

ARAB LEAGUE

The impact of the Arab League boycott (ALB) of Israel on U.S. trade and investment in the Middle East and North Africa varies from country to country. While it remains a serious barrier for U.S. firms attempting to export from Israel to some countries in the region, the Arab League boycott of Israel has virtually no effect on U.S. trade and investment in many other countries in the region. Arab League members include the Palestinian Authority and the following states: Algeria, Comoros, Djibouti, Egypt, Iraq, Jordan, Lebanon, Libya, Mauritania, Morocco, Somalia, Sudan, Syria, Tunisia, Yemen, and the Gulf Cooperation Council (GCC) countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates). The United States continues to oppose the boycott, and U.S. government officials have urged Arab League members to end its enforcement. Toward that goal, U.S. embassies and government officials raise the boycott with host country officials, noting the persistence of illegal boycott requests and the impact on both U.S. firms and on the countries' ability to expand trade and investment. Under U.S. antiboycott legislation enacted in 1978, U.S. firms are prohibited from responding to any request for information that is designed to determine compliance with the boycott and are required to report receipt of any such request to the U.S. Department of Commerce's Office of Antiboycott Compliance (OAC).

The primary aspect of the boycott prohibits the importation of Israeli-origin goods and services into boycotting countries. This prohibition may conflict with the obligation of Arab League member states that are also members of the World Trade Organization (WTO) to treat Israeli imports on a Most Favored Nation (MFN) basis. The secondary and tertiary aspects of the boycott discriminate against U.S. and other foreign firms that wish to do business with both Israel and boycotting countries. These constrain U.S. exports to the region. The secondary aspect of the boycott prohibits individuals – as well as private and public sector firms and organizations – in Arab League countries from engaging in business with U.S. and other foreign firms that contribute to Israel's military or economic development. Such firms are placed on a blacklist maintained by the Damascus-based Central Boycott Office (CBO), a specialized bureau of the Arab League. The tertiary aspect of the boycott prohibits business dealings with U.S. and other firms that do business with blacklisted companies.

While the legal structure of the boycott in the Arab League remains unchanged, enforcement of the boycott remains the responsibility of individual member states and enforcement efforts vary widely from country to country. Some member governments of the Arab League have consistently maintained that only the Arab League as a whole can revoke the boycott. Other member governments support the view that adherence to the boycott is a matter of national discretion, and a number of states have taken steps to dismantle some aspects of it.

Egypt has not enforced any aspect of the boycott since 1980, pursuant to its peace treaty with Israel, although U.S. firms occasionally find some government agencies using outdated forms containing boycott language. In past years, Egypt has included boycott language in tenders funded by the Arab League. The boycott language is drafted by the Arab League and not by the government of Egypt. Jordan ended its enforcement of the boycott with the signing of its peace treaty with Israel in 1994. Algeria, Morocco, Tunisia, and the Palestinian Authority do not enforce the boycott.

Libya has a boycott law on the books, but enforcement is inconsistent and senior Libyan officials report that the boycott is not being actively enforced.

In September 1994, the GCC countries announced an end to the secondary and tertiary aspects of the Arab League boycott of Israel, eliminating a significant trade barrier to U.S. firms. In December 1996,

FOREIGN TRADE BARRIERS

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 continues to contain boycott language.

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 typically been remedied quickly. Bahrain's Ministry of Finance circulated a memorandum to all Bahraini Ministries in September 2005, reminding them that the secondary and tertiary boycotts are no longer in place and to remove any boycott language, including primary boycott, from government tenders and contracts. The government of Bahrain has stated publicly that it recognizes the need to dismantle the primary boycott and is taking steps to do so. In September 2005, Bahrain closed down its boycott office, the only entity responsible for enforcing the boycott. The U.S. Government has received assurances from the government of Bahrain that it is committed to ending the boycott. Bahrain is fully committed to complying with WTO requirements on trade relations with other WTO Members, and Bahrain has no restrictions on American companies trading with Israel or doing business in Israel, regardless of their ownership or relations with Israeli companies. Bahrain did not attend the November 2006 Arab League boycott meeting in Damascus. Israeli-labeled products are reported to be found occasionally in the Bahraini market. There are no entities present in Bahrain for the purpose of promoting trade with Israel.

In accordance with the 1994 GCC decision, Kuwait no longer applies a secondary or tertiary boycott of firms doing business with Israel, and has taken steps to eliminate all direct references to the boycott of Israel in its commercial documents. Although Kuwaiti law does not include any specific language referring to or mandating a boycott of Israeli goods, Kuwait still applies a primary boycott of goods and services produced in Israel. Kuwait maintains an open boycott office in its Customs department and regularly attends Arab League boycott meetings. There is no direct trade between Kuwait and Israel.

Oman does not apply any aspect of the boycott, whether primary, secondary or tertiary, and has no laws to that effect. Although outdated boycott language occasionally appears inadvertently in tender documents, Oman is working to ensure such language is removed from these documents. In January 1996, Oman and Israel signed an agreement to open trade missions in each country. However, in October 2000, following the outbreak of the second Intifada, Oman and Israel suspended these missions. Omani customs processes Israeli-origin shipments entering with Israeli customs documentation. However, Omani firms recently have reportedly avoided marketing any identifiably Israeli consumer products. Telecommunications links and mail flow normally between the two countries.

In April 1996, Qatar and Israel agreed to exchange trade representation offices. The Israeli trade office opened in May 1996 and remains open. Qatar does not have any boycott laws on the books, and does not enforce the Arab League boycott. Although Qataris have sometimes visited Israel to investigate business opportunities, effectively there is no trade between the two states. Some Qatari government tender documents still include outdated boycott language. U.S. embassy officials have discussed this matter with the Central Tenders Committee, which claims that a final decision regarding the presence of boycott language in government tender documents is pending with the Ministry of Finance. The U.S. Government is currently working with the Ministry of Finance on this issue.

In accordance with the 1994 GCC decision, Saudi Arabia terminated the secondary and tertiary boycotts, and they are no longer enforced in the Kingdom. In light of its accession to the WTO in 2005, the Saudi government re-issued the original directive confirming that these two boycotts are not to be applied in Saudi Arabia. The Ministry of Commerce and Industry (MOC) established an office to address any

FOREIGN TRADE BARRIERS

reports of boycott violations. The MOC met with the U.S. Department of Commerce's Office of Anti-Boycott Compliance (OAC) in September 2005 and February 2006 to discuss methods for ensuring Saudi commercial documents and tenders are in compliance with anti-boycott regulations. The OAC's list of reported boycott violations in Saudi Arabia over the last few years has decreased dramatically, and the reported violations appear to reflect out-of-date language in recycled commercial and tender documents. Saudi companies have been willing to void or revise that language when they are notified of its use. Saudi Arabia is obligated to apply WTO commitments to all current members, including Israel.

In accordance with the 1994 GCC decision, the United Arab Emirates (UAE) does not implement the secondary and tertiary aspects of the boycott. The UAE has not renounced the primary boycott, however, enforcement of the primary boycott is unclear. U.S. firms continue to face boycott requests in the UAE as a result of administrative and bureaucratic inefficiencies. The UAE is taking steps to eliminate prohibited boycott requests, and the UAE government has issued 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. The Embassy and other U.S. officials continue to work with the UAE to resolve boycott issues.

The legal status of Iraq's boycott laws is ambiguous. There is an existing law from 1956 which provides for the existence of an office charged with the enforcement of the boycott. Coalition Provision Authority (CPA) Order 80 amended Iraq's trademark law to remove boycott requirements from Iraqi trademark law. However, we understand from anecdotal reporting that the boycott is still being enforced by the Iraqi Office of Trademark Registration. In contrast, other Iraqi government officials, including at the Ministerial level, have asserted that the boycott is no longer in force as a practical matter. Nonetheless, U.S. companies continue to encounter prohibited requests from certain Iraqi Ministries, parastatals, and private sector entities. U.S. government authorities have addressed these on a case-by-case basis and are working with the government of Iraq to put in place a boycott-free legal structure. Senior Iraqi officials are aware that enforcement of the boycott would jeopardize Iraq's ability to attract foreign investment. Embassy officials expect that the government of Iraq will work to resolve remaining issues.

Yemen is implementing its 1995 decision to renounce observance of the secondary and tertiary aspects of the boycott. Yemen remains a participant in annual meetings of the Arab League boycott committee. The government of Yemen does not have an official boycott office. Yemen enforces the primary boycott of goods and services produced in Israel. There are no specific laws on the books in Yemen regarding the boycott.

Lebanon enforces the primary, secondary and tertiary boycotts.