

Anti-Boycott Regulations

University of Pittsburgh

Office of Export Controls Services – EChelp@pitt.edu



The anti-boycott laws are a set of regulations in the EAR that essentially prohibit U.S. companies from complying with aspects of other countries' boycotts that the U.S. does not support. Boycott is another name for export controls or embargoes administered by other countries. The regulations were implemented to prevent U.S. business from participating directly or indirectly in the Arab League's boycott of Israel. The Arab League's boycott has lessened over the years, but still remains in effect in some countries. These laws are enforced by BIS, and more specifically by the Office of Anti-boycott Compliance (OAC). The applicable regulations are at 15 C.F.R. § 760.

Anti-boycott restrictions can apply to other boycotts around the world, e.g. India-Pakistan, Ethiopia-Eritrea, China-Taiwan, Bahrain-Bangladesh, Oman-Qatar-Saudi Arabia etc. Note that there are strict reporting requirements even where the U.S. person refuses to participate in a requested boycott action.

A. JURISDICTION

These laws apply to:

- **any U.S. person or U.S. entity,**
- **any person in the U.S.,**
- **any transaction made for U.S. commerce.**

The term "U.S. person" includes all individuals, corporations and unincorporated associations resident in the United States, including the permanent domestic affiliates of foreign concerns. U.S. persons also include U.S. citizens abroad (except when they reside abroad and are employed by non-U.S. persons) and the controlled in fact affiliates of domestic concerns. The test for "controlled in fact" is the ability to establish the general policies or to control the day to day operations of the foreign affiliate. The University would be considered an entity in the U.S. and University-employed staff and faculty would be considered a person in the U.S.

B. PROHIBITIONS

The Commerce Department has set forth the following prohibitions:

- Agreements to refuse or actual refusals to do business with boycotted countries or with blacklisted companies;
- Furnishing information about business relationships with boycotted countries or with blacklisted companies;
- Agreements to discriminate or actual discrimination against other persons based on race, religion, sex, national origin, or nationality;

Anti-Boycott Regulations

University of Pittsburgh

Office of Export Controls Services – EChelp@pitt.edu



- Furnishing information about the race, religion, sex, or national origin of another person;
- Furnishing information concerning association with fraternal and charitable organizations;
- Paying or otherwise implementing letters of credit that include requirements to take boycott-related actions prohibited by the anti-boycott regulations.

These restrictions may appear on pre-printed portions of agreements.

C. EXCEPTIONS

There are exceptions to most of the prohibitions. These exceptions can be found at 15 C.F.R. § 760.3. A major exception to the anti-boycott rules is the provision that permits the exporter to refuse to do business with a boycotted country for non-boycott reasons, such as technical incompatibility, poor products or services etc.

D. REPORTING

Any person under U.S. Jurisdiction who is asked to enter into an agreement or provide information that would violate anti-boycott laws must report this to BIS using a form BIS-621-P or form BIS-6051P in accordance with 15 C.F.R. § 760.5. In addition, the U.S. Internal Revenue Service (IRS) requires U.S. taxpayers to report operations in or relating to boycotting countries and nationals¹. These reporting requirements apply even where the exporter refuses to participate. Striking the boycott language in a proposed contract does not end the matter. The duty to report remains even where the requesting foreign entity accepts the redaction of the boycott language.

The BIS website provides more information on anti-boycott rules². The Office of Boycott Compliance has also set up an advice line for questions about the anti-boycott regulations, which can be reached at (202) 482-2381.

DOCUMENT HISTORY AND VERSION CONTROLS		
Subject	ANTI-BOYCOTT REGULATIONS	
Last Amendment	March 2015	Version 2.0
Supersedes	May 2013 (original document)	Version 1.0

¹ See IRS Form 5713, located online at: <http://www.irs.gov/pub/irs-pdf/f5713.pdf>.

² <https://www.bis.doc.gov/index.php/enforcement/oac>