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.

Amendments In the Nature of a Substitute intended to be proposed by ________________

Viz:

1. Strike all after the enacting clause and insert the following:

2. **SECTION 1. SHORT TITLE.**

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

4. **SEC. 2. FINDINGS.**

5. Congress finds the following:

6. (1) The United Nations Human Rights Council (in this section referred to as the “UNHRC”) has long targeted Israel with systematic, politically moti-
vated, assaults on its legitimacy designed to stig-
matize and isolate Israel internationally.

(2) The UNHRC maintains a permanent agen-
da item known as “Item 7” to ensure that Israel will
be criticized at every gathering of the UNHRC.

(3) At its 31st session on March 24, 2016, the
UNHRC targeted Israel by laying the groundwork
for a politically motivated boycott, calling for the es-

tablishment of a database of companies that operate,
or have business relations with entities that operate,
beyond Israel’s 1949 Armistice lines, including East
Jerusalem. For foreign countries that already en-
ge in boycott activity, this database is designed to
serve as a source of information to further or sup-
port that boycott activity.

(4) For a half century, Congress has combated
anti-Israel boycotts and other discriminatory activity
under the Export Administration Act of 1979 (as
continued in effect pursuant to the International
et seq.)), under part VI of title X of the Tax Reform
Act of 1976 (Public Law 94–455; 90 Stat. 1649)
(commonly referred to as the “Ribicoff Amend-
ment”), in free trade agreements with Bahrain and
Oman, and in Saudi Arabia’s accession negotiations to the World Trade Organization.

(5) The recent action of the UNHRC is reminiscent of the Arab League Boycott, which also called for the establishment of a “blacklist” and promoted a primary, as well as a secondary and tertiary, boycott against Israel, targeting United States and other companies that trade or invest with or in Israel, designed to harm Israel, any business operating in, or doing business with, Israel, or companies that do business with companies operating in Israel.


(A) the opposition of the United States to actions to boycott, divest from, or sanction Israel or persons doing business in Israel or Israeli-controlled territories;

(B) requirements that the United States utilize trade negotiations to combat state-led or international governmental organization-led ac-
tions to boycott, divest from, or sanction Israel
or persons doing business in Israel or Israeli-
controlled territories; and

(C) reporting requirements regarding the
actions of foreign countries or international or-
ganizations that establish barriers to trade or
investment for United States companies in or
with Israel or Israeli-controlled territories.

SEC. 3. STATEMENT OF POLICY.

Congress—

(1) opposes the United Nations Human Rights
Council resolution of March 24, 2016, which, among
other things—

(A) warns countries against allowing enti-
ties subject to their jurisdiction to engage in
settlement-related economic or financial activi-
ties;

(B) effectively urges countries to pressure
such entities to divest from, or break contracts
with, certain Israeli entities; and

(C) calls for the creation of a list of enti-
ties that either operate, or have business rela-
tions with entities that operate, beyond Israel’s
1949 Armistice lines, including East Jerusalem;
(2) views such policies as furthering and supporting actions to boycott, divest from, or sanction Israel or persons doing business in Israel or Israeli-controlled territories;

(3) in order to counter the effects of actions to boycott, divest from, or sanction Israel or persons doing business in Israel or Israeli-controlled territories, encourages full implementation of the United States-Israel Strategic Partnership Act of 2014 (Public Law 113–296; 128 Stat. 4075) through enhanced, governmentwide, coordinated United States-Israel scientific and technological cooperation in civilian areas such as with respect to energy, water, agriculture, alternative fuel technology, civilian space technology, and security; and

(4) continues to support the right of citizens of the United States to constitutionally protected free speech, including the right to express their political views by engaging in personal boycott activity of their own accord.

SEC. 4. ADDITIONAL PROHIBITIONS RELATING TO FOREIGN BOYCOTTS UNDER EXPORT ADMINISTRATION ACT OF 1979.

(a) DECLARATION OF POLICY.—Section 3(5) of the Export Administration Act of 1979 (50 U.S.C. 4602(5))
(as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)) is amended—

(1) by amending subparagraph (A) to read as follows:

“(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries or international governmental organizations, or efforts by foreign countries or international governmental organizations to collect information that have the effect of furthering or supporting restrictive trade practices or boycotts fostered or imposed by foreign countries or international governmental organizations, against other countries friendly to the United States or against any United States person;”;

and

(2) in subparagraph (B), by inserting “or international governmental organization” after “any foreign country”.

(b) FOREIGN BOYCOTTS.—Section 8 of the Export Administration Act of 1979 (50 U.S.C. 4607) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)) is amended—
(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A)—

(I) by striking “United States person” and inserting “covered person”; and

(II) by inserting after “foreign country” the following: “or an international governmental organization, or efforts by a foreign country or international governmental organization to collect information that have the effect of furthering or supporting restrictive trade practices or boycotts fostered or imposed by a foreign country or international governmental organization,”;

(ii) in subparagraph (A), by inserting “or international governmental organization (as the case may be)” after “of the boycotting country”;  

(iii) in subparagraph (D)—

(I) by inserting “(i)” after “(D)”;

...
(II) by inserting “or with the international governmental organization (as the case may be)” after “in the boycotting country”; and

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

“(ii) Furnishing information to a foreign country or international governmental organization in response to efforts by a foreign country or international governmental organization to collect information that have the effect of furthering or supporting a restrictive trade practice or boycott fostered or imposed by a foreign country or international governmental organization. Such information includes information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the country to which the restrictive trade practice or boycott applies, with any business concern organized under the laws of that country, with any national or resident of that country, or with any other person which is
known or believed to be restricted from having
any business relationship with or in a foreign
country, or with an international governmental
organization, that fosters or imposes the re-
strictive trade practice or boycott.

“(iii) Nothing in this paragraph shall pro-
hibit the furnishing of normal business informa-
tion in a commercial context as defined by the
Secretary.”; and

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

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

(C) in paragraph (5), by striking “United
States person” and inserting “covered person”;

(2) in subsection (c), by inserting “or inter-
national governmental organizations against other
countries, or regarding efforts by foreign countries
or international governmental organizations to col-
lect information that have the effect of furthering or
supporting restrictive trade practices or boycotts fos-
tered or imposed by foreign countries or inter-
national governmental organizations’’ after ‘‘foreign
countries’’; and

(3) by adding at the end the following:

‘‘(d) COVERED PERSON DEFINED.—In this section,
the term ‘‘covered person’’ means—

‘‘(1) any domestic concern (including any per-
manent domestic establishment of any foreign con-
cern);

‘‘(2) any foreign subsidiary or affiliate (includ-
ing any foreign establishment) of any dom-
cestic concern which is controlled in fact by such
domestic concern, as determined under regulations
of the President;

‘‘(3) the government of the United States or
any State, territory, or possession of the United
States, or any subdivision, department, agency, or
commission of any such government; or

‘‘(4) an individual who is—

‘‘(A) a United States resident or national
(other than such an individual residing outside
the United States and employed by other than
a United States person);

‘‘(B) an owner, officer, director, or em-
ployee of a domestic concern described in para-
graph (1) or a foreign subsidiary or affiliate de-
scribed in paragraph (2) or an officer, director,
or employee of an entity described in paragraph
(3); and

“(C) acting in the individual’s official ca-
pacity as such an owner, officer, director, or
employee.”.

(c) VIOLATIONS OF SECTION 8(a).—Section 11 of the
Export Administration Act of 1979 (50 U.S.C. 4610) (as
continued in effect pursuant to the International Emer-
gency Economic Powers Act (50 U.S.C. 1701 et seq.)) is
amended—

(1) in subsection (a), by inserting “or (j)” after
“subsection (b)” ; and

(2) by adding at the end the following:

“(j) CERTAIN VIOLATIONS OF SECTION 8(a).—

“(1) IN GENERAL.—Whoever knowingly violates
or conspires to or attempts to violate a regulation
issued under section 8(a) prohibiting an action de-
scribed in paragraph (2) shall be subject to only a
monetary penalty under subsection (b) or (c) section
206 of the International Emergency Economic Pow-

“(2) ACTIONS DESCRIBED.—An action de-
scribed in this paragraph is any action described in
subparagraphs (A) through (F) of section 8(a)(1)
taken by a covered person (as defined in section 8(d)), or knowingly agreed to be taken by such a person, with respect to the person’s activities in the interstate or foreign commerce of the United States, with the intent to comply with, further, or support—

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

“(B) efforts by a foreign country or international governmental organization to collect information that have the effect of furthering or supporting restrictive trade practices or boycotts fostered or imposed by a foreign country or international governmental organization against a country described in subparagraph (A).”.

(d) Definition of International Governmental Organization.—Section 16 of the Export Administration Act of 1979 (50 U.S.C. 4618) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)) is amended—
(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

“(7) the term ‘international governmental organization’ includes the United Nations and the European Union;”.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act and apply with respect to actions described in section 8(a) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)) taken or knowingly agreed to be taken on or after such date of enactment.

(f) IMPLEMENTATION.—The President shall implement the amendments made by this section by exercising the authorities of the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

SEC. 5. RULES OF CONSTRUCTION.

(a) NOTHING DIMINISHING FIRST AMENDMENT.—Nothing in this Act or an amendment made by this Act shall be construed to diminish or infringe upon any right
protected under the First Amendment to the Constitution of the United States.

(b) NONCOMMERCIAL SPEECH OR OTHER EXPRESSIVE ACTIVITY.—Consistent with current enforcement practices, nothing in this Act or an amendment made by this Act shall be construed to permit a person’s non-commercial speech or other noncommercial expressive activity to be used—

(1) as evidence to prove a violation of section 8(a) of the Export Administration Act of 1979, as amended by section 4(b), including as evidence to prove intent to violate such section 8(a); or

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

SEC. 6. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) ACTIONS TO BOYCOTT, DIVEST FROM, OR SANCTION ISRAEL OR PERSONS DOING BUSINESS IN ISRAEL OR ISRAELI-CONTROLLED TERRITORIES.—Consistent with section 102(b)(20)(B) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4201(b)(20)(B)), the term “actions to boycott, divest from, or sanction Israel or persons doing business in Israel or Israeli-controlled territories” means actions by states, non-
member states of the United Nations, international organizations, or affiliated agencies of international organizations that are politically motivated and are intended to penalize or otherwise limit commercial relations specifically with Israel or persons doing business in Israel or in Israeli-controlled territories.

(2) INTERNATIONAL GOVERNMENTAL ORGANIZATION.—The term “international governmental organization” includes the United Nations and the European Union.

(3) POLITICALLY MOTIVATED.—The term “politically motivated” means actions to impede or constrain commerce with Israel that are intended to coerce political action from or impose policy positions on Israel.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter the established policy of the United States or to establish new United States policy concerning final status issues associated with the Arab-Israeli conflict, including border delineation, that can only be resolved through direct negotiations between the parties.

Amend the title so as to read: “A bill to amend the Export Administration Act of 1979 to include in the prohi-
1 bitions on boycotts against allies of the United States boy-
2cotts fostered by international governmental organiza-
3tions, and for other purposes.”.