



The Bottom Line

JULY 2021 | VOL. 95

UAE ENDS BOYCOTT OF ISRAEL

Summary

The Commerce Department's Bureau of Industry and Security (BIS) on June 8 amended the Export Administration Regulations (EAR) to reflect the formal end by the United Arab Emirates (UAE) last year of its participation in the Arab League Boycott of Israel.

Background

Formed in March 1945, the Arab League has issued boycott resolutions against Israel ever since Israel's declaration of independence in 1948. On December 11, 1954 the Arab League Council passed Resolution 849, containing what is often referred to as the 'secondary' and 'tertiary' elements of the Israeli Boycott, prohibiting entities and individuals from or based in Arab League Member States from also dealing (i) with agencies of persons working for Israel, and (ii) with foreign companies and organizations with interests, agencies, or branches in Israel. Following the foundation and independence of the UAE on December 2, 1971, the UAE became the eighteenth Member State of the Arab League on the same date. By September 1972, the UAE issued the UAE Israeli Boycott Law which included the 'secondary' and 'tertiary' elements mentioned above. In 1995, the UAE Cabinet reduced the scope of its Israel Boycott Law to only its 'primary' elements. Under the 'primary' elements of the UAE Israeli Boycott Law, it remained a criminal offense to deal (i) with or in goods or services from Israel or of Israeli origin, and (ii) with the State of Israel and its citizens.

US anti-boycott laws prohibit or penalize US companies and their non-US subsidiaries from participating in or cooperating with foreign boycotts against countries friendly to the United States, including Israel. US anti-boycott laws consist of two legal regimes, including regulations administered by the US Department of Commerce through Part 760 of the EAR, and Section 999 of the Internal Revenue Code as interpreted by the US Treasury Department. Violations of the Commerce Regulations are punishable by civil penalties (fines of \$305,292 or an amount that is twice of the value of the transaction at issue, whichever is greater, and/or the denial of export privileges) and criminal fines of up to \$1,000,000 and/or imprisonment of up to 20 years for willful violations. By contrast, the Treasury Rules do not "prohibit" boycott-related activities or agreements and do not threaten civil and criminal penalties, but instead subject US taxpayers to potentially significant tax penalties if they or any of their controlled group members enter into agreements inconsistent with the Treasury Rules.

Current Status

On 29 August 2020, the United Arab Emirates publicly announced that H.H. Sheikh Khalifa Bin Zayed Al Nahyan, President of the UAE, issued Federal Decree Law No. 4 of 2020 (the UAE Israeli Boycott Repeal Law), abolishing Federal Decree Law No. 15 of 1972 Concerning the Arab League Boycott of Israel (the UAE Israeli Boycott Law).

The UAE Israeli Boycott Repeal Law follows the announcement of the historic peace agreement between the UAE and Israel on 13 August 2020, issued jointly by H.H. Sheikh Mohamed bin Zayed Al Nahyan, Crown Prince of Abu Dhabi, US President Donald Trump and Israeli Prime Minister Benjamin Netanyahu. The UAE Israeli Boycott Repeal Law, which was published August 27, 2020 (but circulated publicly by the UAE Ministry of Justice on September 15, 2020 – the date of the signing of the UAE-Israel Abraham Accords), has a specific effective legal start date of August 16, 2020. The UAE Israeli Boycott Repeal Law allows individuals and companies in the UAE to now enter into agreements with Israeli firms, citizens and residents as part of commercial or financial operations or dealings. It is now permissible to enter, exchange or possess Israeli goods and products of all kinds and trade in them in the UAE, which was previously prohibited under the UAE Israeli Boycott Law.

On April 8, 2021, Treasury removed the UAE from its list published in the Federal Register of countries that require or may require cooperation with an unsanctioned international boycott, and on April 22, 2021, State certified to Congress that the UAE had formally ended its participation in the Arab League Boycott of Israel. On June 7, 2021, the Bureau of Industry and Security at the Department of Commerce announced that it has amended its antiboycott provisions set forth in the EAR to reflect the August 16, 2020 issuance by the UAE of Federal Decree-Law No. 4 of 2020, which formally ended the UAE's participation in the Arab League Boycott of Israel. BIS's action follows similar actions by the Departments of State and the Treasury.

Impact

BIS's amendment to the antiboycott provisions set forth in Part 760 of the EAR adds an interpretation that certain requests for information, action or agreement from the UAE, which were presumed to be boycott-related prior to August 16, 2020, the date of issuance of the UAE decree terminating participation in the Arab League Boycott of Israel, would not be presumed to be boycott-related if issued after August 16, 2020. US Companies thus would not be subject to the prohibitions or reporting requirements of Part 760 of the EAR, nor subject to civil and/or criminal penalty.

RESOURCES

[Export Administration Regulations: Termination of United Arab Emirates Participation in the Arab League Boycott of Israel](#) (Federal Register)

[The UAE-Israel Abraham Accords – UAE Boycott of Israel Repealed](#) (Baker-McKenzie)

[Department of Commerce Recognizes the United Arab Emirates' Termination of Participation in the Arab League Boycott of Israel](#) (Department of Commerce)