

ARAB LEAGUE

The Arab League's boycott of Israeli companies and Israeli-made goods, and its effect on U.S. trade and investment in the Middle East and North Africa, varies from country to country. While the boycott still on occasion poses a significant barrier (because of associated compliance costs and potential legal restrictions) for individual U.S. companies and their subsidiaries operating in certain parts of the region, it has for many years had an extremely limited practical effect overall on U.S. trade and investment ties with many key Arab League countries. The 22 Arab League members are the Palestinian Authority and the following states: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Kuwait, Jordan, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, Yemen, and the United Arab Emirates. About half of the Arab League members are also Members of the World Trade Organization (WTO) and are thus obligated to apply WTO commitments to all current WTO Members, including Israel. To date, no Arab League member, upon joining the WTO, has invoked the right of non-application of WTO rights and obligations with respect to Israel.

The United States has long opposed the Arab League boycott, and U.S. Government officials from a variety of agencies frequently have urged Arab League member states to end the boycott. The U.S. Department of State and U.S. embassies in relevant host countries take the lead in raising U.S. boycott-related concerns with political leaders in Arab League member states. The U.S. Departments of Commerce and Treasury, and the Office of the United States Trade Representative monitor boycott policies and practices of Arab League member states and, aided by U.S. embassies, lend advocacy support to firms facing boycott-related pressures from host country officials.

U.S. antiboycott laws (the 1976 Tax Reform Act (TRA) and the 1977 amendments to the Export Administration Act (EAA)) were adopted to require U.S. firms to refuse to participate in foreign boycotts that the United States does not sanction. The Arab League boycott of Israel was the impetus for this legislation and continues to be the principal boycott with which U.S. companies must be concerned. The EAA's antiboycott provisions, implementation of which is overseen by the U.S. Department of Commerce's Office of Antiboycott Compliance (OAC), prohibit certain types of conduct undertaken in support of the Arab League boycott of Israel. These types of prohibited activity include, *inter alia*, agreements by companies to refuse to do business with Israel, furnishing by companies of information about business relationships with Israel, and implementation of letters of credit that include prohibited boycott terms. The TRA's antiboycott provisions, administered by the Department of the Treasury and the Internal Revenue Service, deny certain foreign tax benefits to companies that agree to requests from boycotting countries to participate in certain types of boycotts.

The U.S. Government's efforts to oppose the Arab League boycott include alerting host country officials to the persistence of prohibited boycott requests and those requests' adverse impact on both U.S. firms and on countries' ability to expand trade and investment ties with the United States. In this regard, U.S. Department of Commerce and OAC officials periodically visit Arab League members to consult with appropriate counterparts on antiboycott compliance issues. These consultations provide technical assistance to host governments to identify contract language with which U.S. businesses may or may not comply.

Boycott activity can be classified according to three categories. The primary boycott prohibits the importation of goods and services from Israel into the territory of Arab League members. This prohibition may conflict with the obligation of Arab League members that are also Members of the WTO to treat products of Israel on a most favored nation basis. The secondary boycott prohibits individuals, companies (both private and public sector), and organizations in Arab League members from engaging in business with U.S. firms and firms from other countries that contribute to Israel's military or economic

development. Such foreign firms are placed on a blacklist maintained by the Damascus-based Central Boycott Office (CBO), a specialized bureau of the Arab League; the CBO often provides this list to other Arab League member governments, which decide whether or to what extent to follow it in implementing any national boycotts. The tertiary boycott prohibits business dealings with U.S. and other firms that do business with blacklisted companies.

Individual Arab League member governments are responsible for enforcing the boycott, and enforcement efforts vary widely from country to country. Some Arab League member governments have consistently maintained that only the League as a whole can entirely revoke the boycott. Other member governments support the view that adherence to the boycott is a matter of national discretion; a number of governments have taken steps to dismantle various aspects of it. The U.S. Government has on numerous occasions indicated to Arab League member governments that their officials' attendance at periodic CBO meetings is not conducive to improving trade and investment ties, either with the United States or within the region. Attendance of Arab League member government officials at CBO meetings varies; a number of governments have responded to U.S. officials that they only send representatives to CBO meetings in an observer capacity, or to push for additional discretion in national enforcement of the CBO-drafted blacklisted company lists. Ongoing political upheaval in Syria in recent years has prevented the CBO from convening meetings on a regular basis.

EGYPT: Egypt has not enforced any aspect of the boycott since 1980, pursuant to its peace treaty with Israel. However, U.S. firms occasionally have found that some government agencies use outdated forms containing boycott language. In past years, Egypt has included boycott language drafted by the Arab League in documentation related to tenders funded by the Arab League. The revolution and resultant political uncertainty in Egypt since early 2011 have left the future of Egyptian approaches to boycott-related issues unclear. As Egypt's government fully establishes lines of authority and formulates basic foreign policy positions, the Administration will monitor closely its actions with regard to the boycott.

JORDAN: Jordan formally ended its enforcement of any aspect of the boycott when it signed the Jordanian-Israeli peace treaty in 1994. Jordan signed a trade agreement with Israel in 1995, and later an expanded trade agreement in 2004 (essentially Israel's first free trade agreement with an Arab country). While some elements of Jordanian society continue to oppose improving political and commercial ties with Israel, government policy does not condone such positions.

LIBYA: Libya does not maintain diplomatic relations with Israel and has a law in place mandating application of the Arab League boycott. Libya's interim government has not formally articulated its stance *vis-à-vis* the boycott. However, the former regime enforced the boycott and routinely inserted boycott language in contracts with foreign companies. Bills of lading and customs declarations for imports cannot indicate trade with Israel, and shippers are legally required to certify that no goods are of Israeli origin. Foreign ships are prohibited from calling at Libyan ports if they have called at an Israeli port in the past year. The Administration will continue to monitor closely Libya's treatment of boycott issues.

IRAQ: Despite anti-Arab League boycott guidance given on two occasions from the Iraqi Council of Ministers to all ministries, the number of Arab League boycott-related requests from Iraqi entities has been increasing in recent years. In 2013, there were 79 prohibited requests from Iraqi entities reported to the U.S. Department of Commerce. Requests emanated from the Ministry of Health (MOH) and its procurement arm, the Iraqi State Company for Importation of Drugs and Medical Appliances (Kimadia); the Ministry of Planning; the South Oil Company; and the Ministry of Electricity. It is estimated that since 2010, U.S. companies have lost more than \$1 billion in sales opportunities in Iraq due to these Arab League boycott-related requests.

The MOH committed to the United States in June 2013 that it would stop issuing the requests. Since that time, however, the MOH has issued several prohibited requests that negatively affected U.S. suppliers of medical and pharmaceutical products. In January 2014, the head of Kimadia informed the United States that the MOH and Kimadia would move to end the practice of including Arab League boycott-related requirements in tender packages for new procurements. The South Oil Company, which had stopped issuing tenders with boycott language several years ago, recently started issuing tenders containing boycott-related language. Increased requests from the Ministry of Electricity are also very troubling, since Iraq is seeking investment and procurement of key power sector technologies from foreign companies and critical procurement projects currently are underway.

U.S. companies and investors consider the existence of boycott-related requirements in procurement contracts and tenders as additional disincentives for doing business in Iraq. Moreover, bilateral events designed to attract U.S. investment to Iraq, such as the February 2014 Iraq Business Week in Washington, will be negatively impacted as long as Iraqi entities continue to issue Arab League boycott-related requests.

YEMEN: Yemen has not put a law in place regarding the boycott, though it continues to enforce the primary aspect of the boycott and does not trade with Israel. Yemen in the past has stated that, absent an Arab League consensus to end the boycott, it will continue to enforce the primary boycott. However, Yemen also continues to adhere to its 1995 governmental decision to renounce observance of the secondary and tertiary aspects of the boycott and does not maintain an official boycott enforcement office. Yemen has remained a participant in the meetings of the CBO in Damascus, but continuing serious political unrest within the country makes it difficult to predict Yemen's future posture toward boycott-related issues.

LEBANON: Since June 1955, Lebanese law has prohibited all individuals, companies and organizations from directly or indirectly contracting with Israeli companies and individuals or buying, selling or acquiring in any way products produced in Israel. This prohibition is reportedly widely adhered to in Lebanon. Ministry of Economy officials have reaffirmed the importance of the boycott in preventing Israeli economic penetration of Lebanese markets.

PALESTINIAN AUTHORITY: The Palestinian Authority (PA) agreed not to enforce the boycott in a 1995 letter to the U.S. Government. Though some Palestinians on occasion have called for *ad hoc* boycotts of goods produced in Israeli West Bank settlements, foreign trade involving Palestinian producers and importers must be managed through Israeli authorities, and the PA has kept to the commitment it undertook in the 1995 letter.

ALGERIA: Algeria does not maintain diplomatic, cultural, or direct trade relations with Israel, though indirect trade reportedly does take place. The country has legislation in place that supports the Arab League boycott, but domestic law contains no specific provisions relating to the boycott and government enforcement of the primary aspect of the boycott reportedly is sporadic. Algeria appears not to enforce any element of the secondary or tertiary aspects of the boycott.

MOROCCO: Moroccan law contains no specific references to the Arab League boycott. The government informally recognizes the primary aspect of the boycott due to Morocco's membership in the Arab League, but does not enforce any aspect of it. According to Israeli statistics, Morocco is Israel's seventh largest trading partner in Africa and third largest in the Arab world, after Jordan and Egypt. Trade with Israel increased 94 percent between 2012 and 2013, resulting in imports from Israel of \$53.7 million and exports from Morocco of \$6.2 million. U.S. firms have not reported boycott-related obstacles to doing business in Morocco. Moroccan officials do not appear to attend CBO meetings in Damascus.

TUNISIA: Upon the establishment of limited diplomatic relations with Israel, Tunisia terminated its observance of the Arab League boycott. In the wake of the 2011 revolution, there has been no indication that the interim Tunisian government's policy with respect to the boycott has changed.

SUDAN: The government of Sudan supports the Arab League boycott and has enacted legislation requiring adherence to it. However, there are no regulations in place to enforce the secondary and tertiary aspects of the boycott.

COMOROS, DJIBOUTI, AND SOMALIA: None of these countries has officially participated in the Arab League boycott. Djibouti generally supports Palestinian causes in international organizations and there is little direct trade between Djibouti and Israel; however, the government currently does not enforce any aspects of the boycott.

SYRIA: Syria diligently implements laws enforcing the Arab League boycott. Though it is host to the Arab League CBO, Syria maintains its own boycott-related blacklist of firms, separate from the CBO list, which it regards as outdated. Syria's boycott practices have not had a substantive impact on U.S. businesses because of U.S. economic sanctions imposed on the country in 2004; the ongoing and serious political unrest within the country has further reduced U.S. commercial interaction with Syria.

MAURITANIA: Though Mauritania 'froze' its diplomatic relations with Israel in March 2009 (in response to Israeli military engagement in Gaza), Mauritania has continued to refrain from enforcing any aspect of the boycott.

GULF COOPERATION COUNCIL (GCC): In September 1994, the GCC member countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) announced an end to their enforcement of the secondary and tertiary aspects of the boycott, eliminating a significant trade barrier to U.S. firms. In December 1996, the GCC countries recognized the total dismantling of the boycott as a necessary step to advance peace and promote regional cooperation in the Middle East and North Africa. Although all GCC states are complying with these stated plans, some commercial documentation containing boycott language continues to surface on occasion and impact individual business transactions.

The situation in individual GCC member countries is as follows:

Bahrain: Bahrain does not have any restrictions on trade with U.S. companies that have relations with Israeli companies. Outdated tender documents in Bahrain have occasionally referred to the secondary and tertiary aspects of the boycott, but such instances have been remedied quickly when brought to authorities' attention. The government has stated publicly that it recognizes the need to dismantle the primary aspect of the boycott. The U.S. Government has received assurances from the government of Bahrain that it is fully committed to complying with WTO requirements on trade relations with other WTO Members, and Bahrain has no restrictions on U.S. companies trading with Israel or doing business in Israel, regardless of their ownership or other relations with Israeli companies. Although there are no entities present in Bahrain for the purpose of promoting trade with Israel, Israeli-labeled products reportedly can occasionally be found in Bahraini markets.

Kuwait: Kuwait has not applied a secondary or tertiary boycott of firms doing business with Israel since 1991, and continues to adhere to the 1994 GCC decision. Although there is no direct trade between Kuwait and Israel, the government of Kuwait states that foreign firms have not encountered serious boycott-related problems for many years. Kuwait claims to have eliminated all direct references to the boycott in its commercial documents as of 2000 and affirms that it removed all firms and entities that were on the boycott list due to secondary or tertiary aspects of the boycott prior to 1991. Kuwait has a three person boycott office, which is part of the General Administration for Customs. While Kuwaiti

officials reportedly regularly attend Arab League boycott meetings, it is unclear if they are active participants.

Oman: Oman does not apply any aspect of the boycott, and has no laws providing for boycott enforcement. Although outdated boycott language occasionally appears in tender documents, Omani officials are working to ensure that such language is not included in new tender documents and have removed outdated language when brought to their attention. Omani customs processes Israeli-origin shipments entering with Israeli customs documentation, although Omani firms typically avoid marketing any identifiably Israeli consumer products. Telecommunications and mail flow normally between the two countries. Omani diplomatic missions are prohibited from taking part in Arab League boycott meetings.

Qatar: Qatar does not maintain a boycott law and does not enforce the boycott. Although Qatar renounced implementation of the boycott of U.S. firms that do business in Israel (the secondary and tertiary boycott) in 1994, U.S. firms and their subsidiaries occasionally report receiving boycott requests from public Qatari companies. An Israeli trade office opened in Qatar in May 1996, but Qatar ordered that office closed in January 2009 in protest against the Israeli military action in Gaza. Despite this closure, Qatar continues to allow trade with Israel and allows Israelis to visit the country. Official data from the Qatari government indicated that there was approximately \$3 million in trade between Qatar and Israel in 2009. Actual trade, including Israeli exports of agricultural and other goods shipped via third countries, is likely higher than the official figures. Qatar permits the entry of Israeli business travelers who obtain a visa in advance. The chief executive of Qatar's successful 2022 World Cup bid indicated that Israeli citizens would be welcome to attend the World Cup.

Saudi Arabia: Saudi Arabia, in accordance with the 1994 GCC decision, modified its 1962 law, resulting in the termination of the secondary and tertiary boycott. Senior Saudi government officials from relevant ministries have requested that U.S. officials keep them informed of any allegations that Saudi entities are seeking to enforce these aspects of the boycott. The Ministry of Commerce and Industry has established an office to address any reports of boycott-related violations; reported violations appear to reflect out-of-date language in recycled commercial and tender documents. Saudi companies have usually been willing to void or revise boycott-related language when they are notified of its use.

The United Arab Emirates (UAE): The UAE complies with the 1994 GCC decision and does not implement the secondary and tertiary aspects of the boycott. The UAE has not renounced the primary aspect of the boycott, but the degree to which it is enforced is unclear. According to data from the U.S. Department of Commerce, U.S. firms continue to face a relatively high number of boycott requests in the UAE (this could be attributed to the high volume of U.S.-UAE goods and services trade), which the government explains is mostly due to the use of outdated documentation, especially among private sector entities. The United States has had some success in working with the UAE to resolve specific boycott cases. The U.S. Department of Commerce OAC and Emirati Ministry of Economy officials have held periodic meetings aimed at encouraging the removal of boycott-related terms and conditions from commercial documents. The Emirati government has taken a number of steps to eliminate prohibited boycott requests, including the issuance of a series of circulars to public and private companies explaining that enforcement of the secondary and tertiary aspects of the boycott is a violation of Emirati policy.

Non-Arab League Countries

In recent years, press reports occasionally have surfaced regarding the implementation of officially sanctioned boycotts of trade with Israel by governments of non-Arab League countries, particularly some member states of the 57 member Organization of the Islamic Conference (OIC), headquartered in Saudi Arabia (Arab League and OIC membership overlaps to a considerable degree). Information gathered by U.S. embassies in various non-Arab League OIC member states does not paint a clear picture of whether

the OIC institutes its own boycott of Israel (as opposed perhaps to simply lending support to Arab League positions). The degree to which non-Arab League OIC member states enforce any aspect of a boycott against Israel also appears to vary widely. Bangladesh, for example, does impose a primary boycott on trade with Israel. By contrast, OIC members Tajikistan, Turkmenistan, and Kazakhstan impose no boycotts on trade with Israel and in some cases have actively encouraged such trade.