

Locke Lord QuickStudy: U.S. Anti-Boycott Pitfalls

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In a recent enforcement action, the U.S. Department of Commerce’s Bureau of Industry and Security (“BIS”) [imposed](#) a civil penalty on a U.S. company for violations of the antiboycott provisions under [Part 760 of the Export Administration Regulations](#) (“EAR”). The company, a global manufacturer, was fined \$44,750 after voluntarily disclosing that it inadvertently acceded to a foreign boycott request against Israel; the manufacturer certified to a freight forwarder on its shipping documentation that none of its goods were of Israeli origin or manufactured by a company on the “Israeli Boycott Blacklist.”

We note that the company was able to significantly reduce its penalty by voluntarily self-disclosing the violation to BIS and cooperating fully with the investigation. This underscores the importance of proactive compliance measures, including self-disclosure and regulatory cooperation, which can lessen the severity of anti-boycott violations. The better position, however, is to avoid the violation entirely by having a compliance program that avoids anti-boycott violations.

Overview and Applicable Law

The anti-boycott violation occurred when the company shipped sample goods to Bahrain in 2019 to participate in a trade show. As part of its shipping arrangements, the freight forwarder required the manufacturer to certify that none of the goods were of Israeli origin or manufactured by any company on the “Israeli Boycott Blacklist.”

U.S. anti-boycott regulations require U.S. persons to (i) decline the request and (ii) report the receipt of a boycott-related request to BIS’s Office of Anti-Boycott Compliance (the “OAC”). Reports may be filed electronically or by mail on form BIS 621-P for single transactions or on form BIS 6051P for multiple transactions involving boycott requests received in the same calendar quarter. U.S. persons located in the U.S. must postmark or electronically date stamp their reports by the last day of the month following the calendar quarter in which the underlying request was received.

The OAC maintains a public list of entities that have previously made a boycott-related request/demand, which can be found here: ([“Boycott Requester List”](#)). The [OAC website](#) and [Boycott Requester](#) are intended to help U.S. persons comply with the reporting requirements of the anti-boycott regulations.

Key Takeaways for Companies

1. [Vigilance in Global Trade](#): Companies engaged in international trade must ensure compliance with all applicable U.S. laws, including the anti-boycott provisions of the EAR. Any request for boycott-related information, whether

explicit or implied, must be rejected and reported to the OAC. Failure to do so can result in substantial penalties, even when the non-compliance is unintentional.

2. Importance of Reporting: Companies should include in their export compliance programs procedures to identify and report any boycott requests or demands.
3. Enhanced Enforcement and Penalties: BIS has increased its enforcement efforts and penalties for anti-boycott violations, especially in the context of the Arab League Boycott of Israel. The penalties for non-compliance can be severe, and BIS now requires companies entering into settlement agreements to admit to a statement of facts outlining their conduct which could have a detrimental effect on a company's reputation.
4. Foreign Subsidiaries and Expanded Reporting: Companies with foreign subsidiaries or partners must be particularly cautious. BIS has indicated a renewed focus on foreign subsidiaries of U.S. companies and is exploring additional measures to deter foreign parties from making boycott-related requests; the OAC boycott reporting form requires filers to identify the party making the boycott request, further expanding the scope of compliance responsibilities.

The recent enforcement action by BIS is a reminder of the importance of keeping front-of-mind the anti-boycott provisions under the EAR. A fulsome export compliance program that addresses anti-boycott compliance can protect businesses from substantial penalties, assist in national security and avoid reputational risk. This case illustrates that even inadvertent violations can cause unwanted headlines, fines and distraction of management attention.

Conclusion

This paper is intended as a guide only and is not a substitute for specific legal or tax advice. Please reach out to the authors for any specific questions. We expect to continue to monitor the topics addressed in this paper and provide future client updates when useful.

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