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THE WHITE HOUSE
WASHINGTON

Date 8/27/76

TO: JACK MARSH

FROM: Max L. Friedersdorf

For Your Information X

Please Handle _____

Please See Me _____

Comments, Please _____

Other



boycott

Committee on International Relations

August 24, 1976

Amendment to Export Administration Act Amendments of 1976

Foreign Boycotts

Sec. _____. (a) Section 3(5) of the Export Administration Act of 1969 is amended in subparagraph (B) --

(1) by striking out "encourage and request" and inserting in lieu thereof "require"; and

(2) by striking out "the furnishing of information or the signing of agreements" and inserting in lieu thereof "furnishing information or entering into or implementing agreements".

(b) Section 4 of such Act is amended --

(1) by striking out the fourth sentence of subsection (b)(1); and

(2) by adding at the end thereof the following new subsection:

"(j)(1)(A) Rules and regulations prescribed under subsection (b)(1) shall implement the provisions of section 3(5) of this Act and shall require that any United States person receiving a request for furnishing information or entering into agreements as specified in that section must report this fact to the Secretary of Commerce for such action as the Secretary may deem appropriate to carry out the policy of that section.

"(B) Any report filed under subparagraph (A) after the enactment of this subsection shall be made available promptly for public inspection and copying. The Secretary of Commerce shall transmit copies of such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policy set forth in section 3(5). The provisions of section 7(c) shall not apply to reports filed under subparagraph (A) of this paragraph.

"(2)(A) In furtherance of the policy set forth in sections 3(5)(A) and (B), no U.S. person shall take any action with intent to comply with or to further or support any trade boycott fostered or imposed by any foreign country against a country which is friendly to the United States. The mere absence of a business relationship with a boycotted country does not indicate the existence of the intent required by the preceding sentence.

"(B) For the purpose of enforcing the prohibition contained in subparagraph (A) the Secretary of Commerce shall issue rules and regulations prohibiting any United States person from taking any action with the required intent, including the following actions:

"(i) Discriminating against any United States person, including any officer, employee, agent, director, or stockholder or other owner of any United States person, on the basis of race, color, religion, sex, nationality, or national origin.

"(ii) Boycotting or refraining from doing business with any United States person, with the boycotted country, with any business concern in or of the boycotted country, with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.

"(iii) Furnishing information with respect to the race, color, religion, sex, nationality, or national origin of any past, present or proposed officer, employee, agent, director, or stockholder or other owner of any United States person.

"(iv) Furnishing information about any past, present or proposed business relationship, including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investments or supply, with any United States person, with the boycotted country, with any business concern in or of the boycotted country, with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.

Committee on International Relations

Page 2

(c)(1) Section 6 of such Act is amended by redesignating subsection (g) as subsection (h), and inserting after subsection (f) a new subsection (g) as follows:

"(g) Any United States person aggrieved by action taken as a result of a violation of Section 4(j)(2) of this act, may institute a civil action in an appropriate United States district court without regard to the amount in controversy, and may recover threefold actual damages, reasonable attorney's fees, and other litigation costs reasonably incurred, and obtain other appropriate relief."

(2) Section 6(h) of such Act is amended by striking out "or (f)" and inserting in lieu thereof "(f), or (g)".

(d) Section 11 of such Act is amended by adding at the end thereof the following: "The term 'United States person' includes any United States resident or national, any domestic business concern (including any domestic subsidiary or affiliate of any foreign business concern), and any foreign subsidiary or affiliate of any domestic business concern."



August 28

THE WHITE HOUSE
WASHINGTON

Mr. Marsh:

Ed Schmults wanted you to
see the attached first thing
Monday morning.

Donna



AUG 28 1976

THE WHITE HOUSE
WASHINGTON

To Jack Marsh

Delivered by J. T. South
in bal. _____



Ed Schmitt

MEMORANDUM

SUBJECT: The "Stevenson Amendment"

This memorandum describes the principal provisions of the boycott-related legislation introduced by Senator Stevenson as an amendment to the Senate version of the 1976 extension of the Export Administration Act of 1969 (S. 3084). This bill, including the Stevenson Amendment as Title II, passed the Senate 60 - 13 on Friday, August 27.

Reporting of Boycott Requests

The Stevenson Amendment directs the Secretary of Commerce (the Secretary) to issue rules and regulations requiring any "domestic concern" receiving a boycott-related request to report the request to the Secretary. Reporting concerns would also be required to state whether they intend to comply or have complied with the request. This provision mirrors requirements already in the Department of Commerce's Export Administration Regulations.

Discrimination

The Stevenson bill also requires the Secretary to adopt regulations prohibiting each "domestic concern" from furnishing information:

"regarding the race, religion, or national origin of that concern's or any other concerns' directors, officers, employees, or shareholders to or for the use of any foreign country, national, or agent thereof where such information is sought for the purpose of enforcing or implementing restrictive trade practices or boycotts against a country friendly to the United States or against any domestic concern."



Current Export Administration regulations prohibit U.S. firms from taking any action pursuant to a boycott-related request which discriminates or has the effect of discriminating against U.S. citizens or firms on the basis of race, color, religion, sex or national origin. Thus, the Stevenson amendment substantially embodies current regulation.

Disclosure of Reports

The Stevenson amendment would make boycott-related reports received by the Department of Commerce, after enactment, to be made available promptly for public inspection and copying. An exception is made for business confidential information with regard to quantity, description, and value of any goods, if the Secretary determines that disclosure of this information would place the reporting firm at a competitive disadvantage.

Under current practice, boycott reports are kept confidential pursuant to the broad confidentiality provision of the Export Administration Act. The Secretary does have the discretion, under current law, to make such reports public if he finds that withholding disclosure would be against the national interest.

Refusals to Deal

The Stevenson amendment requires the Secretary to issue regulations that would prohibit domestic concerns from refusing to do business with any other domestic concern or person pursuant to "an agreement with, requirement of, or request from or on behalf of," any foreign country, national, or agent thereof for the purpose of implementing a boycott against a country friendly to the United States (Israel). It provides that civil penalties for violation of this prohibition will be administered by the Department of Commerce after a full adjudicatory hearing.



Concerted refusals to deal violate current U.S. antitrust laws. On this ground, the Justice Department brought suit against Bechtel Corporation, last January, alleging that Bechtel, acting upon Arab boycott requests, had violated the Sherman Act.

Current Export Administration regulations place U.S. firms on notice that boycotting of a U.S. firm by another U.S. firm in order to comply with an international boycott against Israel may constitute a violation of U.S. antitrust laws. The language of the Stevenson amendment is, however, considerably broader in meaning and effect than any application yet given U.S. antitrust laws.

Desirable Amendment

As currently drafted, the refusal to deal section of the Stevenson bill could prohibit unilateral refusals to deal -- i.e., ones not based upon an agreement or understanding that would violate U.S. antitrust laws. Thus it might be claimed that a U.S. contractor doing business in Saudi Arabia could not unilaterally decide not to try to import Ford trucks based upon knowledge that Saudi Arabia would not allow them through customs. (Ford is blacklisted.)

The Stevenson amendment's refusal to deal section should therefore be amended to prohibit refusals to deal "pursuant to an agreement or understanding with any foreign country, national or agent thereof." All language referring to "requirement of," "request from" and "on behalf of" should be deleted. An amended version of the appropriate section of the Stevenson amendment is attached hereto.

Commercial Effect of Adoption of Stevenson Amendment

Any assessment of the effect of this legislation on U.S. commerce in the Mid-East is, perforce, highly speculative.



Public disclosure of boycott reports could deter some firms from seeking Mid-East business opportunities involving boycott certifications, since they would fear legitimate public pressures such as "counter-boycotts." Consumer goods manufacturers would obviously be the most vulnerable. Some firms might concentrate their Mid-East business in foreign subsidiaries with an attendant effect on balance of payments and domestic employment.

On the other hand, public disclosure of reports will publicly demonstrate that Arab boycott requests are not cast in racially discriminatory terms and may help defuse extensive public misunderstanding on this score.

The Commerce Department has had difficulty persuading American businessmen to share their evaluation of the impact of disclosure of boycott reports. It is the Department's assessment that American firms, while they would obviously prefer nondisclosure, can, in the main, "live with" such disclosure. Indeed, many are anticipating it as inevitable.

The effect of the refusal to deal section is even less certain. If not amended it could have a substantial impact on Mid-East business opportunities for construction firms. Its effect on normal export transactions is likely to be much less substantial. If amended as suggested above, its reach would be similar to current antitrust law.

Of 15,000 boycott reports received by the Department of Commerce in the last quarter of 1975 and the first quarter of 1976, 106 contained requests that the exporter not do business with specific U.S. firms. However, approximately 20 percent of the 15,000 reports involved requests to certify that the exported products would not be from a boycotted or blacklisted firm.

In any form, the refusal to deal section will present the Commerce Department with substantial and unaccustomed responsibilities. The promise implied by the legislation will create expectations of vigorous "antitrust" enforcement



by a Department which is not especially well-suited to the task. Nevertheless, the Secretary will have discretion in framing regulations for the refusal to deal section's enforcement and its provisions for an adjudicatory hearing will assure that a considerable evidentiary burden must be met before a U.S. firm can be penalized for a boycott-related refusal to deal.

Foreign Policy Effects of Stevenson Amendment

While from a foreign policy standpoint no legislation is desirable, it is fair to say that the effects of the Stevenson amendment will be small compared to those of competing legislative proposals. Quiet Administration support of the Stevenson amendment could be explained to Arab Nations in terms of "lesser of inevitable evils." In this regard, attached is a boycott provision, supported by Congressmen Rosenthal, Bingham, and Koch, which is said to have a substantial prospect for success in the House. It would, in effect, proscribe compliance with any boycott-related request.



SUGGESTED AMENDMENT TO TITLE II OF S. 3084

Section 203(C)(ii) should read:

or (ii) refusing to do business with any
other domestic concern or person pursuant
to an agreement or understanding with any
foreign country, national or agent thereof
for the purpose of enforcing or implementing
restrictive trade practices or boycotts
against a country friendly to the United
States or against any domestic concern.



August 24, 1976

Amendment to Export Administration Act Amendments of 1976

Foreign Boycotts

Sec. _____. (a) Section 3(5) of the Export Administration Act of 1969 is amended in subparagraph (B) --

(1) by striking out "encourage and request" and inserting in lieu thereof "require"; and

(2) by striking out "the furnishing of information or the signing of agreements" and inserting in lieu thereof "furnishing information or entering into or implementing agreements".

(b) Section 4 of such Act is amended --

(1) by striking out the fourth sentence of subsection (b)(1); and

(2) by adding at the end thereof the following new subsection:

"(j)(1)(A) Rules and regulations prescribed under subsection (b)(1) shall implement the provisions of section 3(5) of this Act and shall require that any United States person receiving a request for furnishing information or entering into agreements as specified in that section must report this fact to the Secretary of Commerce for such action as the Secretary may deem appropriate to carry out the policy of that section.

"(B) Any report filed under subparagraph (A) after the enactment of this subsection shall be made available promptly for public inspection and copying. The Secretary of Commerce shall transmit copies of such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policy set forth in section 3(5). The provisions of section 7(c) shall not apply to reports filed under subparagraph (A) of this paragraph.

"(2)(A) In furtherance of the policy set forth in sections 3(5)(A) and (B), no U.S. person shall take any action with intent to comply with or to further or support any trade boycott fostered or imposed by any foreign country against a country which is friendly to the United States. The mere absence of a business relationship with a boycotted country does not indicate the existence of the intent required by the preceding sentence.

"(B) For the purpose of enforcing the prohibition contained in subparagraph (A) the Secretary of Commerce shall issue rules and regulations prohibiting any United States person from taking any action with the required intent, including the following actions:

"(i) Discriminating against any United States person, including any officer, employee, agent, director, or stockholder or other owner of any United States person, on the basis of race, color, religion, sex, nationality, or national origin.

"(ii) Boycotting or refraining from doing business with any United States person, with the boycotted country, with any business concern in or of the boycotted country, with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.

"(iii) Furnishing information with respect to the race, color, religion, sex, nationality, or national origin of any past, present or proposed officer, employee, agent, director, or stockholder or other owner of any United States person.

"(iv) Furnishing information about any past, present or proposed business relationship, including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investments or supply, with any United States person, with the boycotted country, with any business concern in or of the boycotted country, with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.



Committee on International Relations

Page 2

(c)(1) Section 6 of such Act is amended by redesignating subsection (g) as subsection (h), and inserting after subsection (f) a new subsection (g) as follows:

"(g) Any United States person aggrieved by action taken as a result of a violation of Section 4(j)(2) of this act, may institute a civil action in an appropriate United States district court without regard to the amount in controversy, and may recover threefold actual damages, reasonable attorney's fees, and other litigation costs reasonably incurred, and obtain other appropriate relief."

(2) Section 6(h) of such Act is amended by striking out "or (f)" and inserting in lieu thereof "(f), or (g)".

(d) Section 11 of such Act is amended by adding at the end thereof the following: "The term 'United States person' includes any United States resident or national, any domestic business concern (including any domestic subsidiary or affiliate of any foreign business concern), and any foreign subsidiary or affiliate of any domestic business concern."



August 31, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: ~~MAX E. FRIEDERSDORF~~

SUBJECT: Arab Boycott

Congressman Barber Conable reports that Senator Ribicoff is making a strong attempt to force resolution of the Arab Boycott issue on the Tax Bill Conference.

Conable does not think it will be possible, but very concerned about the President being put unnecessarily in a strong anti-Jewish position on this issue.

Conable says the campaign mood in the House and Senate makes it appear very unlikely that the Administration's position can prevail on this issue.

Conable says the House International Relations Committee toughened the Stevenson amendment on the Export Administration Act extension by a vote of 27 - 1.

Conable says the issue has become more Jewish in nature than the Jackson/Vanik amendment and he is fearful that the President will be badly hurt by looking anti-Jewish on the issue.

Conable reports that Treasury, State and NSC are all negotiating in the President's name on this issue, thus giving the President high visibility on a bill that is being strongly lobbied by the Jewish lobby.

Conable recommends the President be insulated on this issue to the degree possible, that the departments/agencies not negotiate the issue with the President's veto.

bcc: Jack Marsh
Brent Scowcroft



[Sept. 1976?]

POSSIBLE INTERNATIONAL BOYCOTT COMPROMISE

A. The foreign tax credit, tax benefits of DISC and deferral are to be denied any U.S. taxpayer who participates in a boycott activity of the type specified in paragraph C below. The portion of these tax benefits denied in any year to a taxpayer is to be the portion of the benefits attributable to the boycott activity as set out in paragraph B below.

B. The portion of the tax benefits referred to in paragraph A which are to be denied are to be in the ratio of the value of the sales or purchases of goods and services (or other transactions) arising from the boycott activity to the total value of the sales or purchases of goods and services (or other transactions) as the case may be, of the company. Once it has been determined that a boycott activity has been entered into in any year with respect to any country, it will be presumed, unless established to the contrary, that other transactions occurring in the same country or group of associated countries in the same year will also encompass boycott activities. Once it has been determined that a boycott activity has been participated in by a taxpayer with respect to any line of activity, he may establish that the boycott activity has not been participated in in the case of any other line of activity in that country.



C. A boycott activity, for purposes of this provision, includes a situation where a country refuses to do business with a company unless -

[1. That company agrees not to do business with a specified country.]*

2. That company agrees not to do business with other companies which do business with a specified country.

3. That company agrees not to hire employees (or directors) because of their nationality, religion or race.

4. That company agrees not to do business with any company whose managers or directors are of a specified nationality, religion or race.

D. The definition of a boycott activity in paragraph C is not intended to deny the tax benefits where a country prohibits bringing into such country goods produced in any specified second country. Finally, the reference to boycott activity in paragraph C is not intended to deny the tax benefits where a country prohibits the export of products obtained in such country to any specified second country.



* This part of the memorandum was not included in the presentation to the conference yesterday, but Senator Ribicoff considers it essential.

Foreign Boycotts

{Sept-1976?}

Sec. _____. (a) Section 3(5)(A) of the Export Administration Act of 1969 (hereinafter in this Section referred to as the "Act") is amended by inserting immediately after "United States" the following: "or against any domestic concern or person".

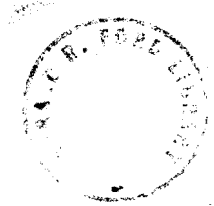
(b) Section 3(5)(B) of the Act is amended by inserting immediately after "United States" the following: "and to prohibit such domestic concerns from taking any action in furtherance of such restrictive trade practices or boycotts, which discriminates or has the effect of discriminating against any domestic concern or person on the basis of race, color, religion, sex, nationality or national origin".

(c) Section 4 of the Act is amended by redesignating paragraphs (2) through (4) and any cross references thereto as paragraphs (3) through (5) respectively, and inserting after paragraph (1) a new paragraph (2) as follows:

"(2)(A) Rules and regulations prescribed under subsection 4(b)(1) to implement the provisions of Section 3(5) of this Act, shall require that any domestic concern or person which receives a request to take any action referred to in Section 3(5)(B) of this Act to report that fact to the Secretary of Commerce together with such other information as the Secretary may require to enable him to carry out the requirements of Section 3(5).

"(B) Any report hereinafter filed pursuant to this paragraph shall be made available promptly for public inspection and copying: Provided, however, that information regarding the quantity, description, and value of any goods to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the domestic concern or person involved at a competitive disadvantage. The Secretary of Commerce shall transmit copies of such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the purposes of Section 3(5) of this Act.

"(C) Rules and regulations implementing the provisions of Section 3(5) of this Act shall prohibit domestic concerns and persons from:



(i) Discriminating against any United States person, including any officer, employee, agent, director, or stockholder or other owner of any domestic concern on the basis of race, color, religion, sex, nationality or national origin.

(ii) Furnishing information with respect to the race, color, religion, sex, nationality, or national origin of any past, present, or proposed officer, employee, agent, director, or stockholder or other owner of any domestic concern.

(iii) Refusing to do business with any other domestic concern or person, pursuant to an agreement or understanding with any foreign country, national or agent thereof, for the purpose and with the intent of complying with a trade boycott against a country which is friendly to the United States or against any domestic concern or person.

"(D) Any civil penalty (including any suspension or revocation of the authority to export) imposed under this Act, for violation of rules and regulations issued under subparagraph (2)(C)(iii) of this paragraph may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of Title 5, United States Code. The provisions of subparagraph (2)(C)(iii) of this paragraph shall neither substitute for nor limit the antitrust laws of the United States. Further, the provisions of subparagraph (2)(C)(iii) of this subsection shall not apply to compliance with requirements pertaining to the identity of any carrier on which articles, materials, or supplies are to be shipped so long as such do not have as their purpose the enforcement or implementation of a restrictive trade practice or boycott against a country friendly to the United States or against any domestic concern or person."



(i) Discriminating against any United States person, including any officer, employee, agent, director, or stockholder or other owner of any domestic concern on the basis of race, color, religion, sex, nationality or national origin.

(ii) Furnishing information with respect to the race, color, religion, sex, nationality, or national origin of any past, present, or proposed officer, employee, agent, director, or stockholder or other owner of any domestic concern.

(iii) Refusing to do business with any other domestic concern or person, pursuant to an agreement or understanding with any foreign country, national or agent thereof, for the purpose and with the intent of complying with a trade boycott against a country which is friendly to the United States or against any domestic concern or person.

(d) Any civil penalty (including any suspension or revocation of the authority to export) imposed under this part for violation of rules and regulations issued under paragraph (2)(C)(iii) of this part may be imposed only after notice and opportunity for an agency hearing as the record in accordance with sections 554 through 557 of Title 5, United States Code. The provisions of paragraph (2)(C)(iii) of this part shall neither substitute for nor limit to anti-trust laws of the United States. Further, the provisions of paragraph (2)(C)(iii) of this part shall not apply to compliance with requirements pertaining to the identity of any carrier on which material or supplies are to be shipped or to such not have as their purpose the enforcement of a restrictive trade boycott against a country friendly to the United States or against any domestic concern or person.

*my problem is
 with
 Charles
 He called yesterday*



[Sept. 1976?]

MEMORANDUM

THE WHITE HOUSE
WASHINGTONCONFIDENTIALACTION

MEMORANDUM FOR: THE PRESIDENT
FROM: BRENT SCOWCROFT
SUBJECT: Export Administration Act

The House has now passed the Export Administration Act (by a vote of 318 to 63), including the Bingham-Rosenthal amendment. A motion to recommit to delete all but a simple extension of existing authorities failed by a vote of 91 to 287. The bill now goes to conference, confronting us with the following options:

1. Throw the weight of the Administration behind the Stevenson amendment in the Senate bill, as the lesser of two evils. The virtue of this tactic is that with our support Rosenthal might be defeated. The disadvantage is that the Administration would be (a) reversing its position and (b) risking our position with the Arabs. (You will recall Prince Saud's cautionary statement about giving the Saudis some gestures of reciprocity to assist them in resisting a December oil price rise.) Moreover, at this point it is not assured this strategy could succeed.

2. Take the lead in forging a compromise in the form of a slightly strengthened version of the Stevenson amendment. Such an amendment would have a somewhat better chance of acceptance by the conference than the Stevenson amendment itself. It would, in any case, probably strengthen your position should you wish to veto Bingham-Rosenthal. The disadvantages are the same as option 1, but the effect would be accentuated.

3. Permit (or even very privately encourage, if necessary) adoption of Bingham-Rosenthal by the conference in order to provide the strongest rationale for a veto. A veto would provide the strongest favorable signal to the Saudis, but it would be received very negatively by the American Jewish Community. One alternative would be a pocket veto.

CONFIDENTIAL - GDS

BRO, 12/1/85



This would have approximately the same positive effect, but it is questionable whether it would substantially mitigate the negative impact in this country.

4. Should the Zablocki amendment (a damaging amendment dealing with nuclear exports) emerge intact from conference, another alternative would be to ignore the boycott issue and veto the bill on the basis of the Zablocki amendment. While there would still be a negative impact within Jewish groups, it should be considerably muted by the focus on the nuclear rather than the boycott provisions.

While many (Commerce, business community) believe it is possible to live with the Stevenson provision, the Bingham-Rosenthal and the Zablocki amendments are substantively very harmful and a veto of either could be justified. A summary of these three provisions follows.

Stevenson Amendment to the Export Administration Act Bill

-- Mandates public disclosure of required reports to the Commerce Department of responses by U. S. firms to boycott related requests. The firm must not only report that it has received such a request but also the extent to which it has or intends to comply. (Such public disclosure may be required in any event under the recently enacted Government in the Sunshine Act.)

-- Prohibits domestic concerns from furnishing information regarding any person's race, religion or national origin where such information is sought for the purpose of enforcing or implementing a restrictive trade practice or boycott.

-- Prohibits refusals to deal among U. S. firms pursuant to foreign boycott requirements or requests.

Rosenthal-Bingham Amendment to the Export Administration Act

-- Requires public disclosure of required reports to the Commerce Department of boycott-related requests.

-- States that no U. S. person shall take any action with the intent to comply with, further or support any trade boycott against a country friendly to the United States. Prohibited actions include:

- discrimination against any U. S. person on the basis of race, color, religion, sex, nationality or national origin.



- boycotting or refraining to do business with any U. S. person, with the boycotted country, with a business concern or national of or within the boycotted country, or with any person or concern who has, does or intends to do business in the boycotted country.

- furnishing information about any past, present or proposed business relationship with any of the above.

- furnishing information with respect to race, religion, etc. of any past, present or proposed employee, officer, stockholder, etc. of a U. S. concern.

Zablocki-Findley Amendment to the Export Administration Act

-- No new nuclear cooperation agreements could be entered into unless: (1) the U. S. has approval rights for the reprocessing of U. S. - supplied fuel or of non-U. S. fuel used in U. S. -supplied reactors, and (2) the recipient country agrees to permit the IAEA to report to the U. S. , upon request, on the status of all inventories of plutonium, uranium 233, and highly enriched uranium held in storage under IAEA safeguards in that country.

-- The Secretary of State should consult with countries now having a nuclear agreement with the U. S. to seek inclusion in those agreements of the restraints (1) and (2) above.

-- No nuclear export license may be issued unless the recipient has agreed that no U. S. -supplied material or facilities will be used in any nuclear explosive.

-- U. S. approval for reprocessing shall only be provided if the Secretary of State determines that timely detection and warning of illegal diversion of strategic nuclear material will occur well in advance of the time at which the diverted material could be transformed into nuclear explosives.

AGENCY RECOMMENDATIONS (informally obtained):

-- While State is attempting to reach the Secretary or Robinson, at the Atherton level it believes the Administration could signal acceptance of, and throw its weight behind, Stevenson (with manageable impact on our relations with the Arabs). However, if Bingham-Rosenthal emerged, the bill should be vetoed.



-- Commerce Department prefers option 1 if it is achievable; otherwise, it would prefer option 3. It does not believe there is much room for compromise between Stevenson and Rosenthal-Bingham.

-- Treasury (Parsky) opposes any change in the Administration's position and therefore is against any attempt to influence the outcome of the conference. If Bingham-Rosenthal emerged, it would recommend a veto; if Stevenson emerged, it may recommend signature.

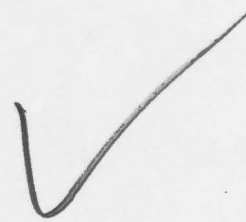
-- ERDA would recommend a veto if the Zablocki amendment remained in the bill. On the other hand, the reasons you can put forward for vetoing the Zablocki amendment, though valid, are complicated and could be characterized as indicating the Administration's weakness on non-proliferation.



SEP 2 1976

THE WHITE HOUSE
WASHINGTON

September 1, 1976



ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: BRENT SCOWCROFT
FROM: JIM CONNOR
SUBJECT: Arab Boycott

The attached memorandum from Max Friedersdorf was returned in the President's outbox with the following notation:

"Check with me in conjunction with Jack Marsh and Max."

Please follow-up with appropriate action.

cc: Dick Cheney
Max Friedersdorf
Jack Marsh

Attachment:
Max Friedersdorf memo of 8/31/76



THE WHITE HOUSE

WASHINGTON

August 31, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: MAX L. FRIEDERSDORF *m-b*

SUBJECT: Arab Boycott

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Conable reports that Treasury, State and NSC are all negotiating in the President's name on this issue, thus giving the President high visibility on a bill that is being strongly lobbied by the Jewish lobby.

Conable recommends the President be insulated on this issue to the degree possible, that the departments/agencies not negotiate the issue with the President's veto.



THE WHITE HOUSE
WASHINGTON

Date 9-1-76

TO: Jack Marsh

FROM: Max L. Friedersdorf

For Your Information _____

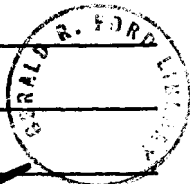
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Comments, Please _____ ✓

Other

Per your request.



NATIONAL SECURITY COUNCIL

August 27, 1976

MEMORANDUM FOR: BILL HYLAND

FROM: CATHIE DESIBOUR

SUBJECT: Meeting on Arab Boycott Legislation (List of participants attached)

Ribicoff Amendment to the Tax Bill

In its present form, the Ribicoff amendment would deny the following tax provisions to taxpayers who agree to participate in, or cooperate with, an international boycott: the foreign tax credit, the foreign tax deferral, benefits of DISC, the exemption on income of U. S. citizens residing abroad. A taxpayer is deemed to have participated in, or cooperated with, a boycott if the taxpayer agrees as a condition of doing business, either directly or indirectly, within a country or with a government, a company, or national of a country, to refrain from doing business:

- (1) in another country (or with the government, companies, or nationals of another country);
- (2) with any United States person engaged in trade in another country (or with the government, companies, or nationals of another country), or
- (3) with any company whose ownership or management is made up of individuals of a particular nationality or religion, or to remove (or refrain from selecting) corporate directors who are individuals of a particular nationality or religion.



Stevenson Amendment to the Export Administration Act Bill

The Stevenson amendment would:

-- mandate public disclosure of required reports to the Commerce Department of responses by U. S. firms to boycott related requests. The firm must not only report that it has received such a request but also the extent to which it has or intends to comply.

-- prohibit domestic concerns from furnishing information regarding any person's race, religion or national origin where such information is sought for the purpose of enforcing or implementing a restrictive trade practice or boycott.

-- prohibit refusals to deal among U. S. firms pursuant to foreign boycott requirements or requests.

These provisions are incorporated in the export bill as it was reported to the floor. Full Senate action on the bill is expected Monday, August 30.

Proposed Rosenthal-Bingham Amendment to the Export Administration Act

The House International Relations Committee will consider the Rosenthal-Bingham boycott amendment during its mark-up session Tuesday, August 31. In present form this amendment:

-- requires public disclosure of required reports to the Commerce Department of boycott-related requests.

-- states that no U. S. person shall take any action with the intent to comply with, further or support any trade boycott against a country friendly to the United States. Prohibited actions include:

- discrimination against any U. S. person on the basis of race, color, religion, sex, nationality or national origin.

- boycotting or refraining to do business with any U. S. person, with the boycotted country, with a business concern or national of or within the boycotted country, or with any person or concern who has, does or intends to do business in the boycotted country.

- furnishing information about any past, present or proposed business relationship with any of the above.



- furnishing information with respect to race, religion, etc. of any past, present or proposed employee, officer, stockholder, etc. of a U. S. concern.

While Morgan opposed incorporation of any boycott language, he is under considerable pressure from members of his committee and anticipates that some language, perhaps along the Stevenson lines, will be reported. Whether he still hopes to delay the bill long enough to preclude passage (or permit passage of a simple extension) is unclear.

An additional element in the House bill is the fact the committee adopted (almost unanimously) an extremely restrictive amendment regarding nuclear exports (copy attached). There is no comparable provision in the Senate bill. If the amendment is ultimately reported in the House bill, it might be possible to convince the Joint Atomic Energy Committee to demand a sequential referral which would delay final passage or possibly preclude it.

A further question which has not yet been resolved is whether or not we can live without an Export Administration bill this year. Existing authorities expire September 30. Apparently, there was an occasion (in 1969) when this occurred and we operated temporarily on an Executive Order and an old statute (trading with the enemies act, I think). This was only for a very short time and Commerce is opposed to its happening again for a longer period extending to next year. Further, the temporary authorities would not cover situations of emergency shortages, e. g., of soy beans, wheat, etc.



Treasury

Gerald Parsky
John Harper
John Honeycutt
Charles Walker

State

Joseph Greenwald
Kempton Jenkins
Paul Stahnke
Alexander Watson

Commerce

Manny Sprague
Jerry Kennedy

CIEP

Bill Gorog
John Bennison

Counsel

Edward Schmults

Congressional

Bob Wolthuis

NSC

Bill Hyland
Bob Hormats
Rosemary Niehuss
Cathie de Sibour



Erighan +
Loenthal

August 24, 1976

Amendment to Export Administration Act Amendments of 1976

Foreign Boycotts

Sec. ____ (a) Section 3(5) of the Export Administration Act of 1969 is amended in subparagraph (B) --

(1) by striking out "encourage and request" and inserting in lieu thereof "require"; and

(2) by striking out "the furnishing of information or the signing of agreements" and inserting in lieu thereof "furnishing information or entering into or implementing agreements".

(b) Section 4 of such Act is amended --

(1) by striking out the fourth sentence of subsection (b)(1); and

(2) by adding at the end thereof the following new subsection:

"(j)(1)(A) Rules and regulations prescribed under subsection (b)(1) shall implement the provisions of section 3(5) of this Act and shall require that any United States person receiving a request for furnishing information or entering into agreements as specified in that section must report this fact to the Secretary of Commerce for such action as the Secretary may deem appropriate to carry out the policy of that section.

"(B) Any report filed under subparagraph (A) after the enactment of this subsection shall be made available promptly for public inspection and copying. The Secretary of Commerce shall transmit copies of such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policy set forth in section 3(5). The provisions of section 7(c) shall not apply to reports filed under subparagraph (A) of this paragraph.

"(2)(A) In furtherance of the policy set forth in sections 3(5)(A) and (B), no U.S. person shall take any action with intent to comply with or to further or support any trade boycott fostered or imposed by any foreign country against a country which is friendly to the United States. The mere absence of a business relationship with a boycotted country does not indicate the existence of the intent required by the preceding sentence.

"(B) For the purpose of enforcing the prohibition contained in subparagraph (A) the Secretary of Commerce shall issue rules and regulations prohibiting any United States person from taking any action with the required intent, including the following actions:

"(i) Discriminating against any United States person, including any officer, employee, agent, director, or stockholder or other owner of any United States person, on the basis of race, color, religion, sex, nationality, or national origin.

"(ii) Boycotting or refraining from doing business with any United States person, with the boycotted country, with any business concern in or of the boycotted country, with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.

"(iii) Furnishing information with respect to the race, color, religion, sex, nationality, or national origin of any past, present or proposed officer, employee, agent, director, or stockholder or other owner of any United States person.

"(iv) Furnishing information about any past, present or proposed business relationship, including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investments or supply, with any United States person, with the boycotted country, with any business concern in or of the boycotted country, with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.

(c)(1) Section 6 of such Act is amended by redesignating subsection (g) as subsection (h), and inserting after subsection (f) a new subsection (g) as follows:

"(g) Any United States person aggrieved by action taken as a result of a violation of Section 4(j)(2) of this act, may institute a civil action in an appropriate United States district court without regard to the amount in controversy, and may recover threefold actual damages, reasonable attorney's fees, and other litigation costs reasonably incurred, and obtain other appropriate relief."

(2) Section 6(h) of such Act is amended by striking out "or (f)" and inserting in lieu thereof "(f), or (g)".

(d) Section 11 of such Act is amended by adding at the end thereof the following: "The term 'United States person' includes any United States resident or national, any domestic business concern (including any domestic subsidiary or affiliate of any foreign business concern), and any foreign subsidiary or affiliate of any domestic business concern."



The principal significance of the 27-1 vote in favor of the Bingham amendment by the House International Relations Committee is that an alternative amendment is now the only hope to defeat this legislation or make it acceptable. The Bingham amendment amounts to a comprehensive counter boycott of Arab countries by the U. S. on behalf of Israel. There is simply no other way to describe it. What's more, it can be enforced by private citizens through lawsuits for treble damages which goes way beyond antitrust restrictions and which would affect foreign policy.

The legislative options are:

- Delay of the legislation at Rules Committee, consideration on the House floor and conference, all of which are almost certain to fail leaving the Administration with a veto decision at the end with inadequate groundwork laid to even prevent an override. Any debate on the bill must be shifted from moral issues to foreign policy ones if a veto is to be successful and still minimize the political damage. This can only be accomplished through a floor fight in the House over an alternative that aggressively supports the moral issues; or

- Ultimate acceptance of dangerous and unacceptable legislation. This leaves the Administration in a position of opposition to something "morally right," leaves the next President with an impossible and dangerous foreign policy situation and still leaves the Administration with all the negative political consequences of a veto and in addition gives the appearance of a weak position on foreign policy taken under pressure of the election campaign. This appears to be a "no win" position.

- Veto. There are actually two options here. A veto based on the current Administration position or a veto based on rejection of a "morally right" but less risky alternative to the current bills. This last option appears better since some public support could be gained through a carefully planned floor fight and, the adverse political consequences would be minimized. Also, it holds at least a small prospect of being successful. The members must have a "morally right" alternative to vote for They cannot and will not vote against the current legislation at this point. If not successful on the House floor, the ultimate veto could most probably be sustained if an acceptable alternative could not then be worked out in conference. A veto based on the current Administration probably could not be sustained and the Administration would be castigated for placing dollars and foreign policy over human values -- a definite campaign issue. The veto from the "alternative" position is at least a defensible campaign issue and risks alienating the smallest number of voters.

The case to be made is basically that the Administration is absolutely opposed to discrimination on the basis of race, religion or national origin and supports legislation to prevent it. The Administration is opposed to the application of the boycott against U. S. companies and any interference by a foreign power in our internal affairs and relationships. The only relevant difference of opinion is how best to eliminate those aspects of the boycott which are agreed by all to be objectionable? The proponents of the current amendments may be right and the Arab states will terminate those aspects of the boycott which are being applied to U. S. citizens and companies simply to keep access to U. S. goods and services. They also may not react adversely in a way that worsens our energy problems, inflation and weakens our foreign policy position of peacemaker in the Middle East. They may be right but all indications are they are wrong. If they are wrong are you each willing to accept responsibility for the adverse and possibly severe consequences, particularly when the basic moral values of this country and its people can be protected and enforced without substantial risk of other adverse consequences? The "Administration alternative" allows us to protect and enforce our moral values, and gradually terminate objectionable aspects of the boycott not related to those moral issues with minimum risk of adverse consequences as a result of this legislation.

September 3, 1976

MEMORANDUM re: Bingham and Stevenson Amendments to Export Administration Act

A. Assessment of Current Situation.

The 27-1 vote on the Bingham amendment clearly points out the problem on this legislation. The Bingham amendment amounts to a counter boycott against the Arab States which boycott Israel. It, for all intents and purposes, bars any U.S. trade with Arab States unless they terminate virtually all aspects of the boycott. Yet, there was hardly a voice raised in protest about the unreasonableness of the specific language.

Moreover, the prohibitions could be enforced in effect, by private citizens, through lawsuits for treble damages. Even if such suits have no merit the mere threat would be sufficient in many instances to convince a company not to do business in any Arab country. Given the current U.S. dependence on oil from the Middle East and the economic and social consequences of substantial reductions in supply or increases in price, the immediate loss of business and jobs in the U.S. seems minor in comparison. Other consequences relate to balance of payments, dollar value in world markets and a greatly impaired ability to be able to stop another major war in the Middle East - much less negotiate a peaceful settlement.

The Bingham amendment was available to most members of the Committee on Friday, August 27. When the Committee met on Tuesday, August 31, these issues were hardly even raised, much less discussed. The particular effect of the specific language was not discussed at all. The discussion - no debate - centered on the moral issue. Only a few Members even alluded to the risks generally involved in legislation of this type. No alternatives were offered and every member present, but one, made it clear they would not vote against legislation of this type. Some would have voted "yes" on a more moderate alternative, so long as it prohibited discrimination on the basis of race, religion and national origin, and did not acquiesce in the interference and coercion by a foreign power in the business relationships between U.S. companies and with any other country.

This is a committee, the members of which are accustomed to discussing sensitive issues of foreign policy, which type of discussion was very evident the following day on other amendments. It therefore appears that the only approaches to oppose such extreme and sensitive legislation is through delays which avoid debate and voting on the record or through moderate legislative alternatives that also meet the moral issues involved, i.e. that meet the same objectives with less risk of confrontation and adverse consequences.

The conclusion, therefore, is that if this legislation cannot be delayed until the existing law expires and Congress adjourns, then a single legislative alternative must be proposed on the floor of the House that contrasts with the Bingham and Stevenson amendments only with regard to reduction of the risk of confrontation and adverse foreign policy consequences. It must be one which can be shown to support the same basic objectives of prohibiting discrimination on the basis of race, religion and national origin as well as ending the application of the boycott by and against U.S. companies through foreign coercion.

The only question raised for debate should be the best way to end the application of certain aspects of the boycott against U.S. companies. No Congressman can responsibly support a position which opposes passing any legislation at this point and virtually none will do so. Yet this is the stated position of the Administration at this time. Thus it is clear that the Administration position will be overwhelmingly defeated if it is not altered.

Otherwise, if the Administration maintains its current position of no legislation, it must clearly and unequivocally be prepared to veto any bill coming out of conference, and try to prevent an override to succeed. It is extremely doubtful that it could prevent an override from its current position. The moral issues will be characterized as outweighing the risks and therefore the risks and adverse consequences must be accepted. What is "right" must be done even if it hurts. What's more, the Administration will be characterized as valuing dollars over human rights and thus as immoral. Not only is that a "no win" position, it is futile and an unnecessary result.

If the only choice is an unsuccessful veto characterized as immoral, or acceptance of extremely dangerous and irresponsible legislation from a foreign policy standpoint, that is no choice.

If, ultimately, irresponsible legislation can only be prevented by a veto then the veto must clearly be demonstrated to be on moral and responsible grounds. A compromise cannot be negotiated on the House floor if the International Relations Committee members would not even discuss the specific problems with parts of the amendment.

Conclusion: Present an alternative on the floor that clearly and decisively supports the moral issues raised but avoids the most dangerous risks of the Bingham and Stevenson amendments. It must center the debate on the best way to end the boycott while preventing interference by a foreign power in the internal affairs of the U.S. It must be presented as a total package, a plan, a total course of action.

The force and power of the argument itself may succeed, particularly if it is understood by most Members as supportive of Jews and Israel. Thus it should be a simple alternative requiring only minor amendments. It must be drafted from the Bingham or Stevenson amendments (preferably the latter) using their language as much as possible. It could be presented as an amendment or a substitute depending on the nature of the alternative. This point needs careful consideration but a substitute seems preferable if the support of the moral issues is to be decisively and clearly presented. How will a motion to strike the section on private right of action be perceived, for example. It seems to be better to have one vote up or down on an alternative that contains the identical language on discrimination as the Stevenson or Bingham amendments.

Take the best of both or draft from the Stevenson amendment since it takes less alteration. Bingham will say it does nothing about secondary aspects, only tertiary, but that can be amended and made workable through exceptions relating to respect for the laws of a foreign sovereign, etc. (It may also be possible to take language from the Ribicoff amendment to the tax bill since it will probably be finished by the time of the House debate on the Export Administration Act and very well could be acceptable to the Administration.)

The advantage is a floor debate in the House where everyone can agree on and support the moral issues. It not only lays groundwork to prevent override of a veto if necessary, it can be decisive to gain the necessary public support or at least avoid massive adverse public reaction even in the Jewish community. Even if the vote on the alternative fails it will force the issue in contention on to the foreign policy issues, not the moral ones. The conference report compromising between Stevenson and Bingham could at least then be vetoed with the minimum possible adverse public impact.

If it might become a campaign issue, which it well could with George Meany strongly supporting the Ribicoff amendment, then the impact on the campaign could also be minimized. Depending on luck and skill it might even be neutralized.

Timing of the veto should be considered in this regard. A good rule of thumb is if the veto proves necessary, then the sooner the better.

B. Options

1. Delay the bill in Rules Committee. This may be possible but a repeat of the International Relations Committee vote is more probable. The major Jewish organizations will most likely blitz the Members who will also have no alternative to support. What's more, if a permanent delay until adjournment is not won, then the veto comes later rather than sooner and after more and more members are locked in. Even if successful, the public and Jewish reaction will be virtually identical to a veto based on the current Administration position on "no legislation." It would become a major campaign issue in either case and cost more Jewish votes than the "alternative approach."

2. Delay floor consideration until adjournment. This appears to be only theoretical since there is no apparent way to accomplish it unless the Speaker simply refuses to place it on the Calendar. He could be easily overridden by the Democratic caucus. Likewise, many Republicans in tough races won't support such an approach. This approach would put many Members not only in an impossible position, but also jeopardize their campaigns for reelection. The President can ill afford the loss of support of these Members it seems if an alternative is available.

3. Delay the bill in conference until adjournment. This approach has only slightly more of a chance to succeed. A majority of conferees on both sides would have to support it, and merely reviewing possible conferees makes such an approach appear futile. The Administration will still be faced with a veto of a bill somewhere between Stevenson and Bingham. This puts the veto in the same light as the "no legislation" position outlined above.

4. Defeat the Conference Report. Not worth considering.

5. Veto. The odds have to be that a veto will be the ultimate decision. If nothing more is done than has been done to date by the Administration, there is a high likelihood of a successful override--the worst of all worlds. The basic question seems not to be whether to veto but what to veto.

The alternative is accepting unacceptable and dangerous legislation. The chance to avoid a veto appears to be adoption of an acceptable alternative on the House floor. At least if that approach fails, which is more likely than not, the political effect of a veto would be minimized and more acceptable than any other alternative except signing a Stevenson/Bingham compromise out of conference. The problem with that is that the next President will have to live with the consequences in the Middle East as a result. Only the President can determine if those consequences will be acceptable.

6. One additional option is to wait until conference to offer an alternative. This simply does not appear to be feasible. If there is no fight on the House floor, then a conference can only result in an unacceptable compromise between Stevenson and Bingham since Stevenson is the best that could be obtained, and it is itself unacceptable (unlikely could even get that under these circumstances). Further, the Administration will still be characterized as in opposition and insensitive to the moral issues. A veto would still be necessary and most likely overridden--again the worst of all worlds. The only way to get an

acceptable bill out of conference is to pass a more moderate alternative than the Stevenson amendment on the House floor. A modified Stevenson alternative approved on the House floor, if aggressively pushed, could stand a good chance of coming out of conference in acceptable form. At least if it does not, a veto is, again, less damaging.

The Senate conferees would probably be Stevenson, Proxmire, Williams, McIntyre, Cranson, Biden, Tower, Helms and Garn. The mix on the House side is uncertain, but would be at least 2-1. Bingham, who is twelfth in line, would have to be included and it would certainly be in the Administration's interest to assure that Hamilton (tenth) is also included on the Democratic side. If the split were roughly 10-5, at least Derwinski, Findley, and Buchanan would be on the conference.

7. There is a possible seventh option with a jurisdictional conflict with the Joint Committee on Atomic Energy, but that jurisdictional question would appear to have been resolved, and this strategy negated as an option by the action of the Committee to introduce a clean bill to be reported out by the House International Relations Committee rather than H. R. 7665 (which is the simple extension) with amendments. Speaker Albert indicated on Wednesday, September 1, that in the latter case when the amendment on nuclear proliferation comes up, he would rule that it had to be co-referred to the Joint Committee. On the other hand, the clean bill, H. R. 15377, incorporating all amendments will be referred solely to International Relations.

Two final notes on a veto strategy: (a) A much stronger case for a veto could obviously be made on the Bingham amendment than the Stevenson amendment. The Bingham amendment can be clearly shown to establish a counter-boycott on behalf of Israel since it is so extreme. It is highly vulnerable to a moderate "alternative" which also prohibits the most objectionable forms of discrimination. It can also be accurately characterized as almost certainly confrontations, and dangerous in the extreme. If the alternative loses on the floor, the Bingham language is much easier to veto than Stevenson. If the alternative is aggressively presented on the floor there is a slight chance even of getting it adopted in conference. That depends on the floor debate. The most effective Members from both sides of the aisle who do not have the right races in districts with a high percentage of Jewish voters will have to be encouraged to make the case for the alternative. Strong conservatives with safe seats and no Jewish voters are not going to be too credible or effective.

(b) It is absolutely critical to any strategy that it be agreed to and fully supported from the outset by the President and with the full support and cooperation of State, Treasury, Commerce, NSC, White House Congressional Relations, and the Campaign Committee. We could volunteer to coordinate strategy with Counselor Marsh. It is critical because the Congressmen making this fight must know and be able to say that they have full, unqualified support of the President. The veto threat must be stated in no uncertain terms at the time of the House floor fight on the House International Relations Committee bill.

C. The Basic Case

1. We are absolutely opposed to discrimination against U. S. citizens on the basis of race, religion or national origin. Such discrimination is morally repugnant to the values we hold in this nation. (The alternative proposal should adopt the relevant language of Stevenson or Bingham amendments. The problem with the Administration legislation is that it contains a private right of action authorization which can result in private lawsuits adversely affecting foreign policy.)

2. We are absolutely opposed to the boycott and are committed to do everything to end its application to U. S. citizens and companies. The only relevant question is how to best achieve that goal.

The proponents of the current amendments may be right. The Arabs may drop the boycott in order to obtain U. S. goods and services without any retaliation or adverse consequences to our energy problems and foreign policy to promote peace in the Mideast. But we don't think the Arabs will drop the boycott. We think also that they may react adversely. Can we eliminate discrimination against U. S. citizens on the basis of race, religion and national origin and the application of objectionable aspects of the boycott to U. S. companies without the risk of these adverse effects? Yes, at least we can do so and greatly minimize those risks.

If these amendments are passed in their current form and their proponents prove to be wrong about the Arabs dropping those aspects of the boycott that relate to U. S. companies, are you willing to accept the adverse consequences? Particularly when we can achieve the identical goals without those risks? Are you willing to accept responsibility for those consequences when the same goals can be achieved without substantial risk of precipitating those consequences? More is involved than just some business for U. S. companies and the jobs that go with that business. There is no certainty that we could limit the adverse consequences to those alone. If you prove to be wrong, are you willing to take the more difficult and dangerous steps to resolve those consequences? Particularly when we can achieve the same goals without such confrontation?

THE WHITE HOUSE 12:47 p.m.
WASHINGTON

September 4, 1976

MR. MARSH:

Gen. Scowcroft prepared
the attached for the meeting
at 2:00 today.

The original was dropped
off to Terry O'Donnell.

cb

(EVERYONE ELSE RECEIVED A
COPY OF THIS, TOO.)



Marsh

THE WHITE HOUSE

WASHINGTON

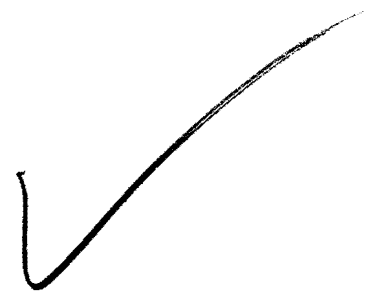
CONFIDENTIAL

September 4, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: BRENT SCOWCROFT *BS*

SUBJECT: Arab Boycott Legislation



We are faced with two probable pieces of anti-Arab boycott legislation in the Tax Bill and in the Export Administration Act. Administration officials (mainly Treasury and State) have maintained strong opposition to such legislation as directed by you in May, but there appears to be strong Congressional sentiment in favor of quite restrictive provisions.

We have reached a point where you may wish to review available options. Briefly, these are:

-- Maintain a position of strong opposition, and express no interest in associating the Administration with a compromise. In this option, whatever emerges from the Congress would then be reviewed by you in the context of your decisions on the overall Tax Reform Bill and the Export Administration Act Extension Bill.

-- Signal the Administration's willingness to examine legislation being proposed, and authorize Administration officials to try to promote compromise. This would probably mean that we would have to actively associate ourselves with one version against another more stringent version, to minimize the damage. This would be a major change in policy with its attendant consequences in moderate Arab states.

-- A middle ground: Possibly a posture of passive acquiescence on some pieces of legislation (e. g. a modified version of the Tax Bill provision) while maintaining strong opposition to the most damaging bills (e. g., the Rosenthal amendment to the Export Act.)

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DECLASSIFIED

E.O. 12356, Sec. 3.4.

MR 92-48, #36 NSC 24, 7/28/95

By KBH, NARA, Date 5/23/95



A discussion of pending legislation follows and possible courses of action follow:

1. Tax Bill -- Ribicoff Amendment: The Senate Finance Committee overwhelmingly adopted a Ribicoff amendment to the Tax Bill designed to penalize U. S. firms complying with, or participating in, the Arab boycott of Israel. The penalty for broadly defined boycott-related activities by U. S. firms would be denial of substantial tax benefits: DISC, foreign tax credits, denial of deferral and foreign earned income exemption.

Last week, we continued to oppose this provision. Chairmen Long and Ullman were inclined toward some compromise; in the absence of an Administration proposal they went along with a compromise worked out that was adopted in only a "conceptual" form this week (September 1). While details are lacking, the initial assessments of this "compromise" indicate it is preferable to the original Ribicoff Amendment (it limits tax sanctions to specific transactions). There are indications since then that Senator Long might still be interested in an Administration proposal. The conference reconvenes Wednesday, September 8 and could complete action at this time.

2. Export Administration Act Extension Amendments: The Senate passed this legislation on August 27 (65 to 11) with a Stevenson anti-boycott amendment. The provisions would require public disclosure of reports by U. S. firms (to the Commerce Department) of the receipt of, and degree of compliance with, boycott-related requests and prohibit boycott-related refusals-to-deal among U. S. firms.

The House bill, reported but not yet passed, contains a far more restrictive Rosenthal/Bingham amendment regarding the boycott. This provision would prohibit any compliance with boycott-related requests by U. S. firms (the Stevenson bill would only require public disclosure of the degree of compliance). While the Senate bill would prohibit one U. S. firm from refusing to deal with another U. S. firm, the House version would prohibit refusals-to-deal with a boycotted country, a business or national of a boycotted country or any concern which has, does or intends to do business with a boycotted country.



Our original intention was to seek delay of the House bill in committee long enough to preclude passage of anything but a simple extension of the EAA authority (which expire September 30). Chairman Morgan initially concurred in this strategy, but he was forced to proceed with mark-up, at which time the Bingham-Rosenthal amendment was adopted by a vote of 27 to 1. The bill was ordered reported on September 1.

A last-ditch effort to have the bill sequentially referred to the JCAE due to the nuclear export provisions is still possible. But full House action could occur next week with a conference shortly thereafter.

OPTIONS

1. Continued opposition:

Pros

-- Such a position would have the virtue of consistency and demonstrate the integrity of our arguments that legislation is unnecessary, and highly adverse to our foreign policy interests.

-- In particular with respect to the tax bill, it maintains our position that such boycott legislation is an inappropriate use of our tax law for non-tax purposes -- a point on which Secretary Simon feels especially strong.

-- It would demonstrate our reliability to Arab states; from a foreign policy point of view, State has argued that it is preferable for the Administration to remain firm despite the consequences, than to be seen as "caving in".

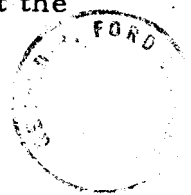
-- Treasury and State believe that nothing will be gained at this point by offering to compromise, because legislation, most likely in unacceptable form, is inevitable.

Cons

-- We may be faced with the worst-case legislation in both the Tax Bill and EAA.

-- A compromise might be successful in diluting the worst aspects of proposed legislation.

-- Refusal to compromise risks simplistic criticism that the Administration condones boycott practices.



2. Signal an interest in compromise on both the Tax Bill and the Export Administration Act. This would involve authorizing direct Administration contact with Long to ascertain whether further compromise on the tax bill is still possible; if so, we need to have an acceptable proposal which has not been developed. One possibility would involve endorsement of the Stevenson version in the EAA, and working on the new version of Ribicoff.

Pros

-- We are in a position where some boycott legislation is inevitable; thus the effort to compromise could minimize the longer-term effects on our ability to do business in the Arab world.

Cons

-- We sacrifice a strongly held past position and appear inconsistent in the face of pressure.

-- An acceptable compromise is dubious.

-- If we stand firm and lose, the Arabs will take note of the strong position we took. If we compromise and still lose, the Arabs will take note of both our failure to stick with our position and the resulting objectionable legislation.

If a compromise effort seems desirable, we have the following possibilities:

1. Respond to Senator Long's desire for an Administration Proposal on the Tax Bill, but resist the provisions of the Export Administration Act, and be prepared for a veto.

-- We might obtain further modifications of the Ribicoff amendment, achieving something we could live with.

-- Moreover, there is still a chance that House passage or the conference on the EAA could still be delayed, and if not, the restrictions on nuclear exports may warrant consideration of a veto.

2. Alternatively, let matters run their course in respect to the Tax Bill; but offer subtle or open endorsement of the Stevenson approach in the EAA.



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-- Since conferees have already tentatively adopted a compromise formulation in the tax bill, it may be too late to make an impact on this position but an endorsement of the Stevenson amendment may be the only means of assuring that this version rather than the harsher Bingham-Rosenthal version prevails in conference.

Department Positions

As of now Secretaries Simon and Kissinger advocate opposing any anti-boycott provisions. Secretary Richardson favors the Stevenson Amendment as the least damaging.

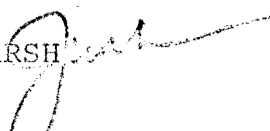
CONFIDENTIAL



THE WHITE HOUSE
WASHINGTON

September 7, 1976

MEMORANDUM FOR: BILL HYLAND
ED SCHMULTS
DAVE LISSY

FROM: JACK MARSH 

On Thursday evening, the President will address B'nai B'rith.

It may be that ~~there will have to be~~ some reference to the pending Arab boycott legislation both in the tax and export bills. ~~On the contingency this will~~ have to be addressed, will you write a paragraph which you feel would be appropriate for inclusion in the President's remarks. It would be best if this were not lengthy but rather two or three succinct sentences which set forth a balanced Administration position.

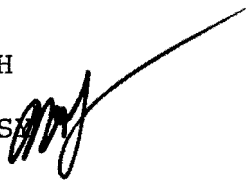
It would be helpful if you could get this paragraph to Bob Orben by 10:00 a. m. tomorrow, Wednesday, September 8.

Many thanks.



THE WHITE HOUSE
WASHINGTON

September 7, 1976

MEMORANDUM FOR: JACK MARSH
FROM: DAVID LISS 

The attached language re: Arab Boycott legislation
was forwarded to Milton Friedman this morning.

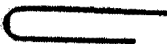

cc: Bill Hyland
Ed Schmults
Bob Orben



Page 7A

fundamental principle that people should be free to emigrate as they choose, it also strongly urges other nations to abide by this principle.

If you look at the history of our country, at the days before independence and at a later period when the tired and poor of the Old World passed through our portals, nothing could be more American than the right of each person to live his life where he wants and to commune with his God as he wishes. That is all we ask for the Jews of the Soviet Union and we will continue to press the point.



We will continue to press, too, in a different arena, for an end to foreign trade practices which foster discrimination. In this important area my Administration has worked closely with the leaders of B'nai B'rith and of the ADL. Last November I announced a number of specific steps we would take to eliminate



DHL 9/7/76

any vestage of descrimination against American citizens on the basis of their religion. This morning I want to reiterate my determination on that point not only for the benefit of our trading partners abroad but also so that U.S. officials at all levels will understand that we mean business.

It is further against the policy of this country, as stated in the Export Administration Act, to condone trade boycotts against nations friendly to us. In that regard, the United States is determined to work toward the end of all restrictions on Israel's right to trade or the rights of others to trade with Israel as they wish.

Over the last several months a number of legislative actions have been proposed to deal with aspects of the foreign trade boycott problem. My Administration has taken the view that these legislative efforts, however well intentioned, were not the best way to cope with the situation. We felt that progress was being achieved, albeit slowly, through quiet diplomacy.



DHL 9/7/76

Many members of B'nai B'rith have indicated support for various of the legislative proposals now being considered.

I want you to know that I have never considered our difference of views in this regard as anything more than disagreement over tactics. Our goals are the same. And if the Congress should enact a measure similar to the so-called Stevenson amendment to the Export Administration Act, I will be prepared to approve the measure.

I spoke earlier of our strength stemming from our commitment to ethical and moral values. I believe that a moral and ethical government promises its citizens no more than it can deliver -- and delivers all that it promises. That would be my pledge to the American people.

I believe in performance, not promises.

I believe in realism, not rhetoric.

We will continue winning the fight against inflation. We will



SEP 8 1976

THE WHITE HOUSE
WASHINGTON

Date 9/7

TO:

FROM: DAVID LISSY

 FYI

 For Appropriate Action

COMMENTS



Nathan L. Eisenstein
 Robert K. Greenfield
 Benjamin S. Lieberman
 Theodore H. Mann
 Leon I. Meserow
 Murray H. Shusterman
 Joseph X. Yaffe

Vice Presidents
 Isidore Baskin
 Solomon Fisher
 Saul Freedman
 Joseph B. Meranze
 Norma Shapiro

Treasurer
 Dr. Herbert Cohen

Secretary
 Hester Beckman

Executive Director
 Arnold Harris

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 Ernest Brydon
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 Ann C. Chudnow
 Gloria Cohen
 Rabbi Henry Cohen
 Charles Conston
 David L. Cupersmith
 Dr. Henry Darmstadter
 Stanley C. Diamond
 Dr. Bernard Dishler
 Dr. Ira Eisenstein
 Rabbi Arnold Feldman
 Dr. Stanton Felzer
 Libby Fishman
 John Fox
 Rabbi Alan Fuchs
 Dr. Norma Furst
 Abraham Galm
 Gary Gans
 Roseann Gilbert
 Sara Gold
 Marilyn Gould
 Phyllis Haas
 Craig Harris
 Rabbi Max Hausen
 Jack Hirsh
 Joseph Itzko
 Jerome Kaplan
 Isador Kranze
 Benjamin Kuzin
 Michael Kusner
 Edna Laden
 Dina Lepow
 Nora Levin
 Ann Lieberman
 Esther Litvin
 Arline Jolles Lotman
 Ray Lourie
 Rabbi Reuben J. Magill
 Dr. Seymour Mandelbaum
 Sidney Margolis
 Judge Werna Marshall
 Mrs. Benjamin Miller
 Dr. Pea Morish
 Simon Moses
 Stephen B. Nalin
 Beatrice Posner
 Allen H. Peucer
 Jacob S. Richman
 Jon P. Roon
 Sheryl Rosenberg
 Rabbi Yaakov G. Rosenberg
 James Rosenzweig
 Benson N. Schambelau
 Dr. Albin Schick
 Mimi Schwag
 Samuel F. Schwag
 Irving Schwartz
 Nathan Schwartz
 Rosa Seltzer
 Kenneth Shear
 Jerome Sheslock
 M. Melvin Shapiro
 Charles Siegel
 Joseph Simuler
 Gerald Spector
 Horace A. Stern
 Dr. Harry Steig
 Dr. Stanley Taylor
 Judge Evelyn Trommer
 I. Irving Tubis
 Sigmund Twersky
 Barry Ungar
 Rabbi Harold Vantrup
 Judge Charles P. Weiner
 Marlon Wiken
 Stuart Wurzman
 Joseph Yentsh

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 Leon J. Oermayer
 I. David Peltus
 Edgar S. Peltus
 Judge Edward S. Rosenberg
 Max B. Shuler

Member Agency
 Federation of Jewish Agencies
 of Greater Philadelphia
 National Jewish Community
 Relations Advisory Council

JEWISH COMMUNITY RELATIONS COUNCIL OF GREATER PHILADELPHIA

FELLOWSHIP COMMISSION BUILDING, 260 S. 15th STREET, PHILADELPHIA, PA. 19102 • KI

September 3, 1976

Mr. David Lissy
 White House
 Washington, D.C. 20500

Dear David:

Please allow me to take you up on your generous offer to contact you anytime we have a particular problem or question.

I thought you might want to know that we are receiving an unusually strong number of calls on the Arab boycott legislation which according to yesterday's New York Times was approved by Senate and House conferees. The sentiment here is particularly strong since the legislation has received the endorsement of significant non-Jewish sources, including the Greater Philadelphia Chamber of Commerce, the Philadelphia Port Authority and the Metropolitan Christian Council.

Best regards,

Dorothy Freedman
 Dorothy Freedman
 Program Director

DF:apf



MEMBER ORGANIZATIONS

- | | | | | |
|---|---|---|---|--------------------------------------|
| American Jewish Committee | Brith Abraham | Jewish Labor Committee | Pannonia Beneficial Association | Senior Adult Council |
| American Jewish Congress | Brith Shalom | Jewish War Veterans of the U.S.A. | Philadelphia Section - National Council of Jewish Women | Shomrim of Philade |
| American Jewish Congress Women | Brith Shalom Women | Jewish War Veterans Ladies Auxiliary | Philadelphia Union of Jewish Students | United Jewish Organ |
| Association of Jewish New Americans in Philadelphia | Federation of Reform Synagogues of Greater Philadelphia | Judaic Union | Philadelphia Zionist Federation | United Synagogue o |
| B'nai Brith Men's Council | Golden Slipper Club | Labor Zionist Alliance | Philadelphia Zionist Organization of America | Women's American |
| B'nai Brith Women's Council | Hadassah | Mizrachi | Pioneer Women | Women's League for Conservative Juda |
| Board of Rabbis of Greater Phila | Jewish Campus Activities Board | National Federation of Jewish Men's Clubs, M.A.R. | | Workmen's Circle |



9 1976

September 9, 1976

Edmund P. Hennelly, General Manager
of Government Relations for Mobil
Oil discussed the enclosed telegram
with Phil Potter who suggested that
it might be a good idea to forward
copies to both you and Max.

R / AM



TELEGRAM TO EVERY MEMBER OF U. S. HOUSE OF REPRESENTATIVES FOR DELIVERY
ON THURSDAY MORNING, SEPTEMBER 9, 1976;

Jim Phillips Suite 1030 Mobil Oil
1100 Comm.

The International Relations Committee recently voted to attach an antiboycott amendment to the Export Administration Act, H.R. 7665. We are greatly concerned by the implications of this action.

The prohibitions of the amendment are so far reaching that economic relations between this country and Arab nations could be effectively precluded. The reason is that the amendment would in effect outlaw compliance with the laws of Arab countries which regulate the origin of imports into their territory and the destination of exports therefrom, including the export of crude oil. This would apply whether a U.S. company or its affiliate were to operate in, or solely purchase oil from, an Arab country. Currently the U.S. depends on these countries for more than forty per cent of its crude oil imports. Moreover, last year the U.S. exported more than five billion dollars worth of goods and services to Arab countries.

The proposed legislation while prohibiting discrimination for reasons of race, religion or national origin, is so sweeping that it goes far beyond this objective which Exxon has long supported. In any case such unlawful discrimination is already dealt with by existing legislation.

For the foregoing reasons we urge you to oppose this and other related pending legislation which could only do damage to U.S. interests and relations without effectively combating the Arab boycott. Indeed such legislation could very well result in a stricter enforcement of Arab boycott practices and jeopardize our ^{country's} ~~country's~~ ability to meet its ever-increasing needs for oil imports.

H. C. Kauffmann
President



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ON THURSDAY MORNING, SEPTEMBER 9, 1976;

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1100 Conn.

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H. C. Kauffmann
President



Mobil Oil Corporation

150 EAST 42ND STREET
NEW YORK, NEW YORK 10017

EDMUND P. HENNELLY
GENERAL MANAGER
GOVERNMENT RELATIONS DEPARTMENT

September 10, 1976

The Honorable John O. Marsh, Jr.
Counselor to the President
The White House
1600 Pennsylvania Avenue
Washington, D. C. 20500

Dear Jack:

The attached press release is being released
today with a hold for Monday's papers.

Sincerely yours,



EPH:ma
enc.

cc & enc. - The Honorable William J. Baroody, Jr.



FROM: Ken Peterson
(212) 883-3232

EMBARGO: FOR USE: 6:00 PM, SUNDAY, SEPT. 12

MOBIL WARNS EXPORT ACT AMENDMENT

CAN INJURE AMERICA'S ECONOMY

NEW YORK, SEPT. 12 -- Mobil Oil Corporation today warned that a proposed antiboycott amendment to the Export Administration Act could have far-reaching adverse effects on the U.S. economy.

Mobil said, "The little-noted antiboycott amendment which was added to the Export Administration Act Extension, H.R. 15377 by the International Relations Committee, is designed as a mechanism to prevent American companies from doing business in and with the Arab countries -- the very same countries on which the U.S. increasingly depends for oil supplies.

"And, if American business is frozen out of the Arab countries, the U.S. balance of payments will deteriorate as Arab oil revenues are recycled to other nations. Foreign industry, moreover, would pick up the business, including the export of crude oil, that now comes to the United States. In effect, the United States will be exporting American jobs and subsidizing foreign industry.

"Mobil strongly condemns religious, racial and ethnic discrimination but feels this antiboycott amendment can only adversely effect the situation of the U.S. in the Middle East.

"This legislation also ignores the evident desire of some Arab nations, particularly Saudi Arabia, to improve relations with the United States and it invites retaliation from those Arab nations who may view it as an attempt by the U.S. to dictate their internal policies."

###

9/10/76



THE WHITE HOUSE
WASHINGTON

Arab
Boycott

September 13, 1976

Mr. Marsh:

In reference to the meeting with Roger Kelly this afternoon at 3:15, Mr. Kelly informed me the following individuals will also be attending (which he did not mention originally):

- Dr. Richard Leshar, head of U. S. Chamber of Commerce
- Doug Kenna, President, NAM /
- ^{Radij} Raddy Johnson, of Standard Oil of Indiana /
- Himself, Robert Kelly, Catepillar Co.

He also said they would very much like to have Bill Hyland there.

I will tell Russ and Walthuis. Do you
want to invite Hyland? Yes No
Ed Schmults Yes No

Others _____

Donna

(NOTE: The Roosevelt Room is NOT free. Should we have the meeting in Russ' Office Yes No). ~~_____~~



3:15 today

To Mr. Maul

Date 9/13 Time 11:20

WHILE YOU WERE OUT

M. Roger Kelly

of _____

Phone 331-3700

Area Code Number Extension

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	URGENT	<input type="checkbox"/>

RETURNED YOUR CALL

Message wants to see you this afternoon re Arab Boycott

Time? _____

Operator al

Dr. Richard
Lesche
U.S. Chahoy

Doc Kenna
P-NAM

Robert McNeill
CCAT

Rody Johnston
Stand Oel
Dud

Robert Kelly
Catepelt
Co.

EXECUTIVE PROTECTIVE SERVICE

To: Officer-in-charge
Appointments Center
Room 060, OEOB

Please admit the following appointments on Monday, Sept. 13, 1976
for John. D. Marsh, Jr. of White House
(Name of person to be visited) (Agency)

Richard ~~XXXXXX~~ LESHER

Doug KENNA —

Rady JOHNSON —

Robert KELLY —

Robert McNeill —



MEETING LOCATION

Building WhiteHouse

Requested by Donna Larsen

Room No. W.W.

Room No. W.W. Telephone 6585

Time of Meeting 3:15

Date of request September 13, 1976

Additions and/or changes made by telephone should be limited to three (3) names or less.

DO NOT DUPLICATE THIS FORM.