

AMENDMENT TO H.R. _____
OFFERED BY MR. BERMAN OF CALIFORNIA

#32

Strike section 805 and insert the following:

1 **SEC. 805. ANTIBOYCOTT PROVISIONS.**

2 (a) **SHORT TITLE.**—This section may be cited as the
3 “Antiboycott Act”.

4 (b) **FINDINGS.**—The Congress finds that—

5 (1) the Arab League boycott of Israel, and the
6 secondary boycott of United States firms that have
7 commercial ties with Israel, are an impediment to
8 investment, trade, economic development, and peace
9 in the Middle East and North Africa;

10 (2) it is in the common interest of the people
11 of Israel and the Arab states that the Arab League
12 boycott be terminated, that the Central Office for
13 the Boycott of Israel be closed, and that Arab
14 League states normalize relations with their neigh-
15 bor Israel; and

16 (3) the President, the Secretary of State, and
17 the Secretary of Commerce should continue to vigor-
18 ously oppose the Arab League boycott of Israel and
19 use the authorities enacted into law by Congress to

1 take concrete steps to seek an end to the Arab
2 League boycott.

3 (c) POLICY.—It is the policy of the United States—

4 (1) to oppose restrictive trade practices or boy-
5 cotts fostered or imposed by foreign countries
6 against other countries friendly to the United States
7 or against any United States person;

8 (2) to encourage and, in specified cases, require
9 United States persons engaged in the export of
10 goods or technology or other information to refuse to
11 take actions, including furnishing information or en-
12 tering into or implementing agreements, which have
13 the effect of furthering or supporting the restrictive
14 trade practices or boycotts fostered or imposed by
15 any foreign country against a country friendly to the
16 United States or against any United States person;
17 and

18 (3) to foster international cooperation and the
19 development of international rules and institutions
20 to assure reasonable access to world supplies.

21 (d) PROHIBITIONS AND EXCEPTIONS.—

22 (1) PROHIBITIONS.—In order to carry out the
23 purposes set forth in subsection (c), the Secretary of
24 Commerce (in this section referred to as the “Sec-
25 retary”) shall issue regulations prohibiting any

1 United States person, with respect to that person's
2 activities in the interstate or foreign commerce of
3 the United States, from taking or knowingly agree-
4 ing to take any of the following actions with intent
5 to comply with, further, or support any boycott fos-
6 tered or imposed by a foreign country against a
7 country that is friendly to the United States and is
8 not itself the object of any form of boycott pursuant
9 to United States law or regulation:

10 (A) Refusing, or requiring any other per-
11 son to refuse, to do business with or in the boy-
12 cotted country, with any business concern orga-
13 nized under the laws of the boycotted country,
14 with any national or resident of the boycotted
15 country, or with any other person, pursuant to
16 an agreement with, or requirement of, or a re-
17 quest from or on behalf of the boycotting coun-
18 try. The mere absence of a business relationship
19 with or in the boycotted country with any busi-
20 ness concern organized under the laws of the
21 boycotted country, with any national or resident
22 of the boycotted country, or with any other per-
23 son, does not indicate the existence of the in-
24 tent required to establish a violation of regula-
25 tions issued to carry out this subparagraph.

1 (B) Refusing, or requiring any other per-
2 son to refuse, to employ or otherwise discrimi-
3 nate against any United States person on the
4 basis of the race, religion, sex, or national ori-
5 gin of that person or of any owner, officer, di-
6 rector, or employee of such person.

7 (C) Furnishing information with respect to
8 the race, religion, sex, or national origin of any
9 United States person or of any owner, officer,
10 director, or employee of such person.

11 (D) Furnishing information about whether
12 any person has, has had, or proposes to have
13 any business relationship (including a relation-
14 ship by way of sale, purchase, legal or commer-
15 cial representation, shipping or other transport,
16 insurance, investment, or supply) with or in the
17 boycotted country, with any business concern
18 organized under the laws of the boycotted coun-
19 try, with any national or resident of the boy-
20 cotted country, or with any other person which
21 is known or believed to be restricted from hav-
22 ing any business relationship with or in the boy-
23 coting country. Nothing in this subparagraph
24 shall prohibit the furnishing of normal business

1 information in a commercial context as defined
2 by the Secretary.

3 (E) Furnishing information about whether
4 any person is a member of, has made a con-
5 tribution to, or is otherwise associated with or
6 involved in the activities of any charitable or
7 fraternal organization that supports the boy-
8 cotted country.

9 (F) Paying, honoring, confirming, or other-
10 wise implementing a letter of credit that con-
11 tains any condition or requirement the compli-
12 ance with which is prohibited by regulations
13 issued pursuant to this paragraph, and no
14 United States person shall, as a result of the
15 application of this paragraph, be obligated to
16 pay or otherwise honor or implement such letter
17 of credit.

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

20 (A) compliance, or agreement to comply,
21 with requirements—

22 (i) prohibiting the import of items
23 from the boycotted country or items pro-
24 duced or provided, by any business concern
25 organized under the laws of the boycotted

1 country or by nationals or residents of the
2 boycotted country; or

3 (ii) prohibiting the shipment of items
4 to the boycotting country on a carrier of
5 the boycotted country or by a route other
6 than that prescribed by the boycotting
7 country or the recipient of the shipment;

8 (B) compliance, or agreement to comply,
9 with import and shipping document require-
10 ments with respect to the country of origin, the
11 name of the carrier and route of shipment, the
12 name of the supplier of the shipment, or the
13 name of the provider of other services, except
14 that, for purposes of applying any exception
15 under this subparagraph, no information know-
16 ingly furnished or conveyed in response to such
17 requirements may be stated in negative, black-
18 listing, or similar exclusionary terms, other
19 than with respect to carriers or route of ship-
20 ment as may be permitted by such regulations
21 in order to comply with precautionary require-
22 ments protecting against war risks and confis-
23 cation;

24 (C) compliance, or agreement to comply, in
25 the normal course of business with the unilat-

1 eral and specific selection by a boycotting coun-
2 try, or a national or resident thereof, of ear-
3 riers, insurers, suppliers of services to be per-
4 formed within the boycotting country, or spe-
5 cific items which, in the normal course of busi-
6 ness, are identifiable by source when imported
7 into the boycotting country;

8 (D) compliance, or agreement to comply,
9 with export requirements of the boycotting
10 country relating to shipment or transshipment
11 of exports to the boycotted country, to any busi-
12 ness concern of or organized under the laws of
13 the boycotted country, or to any national or
14 resident of the boycotted country;

15 (E) compliance by an individual, or agree-
16 ment by an individual to comply, with the immi-
17 gration or passport requirements of any country
18 with respect to such individual or any member
19 of such individual's family or with requests for
20 information regarding requirements of employ-
21 ment of such individual within the boycotting
22 country; and

23 (F) compliance by a United States person
24 resident in a foreign country, or agreement by
25 such a person to comply, with the laws of the

1 country with respect to the person's activities
2 exclusively therein, and such regulations may
3 contain exceptions for such resident complying
4 with the laws or regulations of the foreign coun-
5 try governing imports into such country of
6 trademarked, trade-named, or similarly specifi-
7 cally identifiable products, or components of
8 products for such person's own use, including
9 the performance of contractual services within
10 that country.

11 (3) LIMITATION ON EXCEPTIONS.—Regulations
12 issued pursuant to paragraphs (2)(C) and (2)(F)
13 shall not provide exceptions from paragraphs (1)(B)
14 and (1)(C).

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

19 (5) EVASION.—This section applies to any
20 transaction or activity undertaken by or through a
21 United States person or any other person with in-
22 tent to evade the provisions of this section or the
23 regulations issued pursuant to this subsection. The
24 regulations issued pursuant to this section shall ex-
25 pressly provide that the exceptions set forth in para-

1 graph (2) do not permit activities or agreements (ex-
2 pressed or implied by a course of conduct, including
3 a pattern of responses) otherwise prohibited, which
4 are not within the intent of such exceptions.

5 (c) REPORTS.—

6 (1) IN GENERAL.—Regulations issued under
7 this section shall require that any United States per-
8 son receiving a request to furnish information, enter
9 into or implement an agreement, or take any other
10 action referred to in subsection (d) shall report that
11 request to the Secretary, together with any other in-
12 formation concerning the request that the Secretary
13 determines appropriate. The person shall also sub-
14 mit to the Secretary a statement regarding whether
15 the person intends to comply, and whether the per-
16 son has complied, with the request.

17 (2) PUBLIC AVAILABILITY OF REPORTS.—Any
18 report filed pursuant to this subsection shall be
19 made available promptly for public inspection and
20 copying, except that information regarding the quan-
21 tity, description, and value of any item to which
22 such report relates may be kept confidential if the
23 Secretary determines that disclosure of that infor-
24 mation would place the United States person in-
25 volved at a competitive disadvantage.

1 (3) SUMMARIES TO SECRETARY OF STATE.—

2 The Secretary shall periodically transmit summaries
3 of the information contained in the reports filed pur-
4 suant to this subsection to the Secretary of State for
5 such action as the Secretary of State, in consultation
6 with the Secretary, considers appropriate to carry
7 out the purposes set forth in subsection (c).

8 (f) PREEMPTION.—The provisions of this section and
9 the regulations issued under this section shall preempt any
10 law, rule, or regulation that—

11 (1) is a law, rule, or regulation of any of the
12 several States or the District of Columbia, or any of
13 the territories or possessions of the United States,
14 or of any governmental subdivision thereof; and

15 (2) pertains to participation in, compliance
16 with, implementation of, or the furnishing of infor-
17 mation regarding restrictive trade practices or boy-
18 cotts fostered or imposed by foreign countries
19 against other countries.

20 (g) PENALTIES.—

21 (1) UNLAWFUL ACTS.—It shall be unlawful for
22 a person to violate, attempt to violate, conspire to
23 violate, or cause a violation of this section or of any
24 regulation or order issued under this section.

1 (2) CRIMINAL PENALTY.—A person who, with
2 knowledge or intent, commits, attempts to commit,
3 or conspires to commit, or aids or abets in the com-
4 mission of, an unlawful act described in subsection
5 (d) shall, upon conviction, be fined not more than
6 \$1,000,000, or, if a natural person, be imprisoned
7 for not more than 20 years, or both.

8 (3) CIVIL PENALTIES.—

9 (A) AUTHORITY.—The President may im-
10 pose the following civil penalties on a person for
11 each violation by that person of this section or
12 any regulation or order issued under this sec-
13 tion, for each violation:

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

15 (ii) A prohibition on the person's abil-
16 ity to export any goods, technology, or
17 services, whether or not a license has been
18 issued previously to authorize such an ex-
19 port.

20 (B) PROCEDURES.—Any civil penalty
21 under this subsection may be imposed only
22 after notice and opportunity for an agency
23 hearing on the record in accordance with sec-
24 tions 554 through 557 of title 5, United States

1 Code, and shall be subject to judicial review in
2 accordance with chapter 7 of such title.

3 (C) STANDARDS FOR LEVELS OF CIVIL
4 PENALTY.—The President may by regulation
5 provide standards for establishing levels of civil
6 penalty under this paragraph based upon the
7 seriousness of the violation, the culpability of
8 the violator, and the violator's record of co-
9 operation with the Government in disclosing the
10 violation.

11 (h) ANNUAL REPORT.—Not later than 180 days after
12 the date of the enactment of this Act and annually there-
13 after, the President shall report to the Congress on the
14 implementation and enforcement of this section and on ad-
15 ditional steps taken by the United States to bring about
16 the termination of the Arab League boycott of Israel and
17 to encourage Arab League states to normalize their rela-
18 tions with Israel.

19 (i) DEFINITION.—In this section, the term “United
20 States person”—

21 (1) means—

22 (A) any United States resident or national;

23 (B) any domestic concern (including any
24 permanent domestic establishment of any for-
25 eign concern); and

1 (C) any foreign subsidiary or affiliate (in-
2 cluding any permanent foreign establishment)
3 of any domestic concern that is controlled in
4 fact by such domestic concern, as determined
5 under regulations of the President; but

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

