib-
11 utor to the United Nations system, and is assessed
12 for a full 22 percent of the United Nations regular
13 budget, which is funded by assessed contributions
14 from Member States.

15 (32) Funding the Durban Review Conference
16 and its preparatory activities through the United
17 Nations regular budget has resulted in United
18 States taxpayer dollars being used for those pur-
19 poses.

20 (33) The United States decided to withhold
21 from its 2008 funding for the United Nations reg-
22 ular budget an amount equivalent to the United
23 States share of the United Nations Human Rights
24 Council budget, including its share of the Council-

1 administered preparatory process for the 2009 Dur-
2 ban Review Conference.

3 **SEC. 3. SENSE OF CONGRESS; STATEMENT OF POLICY.**

4 (a) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that—

6 (1) the 2009 Durban Review Conference, like
7 its 2001 predecessor and the preparatory activities
8 of both conferences, was subverted by members of
9 the Organization of the Islamic Conference and irre-
10 deemably distorted into a forum for anti-Israel, anti-
11 Semitic, and anti-freedom activity;

12 (2) by publicly declaring that the United States
13 would not participate in the Durban Review Con-
14 ference, the President upheld and reaffirmed the
15 fundamental commitment of the United States to
16 combating racism, racial discrimination, xenophobia,
17 and related intolerance, and should be commended
18 for his decision not to participate; and

19 (3) the Governments of Canada, Israel, Italy,
20 Germany, the Netherlands, Poland, Australia, New
21 Zealand, and the Czech Republic should be com-
22 mended for their decision to not participate or cease
23 participation in the Durban Review Conference.

24 (b) STATEMENT OF POLICY.—It shall be the policy
25 of the United States to—

1 (1) lead a high-level diplomatic effort to encour-
2 age other responsible countries to not fund any por-
3 tion of the Durban Review Conference or its pre-
4 paratory or follow-on activities, and to withhold from
5 their respective contributions to the regularly as-
6 sessed biennial budget of the United Nations an
7 amount that is equal to the percentage of such re-
8 spective contributions that they determine would be
9 or has been allocated by the United Nations for any
10 part of the Durban Review Conference or its pre-
11 paratory or follow-on activities; and

12 (2) lead a high-level diplomatic effort to explore
13 credible, alternative forums for combating racism,
14 racial discrimination, xenophobia, and related intol-
15 erance.

16 **SEC. 4. WITHHOLDING OF FUNDS; REFUND OF UNITED**
17 **STATES TAXPAYER DOLLARS.**

18 (a) WITHHOLDING OF PREVIOUSLY-EXPENDED
19 FUNDS.—The Secretary of State shall withhold from the
20 United States contribution to the regularly assessed bien-
21 nial budget of the United Nations an amount that is equal
22 to the percentage of such contribution that the Secretary
23 determines would be or has been allocated by the United
24 Nations for any part of the Durban Review Conference
25 or its preparatory or follow-on activities.

1 (b) WITHHOLDING OF FUNDS TO BE EXPENDED IN
2 THE FUTURE.—Until the Secretary of State submits to
3 the appropriate congressional committees a certification,
4 on a case-by-case basis, that the requirements described
5 in subsection (d) have been satisfied, the United States
6 shall withhold from the United States contribution to the
7 regularly assessed biennial budget of the United Nations
8 an amount that is equal to the percentage of such con-
9 tribution that the Secretary determines has been allocated
10 by the United Nations for any conference or other multi-
11 lateral forum, or the preparatory or follow-on activities of
12 any conference or other multilateral forum, that is orga-
13 nized under the aegis or jurisdiction of the United Nations
14 or of any program, agency, or affiliate of the United Na-
15 tions.

16 (c) REFUND OF UNITED STATES TAXPAYER DOL-
17 LARS.—Funds appropriated for use as a United States
18 contribution to the regularly assessed biennial budget of
19 the United Nations but withheld from obligation and ex-
20 penditure pursuant to subsection (a) or (b) may be obli-
21 gated and expended for that purpose upon the certification
22 described in subsection (d). Such funds shall revert to the
23 United States Treasury if no such certification is made
24 by the date that is one year after such appropriation.

1 (d) CERTIFICATION.—The certification referred to in
2 subsection (b) is a certification made by the Secretary of
3 State to the appropriate congressional committees con-
4 cerning the following:

5 (1) The specified conference or forum did not
6 reaffirm the Durban Declaration and Plan of Action
7 (2001) or the outcome document of the Durban Re-
8 view Conference (2009).

9 (2) The specified conference or forum was not
10 used to single out the United States or the State of
11 Israel for unfair or unbalanced criticism.

12 (3) The specified conference or forum was not
13 used to propagate racism, racial discrimination, anti-
14 Semitism, denial of the Holocaust, incitement to vio-
15 lence or genocide, xenophobia, or related intolerance.

16 (4) The specified conference or forum was not
17 used to advocate for restrictions on the freedoms of
18 speech, expression, religion, the press, assembly, or
19 petition, or for restrictions on other fundamental
20 human rights and freedoms.

21 (5) The leadership of the specified conference
22 or forum does not include a Member State, or a rep-
23 resentative from a Member State—

24 (A) subject to sanctions by the Security
25 Council;

1 (B) under a Security Council-mandated in-
2 vestigation for human rights abuses; or

3 (C) the government of which the Secretary
4 of State has determined, for purposes of section
5 6(j) of the Export Administration Act of 1979
6 (as continued in effect pursuant to the Inter-
7 national Emergency Economic Powers Act),
8 section 40 of the Arms Export Control Act, sec-
9 tion 620A of the Foreign Assistance Act of
10 1961, or other provision of law, is a government
11 that has repeatedly provided support for acts of
12 international terrorism.

13 (e) DEFINITION.—In this Act, the term “appropriate
14 congressional committees” means—

15 (1) the Committee on Foreign Affairs and the
16 Committee on Appropriations of the House of Rep-
17 resentatives; and

18 (2) the Committee on Foreign Relations and
19 the Committee on Appropriations of the Senate.

○