

The Stealth Campaign to Use U.S. Law to Support Settlements: In Congress

Beginning in 2014, opponents of boycotts, divestment, and sanctions (BDS) against Israel began promoting legislation in various U.S. states denouncing the BDS movement. In 2015, these efforts shifted/expanded to efforts in the U.S. Congress (as well as at the state level) to hijack concerns about BDS against Israel in order to pass legislation giving unprecedented legitimacy and recognition to Israeli settlements by, in effect, making it U.S. policy to treat them as part of Israel. These efforts continue through the present day. This table – which will be updated regularly – is intended to help people understand and follow what is happening in Congress.

(Last updated: Wednesday, April 10, 2019)

To follow what is happening at the state level, see here: <http://fmep.org/resource/stealth-campaign-use-u-s-law-support-settlements-taking-battle-states-updatedexpanded-table/>

Bill/Resolution	Status	Content
S 1 and HR 336 : <i>(includes the Combating BDS Act)</i>	S. 1 - Passed the Senate Feb. 5, 2019 HR 336 - intro'd 1/8/19	Both include the Combating BDS Act, which seeks to give cover/legitimacy to state laws making contracts with the state conditional on the contractor promising not to boycott Israel or settlements.
HR 1697 and S. 720 : <i>"The Israel Anti-Boycott Act."</i>	Died at end of 115th Congress (after 11th hour effort to add the text to a year-end omnibus - failed because there was no omnibus)	Seeks to extend legislation barring US companies from complying with Arab League boycott of Israel to have it apply to companies voluntarily choosing to differentiate between Israel and settlements, if that choice is in any way linked to the EU differentiation policy or the UN database. Conflates Israel and settlements.

<p><u>H. Rept. 115-xxx</u>, accompanying <u>HR XXXX</u>, the “<i>Department of State, Foreign Operations, and Related Programs Appropriations Act, 2019</i>”</p>	<p>June 20, 2018: HAC marked up/adopted FY19 SFOP bill. Committee Report includes new Mexico City-style policy (also known as the “Global Gag Rule”) aimed at forcing non-US actors to adopt US-dictated policy vis-a-vis boycotts of Israel/settlements.</p>	<p>The report language accompanying the bill states: <i>“...The Committee is concerned about international efforts to stigmatize and isolate Israel through the boycott, divestment, and sanctions (BDS) movement. The Committee directs, as part of the annual report to Congress on the Arab League Boycott of Israel, that the President add information about the BDS campaign, covering companies, international organizations, countries, and other organizations, including state investment vehicles, that are involved in promoting the movement, as well as specific steps the Department of State has taken and expects to take to discourage or end politically-motivated efforts to boycott, divest from, or sanction Israel or Israeli entities. <u>The Committee further directs the Secretary of State and USAID Administrator to strengthen policies and procedures to ensure organizations supported through funding are not participants in such efforts.</u> **** (underlined text is new)</i></p> <p>As with other legislation ostensibly taking on BDS, the primary target here is likely NGOs that differentiate – consistent with international law, EU policy, UN policy, and broad international consensus – between Israel and settlements.</p> <p>Report language is not binding but is generally treated by the Executive as binding.</p> <p>Implications: Take, for example, a USAID partner NGO that, consistent with international law, doesn’t work in settlements, but does critical work in Rohingya refugee camps. They could be barred from U.S. funding.</p>
<p>H.R.6095 - To prohibit the boycotting of countries friendly to the United States, and for other purposes.</p>	<p>Introduced June 13, 2018</p>	

<p>H. Rept. 115-253, accompanying HR 3362, the “Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018”</p>	<p>Report includes stipulation in effect extending US policy (and related reporting requirements) vis-à-vis the Arab League Boycott of Israel to BDS and boycotts of settlements. NOTE: Report language is technically advisory only, but is general treated by the State Dept. as binding.</p>	<p>The report language accompanying the bill states: “...The Committee is concerned about international efforts to stigmatize and isolate Israel through the boycott, divestment, and sanctions (BDS) movement. The Committee directs, as part of the annual report to Congress on the Arab League Boycott of Israel, that the President add information about the BDS campaign, covering companies, international organizations, countries, and other organizations, including state investment vehicles, that are involved in promoting the movement, as well as specific steps the Department of State has taken and expects to take to discourage or end politically-motivated efforts to boycott, divest from, or sanction Israel or Israeli entities.”</p>
<p>HR 2856: To provide for nonpreemption of measures by State and local governments to divest from entities that engage in commerce-related or investment-related boycott, divestment, or sanctions activity targeting Israel, and for other purposes</p>	<p>Introduced 6/8/17 by McHenry (R-NC) and 7 bipartisan cosponsors</p>	<p>This is a House companion to S. 170</p>
<p>S. 170: the Combating BDS Act</p>	<p>Introduced 1/17 by Rubio (R-FL) and having a total of 38 cosponsors as of 6/14/17</p>	<p>This bill appears to be a new version for the new Congress of S. 2531 (in the House HR 4514).</p>
<p>S 3465 – “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.”</p>	<p>Introduced 9/29/16 by Cardin (D-MD) and Portman (R-OH).</p>	<p>Having virtually nothing to do with BDS against Israel but entirely about protecting and legitimizing Israeli settlements. This bill seeks to do so by fundamentally changing U.S. law to make it illegal (and punishable with large fines) for Americans to take part in or comply with any boycott of settlements linked to action by the UN or any other body (including, for example, the EU). The bill in effect seeks to treat boycotts of settlements backed by the UN or the EU the same way US law treats the Arab League boycott of Israel.</p>
<p>S 3117 – FY17 ForOps</p>	<p>Introduced 6/29/16 Placed on the Senate Calendar</p>	<p>On 6/29, the full Senate Appropriations Committee marked up the FY17 ForOps bill, adopted an amendment from Kirk (R-IL) adding to the bill his anti-BDS/pro-settlements legislation (S. 2531 - giving a green light for states to adopt unconstitutional laws).</p>

<p>H. Con. Res. 128 & S. Con. Res. 35 - <i>Expressing the sense of Congress that the United States should continue to exercise its veto in the United Nations Security Council on resolutions regarding the Israeli-Palestinian peace process</i></p>	<p>Introduced in the House 4/15/16 and in the Senate 4/19/16</p>	<p>Includes (among other things) a Sense of Congress expressing: <i>“the United States Government should continue to uphold its practice of vetoing any United Nations Security Council resolution that inserts the Council into the peace process, unilaterally recognizes a Palestinian state, makes declarations concerning <u>Israeli-controlled territories</u>, or dictates terms and a timeline for the Israeli-Palestinian peace process.”</i></p>
<p>HR 4555 - <i>Non-Discrimination of Israel in Labeling Act</i></p>	<p>Introduced 2/12/16, Referred to Ways & Means Committee’s Subcommittee on Trade</p>	<p>Seeks to retroactively make it U.S. policy that settlement goods are labeled as <i>“made in Israel.”</i></p>
<p>S. 2531 - <i>Combating BDS Act of 2016</i></p>	<p>Introduced 2/10/16, Referred to the Committee on Banking, Housing, and Urban Affairs.</p>	<p>Giving the green light and federal cover to state-level legislation targeting BDS (<u>and defining BDS to include activities targeting occupied territories</u>).</p>
<p>HR 4514 - <i>Combating BDS Act of 2016</i></p>	<p>Introduced 2/10/16 Referred to the House Committee on Financial Services</p>	<p>Giving the green light and federal cover to state-level legislation targeting BDS (<u>and defining BDS to include activities targeting occupied territories</u>).</p>

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<p>HR 4503: <i>A bill to allow for additional markings, including the word 'Israel' to be used for country of origin marking requirements for goods made in the geographical areas known as the West Bank and Gaza Strip."</i></p>	<p>Introduced 2/9/16 Referred to the Committee on Ways and Means</p>	<p>Seeks to make it U.S. policy that the settlements are treated as part of Israel for the purposes of export regulations.</p>
<p>S. 2474 - <i>A bill to allow for additional markings, including the words 'Israel' and 'Product in Israel,' to be used for country of origin marking requirements for goods made in the geographical areas known as the West Bank and Gaza Strip.</i></p>	<p>Introduced 2/1/16 Referred to the Committee on Finance.</p>	<p>Seeks to make it U.S. policy that the settlements are treated as part of Israel for the purposes of export regulations.</p>
<p>S. Res. 346 - <i>expressing opposition to the European Commission interpretive notice regarding labeling Israeli products and goods manufactured in the West Bank and other areas, as such actions undermine the Israeli-Palestinian peace process</i></p>	<p>Introduced 1/20/16 Referred to SFRC</p>	<p>Seeks to make it U.S. policy that to oppose the EU treating settlements as different from Israel for the purposes of export regulations.</p>
<p>H. Res. 567 - <i>Expressing opposition to the European Commission interpretive notice regarding labeling Israeli products and goods manufactured in the West Bank and other areas, as such actions undermine efforts to achieve a negotiated Israeli-Palestinian peace process</i></p>	<p>Introduced 12/16/15 Referred to HFAC's Subcommittee on Middle East and North Africa</p>	<p>Rejecting the EU treating settlements as different from Israel for the purposes of export regulations.</p>
<p>H. Res. 402 - <i>expressing the sense of the House of Representatives regarding politically motivated acts of boycott, divestment from, and sanctions against Israel, and for other purposes.</i></p>	<p>Introduced 7/29/15 Referred to HFAC</p>	<p>H. Res. 402 does not conflate boycotts/divestment/sanctions efforts targeting Israel with those targeting the settlements and occupation – no mention of Israel and “territories controlled by Israel” or similar formulas of conflation. Nor does H. Res. 402 inaccurately accuse the EU or its member governments of engaging in BDS against Israel.</p>

<u>H. Res. 318</u> - <i>Condemning resolutions or policies calling for or instituting a boycott of Israeli academic institutions or scholars by institutions of higher learning and scholarly associations.</i>	Introduced 6/16/15 Referred to the House Committee on Education and the Workforce	Focus solely on anti-Israel BDS, nothing to do with settlements.
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HR 2645 - <i>To amend title 5, United States Code, to prevent the Thrift Savings Fund from investing in any company that boycotts Israel.</i>	Introduced 6/4/15 Referred to the House Committee on Oversight and Government Reform	Explicitly conflates Israel and settlements, by defining “ <i>boycotting Israel</i> ” as meaning “ <i>engaging in actions that are politically motivated and are intended to penalize, inflict economic harm on, or otherwise limit commercial relations with the State of Israel or companies based in the State of Israel or in territories controlled by the State of Israel.</i> ”
S. 1269/HR 1907/HR 644 - the Trade Facilitation and Trade Enforcement Act of 2015 bill (aka the Customs bill)	Introduced late Spring 2015 Signed into law as HR 644 on 2/24/16. Obama issued signing statement rejecting conflation.	Pro-settlements provision similar to HR 825/S. 619 included in final bill. See lengthy history in Legislative Round-Ups. <u>Strongly lobbied by AIPAC.</u>
S. 995/HR 1890/HR 1314/HR 2146 - The Trade Promotion Authority bill (TPA) bill NOTE: For technical reasons, action on this measure moved to HR 1314	Introduced Spring 2015 Signed into law as HR 2146 on 6/29/15. Obama Admin made statement rejecting conflation.	Pro-settlements provision similar to HR 825/S 619 included in final bill. See lengthy history in Legislative Round-Ups. <u>Strongly lobbied by AIPAC.</u>
S. 619 - United States-Israel Trade Enhancement Act of 2015	Introduced 3/2/15 by Cardin (D-MD) and Portman (R-OH) <i>[in part folded into TPA & Customs bills]</i>	Senate version of HR 825 (not identical). Primary purpose is to discourage economic pressure targeting settlements and the occupation (and lay groundwork for imposing sanctions against those who engage in such actions. <u>Strongly lobbied by AIPAC (Cardin announced plans to introduce the bill from dais during the 2015 AIPAC policy conference).</u>
HR 825 - United States-Israel Trade and Commercial Enhancement Act	Introduced 2/10/15 by Roskam (R-IL) and Vargas (D-CA) <i>[in part folded into TPA & Customs bills]</i>	Primary purpose is to discourage economic pressure targeting settlements and the occupation (and lay groundwork for imposing sanctions against those who engage in such actions. <u>Strongly lobbied by AIPAC.</u>