

114TH CONGRESS
2D SESSION

S. 3465

To amend the Export Administration Act of 1979 to include in the prohibitions on boycotts against allies of the United States boycotts fostered by international governmental organizations against Israel and to direct the Export-Import Bank of the United States to oppose boycotts against Israel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2016

Mr. CARDIN (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Export Administration Act of 1979 to include in the prohibitions on boycotts against allies of the United States boycotts fostered by international governmental organizations against Israel and to direct the Export-Import Bank of the United States to oppose boycotts against Israel, 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 “Protecting Israel
5 Against Economic Discrimination Act of 2016”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The United Nations Human Rights Council
4 (in this section referred to as the “UNHRC”) has
5 long targeted Israel with systematic, politically moti-
6 vated, assaults on its legitimacy designed to stig-
7 matize and isolate Israel internationally.

8 (2) The UNHRC maintains a permanent agen-
9 da item known as “Item 7” to ensure that Israel will
10 be criticized at every gathering of the UNHRC.

11 (3) At its 31st session on March 24, 2016, the
12 UNHRC targeted Israel with a commercial boycott,
13 calling for the establishment of a database, such as
14 a “blacklist”, of companies that operate, or have
15 business relations with entities that operate, beyond
16 Israel’s 1949 Armistice lines, including East Jeru-
17 salem.

18 (4) For a half century, Congress has combated
19 anti-Israel boycotts and other discriminatory activity
20 under the Export Administration Act of 1979 (50
21 U.S.C. 4601 et seq.) (as continued in effect under
22 the International Emergency Economic Powers Act
23 (50 U.S.C. 1701 et seq.)), under part VI of title X
24 of the Tax Reform Act of 1976 (Public Law 94–
25 455; 90 Stat. 1649) (commonly referred to as the
26 “Ribicoff Amendment”), in free trade agreements

1 with Bahrain and Oman, and in Saudi Arabia’s ac-
2 cession negotiations to the World Trade Organiza-
3 tion.

4 (5) The recent action of the UNHRC is remi-
5 niscent of the Arab League Boycott, which also
6 called for the establishment of a “blacklist” and pro-
7 moted a primary, as well as a secondary and ter-
8 tiary, boycott against Israel, targeting United States
9 and other companies that trade or invest with or in
10 Israel, and designed to harm Israel, any business op-
11 erating in, or doing business, with Israel, or compa-
12 nies that do business with companies operating in
13 Israel.

14 (6) Congress recently passed anti-boycott, di-
15 vestment, and sanctions measures in the Bipartisan
16 Congressional Trade Priorities and Accountability
17 Act of 2015 (title I of Public Law 114–26; 19
18 U.S.C. 4201 et seq.) and section 909 of the Trade
19 Facilitation and Trade Enforcement Act of 2015 (19
20 U.S.C. 4452), which establish, among other things—

21 (A) the opposition of the United States to
22 boycott, divestment, and sanctions activity tar-
23 geting Israel;

24 (B) requirements that the United States
25 utilize trade negotiations to combat state-led or

1 international governmental organization-led
2 boycott, divestment, and sanctions activity tar-
3 geting Israel; and

4 (C) reporting requirements regarding the
5 actions of foreign countries or international or-
6 ganizations that establish barriers to trade or
7 investment for United States companies in or
8 with Israel.

9 **SEC. 3. STATEMENT OF POLICY.**

10 Congress—

11 (1) opposes the United Nations Human Rights
12 Council resolution of March 24, 2016, which urges
13 countries to pressure companies subject to their ju-
14 risdiction to divest from, or break contracts with,
15 Israel, and calls for the creation of a “blacklist” of
16 companies that either operate, or have business rela-
17 tions with entities that operate, beyond Israel’s 1949
18 Armistice lines, including East Jerusalem; and

19 (2) views such policies as a boycott of, divest-
20 ment from, and sanctions against Israel.

21 **SEC. 4. RULE OF CONSTRUCTION.**

22 This Act is intended to address and counter only acts
23 of boycotts, divestment, and sanctions against Israel.
24 Nothing in this Act shall be construed to alter the estab-
25 lished policy of the United States concerning final status

1 issues associated with the Arab-Israel conflict, including
2 border delineation that can only be resolved through direct
3 negotiations between the parties.

4 **SEC. 5. DEFINITIONS.**

5 In this Act:

6 (1) **BOYCOTT OF, DIVESTMENT FROM, AND**
7 **SANCTIONS AGAINST ISRAEL.**—The term “boycott of,
8 divestment from, and sanctions against Israel”
9 means actions by states, nonmember states of the
10 United Nations, international governmental organi-
11 zations, or affiliated agencies of international gov-
12 ernmental organizations that are politically moti-
13 vated and are intended to penalize or otherwise limit
14 commercial relations specifically with Israel or per-
15 sons doing business in Israel or in Israeli-controlled
16 territories.

17 (2) **POLITICALLY MOTIVATED.**—The term “po-
18 litically motivated” means actions to impede or con-
19 strain commerce with Israel that are intended to co-
20 erce political action or impose policy positions on
21 Israel.

22 **SEC. 6. ADDITIONAL PROHIBITIONS RELATING TO FOR-**
23 **EIGN BOYCOTTS.**

24 (a) **DECLARATION OF POLICY.**—Section 3(5) of the
25 Export Administration Act of 1979 (50 U.S.C. 4602(5))

1 (as continued in effect under the International Emergency
2 Economic Powers Act (50 U.S.C. 1701 et seq.)) is amend-
3 ed—

4 (1) by amending subparagraph (A) to read as
5 follows:

6 “(A) to oppose—

7 “(i) restrictive trade practices or boy-
8 cotts fostered or imposed by foreign coun-
9 tries, or requests to impose restrictive
10 trade practices or boycotts by foreign coun-
11 tries, against other countries friendly to
12 the United States or against any United
13 States person; and

14 “(ii) restrictive trade practices or boy-
15 cotts fostered or imposed by any inter-
16 national governmental organization, or re-
17 quests to impose restrictive trade practices
18 or boycotts by any international govern-
19 mental organization, against Israel;” and

20 (2) in subparagraph (B), by striking “which
21 have the effect” and all the follows and inserting the
22 following: “which have the effect of furthering or
23 supporting—

24 “(i) the restrictive trade practices or
25 boycotts fostered or imposed by any for-

1 foreign country, or requests to impose restric-
 2 tive trade practices or boycotts by any for-
 3 eign country, against a country friendly to
 4 the United States or against any United
 5 States person; and

6 “(ii) restrictive trade practices or boy-
 7 cotts fostered or imposed by any inter-
 8 national governmental organization, or re-
 9 quests to impose restrictive trade practices
 10 or boycotts by any international govern-
 11 mental organization, against Israel; and”.

12 (b) FOREIGN BOYCOTTS.—Section 8 of the Export
 13 Administration Act of 1979 (50 U.S.C. 4607) (as contin-
 14 ued in effect under the International Emergency Eco-
 15 nomic Powers Act (50 U.S.C. 1701 et seq.)) is amended—

16 (1) in subsection (a)(1)—

17 (A) in the matter preceding subparagraph

18 (A)—

19 (i) by inserting “, or request to im-
 20 pose any boycott by a foreign country,”
 21 after “a foreign country”; and

22 (ii) by inserting “, or support any
 23 boycott fostered or imposed by any inter-
 24 national governmental organization, or re-
 25 quest to impose any boycott by any inter-

1 national governmental organization,
 2 against Israel” after “pursuant to United
 3 States law or regulation”;

4 (B) in subparagraph (A), by inserting “or
 5 international governmental organization (as the
 6 case may be)” after “of the boycotting coun-
 7 try”; and

8 (C) in subparagraph (D)—

9 (i) by inserting “, or requesting the
 10 furnishing of information,” after “Fur-
 11 nishing information”; and

12 (ii) by inserting “or with the inter-
 13 national governmental organization (as the
 14 case may be)” after “in the boycotting
 15 country”; and

16 (2) in subsection (c)—

17 (A) by inserting “, or requests to impose
 18 restrictive trade practices or boycotts by foreign
 19 countries,” after “foreign countries”; and

20 (B) by inserting “or restrictive trade prac-
 21 tices or boycotts fostered or imposed by any
 22 international governmental organization, or re-
 23 quests to impose restrictive trade practices or
 24 boycotts by any international governmental or-

1 ganization, against Israel” before the period at
2 the end.

3 (c) VIOLATIONS OF SECTION 8(a).—Section 11 of the
4 Export Administration Act of 1979 (50 U.S.C. 4610) (as
5 continued in effect under the International Emergency
6 Economic Powers Act (50 U.S.C. 1701 et seq.)) is amend-
7 ed—

8 (1) in subsection (a), by inserting “or (j)” after
9 “subsection (b)”; and

10 (2) by adding at the end the following:

11 “(j) VIOLATIONS OF SECTION 8(a).—Whoever know-
12 ingly violates or conspires to or attempts to violate any
13 provision of section 8(a) or any regulation, order, or li-
14 cense issued thereunder shall be fined in accordance with
15 section 206 of the International Emergency Economic
16 Powers Act (50 U.S.C. 1705).”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section take effect on the date of the enactment of
19 this Act and apply with respect to actions described in
20 section 8(a) of the Export Administration Act of 1979 (as
21 continued in effect under the International Emergency
22 Economic Powers Act) taken or knowingly agreed to be
23 taken on or after such date of enactment.

1 **SEC. 7. POLICY OF THE UNITED STATES RELATING TO BOY-**
2 **COTT OF ISRAEL UNDER EXPORT-IMPORT**
3 **BANK ACT OF 1945.**

4 Section 2(b)(1)(B) of the Export-Import Bank Act
5 of 1945 (12 U.S.C. 635(b)(1)(B)) is amended in the sixth
6 sentence by inserting after “child labor),” the following:
7 “or opposing policies and actions that are politically moti-
8 vated and are intended to penalize or otherwise limit com-
9 mercial relations specifically with citizens or residents of
10 Israel, entities organized under the laws of Israel, or the
11 Government of Israel,”.

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