H. R. 1

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

IN THE HOUSE OF REPRESENTATIVES

Mr. ZELDIN introduced the following bill; which was referred to the Committee on ___________________

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,

3 SECTION 1. SHORT TITLE.

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

6 SEC. 2. SENSE OF CONGRESS.

7 It is the sense of Congress that—
(1) the Government of the United States should use its voice, vote, and influence with and in international governmental organizations to actively oppose politically motivated actions to boycott, divest from, or sanction Israel;

(2) the Government of the United States combats anti-Israel boycotts and other discriminatory activity under the Export Control Reform Act of 2018 (subtitle B of title XVII of Public Law 115–232), 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 Amendment”), through trade promotion authorities, in free trade agreements, and in accession negotiations to the World Trade Organization; however, due to the increased anti-Israel economic activity in international governmental organizations, it is necessary to update Federal authorities to combat anti-Israel boycotts and other discriminatory activity in such fora, including the United Nations Human Rights Council;

(3) actions to boycott, divest from, or sanction Israel represent a concerted effort to extract concessions from Israel outside of direct negotiations between the Israelis and Palestinians; and
(4) the United States-Israel Strategic Partnership Act of 2014 (Public Law 113–296; 128 Stat. 4075) should be fully implemented 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 in order to counter the effects of actions to boycott, divest from, or sanction Israel.

SEC. 3. ADDITIONAL PROHIBITIONS RELATING TO FOREIGN BOYCOTTS UNDER EXPORT CONTROL REFORM ACT OF 2018.

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

(1) by amending paragraph (1) to read as follows:

“(1) 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

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countries or international governmental organizations, against other countries friendly to the United States or against any United States person;”; and

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

(b) FOREIGN BOYCOTTS.—Section 1773 of the Export Control Reform Act of 2018 (50 U.S.C. 4842) 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 coun-
try 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 pro-
poses 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)—

“(I) with or in the country to which the restrictive trade practice or boycott applies;

“(II) with any business concern organized under the laws of that country;

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

“(IV) 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 restrictive trade practice or boycott.

“(iii) Nothing in this paragraph shall prohibit the furnishing of normal business information 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 international governmental organizations against other countries, or regarding 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" after "foreign countries"; and

(3) by adding at the end the following:

"(d) COVERED PERSON DEFINED.—

"(1) IN GENERAL.—In this section, the term 'covered person' means—

"(A) any domestic concern (including any permanent domestic establishment of any foreign concern);
“(B) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

“(C) 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

“(D) an individual who is—

“(i) 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);

“(ii) an owner, officer, director, employee, or agent of a domestic concern described in subparagraph (A) or a foreign subsidiary or affiliate described in subparagraph (B) or an officer, director, employee, or agent of an entity described in subparagraph (C); and
“(iii) acting in the individual’s official
capacity as such an owner, officer, direc-
tor, employee, or agent.

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

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

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

(2) by adding at the end the following:

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

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

“(2) ACTIONS DESCRIBED.—An action de-
scribed in this paragraph is any action described in
subparagraphs (A) through (F) of section
1773(a)(1) taken by a covered person (as defined in
section 1773(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 inter-
national governmental organization to collect
information that have the effect of furthering or
supporting restrictive trade practices or boy-
cotts fostered or imposed by a foreign country
or international governmental organization
against a country described in subparagraph
(A).”.

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

“SEC. 1775. DEFINITIONS.

“In this part:

“(1) INTERNATIONAL GOVERNMENTAL ORGANI-
ZATION.—The term ‘international governmental or-
ganization’ includes—
“(A) the United Nations, including organizations within the United Nations such as the United Nations Human Rights Council; and

“(B) the European Union.

“(2) Efforts by a foreign country or international governmental organization, etc.—The term ‘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’ includes efforts by the United Nations Human Rights Council to collect information for the establishment of a database of entities that operate, or have business relations with entities that operate, beyond Israel’s 1949 Armistice lines, including East Jerusalem.”.

(e) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to actions described in section 1773(a) of the Export Control Reform Act of 2018 (50 U.S.C. 4842(a)) taken or knowingly agreed to be taken on or after such date of enactment.
SEC. 4. 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.

(b) Noncommercial Speech or Other Expressive Activity.—Consistent with current enforcement practices of the Department of Commerce, nothing in this Act or an amendment made by this Act shall be construed to permit a person’s noncommercial speech or other non-commercial expressive activity to be used—

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

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