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Arab League Boycott of Israel

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Summary

The Arab League, an umbrella organization comprising 22 Middle Eastern and African countries and entities, has maintained an official boycott of Israeli companies and Israeli-made goods since the founding of Israel in 1948. The boycott is administered by the Damascus-based Central Boycott Office, a specialized bureau of the Arab League.

The boycott has three tiers. The primary boycott prohibits citizens of an Arab League member from buying from, selling to, or entering into a business contract with either the Israeli government or an Israeli citizen. The secondary boycott extends the primary boycott to any entity world-wide that does business in Israel. A blacklist of global firms that engage in business with Israel is maintained by the Central Boycott Office, and disseminated to Arab League members. The tertiary boycott prohibits an Arab League member and its nationals from doing business with a company that deals with companies that have been blacklisted by the Arab League.

Since the boycott is sporadically applied and ambiguously enforced, its impact, measured by capital or revenue denied to Israel by companies adhering to the boycott, is difficult to measure. The effect of the primary boycott appears limited since intra-regional trade and investment are small. Enforcement of the secondary and tertiary boycotts has decreased over time, reducing their effect. Thus, it appears that since intra-regional trade is small, and that the secondary and tertiary boycotts are not aggressively enforced, the boycott may not currently have an extensive effect on the Israeli economy.

Despite the lack of economic impact on either Israeli or Arab economies, the boycott remains of strong symbolic importance to all parties. The U.S. government has often been at the forefront of international efforts to end the boycott and its enforcement. Despite U.S. efforts, however, many Arab League countries continue to support the boycott's enforcement. U.S. legislative action related to the boycott dates from 1959 and includes multiple statutory provisions expressing U.S. opposition to the boycott, usually in foreign assistance legislation. In 1977, Congress passed laws making it illegal for U.S. companies to cooperate with the boycott and authorizing the imposition of civil and criminal penalties against U.S. violators. U.S. companies are required to report to the Department of Commerce any requests to comply with the Arab League Boycott.

This report provides background information on the boycott and U.S. efforts to end its enforcement. More information on Israel is contained in CRS Report R44281, *Israel and the Boycott, Divestment, and Sanctions (BDS) Movement*, coordinated by Jim Zanotti.

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Background

The Arab League, or League of Arab States, is an umbrella organization comprising 22 Middle Eastern and African countries and entities. Arab League members are Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, the United Arab Emirates, and Yemen.[1]

The Arab League was founded in 1944, and in 1945 began a boycott of Zionist goods and services in the British controlled mandate territory of Palestine. In 1948, following the war establishing Israel's independence, the boycott was formalized against the state of Israel and broadened to include non-Israelis who maintain economic relations with Israel or who are perceived to support it. The boycott is administered by the Central Boycott Office, a specialized bureau of the Arab League based in Damascus but believed for many decades to be operating out of Cairo, Egypt.[2]

The U.S. government has often been at the forefront of international efforts to end enforcement of the boycott and to seek the Arab League's revocation of it. The U.S. government participates in bilateral and multilateral negotiations with Arab League members regarding the boycott.[3] U.S. legislative action related to the boycott dates from 1959 and includes multiple statutory provisions expressing U.S. opposition to the boycott, usually in foreign assistance legislation. In 1965, Congress adopted mandatory reporting of any requests by Arab League member countries to U.S. companies to participate in the boycott. In 1977, Congress passed laws making it illegal for U.S. companies to cooperate with the boycott and authorizing the imposition of civil and criminal penalties against U.S. violators. According to the Department of Commerce, participation in the boycott includes

- Agreements to refuse or actual refusal to do business with or in Israel or with blacklisted companies;
- Agreements to discriminate or actual discrimination against other persons based on race, religion, sex, national origin, or nationality;
- Agreements to furnish or actual furnishing of information about business relationships with or in Israel or with blacklisted companies; and/or
- Agreements to furnish or actual furnishing of information about the race, religion, sex, or national origin of another person.[4]

Lastly, U.S. taxpayers who cooperate with the boycott are subject to the loss of tax benefits that the U.S. government provides to exporters. These benefits include, among others, the foreign tax credit and the tax deferral available to U.S. shareholders of a controlled foreign corporation (CFC).

[1] In November 2011, Arab League members suspended Syria from participating in Arab League meetings due to the Syrian government's violent crackdown on political demonstrations, see: CRS Report RL33487, *Armed Conflict in Syria: Overview and U.S. Response*, coordinated by Carla E. Humud.

[2] Nancy Turck, "The Middle East: The Arab Boycott of Israel," *Foreign Affairs*, April 1977.

[3] For a broad discussion of U.S. economic engagement with the region, see: CRS Report R42153, *U.S. Trade and Investment in the Middle East and North Africa: Overview and Issues for Congress*, coordinated by Shayerah Ilias Akhtar.

[4] See http://www.bis.doc.gov/complianceandenforcement/antiboycottcompliance.htm.

Current Status of the Boycott

The boycott has three tiers. The primary boycott prohibits citizens of an Arab League member from buying from, selling to, or entering into a business contract with either the Israeli government or an Israeli citizen. The secondary boycott extends the primary boycott to any entity world-wide that does business with Israel. A blacklist of global firms that engage in business with Israel is maintained by the Central Boycott Office, and disseminated to Arab League members. The tertiary boycott prohibits an Arab League member and its nationals from doing business with a company that in turn deals with companies that have been blacklisted by the Arab League. The boycott also applies to companies that the Arab League identifies as having "Zionist sympathizers" in executive positions or on the board of the company. According to one analyst, the "nature and detail of these rules reflect the boycotting countries' tolerance for only the most minimal contacts with Israel."[5]

The Arab League does not enforce the boycott and boycott regulations are not binding on member states. However, the regulations have been the model for various laws implemented by member countries. The League recommends that member countries demand certificates of origin on all goods acquired from suppliers to ensure that such goods meet all aspects of the boycott.

Overall enforcement of the boycott by member countries appears sporadic. Some Arab League members have limited trading relations with Israel. The Arab League does not formally or publicly state which countries enforce the boycott and which do not. Some Arab League member governments have maintained that only the Arab League, as the formal body enforcing the boycott, can revoke the boycott. However, adherence to the boycott is an individual matter for each Arab League member and enforcement varies by state.

There are indications that some Arab League countries publicly support the boycott while continuing to quietly trade with Israel. According to Doron Peskin, head of research at InfoProd, a consulting firm for foreign and Israeli companies specializing in trade with Arab states, "the Arab boycott is now just lip service."[6] This sentiment has been echoed by Arab officials, albeit anonymously. One official commented to the Egyptian newspaper *Al-Ahram* that, "boycotting Israel is something that we talk about and include in our official documents but it is not something that we actually carry out—at least not in most Arab states."[7] Others assert that enforcement of the boycott waxes and wanes with the level of intensity of the Israeli-Palestinian issue.

The Arab League has acknowledged that U.S. pressure has affected its ability to maintain the boycott. At the May 2006 Arab League conference on the boycott, one conference participant reportedly said, "The majority of Arab countries are evading the boycott, notably the Gulf states and especially Saudi Arabia."[8] He added that a major reason for these countries bypassing the boycott is "growing U.S. pressures in the direction of normalization with the Jewish state."[9]

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[5] Howard N. Fenton III, "United States Antiboycott Laws: An Assessment of Their Impact Ten Years after Adoption," *Hastings International & Comparative Law Review*, Vol. 10, 1987, cited in Eugene Kontorovich, "The Arab League Boycott and WTO Accession: Can Foreign Policy Excuse Discriminatory Sanctions," *Chicago Journal of International Law*, Vol. 4 No. 2, Fall 2003.

[6] Orly Halpern, "Arab Boycott Largely Reduced to 'Lip Service,'" *Jerusalem Post*, February 28, 2006.

[7] Dina Ezzat, "Boycott Israel? Not so simple," *Al-Ahram Weekly Online*, April 11-17, 2002.

[8] "Arabs evading economic boycott of Israel," United Press International, May 16, 2006.

[9] Ibid.

Some states and entities have formally ended their adherence to the boycott, or at least some aspects of it. Egypt (1979), the Palestinian Authority (1993), and Jordan (1994) signed peace treaties or agreements that ended their respective adherence to the boycott.[10] Mauritania, which never applied the boycott, established diplomatic relations with Israel in 1999. Algeria, Morocco, and Tunisia do not enforce the boycott.[11] In 1994, the member countries of the Gulf Cooperation Council (GCC)—Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates—announced that they would only enforce the primary boycott. In 1996, the GCC states recognized that total elimination of the boycott is a necessary step for peace and economic development in the region. However, U.S. companies continue to receive requests to cooperate with the boycott from GCC member countries. Lebanon enforces the primary, secondary, and tertiary boycotts.[12]

According to the Office of the United States Trade Representative (USTR), some member states of the 57-member Organization of the Islamic Conference (OIC), headquartered in Saudi Arabia, also enforce a boycott against Israel. For example, Bangladesh imposes a primary boycott on trade with Israel. By contrast, other OIC members, such as Tajikistan, Turkmenistan, and Kazakhstan impose no boycott and have encouraged trade with Israel at times.[13]

Impact of the Boycott

Since the boycott is sporadically applied and ambiguously enforced, its impact, measured by capital or revenue denied to Israel by companies adhering to the boycott, is difficult to measure. The effect of the primary boycott appears limited since intra-regional trade and investment are small. Nonetheless, there is some limited trade between Israel and its Arab neighbors. As **Figure 1** illustrates, Israel's regional trade is negligible compared to Israel's trade with the United States, China, and other large trading partners.

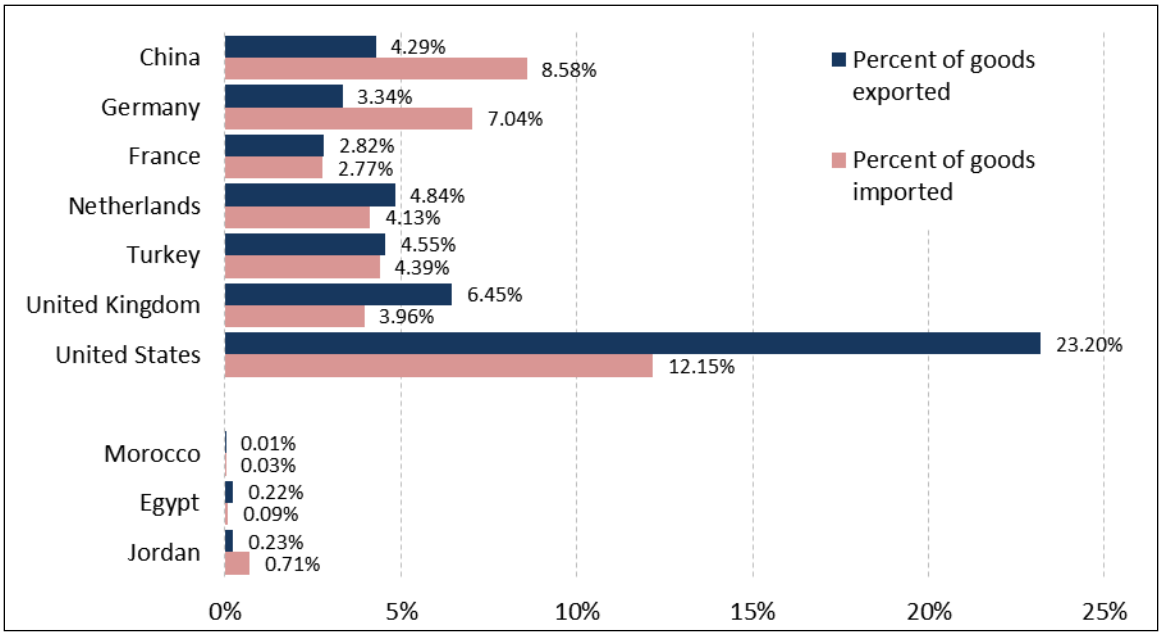
[10] Egyptian-Israeli peace treaty, March 26, 1979, Article III, paragraph 3; Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan, October 26, 1994, Article 7, Section 2, paragraph A; Declaration of Principles, September 10, 1993.

[11] United States Trade Representative, *2007 National Trade Estimate Report on Foreign Trade Barriers*, March 30, 2007.

[12] Ibid.

[13] United States Trade Representative, *2015 National Trade Estimate Report on Foreign Trade Barriers*, Washington, DC, April 1, 2015.

Figure 1. Israel's External Trade, 2014



Source: Israel Central Bureau of Statistics.

Notes: Trade figures exclude trade in diamonds.

Enforcement of the secondary and tertiary boycotts has decreased over time, reducing their effect. A 1996 study by researchers at Tel Aviv University looked at the effect of the Arab boycott on the Israeli economy through the automobile market. Following a relaxation of boycott enforcement in the late 1980s through the early 1990s, Asian countries began exporting cars to Israel. The study found that if the boycott had continued to be enforced, and these cars did not enter the Israeli market, the Israeli car market would have been 12% smaller—leading to a $790 price increase per car. Total welfare loss for the study year, 1994, would have been an estimated $89 million.[14] Thus, it appears that since intra-regional trade is small, and that the secondary and tertiary boycotts are not aggressively enforced, the boycott may not currently have an extensive effect on the Israeli economy.

Despite the apparent lack of economic impact on either Israeli or Arab economies, the boycott remains of strong symbolic importance to all parties. Many Arab countries want to deny normalization with Israel until there is a final resolution to the conflict in the Palestinian territories. Israel, on the other hand, has asserted that it wants to be accepted in the neighborhood both in political terms and as a source of, and target for, foreign investment.[15]

U.S. Activity to End the Arab League Boycott of Israel

The U.S. government officially opposes the boycott and works to end its enforcement on multiple levels. For many years, language has been included in successive foreign operations

[14] Chaim Fershtman and Neil Gandal, "The Effect of the Arab Boycott on Israel: The Automobile Market," Tel Aviv University, January 1996.

[15] Anju S. Bawa, "Israel Embarks on PR Face-lift," *The Washington Times*, December 5, 2006.

appropriations legislation concerning the boycott. Most recently, Section 7035 of *the Consolidated and Further Continuing Appropriations Act, FY2017* (P.L. 115-31) states that it is the sense of Congress that

1. the Arab League boycott of Israel, and the secondary boycott of American firms that have commercial ties with Israel, is an impediment to peace in the region and to U.S. investment and trade in the Middle East and North Africa;
2. the Arab League boycott, which was regrettably reinstated in 1997, should be immediately and publicly terminated, and the Central Office for the Boycott of Israel immediately disbanded;
3. all Arab League states should normalize relations with their neighbor Israel;
4. the President and the Secretary of State should continue to vigorously oppose the Arab League boycott of Israel and find concrete steps to demonstrate that opposition by, for example, taking into consideration the participation of any recipient country in the boycott when determining to sell weapons to said country; and
5. the President should report to Congress annually on specific steps being taken by the United States to encourage Arab League states to normalize their relations with Israel to bring about the termination of the Arab League boycott of Israel, including those to encourage allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

U.S. Antiboycott Compliance Legislation

The United States passed antiboycott legislation in the late 1970s to discourage U.S. individuals from cooperating with the secondary and tertiary boycotts. Antiboycott laws apply to "U.S. exports and imports, financing, forwarding and shipping, and certain other transactions that may take place wholly offshore."[16]

Although U.S. legislation and practices were designed to counteract the Arab League boycott of Israel, in practice, they apply to all non-sanctioned boycotts. According to the Department of Commerce's Office of Antiboycott Compliance, the legislation was enacted to "encourage, and in specified cases, require U.S. firms to refuse to participate in foreign boycotts that the United States does not sanction. They [the legislation] have the effect of preventing U.S. firms from being used to implement foreign policies of other nations which run counter to U.S. policy."[17]

U.S. regulations define cooperating with the boycott as (1) agreeing to refuse or actually refusing to do business in Israel or with a blacklisted company; (2) agreeing to discriminate or actually discriminating against other persons based on race, religion, sex, national origin, or nationality; (3) agreeing to furnish or actually furnishing information about business relationships in Israel or with blacklisted companies; and (4) agreeing to furnish or actually furnishing information about the race, religion, sex, or national origin of another person.

U.S. antiboycott laws are included in the Export Administration Act of 1979 (EAA) and the Ribicoff Amendment to the Tax Reform Act of 1976 (TRA). The export-related antiboycott

[16] Website of the Department of Commerce's Office of Antiboycott Compliance. http://www.bis.doc.gov/AntiboycottCompliance/oacrequirements.html#whatscovered.

[17] Website of the Office of Antiboycott Compliance. http://www.bis.doc.gov/AntiboycottCompliance/oacrequirements.html.

provisions are administered by the Department of Commerce and prohibit U.S. persons from participating in the boycott. The Internal Revenue Service (IRS) administers tax-related antiboycott regulations that deny tax benefits to U.S. taxpayers that participate in the boycott.

Export-Related Antiboycott Legislation

Regulations promulgated under Section 8 of the EAA prohibit any U.S. person or company from complying with an unsanctioned foreign boycott and require them to report requests they have received to comply with a boycott.[18] Such requests must be reported quarterly to the Department of Commerce's Office of Antiboycott Compliance (OAC) in the Bureau of Industry and Security (BIS). These regulations are implemented in part 760 of the Department of Commerce's Export Administration Regulations (EAR).

The EAA prescribes penalties that may be imposed for violation of the antiboycott regulations. Criminal penalties for each "knowing" violation of the antiboycott regulations are a fine of up to $50,000 or five times the value of the exports involved, whichever is greater, and imprisonment of up to five years. During periods when the EAR are continued in effect by an Executive Order issued pursuant to the International Emergency Powers Act (IEEPA), the criminal penalties for each willful violation can be a fine of up to $50,000 and imprisonment for up to 10 years.

Administrative penalties may also be levied. For each violation of the EAR any or all of the following may be imposed:

- General denial of export privileges;
- The imposition of fines of up to $11,000 per violation; and/or
- Exclusion from practice.

When the EAR are continued under IEEPA, penalties for violations of the antiboycott regulations may be imposed as follows: up to the greater of $250,000 per violation or twice the value of the transaction for administrative violations, and up to $1 million and 20 years imprisonment per violation for criminal violations.

In July 2007, BIS amended existing penalty guidelines to introduce a voluntary disclosure program that could reduce a potential fine levied on an exporter if it voluntarily discloses its violation of U.S. antiboycott laws. For the disclosure to have a mitigating effect, notification must take place prior to BIS learning about the violation from other sources and commencing an investigation. The new guidelines also created a new supplement no. 2 to the antiboycott provisions that more clearly describes how BIS investigates violations of U.S. antiboycott laws and determines penalty rates.

Tax-Related Antiboycott Legislation

The Ribicoff Amendment to the TRA added Section 999 to the Internal Revenue Code.[19] This section denies various tax benefits normally available to exporters if they participate in the

[18] Section 8 of The Export Administration Act of 1979 (P.L. 96-72; 50 U.S.C. app. §2407) has expired but its provisions are continued under the authorization granted to the President in the National Emergencies Act (NEA) (P.L. 94-412; 50 U.S.C. §1601-1651) and the International Economic Emergency Powers Act (IEEPA) (P.L. 95-223; 50 U.S.C. app. §2407), most recently under Executive Order 13222 signed August 17, 2001 (66 F.R. 44025, August 22, 2001). Antiboycott export regulations are at 15 C.F.R. 760.1 et seq.

[19] The Ribicoff Amendment to the Tax Reform Act of 1976 (P.L. 94-455) added Section 999 to the Internal Revenue Code of 1986, as amended (26 U.S.C. §1 et seq). Tax regulations are at 26 C.F.R. §7.999-1.

boycott. In addition, the IRS requires U.S. taxpayers to report operations in, with, or related to countries that the Department of the Treasury includes on its annual list of countries that may require participation in an international boycott, and with any other country from which they receive a request to participate in a boycott. The current list of countries that request U.S. companies to participate or agree to participate in boycotts prohibited under U.S. law includes Iraq, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, United Arab Emirates, and Yemen.[20] The list remains unchanged since Iraq was added to the list of boycotting countries in August 2012.

Denying tax benefits to U.S. firms that participate in the boycott appears to be an effective antiboycott strategy. According to a 1990s study, U.S. legislation had reduced overall participation in the boycott by U.S. taxpayers by between 15% and 30%.[21] However, the effectiveness of U.S. antiboycott tax legislation may have diminished somewhat since the U.S. government is reducing export tax benefits that are available to U.S.-based companies to comply with World Trade Organization (WTO) rulings.[22]

The Boycott, Divestment, and Sanctions (BDS) Movement[23]

A "BDS" (boycott, divestment, and sanctions) movement against Israel—ostensibly linked to its treatment of Palestinians—has gained support among civil society organizations in a range of countries.[24] Some divestment from and boycotts of Israel or Israeli goods have resulted. For example, the American Studies Association, a scholarly organization devoted to the interdisciplinary study of American culture and history, voted for an academic boycott of Israeli institutions in December 2013, amplifying the controversy surrounding the issue with lawmakers and with U.S. higher education institutions and student councils.[25] Some who oppose BDS measures against companies in Israel because of concerns that the movement's demands could endanger Israel's identity as a Jewish state nevertheless support efforts to divest from Israeli companies doing business in West Bank settlements.[26] Additionally, some European countries' pension funds and companies have withdrawn investments or canceled contracts owing to

[20]. "List of the Countries Requiring Cooperation with an International Boycott, Department of the Treasury," Department of the Treasury, 80 F.R.17152, March 31, 2015.

[21] James R. Hines, Jr., "Taxed Avoidance: American Participation in Unsanctioned International Boycotts," *NBER Working Paper 6116*, July 1997.

[22] Nondistributable CRS Report RS20746, *Export Tax Benefits and the WTO: The Extraterritorial Income Exclusion and Foreign Sales Corporations*, by David L. Brumbaugh (available to congressional clients from author).

[23] For more information, see CRS Report R44281, *Israel and the Boycott, Divestment, and Sanctions (BDS) Movement*, coordinated by Jim Zanotti.

[24] See the original July 2005 "call" for BDS from various Palestinian civil society groups at http://www.bdsmovement.net/call. See also Sean F. McMahon, "The Boycott, Divestment, Sanctions Campaign: Contradictions and Challenges," *Race & Class*, vol. 55, issue 4, July-September 2014; Marc Tracy, "With All the Boycott Israel Talk, What Is BDS?," *newrepublic.com*, February 2, 2014;

[25] See, e.g., Jennifer Medina and Tamar Lewin, "Views on Israel Drive a Wedge in Campus Life," *New York Times*, May 10, 2015; David Makovsky and Raquel Saxe, "BDS's Useless Politics of Confrontation," *Times of Israel*, May 22, 2015.

[26] See, e.g., Jodi Rudoren, "Netanyahu Calls International Criticism an Effort to 'Delegitimize Israel," *New York Times*, June 1, 2015; Peter Beinart, "To Save Israel, Boycott the Settlements," *New York Times*, March 18, 2012.

concerns regarding connections with settlement activity.[27] However, some reports have questioned whether such developments are properly characterized as constituting a boycott or a significant threat to Israel's economy.[28]

Extending existing U.S. antiboycott measures to incorporate the BDS movement raises several challenges. To the extent a U.S. organization may participate in the BDS movement, it would not appear to violate existing federal antiboycott legislation, which targets organizations' participation in foreign boycotts. Foreign states do not directly participate in the BDS movement, and the movement does not have a secondary tier targeting companies that do business in or with Israel. It appears, rather, to essentially be an informal grouping of civil society organizations—originating among Palestinians but subsequently expanding into other countries—making common cause rather than exercising economic pressure on companies to participate. U.S. legislation similar to the 2011 Israeli "Anti-Boycott Law," which instituted civil penalties for Israeli citizens who organize or publically endorse boycotts against Israel, would probably be vulnerable to challenge on free speech (First Amendment) grounds.

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[27] Madison Marriage and John Reed, "US pension funds to divest from Israel boycotters," *ft.com*, May 31, 2015.

[28] See, e.g., David Rosenberg, "Don't Buy the Boycott Hype," *Wall Street Journal Europe*, February 28, 2014; Crispian Balmer, "The threat of Israel boycotts more bark than bite," *Reuters*, February 23, 2014.