

July 29, 2021

Attn:

U.S. Department of Commerce  
BIS/Office of Antiboycott Compliance  
Room 6098  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230  
Phone: (202) 482-2381  
Fax: (202) 482-0913

And:

Department of the Treasury  
Office of the General Counsel  
Room 2015  
Washington, D.C. 20220  
(202) 622-1945

Dear Sir or Madam,

I am writing on behalf of HonestReporting, a non-governmental organization that addresses media bias related to Israel. We wish to call your attention to a violation of certain laws which your department enforces, and to request that you take formal action to remedy those violations.

**Unilever United States, Inc.** and by extension the **Unilever Group** (a consumer goods company) (collectively "**Unilever**") is in violation<sup>1</sup> of the Export Administration Act (EAA) and the Ribicoff Amendment to the 1976 Tax Reform Act (TRA).

## Jurisdiction

Jurisdiction under the EAA and TRA applies when a "US person" participates in a boycott at the request of a foreign boycotting country.<sup>2</sup> In this case, Unilever has chosen to comply with a standing request by the Palestinian Authority<sup>3</sup> government to participate in a boycott of Israel. Thus, jurisdiction is fulfilled if the Palestinian authority is a "country" within the meaning of applicable laws, and if Unilever United States, Inc. is a "US person."

- **The Palestinian Authority, though not a sovereign "state" is nonetheless a government that bears the responsibilities of a "country" for the purposes of EAA and TRA compliance**

The United States does not recognize "Palestine" as a sovereign **state**, yet a long history of US case law holds that there is a difference between a sovereign **state** versus a "**country**."<sup>4</sup> In this case, the Palestinian Authority fits the US definition of a government that bears the responsibilities of a "country." Furthermore, a so-called "State of Palestine" is recognized by the United Nations and 136 of its 193 member states. Accordingly, it would undermine US policy if a technicality such as US statehood recognition were to allow an active foreign government to flout US laws with impunity.

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<sup>1</sup> <https://www.bis.doc.gov/index.php/enforcement/oac>

<sup>2</sup> 15 CFR § 760.2

<sup>3</sup> See <https://www.timesofisrael.com/pa-applauds-ben-jerrys-for-ending-sales-in-settlements/> "The PA Foreign Ministry said it further "calls on companies working, directly or indirectly, with the settlement system to take similar positions and immediately stop their dealings and business."

<sup>4</sup> "Country" means the political entity known as a nation" 19 CFR 134.1. For the definition of a "nation" see e.g.: Montoya v. U. S., 180 U. S. 21 ,201 Sup. Ct 45 ,358 L. Ed. 521; Worcester v. Georgia, 6 Pet. 8 ,539 L. Ed. 483; Republic of Honduras v. Soto, 112 N. Y. 19 ,310 N. E. 2 ,845 L. R. A. 8 ,042 Am. St. Rep. 744.


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# HonestReporting

## Unilever is a US person

The Unilever Group is a global corporation with headquarters in the United Kingdom and a significant nexus of business in the United States, which it conducts through Unilever United States, Inc., a Delaware corporation. Unilever United States, Inc. and by extension the entire Unilever Group, is therefore a "U.S. person" within the meaning of the relevant Acts.

## The violation

July 19, 2021, the Ben & Jerry's ice cream brand, a wholly owned subsidiary of the Unilever Group, [announced](#): "We believe it is inconsistent with our values for Ben & Jerry's ice cream to be sold in the Occupied Palestinian Territory (OPT)...We have informed our licensee that we will not renew the [Israeli] license agreement when it expires at the end of next year.<sup>5</sup> " This means that Unilever, via their Ben & Jerry's brand, is refusing to do business with their Israeli licensee company for political reasons, in response to a standing request by a foreign country.

The decision of Unilever directly violates the following prohibitions codified in the EAA and the TRA<sup>6</sup>:

- ▶ **Agreements to refuse or actual refusal to do business with or in Israel or with blacklisted companies. (Emphasis added)**
- ▶ **Agreements to discriminate or actual discrimination against other persons based on race, religion, sex, national origin or nationality. (Emphasis added).**

Depending on how Unilever implements its new corporate policy, it may also violate the following additional provisions:

- ▶ **Agreements to furnish or actual furnishing of information about business relationships with or in Israel or with blacklisted companies.**
- ▶ **Agreements to furnish or actual furnishing of information about the race, religion, sex, or national origin of another person.**

We respectfully request that you take formal action to enforce relevant US laws, which action may include (without limitation) a letter of warning to Unilever, United States, Inc., as well as civil, criminal or tax penalties, as appropriate.

Thank you for your attention to this matter.

Sincerely,

Daniel Pomerantz  
CEO, HonestReporting

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<sup>5</sup> [https://www.benjerry.com/about-us/media-center/palestine-statement?utm\\_source=twitter&utm\\_medium=social&utm\\_campaign=demand&utm\\_term=photo&utm\\_content=palestine-statement](https://www.benjerry.com/about-us/media-center/palestine-statement?utm_source=twitter&utm_medium=social&utm_campaign=demand&utm_term=photo&utm_content=palestine-statement)

<sup>6</sup> The laws violated are codified specifically in 15 CFR 760.2 under the authority of the Export Administration Act of 1979, as amended (50 U.S.C. app. §2000) 2420-2401)) as well as the Internal Revenue Act 26 USC §999. Authority for each stems from the exclusive power of Congress to regulate commerce with foreign nations, United States Constitution, Article I, Section 8.