



United States Department of State

Washington, D.C. 20520

SEP 16 2019

The Honorable
Nancy P. Pelosi
Speaker of the House of Representatives
Washington, DC 20515

AUG 26 2019

Dear Madam Speaker:

Pursuant to section 909(d) of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), please find enclosed a report on politically motivated boycotts of, divestment from, and sanctions against Israel.

Sincerely,

Mary Elizabeth Taylor
Assistant Secretary
Bureau of Legislative Affairs

Enclosure:
As stated.

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(U) Report Mandated in Section 909 of the Trade Facilitation and Trade Enforcement Act (TFTEA) of 2015 (P.L. 114-125)

(U) Report on Politically Motivated Acts of Boycott of, Divestment from, and Sanctions Against Israel

1. (U) Section 909(d) of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), signed into law on February 24, 2016, requires the President to submit to Congress a report on politically motivated “boycotts of, divestment from, and sanctions against Israel” – commonly referred to as “BDS” actions. In section 1(b) of Executive Order 13733, the President delegated this reporting function to the Secretary of State, in consultation with other relevant Federal agencies. This report, prepared under section 909(d) of the TFTEA, is submitted to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate. It covers the time period from June 30, 2018 through June 30, 2019.
2. (U) The term “boycott of, divestment from, and sanctions against Israel” is defined elsewhere in section 909 as comprising “actions ... that are politically motivated and are intended to penalize or otherwise limit commercial relations specifically with Israel or persons doing business in Israel or in any territory controlled by Israel.” The United States opposes actions that penalize or otherwise limit commercial relations specifically with Israel, and all measures that aim to delegitimize Israel.
3. (U) As prescribed by section 909(d)(2), four elements are to be included in the report on BDS actions. These are:
 - (A) A description of the establishment of barriers to trade, including nontariff barriers, investment, or commerce by foreign countries or international organizations against United States persons operating or doing business in Israel, with Israeli entities, or in Israeli-controlled territories;
 - (B) A description of specific steps being taken by the United States to encourage foreign countries and international organizations to cease creating such barriers and to dismantle measures already in place, and an assessment of the effectiveness of such steps;
 - (C) A description of specific steps being taken by the United States to prevent investigations or prosecutions by governments or international organizations of United States persons solely on the basis of such persons doing business with Israel, with Israeli entities, or in Israeli-controlled territories; and
 - (D) Decisions by foreign persons, including corporate entities and state-affiliated financial institutions, that limit or prohibit economic relations with Israel or persons doing business in Israel or in any territory controlled by Israel.

4. (SBU) For this report, the Department solicited input from U.S. overseas missions; gathered contributions from relevant bureaus; and consulted with relevant federal agencies including the Office of the United States Trade Representative and the Department of Commerce.

5. (SBU) With respect to sub-paragraph (A), the Department reports that in Ireland, the Control of Economic Activity (Occupied Territories) Bill 2018 passed the second legislative stage in Dail Eireann (Ireland's lower house of parliament) by a 75-45 vote on January 24, 2019. The bill, if enacted, would, among other things, impose penalties for the import or sale of goods or services originating in an "occupied territory." Sponsors of the bill have made clear their intent to apply this bill to Israeli-controlled territory in the West Bank, East Jerusalem, and Gaza. Ahead of the vote, Deputy Prime Minister and Foreign Minister Simon Coveney repeatedly expressed opposition to the bill, which he said could negatively impact Ireland's constructive engagement on the Middle East. Further consideration of the bill is unlikely to take place before parliament's summer recess, and it is not clear whether it will in fact be considered again in the future. Separately, in September 2018, a German court upheld the dismissal of a suit against Kuwait Airlines by an Israeli passenger who had challenged the carrier's denial of boarding a flight the passenger had booked from Frankfurt to Bangkok via Kuwait. While noting that Kuwait's boycott of Israel was "unacceptable and irrelevant in Germany," the court dismissed the case on the basis that "Israelis in practice are not allowed to enter the transit areas of Kuwait's airport."

6. (SBU) With regards to sub-paragraph (B), the Department and Embassy Dublin continued to engage senior Irish government officials and party leaders, strongly urging them to drop their support for the bill. Following the German court ruling in favor of Kuwait Airlines, Embassy Berlin engaged senior German officials; the Embassy conducts regular outreach to German government officials and parliament members as well as local authorities on respect for Israel and Jewish life in Germany. Subsequently, on May 17, 2019, Germany's Bundestag (Federal Parliament) passed a resolution designating the BDS movement as anti-Semitic. The resolution called the BDS's "argument[s] and methods" anti-Semitic and resolved that the German government should not fund organizations that question Israel's right to exist or actively support BDS. One German state parliament has passed a similar resolution.

7. (SBU) In addition to the engagements specified in paragraph six, we maintain ongoing and regular engagement in opposition to measures associated with the Arab League Boycott; we assess our engagement to be generally effective. The Department of State submits an annual report to Congress on Terminating the Arab League Boycott of Israel and Encouraging Normalized Relations Between Arab League Members and Israel, in accordance with section 7035 of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018 (Div. K, P.L. 115-141). The annual report of the Department of Commerce's Bureau of Industry and Security also includes information on the activities of Commerce's Office of Antiboycott Compliance.

8. (SBU) No investigations or prosecutions as described in sub-paragraph (C) were identified, nor any related steps taken.

9. (SBU) With respect to sub-paragraph (D), we note economic actions may be undertaken for a variety of reasons, and can be simultaneously motivated by economic and non-economic

rationales. Given the varying degrees of efficacy of BDS campaigns, it is frequently difficult to identify the results of specific activities and whether they have had the actual effect of limiting or prohibiting economic relations. The following incidents took place during the reporting period and involved actions by "foreign persons," including corporate entities, that appeared to be both politically motivated and limiting or prohibiting economic relations with Israel or persons doing business in Israel or in any territory controlled by Israel. In November 2018, the European Association of Social Anthropologists ratified a motion to boycott Israeli academic institutions in the West Bank. The same month, several foreign chefs announced cancellation of plans to participate in the Tel Aviv Round Tables Food Festival. This followed publication of an open letter by 90 BDS activists from the global food industry that called on chefs planning to attend the festival to cancel participation. On January 14, 2019, press reported that Finnish artist Jani Leinonen asked a museum in Haifa remove a piece of his artwork due to his support for BDS.