



Deputy Assistant Attorney General

Washington, D.C. 20530

February 27, 1997

BY FACSIMILE AND MAIL

Honorable John Despres  
Assistant Secretary for Export  
Enforcement  
U.S. Department of Commerce  
14th Street & Constitution Avenue, N.W.  
Room 3727  
Washington, D.C. 20230

Dear Mr. Despres:

For some time your Office of Antiboycott Compliance has been investigating allegations that certain events which occurred in 1991-92 violated the Export Administration Regulations of the Department of Commerce. This Department has cooperated in your investigation.

During 1991-92, the Department of Justice, assisted by attorneys from the Air Force, was responsible for the defense of a lawsuit brought against the United States by a foreign military sales contractor. Preparations were being made for employees of CACI Inc. - Commercial, a private company under contract to Justice, and other individuals, to travel to Saudi Arabia to microfilm documents related to the litigation.

In the course of a meeting held on November 19, 1991, to discuss a wide range of subjects in preparation for the project, a litigation support specialist employed by the Civil Division of Justice and employees of CACI were told by an Air Force officer that no Jewish employees of the contractor could be sent to Saudi Arabia. This guidance was included in an Operations Plan later prepared for the project. The Plan included the following provision:

- E. No Jews or Jewish surnamed personnel will be sent as part of the Document Acquisition Team because of cultural differences between Moslems and Jews in the region.
- F. No Israeli stamped passport, as per Saudi Rules. . . ."

Subsequently, we understand that one or more U.S. persons who were Jewish or were believed to be Jewish were eliminated from consideration for the team to be sent to Saudi Arabia.

A U.S. person, discriminating or requiring discrimination based on religion in connection with activities in U.S. commerce, if with intent to comply with, further or support a restrictive trade practice or boycott fostered or imposed by a foreign country against a country friendly to the United States which is not itself the object of any form of boycott pursuant to United States Law or regulation, as defined by Section 769.1(e) of the former Regulations, violates Section 769.2(b) of the former Regulations.

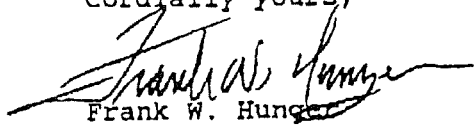
We have interviewed our employee, and believe that she did not appreciate the significance of her actions at the time. At the same time, we also believe that what occurred did not meet the equal opportunity standards of this Division. We abhor any actions which have the effect or even the appearance of discriminating against any racial, religious, or ethnic group. All personnel, whether employed by this Department or one of our contractors, should have equal employment opportunities in all locations, including foreign countries.

This incident should not have occurred and serves as a reminder of the need to be vigilant in ensuring that our laws addressing discrimination are always followed, without exception. We who are involved in providing guidance and legal advice in transactions and litigation must be especially careful to ensure that our guidance complies fully with United States law and Justice regulations and policies to ensure that violations do not occur.

Accordingly, I intend to disseminate to all employees of this Division a memorandum explaining what occurred here, bringing your Regulations to the attention of our employees and emphasizing that such incidents must never recur. I will also send a copy of this letter to the heads of other Department of Justice components to ensure that any component which has occasion to deal with countries participating in unsanctioned boycotts can ensure that its employees are properly trained.

Again, I share your view that this incident should not have occurred. I assure you that we will be vigilant to ensure that our employees adhere to the very highest standards of fairness and nondiscrimination.

Cordially yours,



Frank W. Hunger  
Assistant Attorney General