THE ARAB BOYCOTT AND THE INTERNATIONAL RESPONSE

INTRODUCTION

The Arab boycott, though dating from the 1920's, took its present form in the 1950's. At that time, the primary boycott—the ban against direct or indirect trade or investment between Arab countries and Israel—was expanded to include a secondary boycott—the ban against trade or investment between Arab countries and all third-country business enterprises making a "material contribution" to Israel's economy or engaging in proscribed commercial relations with the Israeli Government or Israeli businesses. Companies which failed to comply with the ban were blacklisted. Businesses subject to blacklisting under the secondary boycott included those owning or operating facilities in Israel, those providing technical services to or acting as an agent for an Israeli company, or those refusing to reply to questions of the Central Boycott Office, the coordinating arm of the Arab boycott. The secondary boycott was further extended to a so-called tertiary boycott, which banned purchases by Arab nationals of products from a business acting in accordance with the boycott, if the products of that business included components made by a blacklisted foreign firm.

As the effect of the boycott became more noticeable, countermeasures were proposed in the United States and abroad. These proposals were not directed against the right of the Arab nations to refuse to trade with Israel—the primary boycott; rather they were designed to hinder compliance with the boycott by non-Arab businesses and governments.

The United States Congress first addressed the Arab boycott in 1965, when it amended the Export Control Act of 1949, declaring the United States opposition to the boycott and requiring American firms to report to the Department of Commerce any requests by Arab nations to comply with the boycott. In response to the increasing economic power of the Arab world and the more efficient administration of the boycott, the United States has for the past two years analyzed and debated the Arab boycott. This debate culminated in two significant pieces of legislation: the antiboycott provisions of the
Tax Reform Act of 1976 (TRA) and the Export Administration Amendments of 1977 (EAA).

The application of these legislative responses to the Arab boycott (and perhaps to other boycotts) may have far-reaching effects on United States foreign policy and economic interests. The following symposium of articles will analyze the development of United States responses to the Arab boycott, examine these responses as well as those of other nations, and discuss the possible impact of international boycotts and antiboycott laws on United States business interests. This symposium begins with an examination by Professor Henry J. Steiner of the political processes involved in the formulation of the EAA. Stanley J. Marcuss comments upon the intricacies of the administration and interpretation of the EAA by the Commerce Department. Eugene A. Ludwig and John T. Smith, II analyze the effect of the EAA on the business community. James M. Johnstone and Jon Paugh focus on the antitrust implications of the EAA, while Carl Estes, II discusses the antiboycott provisions of the TRA and the 1978 Treasury Department Guidelines. Nancy Turck, in a comparative approach, examines how other nations have responded to the Arab boycott. Finally, a student Note by Robert S. Wayne discusses the extraterritorial application of the EAA. The editors of Volume 8 offer this symposium as a precursor to a dispassionate examination of the complex and highly emotional area of international boycotts.

The Editors