

112TH CONGRESS
1ST SESSION

H. R. 2589

To prohibit certain activities in support of the Arab League boycott of Israel, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2011

Mr. BERMAN introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To prohibit certain activities in support of the Arab League boycott of 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 “Antiboycott Act”.

5 **SEC. 2. ANTIBOYCOTT PROVISIONS.**

6 (a) FINDINGS.—The Congress finds that—

7 (1) the Arab League boycott of Israel, and the
8 secondary boycott of United States firms that have
9 commercial ties with Israel, are an impediment to

1 investment, trade, economic development, and peace
2 in the Middle East and North Africa;

3 (2) it is in the common interest of the people
4 of Israel and the Arab states that the Arab League
5 boycott be terminated, that the Central Office for
6 the Boycott of Israel be closed, and that Arab
7 League states normalize relations with their neigh-
8 bor Israel; and

9 (3) the President, the Secretary of State, and
10 the Secretary of Commerce should continue to vigor-
11 ously oppose the Arab League boycott of Israel and
12 use the authorities enacted into law by Congress to
13 take concrete steps to seek an end to the Arab
14 League boycott.

15 (b) POLICY.—It is the policy of the United States—

16 (1) to oppose restrictive trade practices or boy-
17 cotts fostered or imposed by foreign countries
18 against other countries friendly to the United States
19 or against any United States person;

20 (2) to encourage and, in specified cases, require
21 United States persons engaged in the export of
22 goods or technology or other information to refuse to
23 take actions, including furnishing information or en-
24 tering into or implementing agreements, which have
25 the effect of furthering or supporting the restrictive

1 trade practices or boycotts fostered or imposed by
2 any foreign country against a country friendly to the
3 United States or against any United States person;
4 and

5 (3) to foster international cooperation and the
6 development of international rules and institutions
7 to assure reasonable access to world supplies.

8 (c) PROHIBITIONS AND EXCEPTIONS.—

9 (1) PROHIBITIONS.—In order to carry out the
10 purposes set forth in subsection (b), the Secretary of
11 Commerce (in this Act referred to as the “Sec-
12 retary”) shall issue regulations prohibiting any
13 United States person, with respect to that person’s
14 activities in the interstate or foreign commerce of
15 the United States, from taking or knowingly agree-
16 ing to take any of the following actions with intent
17 to comply with, further, or support any boycott fos-
18 tered or imposed by a foreign country against a
19 country that is friendly to the United States and is
20 not itself the object of any form of boycott pursuant
21 to United States law or regulation:

22 (A) Refusing, or requiring any other per-
23 son to refuse, to do business with or in the boy-
24 cotted country, with any business concern orga-
25 nized under the laws of the boycotted country,

1 with any national or resident of the boycotted
2 country, or with any other person, pursuant to
3 an agreement with, or requirement of, or a re-
4 quest from or on behalf of the boycotting coun-
5 try. The mere absence of a business relationship
6 with or in the boycotted country with any busi-
7 ness concern organized under the laws of the
8 boycotted country, with any national or resident
9 of the boycotted country, or with any other per-
10 son, does not indicate the existence of the in-
11 tent required to establish a violation of regula-
12 tions issued to carry out this subparagraph.

13 (B) Refusing, or requiring any other per-
14 son to refuse, to employ or otherwise discrimi-
15 nate against any United States person on the
16 basis of the race, religion, sex, or national ori-
17 gin of that person or of any owner, officer, di-
18 rector, or employee of such person.

19 (C) Furnishing information with respect to
20 the race, religion, sex, or national origin of any
21 United States person or of any owner, officer,
22 director, or employee of such person.

23 (D) Furnishing information about whether
24 any person has, has had, or proposes to have
25 any business relationship (including a relation-

1 ship by way of sale, purchase, legal or commer-
2 cial representation, shipping or other transport,
3 insurance, investment, or supply) with or in the
4 boycotted country, with any business concern
5 organized under the laws of the boycotted coun-
6 try, with any national or resident of the boy-
7 cotted country, or with any other person which
8 is known or believed to be restricted from hav-
9 ing any business relationship with or in the boy-
10 cotted country. Nothing in this subparagraph
11 shall prohibit the furnishing of normal business
12 information in a commercial context as defined
13 by the Secretary.

14 (E) Furnishing information about whether
15 any person is a member of, has made a con-
16 tribution to, or is otherwise associated with or
17 involved in the activities of any charitable or
18 fraternal organization that supports the boy-
19 cotted country.

20 (F) Paying, honoring, confirming, or other-
21 wise implementing a letter of credit that con-
22 tains any condition or requirement the compli-
23 ance with which is prohibited by regulations
24 issued pursuant to this paragraph, and no
25 United States person shall, as a result of the

1 application of this paragraph, be obligated to
2 pay or otherwise honor or implement such letter
3 of credit.

4 (2) EXCEPTIONS.—Regulations issued pursuant
5 to paragraph (1) may provide exceptions for—

6 (A) compliance, or agreement to comply,
7 with requirements—

8 (i) prohibiting the import of items
9 from the boycotted country or items pro-
10 duced or provided, by any business concern
11 organized under the laws of the boycotted
12 country or by nationals or residents of the
13 boycotted country; or

14 (ii) prohibiting the shipment of items
15 to the boycotting country on a carrier of
16 the boycotted country or by a route other
17 than that prescribed by the boycotting
18 country or the recipient of the shipment;

19 (B) compliance, or agreement to comply,
20 with import and shipping document require-
21 ments with respect to the country of origin, the
22 name of the carrier and route of shipment, the
23 name of the supplier of the shipment, or the
24 name of the provider of other services, except
25 that, for purposes of applying any exception

1 under this subparagraph, no information know-
2 ingly furnished or conveyed in response to such
3 requirements may be stated in negative, black-
4 listing, or similar exclusionary terms, other
5 than with respect to carriers or route of ship-
6 ment as may be permitted by such regulations
7 in order to comply with precautionary require-
8 ments protecting against war risks and confis-
9 cation;

10 (C) compliance, or agreement to comply, in
11 the normal course of business with the unilat-
12 eral and specific selection by a boycotting coun-
13 try, or a national or resident thereof, of car-
14 riers, insurers, suppliers of services to be per-
15 formed within the boycotting country, or spe-
16 cific items which, in the normal course of busi-
17 ness, are identifiable by source when imported
18 into the boycotting country;

19 (D) compliance, or agreement to comply,
20 with export requirements of the boycotting
21 country relating to shipment or transshipment
22 of exports to the boycotted country, to any busi-
23 ness concern of or organized under the laws of
24 the boycotted country, or to any national or
25 resident of the boycotted country;

1 (E) compliance by an individual, or agree-
2 ment by an individual to comply, with the immi-
3 gration or passport requirements of any country
4 with respect to such individual or any member
5 of such individual's family or with requests for
6 information regarding requirements of employ-
7 ment of such individual within the boycotting
8 country; and

9 (F) compliance by a United States person
10 resident in a foreign country, or agreement by
11 such a person to comply, with the laws of the
12 country with respect to the person's activities
13 exclusively therein, and such regulations may
14 contain exceptions for such resident complying
15 with the laws or regulations of the foreign coun-
16 try governing imports into such country of
17 trademarked, trade-named, or similarly specifi-
18 cally identifiable products, or components of
19 products for such person's own use, including
20 the performance of contractual services within
21 that country.

22 (3) LIMITATION ON EXCEPTIONS.—Regulations
23 issued pursuant to paragraphs (2)(C) and (2)(F)
24 shall not provide exceptions from paragraphs (1)(B)
25 and (1)(C).

1 (4) ANTITRUST AND CIVIL RIGHTS LAWS NOT
2 AFFECTED.—Nothing in this subsection may be con-
3 strued to supersede or limit the operation of the
4 antitrust or civil rights laws of the United States.

5 (5) EVASION.—This section applies to any
6 transaction or activity undertaken by or through a
7 United States person or any other person with in-
8 tent to evade the provisions of this section or the
9 regulations issued pursuant to this subsection. The
10 regulations issued pursuant to this section shall ex-
11 pressly provide that the exceptions set forth in para-
12 graph (2) do not permit activities or agreements (ex-
13 pressed or implied by a course of conduct, including
14 a pattern of responses) otherwise prohibited, which
15 are not within the intent of such exceptions.

16 (d) REPORTS.—

17 (1) IN GENERAL.—Regulations issued under
18 this section shall require that any United States per-
19 son receiving a request to furnish information, enter
20 into or implement an agreement, or take any other
21 action referred to in subsection (c) shall report that
22 request to the Secretary, together with any other in-
23 formation concerning the request that the Secretary
24 determines appropriate. The person shall also sub-
25 mit to the Secretary a statement regarding whether

1 the person intends to comply, and whether the per-
2 son has complied, with the request.

3 (2) PUBLIC AVAILABILITY OF REPORTS.—Any
4 report filed pursuant to this subsection shall be
5 made available promptly for public inspection and
6 copying, except that information regarding the quan-
7 tity, description, and value of any item to which
8 such report relates may be kept confidential if the
9 Secretary determines that disclosure of that infor-
10 mation would place the United States person in-
11 volved at a competitive disadvantage.

12 (3) SUMMARIES TO SECRETARY OF STATE.—
13 The Secretary shall periodically transmit summaries
14 of the information contained in the reports filed pur-
15 suant to this subsection to the Secretary of State for
16 such action as the Secretary of State, in consultation
17 with the Secretary, considers appropriate to carry
18 out the purposes set forth in subsection (b).

19 (e) PREEMPTION.—The provisions of this section and
20 the regulations issued under this section shall preempt any
21 law, rule, or regulation that—

22 (1) is a law, rule, or regulation of any of the
23 several States or the District of Columbia, or any of
24 the territories or possessions of the United States,
25 or of any governmental subdivision thereof; and

1 (2) pertains to participation in, compliance
2 with, implementation of, or the furnishing of infor-
3 mation regarding restrictive trade practices or boy-
4 cotts fostered or imposed by foreign countries
5 against other countries.

6 (f) PENALTIES.—

7 (1) UNLAWFUL ACTS.—It shall be unlawful for
8 a person to violate, attempt to violate, conspire to
9 violate, or cause a violation of this section or of any
10 regulation or order issued under this section.

11 (2) CRIMINAL PENALTY.—A person who, with
12 knowledge or intent, commits, attempts to commit,
13 or conspires to commit, or aids or abets in the com-
14 mission of, an unlawful act described in subsection
15 (c) shall, upon conviction, be fined not more than
16 \$1,000,000, or, if a natural person, be imprisoned
17 for not more than 20 years, or both.

18 (3) CIVIL PENALTIES.—

19 (A) AUTHORITY.—The President may im-
20 pose the following civil penalties on a person for
21 each violation by that person of this section or
22 any regulation or order issued under this sec-
23 tion, for each violation:

24 (i) A fine of not more than \$250,000.

1 (ii) A prohibition on the person’s abil-
2 ity to export any goods, technology, or
3 services, whether or not a license has been
4 issued previously to authorize such an ex-
5 port.

6 (B) PROCEDURES.—Any civil penalty
7 under this subsection may be imposed only
8 after notice and opportunity for an agency
9 hearing on the record in accordance with sec-
10 tions 554 through 557 of title 5, United States
11 Code, and shall be subject to judicial review in
12 accordance with chapter 7 of such title.

13 (C) STANDARDS FOR LEVELS OF CIVIL
14 PENALTY.—The President may by regulation
15 provide standards for establishing levels of civil
16 penalty under this paragraph based upon the
17 seriousness of the violation, the culpability of
18 the violator, and the violator’s record of co-
19 operation with the Government in disclosing the
20 violation.

21 (g) ANNUAL REPORT.—Not later than 180 days after
22 the date of the enactment of this Act and annually there-
23 after, the President shall report to the Congress on the
24 implementation and enforcement of this section and on ad-
25 ditional steps taken by the United States to bring about

1 the termination of the Arab League boycott of Israel and
2 to encourage Arab League states to normalize their rela-
3 tions with Israel.

4 (h) DEFINITION.—In this section, the term “United
5 States person”—

6 (1) means—

7 (A) any United States resident or national;

8 (B) any domestic concern (including any
9 permanent domestic establishment of any for-
10 eign concern); and

11 (C) any foreign subsidiary or affiliate (in-
12 cluding any permanent foreign establishment)
13 of any domestic concern that is controlled in
14 fact by such domestic concern, as determined
15 under regulations of the President; but

16 (2) does not include an individual resident out-
17 side the United States who is employed by a person
18 other than a person described in paragraph (1).

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