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Commerce/Treasury Enforcement

Marcuss and Munk Saudi-bound to discuss Treasury's guidelines

"Commerce/Treasury Enforcement" is a regular monthly feature of the *Boycott Law Bulletin.* It provides news and information about the U.S. government's anti-boycott enforcement policies, procedures and actions.

By Mark A. Bruzonsky

Mark Bruzonsky, a consultant on Middle East Affairs with the Washington firm of International Associates, writes this column monthly for the Boycott Law Bulletin.

By the time readers of The Boycott Law Bulletin receive this June issue, Senior Deputy Assistant Secretary of Commerce Stanley Marcuss and Assistant General Counsel of the Treasury Department Russell Munk may have been to and returned from Saudi Arabia. Or their impoirtant visit with Saudi officials may still be upcoming. The timing and details of their trip have been, in the words of one official aware of the sensitive nature of this impending tete-a-tete between middle-level U.S. and Saudi officials, "classified".

Theirs is a difficult but not impossible mission. For Marcuss and Munk will be trying to convince the Saudis that those proposed new Treasury anti-boycott guidelines — which have been the subject of this column during the past few months — need not greatly interfere with U.S.-Saudi trade and should not cause another squabble between the two governments over evolving U.S. anti-boycott regulations.

It remains conceivable that Saudi reaction might affect whether those guidelines actually are issued. But no one here is confidently predicting if the guidelines will come out before or after the trip — or at all. Though this is a matter of legal interpretation normally handled at the administrative level, everything affecting rocky U.S.-Saudi relations has been bucked up to the top political officials. On this issue, the very highest levels at the White House and the State Department have become concerned, in addition to Treasury and Commerce.

Even exactly what is at stake no one can be precisely sure about at this point. For no one knows just how the Saudis will actually react when and if the new guidelines are made public. Hence the Marcuss-Munk mission.

The Saudis may take a rather tough line with Marcuss and Munk hoping to scare Washington — especially if the guidelines remain unissued at the time of the trip. But some officials are crossing their fingers and hoping that even if the guidelines do come out and even though the Saudis rightly feel they've already bent over backwards to accommodate U.S. law, Riyadh won't want to create a public feud and some acceptable procedures will evolve without too much loss of trade.

Still, quite a number of involved officials at the Commerce and State Departments have "fought like hell" to keep those guidelines bottled up within Treasury. "We're raising as many red flags as we can to try to stop" their release, notes someone close to the controversy.

The overall purpose of the Marcuss-Munk visit to Riyadh is "to explain this new situation with the Treasury guidelines to the Saudis," says one of the insiders who believes the new guidelines would put "a real kink in trade" between the two countries "since every letter of credit will be subject to them" and since the Saudis just aren't in the mood to further revise their procedures as a result of conflicting American laws administered by two separate departments.

Already, the confusing and uncertain situation has caused a number of business deals to fall through involving at least tens of millions of dollars, another official estimates.

In short, the overall situation in Washington with the anti-boycott guidelines remains confused and uncertain. Just last month it was throught the long-discussed new guidelines — which will in effect invalidate the understandings worked out last year with the Saudis to alter their business practices to conform with the most important U.S. anti-boycott law, the Export Administration Act which is administered by the Commerce Department — would first be released and followed by Marcuss and Leonard Santos to Riyadh. Santos, said to be an agressive supporter of the need for the new guidelines without which, he feels, the Ribicoff Tax Amendment anti-boycott provisions may not be properly understood resulting in I.R.S. tax penalties against unsuspecting companies, has since been replaced by his boss at Treasury, Munk. Unlike Santos, Munk is a very soft-spoken fellow of whom, says a colleague, "I can't imagine Russ Munk offending anybody no matter what he has to say."

But in late June it began to appear as if the purpose of the trip could be shifting. The proposed guidelines may remain bottled up while Munk and Marcuss "feel the water" and try to gauge just how the Saudis would react if and when.

It seems that top officials at Commerce, Treasury and State have become increasingly sensitive to the political as well as economic repercussions that might result from these guidelines.

Some lower-level officials have even concluded that for political reasons the situation might become one delay after another.

Hope that the Ribicoff amendment may itself eventually be reassessed lends persuasiveness to this way of thinking for some.

One official goes so far as to say, "The Tax Reform Act anti-boycott provisions should be done away with as a gesture to the Arabs. The EAA does the same thing, there's no precedent in using tax acts for political reasons, and the Saudis have acted in good faith in trying to conform to what we told them were the new American laws on this subject."

Says another, "The Ribicoff amendment is very alien to this part of the tax law which is really designed to reconcile differences between taxing jurisdictions."