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Arab League Boycott of Israel

Martin A. Weiss
Specialist in International Trade and Finance

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Summary

The Arab League, an umbrella organization comprising 22 Middle Eastern and African countries and entities, has maintained an official boycott of Israeli companies and Israeli-made goods since the founding of Israel in 1948. The boycott is administered by the Damascus-based Central Boycott Office, a specialized bureau of the Arab League.

The boycott has three tiers. The primary boycott prohibits citizens of an Arab League member from buying from, selling to, or entering into a business contract with either the Israeli government or an Israeli citizen. The secondary boycott extends the primary boycott to any entity world-wide that does business in Israel. A blacklist of global firms that engage in business with Israel is maintained by the Central Boycott Office, and disseminated to Arab League members. The tertiary boycott prohibits an Arab League member and its nationals from doing business with a company that deals with companies that have been blacklisted by the Arab League.

The U.S. government has often been at the forefront of international efforts to end the boycott and its enforcement. Despite U.S. efforts, however, many Arab League countries continue to support the boycott's enforcement. U.S. legislative action related to the boycott dates from 1959 and includes multiple statutory provisions expressing U.S. opposition to the boycott, usually in foreign assistance legislation. In 1977, Congress passed laws making it illegal for U.S. companies to cooperate with the boycott and authorizing the imposition of civil and criminal penalties against U.S. violators. U.S. companies are required to report to the Department of Commerce any requests to comply with the Arab League Boycott.

This report provides background information on the boycott and U.S. efforts to end its enforcement. It will be updated as events warrant. More information on Israel is contained in CRS Report RL33476, *Israel: Background and U.S. Relations*, by Jim Zanotti.

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Background

The Arab League is an umbrella organization comprising 22 Middle Eastern and African countries and entities. Arab League members are Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, the United Arab Emirates, and Yemen. In November 2011, Arab League members suspended Syria from participating in Arab League meetings due to the Syrian government's violent crackdown on political demonstrations.[1]

The Arab League was founded in 1944, and in 1945 began a boycott of Zionist goods and services in the British controlled mandate territory of Palestine. In 1948, following the war establishing Israel's independence, the boycott was formalized against the state of Israel and broadened to include non-Israelis who maintain economic relations with Israel or who are perceived to support it. The boycott is administered by the Damascus-based Central Boycott Office, a specialized bureau of the Arab League.[2]

The U.S. government has often been at the forefront of international efforts to end enforcement of the boycott and to seek the Arab League's revocation of it. The U.S. government participates in bilateral and multilateral negotiations with Arab League members regarding the boycott. U.S. legislative action related to the boycott dates from 1959 and includes multiple statutory provisions expressing U.S. opposition to the boycott, usually in foreign assistance legislation. In 1965, Congress adopted mandatory reporting of any requests for U.S. companies to participate in the boycott. In 1977, Congress passed laws making it illegal for U.S. companies to cooperate with the boycott and authorizing the imposition of civil and criminal penalties against U.S. violators. According to the Department of Commerce, participation in the boycott includes

- Agreements to refuse or actual refusal to do business with or in Israel or with blacklisted companies;
- Agreements to discriminate or actual discrimination against other persons based on race, religion, sex, national origin or nationality;
- Agreements to furnish or actual furnishing of information about business relationships with or in Israel or with blacklisted companies; and/or
- Agreements to furnish or actual furnishing of information about the race, religion, sex, or national origin of another person.[3]
- Lastly, U.S. taxpayers who cooperate with the boycott are subject to the loss of tax benefits that the U.S. government provides to exporters. These benefits include, among others, the foreign tax credit, the benefits for foreign sales corporation (FSC) since repealed, and the tax deferral available to U.S. shareholders of a controlled foreign corporation (CFC).

[1] CRS Report RL33487, *Unrest in Syria and U.S. Sanctions Against the Asad Regime*, by Jeremy M. Sharp and Christopher M. Blanchard

[2] Nancy Turck, "The Middle East: The Arab Boycott of Israel," *Foreign Affairs*, April 1977.

[3] See http://www.bis.doc.gov/complianceandenforcement/antiboycottcompliance.htm.

Current Status of the Boycott

The boycott has three tiers. The primary boycott prohibits citizens of an Arab League member from buying from, selling to, or entering into a business contract with either the Israeli government or an Israeli citizen. The secondary boycott extends the primary boycott to any entity world-wide that does business with Israel. A blacklist of global firms that engage in business with Israel is maintained by the Central Boycott Office, and disseminated to Arab League members. The tertiary boycott prohibits an Arab League member and its nationals from doing business with a company that in turn deals with companies that have been blacklisted by the Arab League. The boycott also applies to companies that the Arab League identifies as having "Zionist sympathizers" in executive positions or on the board of the company. According to one analyst, the "nature and detail of these rules reflect the boycotting countries' tolerance for only the most minimal contacts with Israel."[4]

The Arab League does not enforce the boycott and boycott regulations are not binding on member states. However, the regulations have been the model for various laws implemented by member countries. The League recommends that member countries demand certificates of origin on all goods acquired from suppliers to ensure that such goods meet all aspects of the boycott.

Overall enforcement of the boycott by member countries appears sporadic. Some Arab League members have limited trading relations with Israel. The Arab League does not formally or publicly state which countries enforce the boycott and which do not. Some Arab League member governments have maintained that only the Arab League, as the formal body enforcing the boycott, can revoke the boycott. However, adherence to the boycott is an individual matter for each Arab League member and enforcement varies by state.

There are indications that some Arab League countries publicly support the boycott while continuing to quietly trade with Israel. According to Doron Peskin, head of research at InfoProd, a consulting firm for foreign and Israeli companies specializing in trade with Arab states, "the Arab boycott is now just lip service."[5] This sentiment has been echoed by Arab officials, albeit anonymously. One official commented to the Egyptian newspaper *Al-Ahram* that, "boycotting Israel is something that we talk about and include in our official documents but it is not something that we actually carry out—at least not in most Arab states."[6]

Others assert that enforcement of the boycott waxes and wanes with the level of intensity of the Israeli-Palestinian issue and that currently interest in boycott enforcement among Arab countries may be increasing due to the ongoing Iraq conflict. However, the Arab League has acknowledged that U.S. pressure has affected its ability to maintain the boycott. At the May 2006 Arab League conference on the boycott, one conference participant reportedly said, "The majority of Arab countries are evading the boycott, notably the Gulf states and especially Saudi Arabia."[7] He added

[4] Howard N. Fenton III, "United States Antiboycott Laws: An Assessment of Their Impact Ten Years after Adoption," *Hastings International & Comparative Law Review*, Vol. 10 , 1987, cited in Eugene Kontorovich, "The Arab League Boycott and WTO Accession: Can Foreign Policy Excuse Discriminatory Sanctions," *Chicago Journal of International Law*, Vol. 4 No. 2, Fall 2003.

[5] Orly Halpern, "Arab Boycott Largely Reduced to 'Lip Service,'" *Jerusalem Post*, February 28, 2006.

[6] Dina Ezzat, "Boycott Israel? Not so simple," *Al-Ahram Weekly Online*, April 11-17, 2002.

[7] "Arabs evading economic boycott of Israel," United Press International, May 16, 2006.

that a major reason for these countries bypassing the boycott is "growing U.S. pressures in the direction of normalization with the Jewish state."[8]

Some states and entities have formally ended the boycott, or at least some aspects of it. Egypt (1979), the Palestinian Authority (1993), and Jordan (1994) signed peace treaties or agreements that ended the boycott.[9] Mauritania, which never applied the boycott, established diplomatic relations with Israel in 1999. Algeria, Morocco, and Tunisia do not enforce the boycott.[10] In 1994, the member countries of the Gulf Cooperation Council (GCC)—Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates—announced that they would only enforce the primary boycott. In 1996, the GCC states recognized that total elimination of the boycott is a necessary step for peace and economic development in the region. However, U.S. companies continue to receive requests to cooperate with the boycott from GCC member countries. Lebanon enforces the primary, secondary, and tertiary boycotts.[11]

Impact of the Boycott

Since the boycott is sporadically applied and ambiguously enforced, its impact, measured by capital or revenue denied to Israel by companies adhering to the boycott, is difficult to measure. The effect of the primary boycott appears limited since intra-regional trade and investment are small. Nonetheless, there is some limited trade between Israel and its Arab neighbors. In 2004, according to the Manufacturers Association of Israel (IMA), Israeli exports to Arab countries and entities (mainly Egypt, Jordan, and the Palestinian Authority) totaled $192 million.[12]

Enforcement of the secondary and tertiary boycotts have decreased over time, reducing their effect. A 1996 study by researchers at Tel Aviv University looked at the effect of the Arab boycott on the Israeli economy through the automobile market. Following a relaxation of boycott enforcement in the late 1980s through the early 1990s, Asian countries began exporting cars to Israel. The study found that if the boycott had continued to be enforced, and these cars did not enter the Israeli market, the Israeli car market would have been 12% smaller – leading to a $790 price increase per car. Total welfare loss for the study year, 1994, would have been an estimated $89 million.[13] Thus, it appears that since intra-regional trade is small, and that the secondary and tertiary boycotts are not aggressively enforced, the boycott may not currently have an extensive effect on the Israeli economy.

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[8] Ibid.

[9] Egyptian-Israeli peace treaty, March 26, 1979, Article III, paragraph 3; Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan, October 26, 1994, Article 7, Section 2, paragraph A; Declaration of Principles, September 10, 1993.

[10] *2007 National Trade Estimate Report on Foreign Trade Barriers,* United States Trade Representative, March 30, 2007.

[11] Ibid.

[12] "Exports from Israel Up, Up, Up!," *Bridges for Peace*, June 27, 2005. U.S. efforts to increase trade in the region include the Qualified Industrial Zone (QIZ) program, which allows goods jointly produced by Israel and either Jordan or Egypt to enter the United States duty free. See CRS Report RS22002, *Qualifying Industrial Zones in Jordan and Egypt*, by Mary Jane Bolle, Jeremy M. Sharp, and Alfred B. Prados.

[13] Chaim Fershtman and Neil Gandal, "The Effect of the Arab Boycott on Israel: The Automobile Market," Tel Aviv University, January 1996.

Despite the lack of economic impact on either Israeli or Arab economies, the boycott remains of strong symbolic importance to all parties. Many Arab countries want to deny normalization with Israel until there is a final resolution to the conflict in the Palestinian territories. Israel, on the other hand, asserts that it wants to be accepted in the neighborhood both in political terms and as a source of, and target for, foreign investment.[14] It is expected that Israeli military activities in the Gaza Strip in early 2009 may lead to an intensification of boycott enforcement.

U.S. Activity to End the Arab League Boycott of Israel

The U.S. government officially opposes the boycott and works to end its enforcement on multiple levels. For many years, language has been included in successive foreign operations appropriations legislation concerning the boycott. Section 7035 of *the Consolidated Appropriations Act, FY2012* (P.L. 112-74) states that it is the sense of Congress that

1. the Arab League boycott of Israel, and the secondary boycott of American firms that have commercial ties with Israel, is an impediment to peace in the region and to United States investment and trade in the Middle East and North Africa;
2. the Arab League boycott, which was regrettably reinstated in 1997, should be immediately and publicly terminated, and the Central Office for the Boycott of Israel immediately disbanded;
3. all Arab League states should normalize relations with their neighbor Israel;
4. the President and the Secretary of State should continue to vigorously oppose the Arab League boycott of Israel and find concrete steps to demonstrate that opposition by, for example, taking into consideration the participation of any recipient country in the boycott when determining to sell weapons to said country; and
5. the President should report to Congress annually on specific steps being taken by the United States to encourage Arab League states to normalize their relations with Israel to bring about the termination of the Arab League boycott of Israel, including those to encourage allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

U.S. Antiboycott Compliance Legislation

The United States passed antiboycott legislation in the late 1970s to discourage U.S. individuals from cooperating with the secondary and tertiary boycotts. Antiboycott laws apply to "U.S. exports and imports, financing, forwarding and shipping, and certain other transactions that may take place wholly offshore."[15]

[14] Anju S. Bawa, "Israel Embarks on PR Face-lift," *The Washington Times*, December 5, 2006.

[15] Website of the Department of Commerce's Office of Antiboycott Compliance. http://www.bis.doc.gov/AntiboycottCompliance/oacrequirements.html#whatscovered.

Although U.S. legislation and practices were designed to counteract the Arab League boycott of Israel, in practice, they apply to all non-sanctioned boycotts. According to the Department of Commerce's Office of Antiboycott Compliance, the legislation was enacted to "encourage, and in specified cases, require U.S. firms to refuse to participate in foreign boycotts that the United States does not sanction. They [the legislation] have the effect of preventing U.S. firms from being used to implement foreign policies of other nations which run counter to U.S. policy."[16]

U.S. regulations define cooperating with the boycott as: (1) agreeing to refuse or actually refusing to do business in Israel or with a blacklisted company; (2) agreeing to disseminate or actually discriminating against other persons based on race, religion, sex, national origin, or nationality; (3) agreeing to furnish or actually furnishing information about business relationships in Israel or with blacklisted companies; and (4) agreeing to furnish or actually furnishing information about the race, religion, sex, or national origin of another person.

U.S. antiboycott laws are included in the Export Administration Act of 1979 (EAA) and the Ribicoff Amendment to the Tax Reform Act of 1976 (TRA).[17] The export-related antiboycott provisions are administered by the Department of Commerce and prohibit U.S. persons from participating in the boycott. The Internal Revenue Service (IRS) administers tax-related antiboycott regulations that deny tax benefits to U.S. taxpayers that participate in the boycott.

Export-Related Antiboycott Legislation

Regulations promulgated under section 8 of the EAA prohibit any U.S. person or company from complying with an unsanctioned foreign boycott and require them to report requests they have received to comply with a boycott. Such requests must be reported quarterly to the Department of Commerce's Office of Antiboycott Compliance (OAC) in the Bureau of Industry and Security (BIS). These regulations are implemented in part 760 of the Department of Commerce's Export Administration Regulations (EAR).

The EAA prescribes penalties that may be imposed for violation of the antiboycott regulations. Civil penalties for violating the antiboycott provisions are a maximum fine of $50,000 per violation and a potential loss of export privileges for a period of time. Particularly egregious cases may be referred to the Department of Justice for criminal prosecution. Criminal penalties imposed for each violation can include a fine of up to $50,000 or five times the value of the exports involved, whichever is greater, or imprisonment for up to five years, or both. Willful violations, where the violator has knowledge that the items are also intended for any country to which exports are restricted for national security or foreign policy purposes, are punishable by fines up to $250,000 or imprisonment for up to ten years. During FY2010, Commerce reports that 14 companies agreed to pay civil penalties totaling $380,975 to settle allegations that they violated the antiboycott provisions of the EAR.

[16] Website of the Office of Antiboycott Compliance. http://www.bis.doc.gov/AntiboycottCompliance/oacrequirements.html

[17] Section 8 of The Export Administration Act of 1979 (P.L. 96-72; 50 U.S.C. app. §2407) has expired but its provisions are continued under the authorization granted to the President in the National Emergencies Act (NEA) (P.L. 94-412; 50 U.S.C. §1601-1651) and the International Economic Emergency Powers Act (IEEPA) (P.L. 95-223; 50 U.S.C. app. §2407), most recently under Executive Order 13222 signed August 17, 2001 (66 F.R. 44025, August 22, 2001). Antiboycott export regulations are at 15 C.F.R. 760.1 et seq. The Ribicoff Amendment to the Tax Reform Act of 1976 (P.L. 94-455) added section 999 to the Internal Revenue Code of 1986, as amended (26 U.S.C. §1 et seq). Tax regulations are at 26 C.F.R. §7.999-1.

In July 2007, BIS amended existing penalty guidelines to introduce a voluntary disclosure program that could reduce a potential fine levied on an exporter if it voluntarily discloses its violation of U.S. antiboycott laws. For the disclosure to have a mitigating effect, notification must take place prior to BIS learning about the violation from other sources and commencing an investigation. The new guidelines also created a new supplement no. 2 to the antiboycott provisions that more clearly describes how BIS investigates violations of U.S. antiboycott laws and determines penalty rates.

Tax-Related Antiboycott Legislation

The Ribicoff Amendment to the TRA added section 999 to the Internal Revenue Code. This section denies various tax benefits normally available to exporters if they participate in the boycott. In addition, the IRS requires U.S. taxpayers to report operations in, with, or related to countries that the Treasury Department includes on its annual list of countries that may require participation in an international boycott, and with any other country from which they receive a request to participate in a boycott.[18]

Denying tax benefits to U.S. firms that participate in the boycott appears to be an effective antiboycott strategy. According to one study, U.S. legislation reduces overall participation in the boycott by U.S. taxpayers by between 15 and 30%.[19] However, the effectiveness of U.S. antiboycott tax legislation may diminish since the U.S. government is reducing export tax benefits that are available to U.S.-based companies to comply with World Trade Organization (WTO) rulings.[20]

Author Contact Information

Martin A. Weiss
Specialist in International Trade and Finance
mweiss@crs.loc.gov, 7-5407

[18] The current list is Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, United Arab Emirates, and Yemen. Iraq is not included in this list, but its status with respect to future lists remains under review by the Department of the Treasury. "List of the Countries Requiring Cooperation with an International Boycott, Department of the Treasury," Department of the Treasury, 73 F.R. 50, March 13, 2008.

[19] James R. Hines, Jr., "Taxed Avoidance: American Participation in Unsanctioned International Boycotts," *NBER Working Paper 6116*, July 1997.

[20] See CRS Report RS20746, *Export Tax Benefits and the WTO: The Extraterritorial Income Exclusion and Foreign Sales Corporations*, by David L. Brumbaugh.