Congress of the United States
Washington, DC 20510

May 9, 2016

The Honorable John Kerry
Secretary of State
2201 C Street N.W.
Washington, D.C. 20520

The Honorable Michael Froman
U.S. Trade Representative
600 17th Street N.W.
Washington, D.C. 20508

Dear Secretary Kerry and Ambassador Froman:

We write to urge you to take action to oppose the UN Human Rights Council's (UNHRC) recent resolution calling for foreign divestment from Israel. This latest action is unprecedented in scope and threatens significant damage to both Israel and the United States, thus warranting a vigorous response.

The UNHRC resolution, passed on March 24th, is notable in several respects. It urges countries to pressure their own companies to divest from, or break contracts with, Israel, and calls for the creation of a "blacklist" of companies that either operate, or have business relations with entities that operate, beyond Israel's 1949 Armistice lines, including East Jerusalem. The UNHRC's effort, the latest in a long history of singling out Israel for special condemnation, occurs within the larger context of ongoing political and commercial assaults on Israel's legitimacy, known as BDS – boycotts, divestment and sanctions.

Congress has long combatted boycotts and other discriminatory treatment of Israel. "Blacklists" are among the most nefarious, as they serve only to isolate and stigmatize. This new "blacklist" is reminiscent of the Arab League boycott against Israel, and companies dealing with Israel, which for decades was used to strangle Israel's economy and coerce Israel into unilateral concessions. Any foreign company, including American ones, could be targeted by this effort even if they are conducting completely legal activities under U.S. and international law.

This UNHRC resolution is precisely the type of institution-led BDS activity that was the focus of elements of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (the Trade Promotion Authority, or TPA, bill) and the Trade Facilitation and Trade Enforcement Act of 2015 (the Customs bill). Governments that call upon their own companies to participate in a political boycott of Israel run afoul of clear TPA guidelines, and our trade negotiators must combat this activity through the ongoing TTIP negotiations.

The Customs bill, moreover, mandates administration reporting on actions by international organizations to establish barriers to trade against U.S. persons operating or doing business in Israel. A UNHRC "blacklist" of American companies in Israel clearly falls within this purview – and is designed specifically to undermine U.S.-Israel commercial cooperation. The reporting

provision in the Customs bill also requires the detailing of "specific steps being taken by the United States to encourage foreign countries and international organizations to cease creating such barriers and to dismantle measures already in place, and an assessment of the effectiveness of such steps."

We are aware and appreciative of the administration's efforts to push the Palestinian Authority to remove the "blacklist" from the UNHRC resolution. And we share in your frustration that those efforts were unsuccessful. We are also aware of the administration's ongoing opposition to "Item 7" – the UNHRC's permanent anti-Israel placeholder that ensures Israel will be condemned at every Council meeting.

We urge you to quickly, publicly and forcefully commit that the United States will not comply with the UNHRC resolution. Great Britain has already taken this step. The United States must send the same signal, and should work with our other European allies to do the same – particularly the members of the European Union who desire free trade with the United States and are impacted by the TPA guidelines.

We look forward to reviewing your upcoming report, as called for in the Customs bill, on tangible ways that the United States can effectively mitigate this new assault on Israel.

Sincerely,

Rob Portman
United States Senator

Benjamin L. Cardin
United States Senator

Peter J. Roskam
Member of Congress

Juan Vargas
Member of Congress