



DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 760

[Docket No. 210528-0118]

RIN 0694-AI48

Export Administration Regulations: Termination of United Arab Emirates Participation in the Arab League Boycott of Israel

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to reflect the formal termination by the United Arab Emirates (UAE) of its participation in the Arab League Boycott of Israel. Specifically, in recognition of the UAE's August 16, 2020 issuance of Federal Decree-Law No. 4 of 2020, certain requests for information, action or agreement from the UAE, which were presumed to be boycott-related if made prior to August 16, 2020, would not be presumed to be boycott-related if made following that date, and thus would not be prohibited or reportable under the EAR. Accordingly, BIS adds an interpretation to the Restrictive Trade Practices or Boycotts regulations of the EAR, which sets forth BIS's view that the prohibitions and reporting requirements contained in the EAR's antiboycott provisions do not apply to such requests from the UAE made after August 16, 2020.

DATES: This rule is effective June 8, 2021.

FOR FURTHER INFORMATION CONTACT: Cathleen Ryan, Director, Office of Antiboycott Compliance, Bureau of Industry and Security, U.S. Department of Commerce, by email at OAC.WebQueries@bis.doc.gov or OACINQUIRIES@bis.doc.gov, or by phone at 202-482-2381.

SUPPLEMENTARY INFORMATION:

Background

The Office of Antiboycott Compliance (OAC) administers and enforces the antiboycott provisions set forth in part 760 (Restrictive Trade Practices and Boycotts) of the Export Administration Regulations (EAR) (15 CFR parts 730 through 774). These antiboycott provisions discourage, and in certain circumstances prohibit, United States persons from taking specific actions in furtherance or support of an unsanctioned foreign boycott by a country against a country friendly to the United States, including complying with certain requests to provide information about business relationships with a boycotted country or with blacklisted persons or to refuse to do business with certain persons for boycott-related reasons. Pursuant to part 760 of the EAR, the receipt of such requests may be reportable to OAC.

In connection with an agreement between the United Arab Emirates (UAE) and Israel establishing full diplomatic and commercial relations and normalization (the “Abraham Accords”), on August 16, 2020, the UAE issued Federal Decree-Law No. 4 of 2020, which repealed Federal Law No. 15 of 1972 Concerning the Arab League Boycott of Israel (“August 16, 2020 decree”), thereby formally ending the UAE’s participation in the Arab League Boycott of Israel.

In this final rule, the Bureau of Industry and Security (BIS) amends part 760 of the EAR to add an Interpretation that reflects the UAE’s formal termination (through the issuance of the August 16, 2020 decree) of its participation in the Arab League Boycott of Israel. In making this amendment, BIS has also taken into account actions that the UAE Government has undertaken to implement, in policy and practice, the August 16, 2020 decree. As set forth in this Interpretation, which will appear as new Supplement No. 17 to part 760 of the EAR, certain requests for information, action or agreement from the UAE that were presumed to be boycott-related prior to August 16, 2020 would not be presumed to be boycott-related if issued after August 16, 2020, and thus would not be subject to the prohibitions or reporting requirements of part 760 of the EAR. Further, the Interpretation reminds United States persons that requests that are on their

face boycott-related or that are for action obviously in furtherance or support of an unsanctioned foreign boycott are subject to part 760 of the EAR, irrespective of the country of origination.

Export Control Reform Act of 2018

On August 13, 2018, President Donald J. Trump signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801-4852). Part II of ECRA contains the Anti-Boycott Act of 2018. ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated as not significant for purposes of Executive Order 12866.

2. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

3. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not applicable. This

rule reflects a policy development involving the United Arab Emirates that advances the U.S. Government's foreign policy and national security. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

5. Notwithstanding any other provision of law, no person may be required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves a collection currently approved by OMB under control number 0694-0012, Report of Requests for Restrictive Trade Practice or Boycott – Single or Multiple Transactions. The collection carries a burden estimate of 60 to 90 minutes for a manual or electronic submission for a total burden estimate of 482 hours. BIS expects the burden hours associated with this collection to decrease with the publication of this rule.

List of Subjects in 15 CFR Part 760

Exports, Reporting and recordkeeping requirements, Trade practices.

Accordingly, part 760 of the Export Administration Regulations (15 CFR parts 730-774) is amended as follows:

PART 760 – RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

1. The authority citation for part 760 is revised to read as follows:

Authority: 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*;
E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

2. Add supplement no. 17 to part 760 to read as follows:

Supplement No. 17 to Part 760 - Interpretation

Pursuant to the agreement between the United Arab Emirates (UAE) and Israel establishing diplomatic and commercial relations (the “Abraham Accords”), on August 16, 2020, the UAE issued Federal Decree-Law No. 4 of 2020, abolishing Federal Law No. 15 of 1972 Concerning the Arab League Boycott of Israel, thereby formally terminating participation by the UAE in the Arab League Boycott of Israel as of that date.

On the basis of this action, it is the Department's position that certain requests for information, action or agreement from the UAE, which were presumed to be boycott-related under this part of the EAR if issued prior to August 16, 2020, would not be presumed to be boycott-related if issued after August 16, 2020, and thus would not be prohibited or reportable under this part of the EAR.

For example, a request from the UAE that an exporter certify that the vessel on which it is shipping its goods is eligible to enter UAE ports was formerly presumed to be a boycott-related request under this part of the EAR with which the exporter could not comply because the UAE had a boycott law in force against Israel. Such a request from the UAE made after August 16, 2020, would no longer be presumed to be boycott-related because the underlying boycott requirement/basis for the certification was eliminated as of August 16, 2020. Similarly, a U.S. company would not be prohibited from complying with a request made by UAE government officials after August 16, 2020, to furnish the place of birth of employees the company is seeking to take to the UAE because there is no underlying UAE government boycott law or policy that would give rise to a presumption that the request was boycott-related.

U.S. persons are reminded that requests that are on their face boycott-related or that are for action obviously in furtherance or support of an unsanctioned foreign boycott are subject to this part of the EAR, irrespective of the country of origination. For example, requests containing references to “blacklisted companies,” “Israel boycott list,” “non-Israeli goods,” or other phrases or words indicating a boycott purpose would be subject to the appropriate provisions of the Department's antiboycott regulations in this part.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

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