

116TH CONGRESS
2D SESSION

H. R. 5595

To impose additional prohibitions relating to foreign boycotts under Export Control Reform Act of 2018, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2020

Mr. ZELDIN (for himself, Mr. McCaul, Mr. Barr, Mr. Cook, Mr. Gibbs, Mr. Schweikert, Mr. Marshall, Mr. Weber of Texas, Mr. Walker, Mr. Grothman, Mr. David P. Roe of Tennessee, Mr. Perry, Mr. Rouzer, Mr. Katko, Mrs. Hartzler, Mr. Latta, Mr. Rogers of Alabama, Mr. Comer, Mrs. Rodgers of Washington, Mr. Suozzi, Mr. Mooney of West Virginia, Mr. Biggs, Mr. Flores, Mr. Byrne, Mr. Babin, Mr. Banks, Mr. Mitchell, Mr. Mast, Mr. Wilson of South Carolina, Mr. Johnson of Ohio, Mrs. Walorski, Mr. Kustoff of Tennessee, Mr. Gaetz, Mrs. Brooks of Indiana, Mr. Fleischmann, Mr. Estes, Ms. Foxx of North Carolina, Mr. Abraham, Mr. Graves of Georgia, Mr. DesJarlais, Mr. Davidson of Ohio, Mr. Rodney Davis of Illinois, Mr. Collins of Georgia, Mr. Cole, Mr. Dunn, Mr. Bishop of Utah, Mr. Newhouse, Ms. Stefani, Mr. Bucshon, Mr. Mullin, Mr. Budd, Mr. Diaz-Balart, Mr. Long, Mr. Crenshaw, Mr. Ferguson, Mr. Austin Scott of Georgia, Mr. Carter of Texas, Mr. Curtis, Mr. Yoho, and Mr. Norman) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To impose additional prohibitions relating to foreign boycotts under Export Control Reform Act of 2018, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This title may be cited as the “Israel Anti-Boycott
3 Act”.

4 **SEC. 2. SENSE OF CONGRESS.**

5 It is the sense of Congress that—

6 (1) the Government of the United States should
7 use its voice, vote, and influence with and in inter-
8 national governmental organizations to actively op-
9 pose politically motivated actions to boycott, divest
10 from, or sanction Israel;

11 (2) the Government of the United States com-
12 bats anti-Israel boycotts and other discriminatory
13 activity under the Export Control Reform Act of
14 2018 (subtitle B of title XVII of Public Law 115–
15 232), under part VI of title X of the Tax Reform
16 Act of 1976 (Public Law 94–455; 90 Stat. 1649)
17 (commonly referred to as the “Ribicoff Amend-
18 ment”), through trade promotion authorities, in free
19 trade agreements, and in accession negotiations to
20 the World Trade Organization; however, due to the
21 increased anti-Israel economic activity in inter-
22 national governmental organizations, it is necessary
23 to update Federal authorities to combat anti-Israel
24 boycotts and other discriminatory activity in such
25 fora, including the United Nations Human Rights
26 Council;

1 (3) actions to boycott, divest from, or sanction
2 Israel represent a concerted effort to extract conces-
3 sions from Israel outside of direct negotiations be-
4 tween the Israelis and Palestinians; and

5 (4) the United States-Israel Strategic Partner-
6 ship Act of 2014 (Public Law 113–296; 128 Stat.
7 4075) should be fully implemented through en-
8 hanced, governmentwide, coordinated United States-
9 Israel scientific and technological cooperation in ci-
10 vilian areas, such as with respect to energy, water,
11 agriculture, alternative fuel technology, civilian space
12 technology, and security in order to counter the ef-
13 fects of actions to boycott, divest from, or sanction
14 Israel.

15 **SEC. 3. ADDITIONAL PROHIBITIONS RELATING TO FOR-**
16 **EIGN BOYCOTTS UNDER EXPORT CONTROL**
17 **REFORM ACT OF 2018.**

18 (a) DECLARATION OF POLICY.—Section 1772 of the
19 Export Control Reform Act of 2018 (50 U.S.C. 4841) is
20 amended—

21 (1) by amending paragraph (1) to read as fol-
22 lows:

23 “(1) to oppose restrictive trade practices or
24 boycotts fostered or imposed by foreign countries or
25 international governmental organizations, or efforts

1 by foreign countries or international governmental
 2 organizations to collect information that have the ef-
 3 fect of furthering or supporting restrictive trade
 4 practices or boycotts fostered or imposed by foreign
 5 countries or international governmental organiza-
 6 tions, against other countries friendly to the United
 7 States or against any United States person;” and

8 (2) in paragraph (2), by inserting “or inter-
 9 national governmental organization” after “any for-
 10 eign country”.

11 (b) FOREIGN BOYCOTTS.—Section 1773 of the Ex-
 12 port Control Reform Act of 2018 (50 U.S.C. 4842) is
 13 amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1)—

16 (i) in the matter preceding subpara-
 17 graph (A)—

18 (I) by striking “United States
 19 person” and inserting “covered per-
 20 son”; and

21 (II) by inserting after “foreign
 22 country” the following: “or an inter-
 23 national governmental organization,
 24 or efforts by a foreign country or
 25 international governmental organiza-

1 tion to collect information that have
2 the effect of furthering or supporting
3 restrictive trade practices or boycotts
4 fostered or imposed by a foreign coun-
5 try or international governmental or-
6 ganization,”;

7 (ii) in subparagraph (A), by inserting
8 “or international governmental organiza-
9 tion (as the case may be)” after “of the
10 boycotting country”;

11 (iii) in subparagraph (D)—

12 (I) by inserting “(i)” after
13 “(D)”;

14 (II) by inserting “or with the
15 international governmental organiza-
16 tion (as the case may be)” after “in
17 the boycotting country”; and

18 (III) by striking the last sentence
19 and inserting the following:

20 “(ii) Furnishing information to a foreign
21 country or international governmental organiza-
22 tion in response to efforts by a foreign country
23 or international governmental organization to
24 collect information that have the effect of fur-
25 thering or supporting a restrictive trade prac-

1 tice or boycott fostered or imposed by a foreign
2 country or international governmental organiza-
3 tion. Such information includes information
4 about whether any person has, has had, or pro-
5 poses to have any business relationship (includ-
6 ing a relationship by way of sale, purchase,
7 legal or commercial representation, shipping or
8 other transport, insurance, investment, or sup-
9 ply)—

10 “(I) with or in the country to which
11 the restrictive trade practice or boycott ap-
12 plies;

13 “(II) with any business concern orga-
14 nized under the laws of that country;

15 “(III) with any national or resident of
16 that country; or

17 “(IV) with any other person which is
18 known or believed to be restricted from
19 having any business relationship with or in
20 a foreign country, or with an international
21 governmental organization, that fosters or
22 imposes the restrictive trade practice or
23 boycott.

24 “(iii) Nothing in this paragraph shall pro-
25 hibit the furnishing of normal business informa-

1 tion in a commercial context as defined by the
2 Secretary.”; and

3 (iv) in subparagraph (F), by striking
4 “United States person” and inserting
5 “covered person”; and

6 (B) in paragraph (2)(F), by striking
7 “United States person” and inserting “covered
8 person”; and

9 (C) in paragraph (5), by striking “United
10 States person” and inserting “covered person”;
11 (2) in subsection (c), by inserting “or inter-

12 national governmental organizations against other
13 countries, or regarding efforts by foreign countries
14 or international governmental organizations to col-
15 lect information that have the effect of furthering or
16 supporting restrictive trade practices or boycotts fos-
17 tered or imposed by foreign countries or inter-
18 national governmental organizations” after “foreign
19 countries”; and

20 (3) by adding at the end the following:

21 “(d) COVERED PERSON DEFINED.—

22 “(1) IN GENERAL.—In this section, the term
23 ‘covered person’ means—

1 “(A) any domestic concern (including any
2 permanent domestic establishment of any for-
3 eign concern);

4 “(B) any foreign subsidiary or affiliate (in-
5 cluding any permanent foreign establishment)
6 of any domestic concern which is controlled in
7 fact by such domestic concern, as determined
8 under regulations of the President;

9 “(C) the government of the United States
10 or any State, territory, or possession of the
11 United States, or any subdivision, department,
12 agency, or commission of any such government;
13 or

14 “(D) an individual who is—

15 “(i) a United States resident or na-
16 tional (other than such an individual resid-
17 ing outside the United States and em-
18 ployed by other than a United States per-
19 son);

20 “(ii) an owner, officer, director, em-
21 ployee, or agent of a domestic concern de-
22 scribed in subparagraph (A) or a foreign
23 subsidiary or affiliate described in subpara-
24 graph (B) or an officer, director, employee,

1 or agent of an entity described in subpara-
2 graph (C); and

3 “(iii) acting in the individual’s official
4 capacity as such an owner, officer, direc-
5 tor, employee, or agent.

6 “(2) DOMESTIC CONCERN.—For purposes of
7 paragraph (1), the term ‘domestic concern’ does not
8 include an individual.”.

9 (c) VIOLATIONS OF SECTION 1773(a).—Section 1774
10 of the Export Control Reform Act of 2018 (50 U.S.C.
11 4843) is amended—

12 (1) in subsection (a), by striking “A person”
13 and inserting “Except as provided in subsection (e),
14 a person”; and

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

16 “(e) CERTAIN VIOLATIONS OF SECTION 1773(a).—

17 “(1) IN GENERAL.—Whoever knowingly violates
18 or conspires to or attempts to violate a regulation
19 issued under section 1773(a) prohibiting an action
20 described in paragraph (2) shall be subject to only
21 a monetary penalty under subsection (a) or (b).

22 “(2) ACTIONS DESCRIBED.—An action de-
23 scribed in this paragraph is any action described in
24 subparagraphs (A) through (F) of section
25 1773(a)(1) taken by a covered person (as defined in

1 section 1773(d)), or knowingly agreed to be taken by
2 such a person, with respect to the person's activities
3 in the interstate or foreign commerce of the United
4 States, with the intent to comply with, further, or
5 support—

6 “(A) any boycott fostered or imposed by an
7 international governmental organization against
8 a country which is friendly to the United States
9 and which is not itself the object of any form
10 of boycott pursuant to United States law or
11 regulation; or

12 “(B) efforts by a foreign country or inter-
13 national governmental organization to collect
14 information that have the effect of furthering or
15 supporting restrictive trade practices or boy-
16 cotts fostered or imposed by a foreign country
17 or international governmental organization
18 against a country described in subparagraph
19 (A).”.

20 (d) DEFINITIONS.—Part II of the Export Control Re-
21 form Act of 2018 is amended by adding at the end the
22 following:

23 **“SEC. 1775. DEFINITIONS.**

24 “In this part:

1 “(1) INTERNATIONAL GOVERNMENTAL ORGANI-
2 ZATION.—The term ‘international governmental or-
3 ganization’ includes—

4 “(A) the United Nations, including organi-
5 zations within the United Nations such as the
6 United Nations Human Rights Council; and

7 “(B) the European Union.

8 “(2) EFFORTS BY A FOREIGN COUNTRY OR
9 INTERNATIONAL GOVERNMENTAL ORGANIZATION,
10 ETC.—The term ‘efforts by a foreign country or
11 international governmental organization to collect in-
12 formation that have the effect of furthering or sup-
13 porting a restrictive trade practice or boycott fos-
14 tered or imposed by a foreign country or inter-
15 national governmental organization’ includes efforts
16 by the United Nations Human Rights Council to col-
17 lect information for the establishment of a database
18 of entities that operate, or have business relations
19 with entities that operate, beyond Israel’s 1949 Ar-
20 mistice lines, including East Jerusalem.”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act and apply with respect to actions described
24 in section 1773(a) of the Export Control Reform Act of

1 2018 (50 U.S.C. 4842(a)) taken or knowingly agreed to
2 be taken on or after such date of enactment.

3 **SEC. 4. RULES OF CONSTRUCTION.**

4 (a) NOTHING DIMINISHING FIRST AMENDMENT.—
5 Nothing in this Act or an amendment made by this Act
6 shall be construed to diminish or infringe upon any right
7 protected under the first amendment to the Constitution.

8 (b) NONCOMMERCIAL SPEECH OR OTHER EXPRES-
9 SIVE ACTIVITY.—Consistent with current enforcement
10 practices of the Department of Commerce, nothing in this
11 Act or an amendment made by this Act shall be construed
12 to permit a person’s noncommercial speech or other non-
13 commercial expressive activity to be used—

14 (1) as evidence to prove a violation of section
15 1773(a) of the Export Control Reform Act of 2018
16 (50 U.S.C. 4842(a)), as amended by section 3(b),
17 including as evidence to prove intent to violate such
18 section 1773(a); or

19 (2) as support for initiating an investigation
20 into whether such a violation has occurred.

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