



DISTRICT OF COLUMBIA
COURT OF APPEALS

_____)	
STEVEN J. ROSEN,)	
)	
Plaintiff-Appellant)	
v.)	
)	Appeal No. 11-cv-368
AMERICAN ISRAEL PUBLIC AFFAIRS)	
COMMITTEE, INC., et. al.,)	
)	
Defendants-Appellees)	
_____)	

MOTION FOR GRANT F. SMITH FOR LEAVE TO FILE

A BRIEF AS AMICUS CURIAE

Grant F. Smith respectfully moves this Court for leave to file the attached brief as *amicus curiae* under Rule 29 *Brief of an Amicus Curiae*. Under Rule 27 *Motions* both the Appellant and Appellee have indicated in writing their opposition to this motion and brief. Furthermore, the counsel for Appellee (American Israel Public Affairs Committee) objects that under Rule 29 "the time for filing an amicus brief has long since passed." However some information herein presented which has direct applicability on this case and the public interest was only fully released on January 20, 2012 by the United States Department of State and United States Justice Department after lengthy declassification reviews initiated by the Amicus Curiae. We note that Rule 29 allows the court to "grant leave for later filing, specifying the time within which an opposing party may answer." Also, we file this brief in support of the Plaintiff-Appellant in order to have important public interest issues fairly adjudicated.

The amicus curiae is a publicly recognized expert on activities of some US nonprofits working to fortify the US-Israel "special relationship." Jeff Stein of the *Washington Post* calls Smith "a

Washington D.C. author who has made a career out of writing critical books on Israeli spying and lobbying.”¹ James Petras, Bartle Professor (Emeritus) of Sociology at Binghamton University, New York claims "Grant F. Smith is without peer as an archival scholar." Author and journalist Philip Weiss claims that “the best investigative work is being done by Grant Smith...”² Nathan Guttman of *The Jewish Daily Forward* recognizes Smith as leading a public effort to “call attention of the authorities to AIPAC’s activity and demands public scrutiny of the group’s legal status.”³ Smith has written a half-dozen books about Israel lobbying and espionage in the United States, as well as AIPAC’s history. John J. Mearsheimer, the R. Wendell Harrison Distinguished Service Professor of Political Science at the University of Chicago claims “Grant Smith's new book⁴ is a major step forward in correcting that problem. He provides a fascinating--and disturbing--account of how I.L. Kenen laid the groundwork for AIPAC, the most powerful organization in the lobby.” Michael Scheuer, former senior analyst in charge of the CIA's Bin Laden unit claims the amicus "Grant F. Smith writes books that are essential for our country."

As a public interest advocate, the amicus curiae is an interested party in questions about the Appellee's documented history of soliciting, obtaining and utilizing US government classified information. Within 15 years of incorporating, AIPAC was obtaining classified Department of Defense information from Congress in ways that undermined advice and consent governance. The negative effects of AIPAC's acquisition and use of confidential US business information contained in still-classified sections of the report *Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel* are also non-trivial and ongoing. The amicus curiae has led two separate efforts

¹ Stein, Jeff "Israeli intelligence, our constant companion" *The Washington Post*, March 24, 2010

² Weiss, Philip "Why there is no mainstream investigative journalism about the Israel Lobby" MondoWeiss, March 30, 2010

³ Guttman, Nathan "Rosen Remains Determined to Prove Trafficking in Secrets is Normal at AIPAC" December 2, 2010

⁴ *America's Defense Line*, ISBN 978-0976443728

filed under Section 301 of the Trade Act of 1974 seeking \$6.64 billion in compensation for the US exporters that suffered the loss and misuse of their confidential business data at the hands of AIPAC and the Israeli Ministry of Economics. The amicus curiae is currently readying a third and more extensive filing for submission to the Section 301 Committee of the Office of the US Trade Ambassador presenting new information about ongoing losses and damage to US trade relations caused by AIPAC's use of confidential business data even as private parties consider preparing their own civil actions.

AIPAC's possession and use of the classified and business confidential information contained in *Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel* in tight coordination with the Israeli government is also a key component of a growing body of evidence submitted in an effort led by the amicus curiae to compel the US Department of Justice to register AIPAC as a foreign agent of the Israeli Ministry of Foreign Affairs under the 1938 Foreign Agents Registration Act. The amicus curiae is currently in negotiations with the Department of Justice to brief Attorney General Eric Holder about a large and growing body of evidence first presented to Foreign Agents Registration Act Section Chief Heather Hunt in November of 2009. The amicus curiae's last interaction with the IRS on this matter took place January of 2012.

Finally, the amicus curia is engaged in ongoing communications with the Tax Exempt Division of the Internal Revenue Service of the US Treasury Department raising questions about how classified information trafficking affects AIPAC's privileged tax-exempt status. The evidence submitted in this effort supporting revocation includes documentation of AIPAC's ongoing circulation of classified US government information which is incompatible with its claimed charitable purpose. The amicus curiae's last interaction with the IRS on this matter took place December of 2011. The amicus curiae continues

to provide updates about the ongoing of damage caused by AIPAC's theft and use of classified information and confidential business information in 1984.

The Defendant-Appellee misrepresents in its court filings some of the important primary research documents and findings first made publicly available through the amicus curiae's public interest research. The Defendant-Appellee omits evidence that was until recently classified by the US government. If the Appeals Court issues a decision based on misrepresentations of this evidence, the Court could legitimate the Defendant-Appellee's false representations, negatively impacting the amicus curiae's ongoing efforts to improve rule of law and governance in the United States through the warranted oversight and proper regulation of AIPAC. A judgment issued on the basis of misrepresentation may also negatively impact future civil actions and criminal prosecutions in an area of increasing national concern: the private acquisition, circulation and illicit use of classified US government and confidential business information submitted to the US government. For the foregoing reasons, the amicus curiae respectfully requests that this Court GRANT this Motion and accept the attached amicus curiae brief instanter.

Respectfully submitted
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion will be served on counsel for the Plaintiff-Appellant and Defendants-Appellees at the addresses set forth below by regular United States mail, this 3rd day of February, 2012.

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Rule 27 1/23/2012

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INTEREST OF *AMICUS CURIAE*

The Amicus Curiae is a recognized expert and public interest advocate who writes books and leads the Institute for Research: Middle Eastern Policy, a 501 (c)(3) nonprofit corporation with supporters in 47 states that researches US policy formulation. Among the Amicus Curiae's major purposes are to increase and disseminate knowledge¹ regarding the harmful activities of some major Middle East lobbying organizations, obtained through the Freedom of Information Act documentation of major unprosecuted violations of US laws, and encourage the public to demand proper legal and regulatory oversight of these lobbying organizations, particularly where they seem to have captured regulatory agencies or transcended the reach of due law enforcement.

The Amicus Curiae submits this brief to present timely, relevant, but relatively unknown information that provides a context for this Court's review of whether Steven J. Rosen's activities that resulted in his firing from the American Israel Public Affairs Committee were in any way abnormal. The Amicus Curiae has long argued that AIPAC's record of classified information gathering reveals that it has

¹ Research cited in this brief includes data derived from Freedom of Information Act and Mandatory Declassification Reviews and successful appeals to the Interagency Security Classification Appeals Panel. Such research has uncovered and documented little-known activities of AIPAC and related parties and is made available for study and public discussion on the Internet.

never abandoned its original role as an arm of the Israeli government in the United States, accessing tightly held secrets that help Israel front-run or clandestinely shape US policies, while orchestrating and signaling funding flows to an immense campaign finance ecosystem that effectively subverts warranted public debate in Congress of policies that could negatively impact Israel's "special relationship" with the U.S., but which could bring peace and justice to the region in the broader American national interest.

INTRODUCTION AND SUMMARY OF ARGUMENT

AIPAC is an organization that has long "had it both ways." It first functioned as the unincorporated lobbying division of a parent organization called the American Zionist Council or AZC. The AZC was ordered to begin registering as an Israeli foreign agent under the 1938 Foreign Agents Registration Act by Attorney General Robert F. Kennedy on November 21, 1962.² AIPAC incorporated just six weeks later on January 2, 1963 and took over the AZC's activities without ever registering as a foreign agent.³ Since that day AIPAC engaged in many of the activities that originally triggered the Justice Department's AZC registration order.

AIPAC applied for a tax exemption from the IRS on November 27, 1967 as a "Charitable, Educational, and Religious Association" incorporated under Title 29, Chapter 6 of D.C. code. The IRS granted AIPAC tax-exempt status retroactive to 1954 on November 25, 1968 when it operated as the "American Zionist Committee for Public Affairs," the lobbying division of a foreign agent.⁴ AIPAC had it both ways. It was able to continue functioning as a foreign agent while operating as a private domestic tax-exempt non-profit organization subject to minimal public disclosure and regulation with IRS tax-exempt status and domestic lobbying laws.

² J. Walter Yeagley, Department of Justice Internal Security Division, letter ordering the American Zionist Council to register as a foreign agent, November 21, 1962. <http://irmep.org/ILA/AZCDOJ/P6100127redorder/default.asp>

³ American Israel Public Affairs Committee, Articles of Incorporation, January 2, 1963. http://irmep.org/ILA/AIPAC/01021963_AIPAC_Articles_of_Incorporation.pdf

⁴ Form 1024 Exemption Application, American Israel Public Affairs Committee, November 27, 1967.

Although AIPAC claims on its website to be a "Non-Pac, self-identified as 'America's pro-Israel lobby" and not directly engaged in supporting the political campaigns of U.S. politicians seeking office, in 1988 the *Washington Post* published internal memos of AIPAC Director Elizabeth Shroyer ordering various ostensibly independent PACs to donate specific dollar amounts to AIPAC-favored candidates.⁵ Once again AIPAC had it both ways. Although AIPAC's tax-exempt status barred it from directly supporting individual political candidates, it was able to engage in activities that influenced campaign funding by reaching out to a network of PACs, some of which it had helped create.⁶

AIPAC once again appears to have it both ways in matters of classified US government information. In dismissing Steven J. Rosen's defamation suit against AIPAC, Judge Erik P. Christian stated "Allowing Rosen's claim to go to trial would task the jury with identifying the standards referred to in the March 3 Times article, determining whether AIPAC had such express or implied standards, and determining whether Rosen's conduct was in accordance with those standards. As explained above, these would be impossible tasks. At the same time, inviting a jury to scrutinize and second-guess an employer's policies and business judgment would effectively convert this garden-variety claim for defamation into one for wrongful termination or discrimination. In contrast to those employment claims, the issue in this case is not the veracity of AIPAC's motivation for firing Rosen (that is, whether its motivation was pretextual). The issue is the objective truth of AIPAC's public statement concerning Rosen's firing. It is on this limited issue that the Court concludes that the statement is not provably false, and therefore, not defamatory as a matter of law." However AIPAC has a documented record of retaining and rewarding officials who successfully solicited, obtained and circulated classified US government information. AIPAC fired and publicly castigated an employee (Steven J. Rosen) who was indicted in 2005 for espionage only after a timely warning to AIPAC from US Department of Justice officials. Absent this warning, history suggests AIPAC would have retained Rosen and avoided commentary to the

⁵ Elizabeth A. Schroyer memo directing PAC support to AIPAC favored candidates, September 30, 1986. http://irmep.org/ILA/AIPAC/PAC_Coordination/default.asp

⁶ Curtiss, Richard H. "Stealth PACs: Lobbying Congress for Control of U.S. Middle East Policy" American Educational Trust, 1991

establishment media. Rosen's claim of defamation is therefore anything but "garden-variety," coming after years of pre-trial maneuvers and intense interest-group pressures to dismiss Espionage Act indictments against Steven J. Rosen and Keith Weissman.

A careful review of the record reveals AIPAC's statement to the *New York Times* that it fired employee Steven J. Rosen because his behavior "did not comport with standards that AIPAC expects of its employees" is false. AIPAC's observable standard for employees is "solicit, obtain and leverage classified information without being criminally indicted." AIPAC is never held publicly accountable for these types of activities which harm governance and public perception of rule of law.

ARGUMENT

I. THE 1976 HAWK MISSILE INCIDENT

Among many of the documented incidences of AIPAC handling classified information, two provide unusually sharp and relevant insight into how AIPAC retains and rewards employees who successfully solicit, receive and leverage classified US government information. They also reveal how AIPAC's behavior undermines rule of law and governance.

In 1976 the Ford administration considered selling improved Hawk anti-aircraft missiles to Jordan. The administration sent a confidential notification to the Senate Foreign Relations Committee and the House Foreign Affairs Committee about the proposed sale. AIPAC's director at the time was Morris Amitay, a former US State Department official and legislative assistant on Capitol Hill. Amitay reviewed the classified Ford administration letter after being informed "secretly by aides of Senator

Clifford P. Case, Republican of New Jersey, and Representative Jonathan B. Bingham, Democrat of New York."⁷

A. AIPAC's Director Obtained and Used Classified US Government Information

According to US Department of State, FBI and US Department of Justice Criminal Division investigation files first made publicly available on January 20, 2012, the disclosure of the classified information to AIPAC was "unauthorized" and involved secret data which included the dollar amounts and quantitative configurations of the proposed US missile sales to Jordan. The State Department considered "that the unauthorized disclosure of information on the numbers and value of important defense systems acquired by a foreign government could reasonably be expected to cause damage to that government's confidence in the United States as its major weapons supplier and thus cause damage to a significant aspect of our foreign relations. The specific details of Jordan's military equipment needs are information provided us in confidence by that government. The classification of the documents in question was, in our view, substantively proper."⁸

B. AIPAC's Director Harmed US National Security by Circulating the Classified Information

With the classified national defense information in hand, Amitay and AIPAC mounted a massive campaign in opposition to the missile sale telling constituent public pressure groups that the weapons were capable of "providing cover for offensive operations against Israel."⁹ The US sale was delayed as Jordan considered acquiring a similar system from the Soviet Union. According to the US Department of State "The eight month impasse that resulted from these misunderstandings delayed implementation of the Hawk/Vulcan sale and prompted Jordan to explore seriously the acquisition of comparable air defense

⁷ Binder, David "The Israel Lobby is Small and Agile" The New York Times, August 7, 1975

⁸ See Amicus Curie's Ex. A Declassified FBI/US State Department/DOJ Criminal Division investigation files "Alleged Unauthorized Disclosure of Classified Information Furnished to Congress, November 4, 1976" released under FOIA 201107149 to the Amicus Curiae on January 20, 2012

⁹ See Amicus Curie's Ex. A Declassified FBI/US State Department/DOJ Criminal Division investigation files "Alleged Unauthorized Disclosure of Classified Information Furnished to Congress, November 4, 1976" released under FOIA 201107149 to the Amicus Curiae on January 20, 2012

equipment from the Soviet Union. Had Jordan actually entered into such a major arms-supply relationship with the Soviets, this would have had a significant adverse impact on U.S. national defense interests and on U.S.-Jordanian relations." ¹⁰

C. AIPAC Director Morris Amitay Was Never Sanctioned Or Publicly Rebuked By AIPAC

Amitay was never criminally prosecuted. AIPAC neither dismissed him even after it was publicly revealed he had acquired the classified national defense information, nor did AIPAC publicly castigate him in the establishment news media. Amitay continued to serve as director of AIPAC for another half decade until he resigned 1980 to establish a political action committee in Washington.¹¹

II. 1980's TRADE REPORT/CONFIDENTIAL BUSINESS INFORMATION INCIDENT

Between 1984 and 1987 AIPAC was investigated by the FBI for theft of government property and espionage. AIPAC was never formally cleared of any wrongdoing. The FBI investigation files declassified and first released to the amicus curiae in 2009¹² reveal that this criminal investigation was suspended after the Israeli Minister of Economics (who surreptitiously obtained and passed the classified US International Trade Commission report *Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel* to AIPAC claimed diplomatic immunity from prosecution) refused to reveal how he obtained it to FBI special agents as detailed below. According to a March 31, 1986 FBI report "In view of the above information and due to the fact that [censored] has claimed diplomatic immunity in the matter, active investigation into this matter will be discontinued at WFO [FBI Washington Field Office]." However, this was far from an exoneration of AIPAC's receipt and use of the classified information. This is reflected in the FBI Washington Field Office's readiness to reopen the case the moment any new leads

¹⁰ See Amicus Curie's Ex. A Declassified FBI/US State Department/DOJ Criminal Division investigation files "Alleged Unauthorized Disclosure of Classified Information Furnished to Congress, November 4, 1976" released under FOIA 201107149 to the Amicus Curiae on January 20, 2012

¹¹ Pear, Robert; Berke, Richard L. "Pro-Israel Group Exerts Quiet Might as it Rallies Supporters in Congress". The New York Times, July 7, 1987.

¹² See Amicus Curie's Ex. B David M Hardy, Section Chief, Records Management Division, FBI, response cover letter to Amicus Curiae releasing 82 pages under FOIA 1124826-000 dated July 31, 2009

were developed. The same March 31, 1986 summary report states "Washington Field will be contacted by the USTR or the ITC if pertinent information is developed regarding this or similar incidents."¹³

There was substantial evidence improprieties by AIPAC and its employees. AIPAC was advised that the classified report in its possession was stolen property and had to be returned to the US Trade Representative. According to the FBI's February 13, 1986 interview of AIPAC's head of Congressional Relations and Lobbying, an AIPAC employee made an illegal copy of the classified document before returning it to the government. "Prior to returning the document, BLANK asked to have a duplicate copy of the document made so that the staff of the AIPAC could further examine the report." ¹⁴

B. AIPAC Obtained Both Classified US Government Information And Confidential Business Information

The matter, like the Jordanian missile sale information, clearly involved classified information. The FBI investigation was opened on the basis of the US Trade Representative's criminal complaint that AIPAC had in its possession the stolen government classified document *Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel, Investigation No. 332-180*. ¹⁵ This document was a product of an advice and consent process informing the US government whether or not to grant valuable permanent trade preferences to Israel in the mid-1980s. This process involved soliciting

¹³ See Amicus Curie's Ex. C Declassified FBI investigation file - March 31, 1986 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009

¹⁴ See Amicus Curie's Ex. D Declassified FBI investigation file - February 13, 1986 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009

¹⁵ See Amicus Curie's Ex. E Declassified FBI investigation file - June 20, 1984 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009

and compiling confidential business data from over seventy concerned US industry participants that opposed extending special trade privileges.¹⁶

In the year 2011 the amicus curiae won partial declassification and release of *Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel* after a lengthy appeals process to the Interagency Security Classification Appeals Panel. But there is no question that the document was classified when AIPAC obtained it and remains partially classified. A December 22, 2011 letter from the Office of the US Trade Representative affirms that only "some portions" of the report have been declassified and released. Other portions of the report remain classified "because the data discloses confidential business information which the ITC obtained from private sources."¹⁷

On November 15, 1985, just as news of the Jonathan Pollard Israeli espionage incident was breaking, the FBI Director ordered the FBI Washington Field Office to "expeditiously conduct investigation in accordance with the provisions of Section 52, manual of Investigative Operations and Guidelines" into AIPAC's possession of *Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel, Investigation No. 332-180*.¹⁸ On December 17, 1985 FBI Special Agent John Hosinki reported on a meeting with AIPAC officials during which he demanded information about "1. Who at AIPAC had knowledge of this report being in the possession of AIPAC, 2. Who received or handled this report at AIPAC, 3. Who furnished this report to AIPAC," and the current residence for an AIPAC employee with knowledge of the matter.¹⁹

¹⁶ International Trade Commission public file documents Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel, Investigation No. 332-180, <http://irmep.org/ILA/FTA/default.asp>

¹⁷ See Amicus Curie's Ex. F Jonathan R. Weinberger, Associate General Counsel, Executive Office of the President, Office of the United States Trade Representative, decision to declassify and release some portions of the report "Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel" sent to the Amicus Curiae on December 22, 2011.

¹⁸ See Amicus Curie's Ex. G Declassified FBI investigation file – November 15, 1985 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009

¹⁹ See Amicus Curie's Ex. H Declassified FBI investigation file – December 17, 1985 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009

FBI agents interviewed an AIPAC employee on December 19, 1985 who admitted that she had received the classified report. She stated to the FBI that “it was her responsibility to study any reports or documents pertaining to American Israeli trade and considered the receipt of this report a very ordinary event.”²⁰ On December 19, 1985 FBI agents interviewed another AIPAC employee who confirmed that “this document was marked ‘confidential’” and that she received the document “from an Israeli Embassy official” whom she then identified by name.²¹ On February 13, 1986 the FBI interviewed a third AIPAC employee who confirmed that after being ordered to return the classified document by the USTR “asked to have a duplicate copy of the document made so that the staff of the AIPAC could further examine the report.” The AIPAC employee also confirmed that an Israeli Embassy official “had initially provided the report to a representative of AIPAC.”²²

The FBI Washington Field Office on March 7, 1986 interviewed this Israeli diplomat who had provided the classified report to AIPAC. The diplomat “advised that he furnished the report to an employee at the American Israel Public Affairs Committee (AIPAC) during the Spring or Summer of 1984.” The diplomat further advised that “it would be impossible within the professional ethics of a diplomat to identify individuals who provide certain information to a diplomat.”²³

The following parties have now been identified through cross-referencing public information and declassified law-enforcement documents. Dan Halpern was the former Israeli Minister of Economics who obtained and gave the classified report to AIPAC. Douglas Bloomfield was the lobbying official who ordered that illegal copies be made of the classified report after AIPAC was ordered to return it to

²⁰ See Amicus Curie's Ex. I Declassified FBI investigation file – December 19, 1985 #1 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009

²¹ See Amicus Curie's Ex. J Declassified FBI investigation file – December 19, 1985 #2 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009

²² See Amicus Curie's Ex. D Declassified FBI investigation file – February 13, 1986 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009

²³ See Amicus Curie's Ex. K Declassified FBI investigation file – March 7, 1986 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009

the US Trade Representative. Ester Kurz was the AIPAC employee who received the report at a meeting with Halpern and later claimed to have destroyed the illicit duplicate by "throwing it down her garbage chute" according to her FBI interview.

D. No AIPAC Employee Was Fired Or Publicly Rebuked Over Handling Classified Trade And Confidential Business Information In The 1980s

None of the AIPAC involved employees faced dismissal and public castigation over handling classified information. Douglas Bloomfield left AIPAC of his own will, resigning in December of 1988.²⁴ According to public reports in 2011, Ester Kurz was still a top lobbyist for AIPAC.²⁵

III. AIPAC'S CIRCULATION OF CLASSIFIED GOVERNMENT DOCUMENTS HARMED US INDUSTRIES AND WORKERS AND UNDERMINED THEIR CONFIDENCE IN GOVERNANCE AND DUE PROCESS

The Defendant-Appellee has repeatedly described in Superior and Appeals Court AIPAC's possession of *Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel, Investigation No. 332-180* and the FBI investigation as "ancient" and "irrelevant to this action." Nothing could be further from the truth. The negative consequences of AIPAC's possession of this particular classified document are ongoing and may even be measured on a yearly basis. This is because *Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel, Investigation No. 332-180* was no ordinary government document. Rather, it was a compilation of confidential US business information broadly solicited by the International Trade Commission, on behalf of the US Trade Representative, as originally announced through a February 15, 1984 *Federal Register* notice.²⁶ In that notice, the US government specifically promised to protect confidential business information submitted

²⁴ Sinai, Ruth "PLO link adds to woes of U.S. Israeli Lobby" Associated Press, December 21, 1988

²⁵ Guttman, Nathan "Women Largely Absent from AIPAC's Stage" The Jewish Daily Forward, May 25, 2011

²⁶ See Amicus Curie's Ex. L Federal Register / Vol. 49, No 32 / Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel" February 15, 1984

by industry organizations concerned about giving trade preferences to Israel. The US Bromine Alliance complained bitterly to ITC Chairwoman Paula Stern on November 1, 1984 that "The US Bromine Alliance provided very sensitive cost information to the Commission in response to the Commission's requests for confidential business data in connection with its report on a free trade agreement with Israel. The Alliance presumes that these data were quoted in the Commission's confidential report to the USTR, a copy of which was obtained by representatives of the American-Israel Public Affairs Committee..."²⁷ ITC Chairwoman Paula Stern confirmed in a November 29, 1984 letter that the US Bromine Alliance had indeed lost a great deal of confidential business information when the report was circulated by the Israeli Government and given to AIPAC. "You requested us to describe, characterize, or specify what business confidential information submitted by the U.S. Bromine Alliance in your letter of April 27, 1984 was included in the U.S. International Trade Commission's confidential report to the U.S. Trade Representative on investigation No. 332-180, Probable Effect of Providing Duty-Free Treatment for Imports from Israel...Specific business confidential numbers extracted from the Alliance's letter and shown in the report included: (1) the production cost for bromine, (2) production cost, raw material cost, depreciation or manufacturing cost, by-product cost, and shipping cost for the compound TBBPA and (3) the length of time that sales of domestic TBBPA could be supplied from inventory."²⁸

But the US Bromine Alliance, representing thousands of American jobs and vast sunk investments for domestic production and opposed to facing a foreign government-owned and subsidized competitor, was far from the only US industry interest group negatively impacted by the circulation of the classified report. Many others were concerned that information delivered in strict confidence to the government could be so easily lost and turned against them. This undermined their faith in the US government and belief in due process. Footwear Industry Association Executive Vice President Fawn

²⁷ See Amicus Curie's Ex. M US Bromine Alliance Letter to the International Trade Commission over Data loss" ITC Public file November 1, 1984

²⁸ See Amicus Curie's Ex. N International Trade Commission Chairwoman Paula Stern letter to the Bromine Alliance on confidential business data loss, November 29, 1984

Evenson characterized AIPAC's action as "heavy handed".²⁹ An analysis of all industry participants that participated in hearings or the preparation of *Probable Effect of Providing Duty-Free Treatment for Imports from Israel* reveals that 76 organizations such as Monsanto, the AFL-CIO, and Dow Chemical lobbied against trade preferences by providing critical public and private input, 4 were neutral, and only 23 relatively minor entities and AIPAC providing information in favor of it.³⁰ By violating the due process of these negotiations, AIPAC was able to leverage the sensitive information from the classified document, unavailable from any legitimate market research or public domain source, and win zero-sum economic advantages that have been quantitatively revealed over time. With the report in hand, AIPAC and the Israeli Ministry of Economics were also able to launch a broad public relations campaign aimed at belittling and minimizing informed industry group input about impact of the trade preferences and while publicizing inflated estimates of mutual benefits in order to win its ratification by Congress.³¹ In reality the actual trade benefits have been almost entirely one-sided, an anomaly among all current US bilateral trade agreements.

Quantitatively the US-Israel bilateral agreement is America's single worst performing bilateral trade agreement as measured by its large contribution to the US trade deficit. Every other bilateral agreement³² either delivers a trade surplus to the US, or generates imports and exports roughly at par over time while increasing mutually beneficial overall trade volumes. Measured by the bilateral trade deficit, the 1985 US-Israel bilateral agreement turned a generally balanced trading relationship in place through the mid-1980s into a chronic US deficit with Israel that steadily grew from zero to \$9.2 billion by 2009, reaching \$9.6 billion in 2010. Under unfavorable conditions such as floating tariffs and "at risk" (no patent) launch of products such as generic pharmaceuticals or outright copycat drugs, the US share of Israel's total goods import market dropped from over 25% in 1985 to less than 15% in 2007 while the US

²⁹ Hosenball, Mark "Footwear Industry News" October 1, 1984

³⁰ See Amicus Curie's Ex. O Filing to the USTR Section 301 Committee seeking \$6.64 billion in compensation for US Industry Organizations May 24, 2010 (does not include appendix of FBI documents).

³¹ See the book "Spy Trade" by Grant F. Smith, Institute for Research, 2009

³² Australia, Bahrain, Chile, Jordan, Morocco, Singapore.

is now the destination for up to 40% of Israel's exports.³³ There has been little redress for subsequent intellectual property violations. Since the year 2000 Israel appeared on the USTR's official "watch list" no less than five times as an intellectual property violator. This problem was foreseen in 1984 by Monsanto's concerns over Israeli patent protection.³⁴ But Monsanto's right to petition government effectively was subverted along the due process rights of the other petitioner organizations when AIPAC obtained their closely held trade and market secrets and used them against their owners. This can now be observed by analyzing and comparing the performance of the trade agreement with other negotiated agreements that did not undermine the due process rights of participants.

IV. AIPAC'S PAST CIRCULATION OF CLASSIFIED GOVERNMENT DOCUMENTS IS STILL SUBJECT TO FUTURE REDRESS AND DISGORGEMENT

In a December 23, 2010 Superior Court motion about the 1984 trade documents, the Defendant-Appellee claimed that "many of the documents are almost 30 years old when AIPAC was a different organization, with different board members and a different executive director." While AIPAC has undergone employee turnover, its corporate culture has not changed. This is likely due to the fact that AIPAC never faces penalties for such acts, even though they are now well-documented in the public domain. When AIPAC was incorporated in the District of Columbia in 1963 it was granted perpetuity and responsibility for its actions. Moreover when AIPAC applied for in 1967, and received in 1968, IRS tax-exempt status as a social welfare organization, it became subject to even higher standards of conduct to maintain the many considerable benefits granted to charities by the IRS. While the Defendant-Appellee may wish to be exempt from the long term consequences of what it deems "ancient" incidents, a corporation cannot escape the legal, moral and reputational consequences of its past actions through wishful thinking or court documents that attempt to rewrite and trivialize history.

³³ US Census Bureau International Trade Statistics Division TradeStat Express Database

³⁴ See Amicus Curie's Ex. P Monsanto Letter to Kenneth Mason of the International Trade Commission over patent concerns" ITC public file, May 2, 1984

If the 1984 “incident” dismissed by AIPAC had occurred just a decade later, it likely could have more easily been criminally prosecuted. The Economic Espionage Act 1996 Act protects US industries from economic intelligence gathering, including theft of trade secrets, in order to prevent international rivals from unfairly gaining long-term economic advantages. Because of the ongoing nature of trade and trade regulations, AIPAC will still have to face consequences for its actions in 1984. This is because now that *Probable Effect of Providing Duty-Free Treatment for Imports from Israel* is finally partially declassified, organizations that suffered misappropriation of their data in 1984 can in the year 2012 finally begin to seek compensation from AIPAC and the Israeli Ministry of Economics over ongoing damages.

V. CONCLUSION

The Defendant-Appellee clearly wishes to minimize its past record of rewarding AIPAC officials soliciting and circulating classified information and the context of the full FBI investigation file uncovered and first made public by the *amicus curiae*, introduced into public interest complaints and partially introduced as evidence by the Plaintiff-Appellant. Newly emerging documents such as the 1976 Hawk missile sale incident paint an accurate picture of how AIPAC actually treats incidences of classified information handling. While the Defendant-Appellee is entitled to its own opinions about the relevance of this evidence, the Defendant-Appellee is not entitled to manufacture its own facts and seek dismissal through misrepresentations and selective citations. From an interested outside perspective, the Defendant-Appellee's ongoing and purposeful solicitation, acquisition and misuse of US classified government information which contain business confidential information is evidence that it is not the charitable organization it claims to be. Accountability processes now underway must not be undercut by accepting the Appellee's assertions that its record is clean. The *amicus curiae* would invite the Appeals Court to issue the appropriate orders so that the Appellant is able to continue his action enabling the court to reach a resolution that will be just and based on a full and accurate airing of all relevant past AIPAC activities.

Respectfully submitted
Grant F. Smith, *pro se*

A handwritten signature in black ink, appearing to read "Grant F. Smith", with a long horizontal stroke extending to the right.

Washington, DC 20007
202.342.5439
grant_f_smith@yahoo.com

DISTRICT OF COLUMBIA

COURT OF APPEALS

STEVEN J. ROSEN,)	
)	
Plaintiff-Appellant)	
v.)	
)	Appeal No. 11-cv-368
AMERICAN ISRAEL PUBLIC AFFAIRS)	
COMMITTEE, INC., et. al.,)	
)	
Defendants-Appellees)	
)	


INDEX TO EXHIBITS SUBMITTED BY AMICUS CURIAE

The following is an index to the exhibits submitted by the amicus curiae. It is submitted as an aid to the Court and call to review newly declassified US State Department and US Department of Justice files.

Exhibit	DESCRIPTION
A	Declassified FBI and Department of State investigation files of AIPAC Director Morris Amitay's "Alleged Unauthorized Disclosure of Classified Information Furnished to Congress, November 4, 1976" Released under FOIA 201107149 to the Amicus Curiae on January 20, 2012
B	David M Hardy, Section Chief, Records Management Division, FBI, response cover letter to Amicus Curiae releasing 82 pages under FOIA 1124826-000 dated July 31, 2009
C	Declassified FBI investigation file - March 31, 1986 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009
D	Declassified FBI investigation file - February 13,

	1986 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009
E	Declassified FBI investigation file – June 20, 1984 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009
F	Jonathan R. Weinberger, Associate General Counsel, Executive Office of the President, Office of the United States Trade Representative, decision to declassify and release some portions of the report "Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel" sent to the Amicus Curiae on December 22, 2011.
G	Declassified FBI investigation file – November 15, 1985 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009
H	Declassified FBI investigation file – December 17, 1985 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009
I	Declassified FBI investigation file – December 19, 1985 #1 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009
J	Declassified FBI investigation file – December 19, 1985 #2 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009
K	Declassified FBI investigation file – March 7, 1986 "Theft of classified documents from the Office of the United States Trade Representatives" released under FOIA 1124826-000 to the Amicus Curiae on July 31, 2009
L	Federal Register / Vol. 49, No 32 "Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel" February 15, 1984
M	US Bromine Alliance Letter to the International

	Trade Commission over Data loss, ITC Public file November 1, 1984
N	International Trade Commission Chairwoman Paula Stern letter to the Bromine Alliance on confidential business data loss, ITC Public file November 29, 1984
O	Filing to the USTR Section 301 Committee seeking \$6.64 billion in compensation for US Industry Organizations May 24, 2010 (does not include appendix of FBI documents).
P	Monsanto Letter to Kenneth Mason of the International Trade Commission over patent concerns” ITC public file, May 2, 1984

	<p>Respectfully submitted Grant F. Smith, <i>pro se</i></p>  <hr style="width: 30%; margin-left: 0;"/> <p>Washington, DC 20007 202.342.5439 grant_f_smith@yahoo.com</p>
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United States Department of State

Washington, D.C. 20520

Case No.: 201107149

Mr. Grant F. Smith
Director of Research, IRmep
Calvert Station
P.O. Box 32041
Washington, DC 20007

Dear Mr. Grant:

I refer to your request dated January 19, 2011 to the Federal Bureau of Investigation, for the release of certain material under the Freedom of Information Act (Title 5 USC Section 552). Three of the relevant documents retrieved in response to your request originated with the Department of State and were referred to us for appropriate action.

We have determined that the three documents may be released in full.

Two documents originated with the Department of Defense and have been referred to that Department for review and direct reply to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Galovich". The signature is written in a cursive style with a large, sweeping "A" and a long, trailing "v".

Alex Galovich
Co-Director, Acting
Office of Information Programs and Services

Enclosures:
As stated.

1 - Mr. V. V. Kolombatovic
(Attn: R. W. Feuer)

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1 - [REDACTED]

November 4, 1976

Assistant Attorney General
Criminal Division
Attention: Internal Security Section

Director, FBI

ALLEGED UNAUTHORIZED DISCLOSURE
OF CLASSIFIED INFORMATION
FURNISHED TO CONGRESS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-13-2011 BY UC 60322 LP/PJ/SZ

FI

Reference is made to your memorandum dated July 21, 1976, captioned as above, requesting this Bureau to conduct a limited inquiry concerning an alleged unauthorized disclosure of classified information furnished to Congress.

Enclosed is a copy of a memorandum from the U. S. Department of State (USDS) dated October 21, 1976, captioned as above, which encloses a copy of the document containing the classified information allegedly disclosed. Also enclosed is the USDS's response to the questions set forth in your memorandum.

The enclosed material [from the USDS] completes the limited inquiry which you requested of this Bureau.

Enclosures - 4

RLMcL:jmb
(5)

ENCLOSURES

SEE NOTE PAGE 2

MAILED 6
NOV 4 1976
FBI

CONFIDENTIAL MATERIAL ATTACHED

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Serv. _____
- Ext. Affairs _____
- Fin. & Pers. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Eval. _____
- Rec. Mgnt. _____
- Spec. Inv. _____
- Training _____
- Telephone Rm. _____
- Director's Sec'y _____

Department of State, A/GIS/IPS/SRP
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With concurrence of: _____
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MAIL ROOM TELETYPE UNIT

Assistant Attorney General
Criminal Division

NOTE:

The Department requested that a limited inquiry be conducted through our Liaison Section with the Department of Defense and USDS. This inquiry relates to the possible unauthorized disclosure of the contents of a classified document relating to the proposed sale of a Hawk Missile system to Jordan. This document had been submitted to the Senate Foreign Relations Committee and the House Foreign Affairs Committee and reportedly originated within the Department of Defense.

The New York Times, 8/8/76, edition reported that this document was subsequently transmitted to Mr. Morris Amitay, Director of the American Israel Public Affairs Committee.

The Assistant Attorney General requested that we obtain a copy of the questioned document as well as answers to questions relating to the document's origin, classification, extent of official dissemination, whether it can be declassified for purposes of prosecution, etc.

The above-mentioned USDS report enclosed a copy of the classified document as well as the answers to various questions relating to the classification of the classified document. The USDS advised that the information could be declassified for the purposes of prosecution inasmuch as possible disclosure of the information has already occurred.

The Department of Defense's response was furnished to the Assistant Attorney General by memorandum dated 10/18/76.

APPROVED:	Ext. Affairs.....	Laboratory.....
Asst. Dir.:	Ext. & Int. Affs.....	Ident. Contn.....
Dep. AD Adm. & Insp.....
Dep. AD Inv.	Rec. Mgnt.....
Asst. Dir.:	Intell.....	Spec. Inv.....
Adm. Serv.....	Training.....

10/19/76

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-13-2011 BY UC 60322 LP/PJ/SZ



DEPARTMENT OF STATE

Washington, D.C. 20520

F2

CONFIDENTIAL (Unclassified
without attachments)

October 21, 1976

MEMORANDUM

To: S.A. Robert W. Felt *RF*
Federal Bureau of Investigation

From: L/NEA - David H. Small *DH*

Subject: Alleged Unauthorized Disclosure of Classified
Information Furnished to Congress

Attached are the State Department's responses to the questions put to us through you regarding the allegations of unauthorized disclosure of classified information relating to the Hawk/Vulcan sale to Jordan. Also attached for your convenience are copies of the classified notices transmitted to Congress, and the unclassified cover letters which accompanied them.

Attachments:

- Tab 1 - Responses to questions.
- Tab 2 - Classified notice to Speaker Albert, No. 75-35 with covering letter dated July 10, 1975.
- Tab 3 - Classified notice to Speaker Albert, No. 75-40 with covering letter dated July 10, 1975.

*10/21/76
H.A. Lynde*

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3 ENCLOSURE

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Department of State, A/GIS/IPS/SRP
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1. The origin of the document and the name of the individual responsible for the security of the classified information disclosed.

It is uncontested that the Department of Defense is the originating agency for the correspondence in question. This is clear from the face of the documents and is confirmed by letter of 8 July 1976 from Lt. General Fish, Director, Defense Security Assistance Agency, and Deputy Assistant Secretary (ISA), Security Assistance, to David Small, Assistant Legal Adviser for Near Eastern and South Asian Affairs, Department of State.

It is not clear who is "the individual responsible for the security of the classified information disclosed." Under E.O. 11652 and the implementing National Security Council Directive of May 17, 1972, there is no single individual responsible for the security of classified information. Rather, each person in possession or custody of classified information or documents is responsible for their security. A wide range of persons in the White House, NSC, State Department, Defense Department and Congress are, thus, among the individuals responsible for the security of the classified information improperly disclosed. According to a story appearing in The New York Times on August 5, 1975, written by David Binder, the documents in question were disclosed to Morris Amitay by aides to Senator Clifford Case and Representative Jonathan Bingham. Had the disclosure, loss, or compromise of classified information occurred in the Department of State, the Office of Security would have had responsibilities, under the Department's security regulations, for certain follow-up measures called for by the NSC Directive of May 17, 1972, relating to the determination of the identity of the person responsible for the compromise and the taking of any appropriate administrative, disciplinary or legal action. The Department of State has no information regarding the allegations contained in The New York Times, or can it shed further light on who is responsible for the unauthorized disclosure or for the supervision of Congressional compliance with security regulations.

2. Specific portions of the document which are classified and whether the information was properly classified.

Regarding Transmittal No. 75-35, the specific dollar amount, \$87.0 million, and the number of M163 weapons, 100,

Department of State, A/GIS/IPS/SRP

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were the only classified information in the document. Regarding Transmittal No. 75-40, the classified portions were, similarly, the dollar amount, \$265.5 million, and the numbers of Hawk batteries, 14, and Hawk missiles, 532.

The material appears to have been properly classified. As required by Section 4 of E.O. 11652, each document showed on its face the classification, Confidential; its inclusion under the General Declassification Schedule; and the identification of the individual at the highest level that authorized that classification, the "Director, Comptroller" of the Defense Security Assistance Agency. The fact that neither indicated the date of preparation, but showed, instead, the date of transmittal, would not appear to be a sufficiently material deviation from the rules as to invalidate the classification, but this would be a matter for Justice to determine. Substantively, the Department of State, which is an "interested agency", within the meaning of the NSC Directive, in regard to these security assistance transactions, and which provides the foreign relations guidance relied upon by the Defense Department in classification of such documents, considers that the unauthorized disclosure of information on the numbers and value of important defense systems acquired by a foreign government could reasonably be expected to cause damage to that government's confidence in the United States as its major weapons supplier and thus cause damage to a significant aspect of our foreign relations. The specific details of Jordan's military equipment needs are information provided us in confidence by that government. The classification of the documents in question was, in our view, substantively proper.

3. The extent of official dissemination of the document.

Within State, such documents are disseminated to the following offices: NEA, NEA/ARN, NEA/RA, PM, PM/SAS, INR/RNA, and H.

4. Whether the information has been the subject of an official release prior to the August 8, 1975 article.

It is not clear that August 8, 1975, is the relevant date, since the The New York Times article appearing that date alleges disclosure immediately after receipt of the documents by the Congress on July 10, 1975. Further, a check of The New York Times indicates the publication of

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classified information relating to these weapons sales to Jordan at least as early as July 12, 1975. The appropriate Bureaus of the Department are unaware of any official release of the information whatsoever. "Leaks" are not considered to be "official release" and neither the July nor August press stories constitute official release.

5. Whether prior clearance for release of the information was sought from proper authorities.

The appropriate Bureaus of the Department are unaware of any request for authorization to disclose the classified information in question having been made to the Department of State or to the Defense Department prior to the leak.

6. Whether the data can be declassified for the purpose of prosecution and, if so, the name of the person competent to testify concerning the classification.

With the public disclosure of the information having already occurred, the authorization of its release for the purpose of prosecution would not be expected to cause damage to our relations with Jordan. Thus, from a foreign relations viewpoint, the documents could be declassified for that purpose. The person competent to testify concerning the foreign relations aspect of the classification is Deputy Assistant Secretary of State Arthur R. Day.

7. Whether declassification had been decided upon prior to the release of the information.

Not to the knowledge of the appropriate State Department Bureaus.

8. What effect, if any, the disclosure of the information has had on the national defense.

While the Department of State could authoritatively address the impact of the disclosure on the national security of the United States, or, more particularly, the foreign relations interests which are a part thereof, it would defer to the Department of Defense for an authoritative assessment of the effect on national defense. In the Department of State's judgment, however, it is entirely possible that the simplistic press reports about the overall cost, generated by these specific disclosures of classified information regard-

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CONFIDENTIAL

-4-

ing financial aspects of the Hawk/Vulcan sale to Jordan, -- reports carried widely in Middle Eastern media -- contributed to the serious misunderstandings that subsequently arose in 1976 between the Governments of Jordan and Saudi Arabia regarding the overall cost of Jordan's air defense program (which the Saudis had earlier agreed to finance). The eight-month impasse that resulted from these misunderstandings delayed implementation of the Hawk/Vulcan sale and prompted Jordan to explore seriously the acquisition of comparable air defense equipment from the Soviet Union. Had Jordan actually entered into such a major arms-supply relationship with the Soviets, this would have had a significant adverse impact on U.S. national defense interests and on U.S.-Jordanian relations. Fortunately, this damage was averted by the successful resolution of the Hawk/Vulcan funding controversy between the Jordanians and the Saudis in August of this year.

CONFIDENTIAL

U.S. Department of Justice



Federal Bureau of Investigation

Washington, D.C. 20535

July 31, 2009

MR. GRANT F. SMITH
INSTITUTE FOR RESEARCH: MIDDLE EASTERN POLICY
CALVERT STATION
POST OFFICE BOX 32041
WASHINGTON, DC 20007

Subject: AMERICAN ISRAEL PUBLIC
AFFAIRS COMMITTEE 1984
INVESTIGATION
FOIPA No. 1124826- 000

Dear Mr. Smith:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

Section 552

Section 552a

- Exemption grid with checkboxes for (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7)(A-F), (b)(8), (b)(9), (d)(5), (j)(2), (k)(1-7)

84 page(s) were reviewed and 82 page(s) are being released.

- Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been:
- referred to the OGA for review and direct response to you.
- referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.

You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office of Information Policy, U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number assigned to your request so that it may be easily identified.

The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other

individuals, or matters, which may or may not be about your subject(s). Our experience has shown, when ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s). If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

See additional information which follows.

Sincerely yours,



David M. Hardy
Section Chief
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

This constitutes the final release for this request. All responsive documents from file #52B-WF-18153 have been processed.

To minimize costs to both you and the FBI, duplicate copies of the same document were not processed.

No fees are assessed for the first 100 pages of duplication. Therefore, the enclosed documents are being forwarded to you at no charge.

EXPLANATION OF EXEMPTIONS**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (h)(2) related solely to the internal personnel rules and practices of an agency;
- (h)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (h)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could be reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could be reasonably expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

DECLASSIFIED BY 60324 uc baw/dk/sbs
ON 04-20-2009

Washington, D.C.
March 31, 1986

~~SECRET~~

UNKNOWN SUBJECT
THEFT AND UNAUTHORIZED DISCLOSURE
OF DOCUMENTS FROM THE UNITED
STATES INTERNATIONAL TRADE COMMISSION;
THEFT OF GOVERNMENT PROPERTY

~~All markings, notations and items of information
contained in this communication are classified "Secret" unless
otherwise noted.~~

Office of Origin: Washington Field Office.

Date Investigative Summary Prepared: March 14, 1986.

Basis for Investigation:

The initial investigation regarding this matter was based upon a complaint received from [redacted] Associate General Counsel, Office of the United States Trade Representative (USTR), 600 17th Street, N.W., Washington, D.C. (WDC). The complaint alleged that person(s) unknown had made available to the government of Israel, a confidential report published by the International Trade Commission (ITC) outlining the probable effect of providing duty-free treatment of imports from Israel.

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This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

~~SECRET~~

~~Classified by: G-3
Declassify on: OADR~~

5-Bureau
1-Washington Field Office

JAH:las
(6)

UNKNOWN SUBJECTInvestigation to Date:

This matter was initially investigated by WFO as a possible violation of the espionage statute. The preliminary inquiry regarding this investigation was initiated on June 19, 1984.

This preliminary inquiry determined that on January 25, 1984, the U.S. International Trade Commission (ITC), WDC, was requested by the USTR to prepare a report for the President relating to the establishment of a free trade area with Israel.

On May 31, 1984, 40 copies of the final report were distributed with one copy designated for the President, 28 copies to the USTR, and 11 copies within the ITC.

On May 21, 1984, a Department of Commerce (DOC) employee was in Jerusalem following the formal U.S.-Israeli negotiations which had been held the week before. This employee met with [REDACTED]

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[REDACTED] for the Israeli Embassy in WDC. [REDACTED] stated that he had received a cable from the Israeli Embassy in WDC and then proceeded to read from this cable what appeared to be a full summary of the report, including the conclusions regarding sensitive products.

On or about May 30, 1984, prior to the USTR distribution of the "final report", a member of the Trade Subcommittee of the Senate Finance Committee notified USTR that after a conversation with an employee of the "American Israel Public Affairs Committee" (AIPAC) in WDC, this member was left with the impression that AIPAC had a copy of the subject report. This unidentified AIPAC member was familiar with the report's contents and conclusions.

On June 7, 1984, the Israeli Trade Minister and [REDACTED] [REDACTED] lunched with Ambassador William Brock and [REDACTED] of the USTR. [REDACTED] recalled that [REDACTED] was aware of the contents of the report.

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On June 12 and 13, 1984, information passed to USTR indicated that certain members of Congress could acquire copies of the ITC report through AIPAC.

On June 15, 1984, the USTR general counsel telephoned AIPAC employee [REDACTED] and inquired if AIPAC had a copy of the USTR report. [REDACTED] advised they did. [REDACTED] was asked to return this confidential report and all copies. Subsequently,

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UNKNOWN SUBJECT

[redacted] of AIPAC, contacted USTR to claim no knowledge of the report himself and to disassociate himself from such activities. A copy of the USTR report was subsequently delivered to USTR. Also delivered was a substantial portion of a second copy of the report in an unsorted condition. The full report copy was a copy of the "final report" and had no identifying mark on the outside cover which was clearly stamped confidential. This indicates that this copy was probably made prior to the May 30 delivery to USTR. USTR officials advised the significance of the unauthorized disclosure of the contents of the ITC report is that the bargaining position of the United States was compromised and "Business Confidential" information used in the report was made available to the public. This disclosure also impacts on the effectiveness of the ITC to solicit data from the U.S. business community. No national defense information was utilized in the preparation of the ITC report.

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This matter was studied by U.S. Department of Justice (DOJ) officials [redacted] Internal Security Section, and by [redacted] General Litigation and Legal Advice Section. On August 24, 1984, it was determined that this matter did not represent a violation of the espionage statute as it was reported that no national defense information was utilized in the preparation of the report.

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DOJ subsequently opined that a violation of the Theft of Government Property statute had occurred and that the matter should be presented to the local United States Attorney's Office for a prosecutive opinion.

On September 19, 1984, Assistant United States Attorney (AUSA) Charles Harkins, WDC, opined that this matter lacked prosecutive merit and declined prosecution under the Theft of Government Property statute.

On November 1, 1985, the Criminal Division of the DOJ advised WFO that it has determined that additional investigation should be conducted to ascertain responsibility for the unauthorized disclosure of this report. Specifically, it was requested that this matter be investigated to determine if offenses under 18 U.S.C. 641 (Theft of Government Property) and 18 U.S.C. 1905 (Disclosure of Confidential Business Information) had occurred.

[redacted] DOJ, Public Integrity Section, was designated to coordinate this investigation. A meeting took place on November 15, 1985, at the Department of

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UNKNOWN SUBJECT

Justice between [redacted] and representatives of the Federal Bureau of Investigation (FBI) in an effort to outline investigative strategies.

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As a result of the investigation into this matter being re-opened, [redacted] employees at AIPAC [redacted] were interviewed by WFO.

On December 19, 1985, [redacted] was interviewed by WFO and advised that she was employed as [redacted] for AIPAC during the period of [redacted]. She also advised that as an employee of AIPAC, she became aware of the trade report prepared by the ITC. She indicated that she received the report from [redacted] for AIPAC, in approximately June of 1984.

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[redacted] explained that she studied the report for a few weeks before returning it to an unrecalled official at AIPAC. She further advised that she had no information regarding who initially received the report at AIPAC, who released it from the ITC, or the USTR, or who gave it to [redacted].

On December 19, 1985, [redacted] was also interviewed regarding this report. [redacted] advised that she received the report from [redacted] for the Israeli Embassy in WDC. She advised that [redacted] gave her this report in approximately April of 1984.

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She advised that [redacted] gave no specific instructions regarding the report and, in fact, she later learned that the report was known to be "floating around town" and that the contents of the report were common knowledge to those interested in these matters.

[redacted] stated she could provide no information regarding who initially provided the report to [redacted].

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On February 13, 1986, [redacted] [redacted] for AIPAC was interviewed by WFO. [redacted] advised that he first became aware of this report being in the possession of AIPAC at some unrecalled date in the spring of 1984.

At this time, [redacted] advised that [redacted] informed him that USTR General Counsel [redacted] had contacted her to determine if AIPAC had this report.

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UNKNOWN SUBJECT

It was determined by [redacted] that [redacted] and [redacted] had seen the report and that it was his understanding that [redacted] provided them with the report. [redacted] stated that the report did not pertain to U.S. national defense matters and that AIPAC had taken no action to solicit the report.

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[redacted] advised that he had no information pertaining to how [redacted] had received the report. [redacted] did advise that he provided a duplicate copy of the report to [redacted] before the original report was returned to USTR. In November of 1985, [redacted] told [redacted] that she had discarded the duplicate copy of the report at some time prior to November of 1985.

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[redacted] stated that AIPAC did nothing illegal or improper by possessing the report and that once USTR contacted AIPAC regarding the report, AIPAC took immediate action to return it.

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On March 7, 1986, [redacted] was interviewed at the Israeli Embassy by WFO. [redacted] acknowledged receiving the report and passing it on to representatives of AIPAC.

Regarding the receipt of this report, [redacted] citing diplomatic immunity, claimed that it would be "impossible within the professional ethics of his diplomatic position" to identify the individual who furnished the report to him. [redacted] did state that this person was not a U.S. Government official or an employee of the U.S. Government.

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[redacted] stated that this report was widely disseminated before he received it and that, in his opinion, the report contained little, if any, sensitive or useful information.

[redacted] advised that he could not recall exactly who he gave the report to at AIPAC, nor the approximate date he gave them the report. He advised that this report was not handled in any type of secret manner and that everyone who had knowledge of the report considered this matter to be very routine.

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[redacted] concluded by saying that in his opinion the fact that Israel had the report caused no economic damage to any U.S. business or interest and that the entire issue seems to have received more attention than it deserved.

UNKNOWN SUBJECTConclusion:

Investigation by WFO indicates that this report was likely leaked while being prepared at the International Trade Commission (ITC). A review of security procedures at ITC disclosed the fact that there are no security procedures in place that would prevent the outright theft or the printing of an "extra" copy of a report.

The internal investigation conducted by the USTR concluded that the report was compromised by May 21, 1984. Also, the first indication of AIPAC's possession of the report preceded or was coincidental with the delivery of USTR's copies.

As a result of this incident, both the USTR and the ITC are re-evaluating their security procedures and changes will be implemented as deemed appropriate.

In view of the above information and due to the fact that [redacted] has claimed diplomatic immunity in this matter, active investigation into this matter will be discontinued at WFO. Washington Field will be contacted by the USTR or the ITC if pertinent information is developed regarding this or similar incidents.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 60324 uc baw/dk/sbs

FD-302 (REV 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/21/86

[redacted]
American Israel Public Affairs Committee (AIPAC), 500 North
Capitol Street, N.W., Suite 300, Washington, D.C., telephone
(202) 638-2256 was interviewed by Federal Bureau of Investigation
(FBI) Special Agents (SAs) [redacted]
[redacted] regarding a classified report received by AIPAC in June
of 1984.

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[redacted] was interviewed in the presence of his
Attorney, [redacted] representing the law firm of
WILLIAMS & CONNOLLY, the HILL Building, Washington, D.C.,
telephone (202) 331-5000. [redacted] provided the following
information:

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[redacted] advised that he is employed at AIPAC in
the capacity of [redacted] with responsibilities
pertaining to Congressional Relations and for Lobbying on Capitol
Hill. [redacted] advised that he first became aware of the
International Trade Commission (ITC) report being at AIPAC on a
Friday afternoon in the spring of 1984. He stated that on this
occasion [redacted] with AIPAC advised him that
she received a call from the U.S. Trade Representative (USTR)
General Counsel [redacted] asking her whether she or anyone
at AIPAC had this document. [redacted] advised that [redacted]
stated to [redacted] that she had the document and at that point
[redacted] asked that she return it to the USTR. [redacted]
asked [redacted] if it was true that she had this report and she
advised that she did have it. [redacted] subsequently examined
the document to determine if it had any secret classification or
pertained to any United States National Defense matters. [redacted]
[redacted] advised that he and [redacted] went to the office of
[redacted] of AIPAC and informed him of the
incident. [redacted] inquired as to whether [redacted] actually
had the report and if AIPAC had done anything illegal in having
it. [redacted] advised that he stated to [redacted] that it

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Investigation on 2/13/86 at Washington, D.C. File# 52B-18153-13
SAs [redacted]
By [redacted] DDR:erw Date dictated 2/14/86
This document contains neither recommendations nor conclusions of
the FBI. It is the property of the FBI and is loaned to your
agency; it and its contents are not to be distributed outside
your agency.

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FD-302a (Rev 11-13-83)

Continuation of FD-302 of [redacted] On 2/13/86 Page2*

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b7C

contained no National Defense information and that AIPAC did not solicit the report. Both [redacted] were satisfied that AIPAC had not acted improperly in possessing the report.

[redacted] immediately called [redacted] at the USTR to make arrangements to return the document. The report was subsequently returned to the USTR by a member of the AIPAC office staff. Prior to returning this document, [redacted] asked to have a duplicate copy of the document made so that the staff of the AIPAC could further examine the report. [redacted] advised that he saw no "secret classifications" on the report and there were no indications that this was a report pertaining to United States National Security. He further believed that AIPAC had not acted improperly or illegally in having this report in its possession and thereafter, asked [redacted] for AIPAC to examine the document regarding the free trade issue between the U.S. and Israel. He stated that [redacted] retained the duplicate copy of the report and that the original report was returned to the USTR. [redacted] advised that he did not consider this report to be especially important and thought that any controversy regarding the report had ended.

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In November of 1985, [redacted] asked [redacted] about the report and she stated to him that it was generally useless and that she had eventually thrown it away.

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Regarding the identity of the individual who provided the report to AIPAC, [redacted] advised that he has no first hand knowledge pertaining to this matter. He did advise that he was told that Israeli Embassy official [redacted] had initially provided the report to a representative of AIPAC. [redacted] further advised that he had no information pertaining to who may have provided the report to [redacted]

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[redacted] stated that it was his understanding that several other industries had copies of this report as well as several people on Capitol Hill and that AIPAC did not consider possessing this report an especially significant matter. [redacted] could otherwise provide no additional information relating to who may have provided the report to [redacted]. He further requested that any future contact of him by the FBI be coordinated through his Attorney, [redacted]

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FD-36 (Rev. 8-28-82)

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- _____

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- ~~SECRET~~
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date 6-20-84

FM WASHINGTON FIELD (65C-13189) (P) (C-9)

TO DIRECTOR, FBI PRIORITY

DECLASSIFIED BY 60324 uc haw/dk/sbs
ON 04-17-2009

BT

~~CONFIDENTIAL~~

UNSUBS; THEFT OF CLASSIFIED DOCUMENTS FROM THE OFFICE OF
THE UNITED STATES TRADE REPRESENTATIVES; ESPIONAGE-ISRAEL;
OO:WASHINGTON FIELD

~~ALL MARKINGS, NOTATIONS AND ITEMS OF INFORMATION
CONTAINED IN THIS COMMUNICATION ARE CLASSIFIED "SECRET"
UNLESS OTHERWISE NOTED.~~

ON JUNE 19, 1984, 395-4447 7305 ASSOCIATE GENERAL
COUNSEL, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE,
600 17TH STREET, NORTHWEST, WASHINGTON, D.C. (WDC), ADVISED
THAT THE UNITED STATES TRADE REPRESENTATIVE FUNCTIONS TO
ASSIST THE PRESIDENT OF THE UNITED STATES IN NEGOTIATING
TRADE AGREEMENTS WITH FOREIGN COUNTRIES. AMBASSADOR
WILLIAM BROCK HEADS THIS AGENCY AND HOLDS CABINET LEVEL
RANK.

 EXPLAINED THAT BEFORE THE PRESIDENT CAN ENTER INTO

①-WFO
LBS:sgt *SGT*
(4)

Approved: *[Signature]* Transmitted 1 (Number) 1 (Time)

b6
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b6
b7C

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- _____

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date _____

PAGE TWO DE WF #0017 ~~CONFIDENTIAL~~

A TRADE NEGOTIATION HE OFTEN ASKES THE UNITED STATES INTERNATIONAL TRADE COMMISSION (USITC) FOR ADVICE ON THE PROBABLE ECONOMIC AFFECT OF ANY AGREEMENT HE MIGHT NEGOTIATE. IN THIS CASE, ADVICE WAS REQUESTED IN FEBRUARY OF 1984; CONCERNING AN AGREEMENT WITH THE STATE OF ISRAEL. THIS INFORMATION WAS RECEIVED FROM THE USITC DURING THE LAST WEEK OF MAY. THIS INFORMATION WAS CLASSIFIED CONFIDENTIAL.

TWO DAYS PRIOR TO RECEIVING THE DOCUMENTS FROM THE INTERNATIONAL TRADE COMMISSION, [] ADVISED THAT HE HEARD A RUMOR THAT THE AMERICAN ISRAELI PUBLIC AFFAIRS COMMISSION (AIPAC) ALREADY HAD RECEIVED COPIES OF THIS DOCUMENTS.

[] STATES THAT APPROXIMATELY TWO WEEKS PASSED AND WHILE THEY WERE DECIDING WHERE AND WHO THIS INFORMATION WOULD BE DIVULGED TO, A CONGRESSIONAL STAFFER ADVISED THEM THAT THE ISRAELIS WERE OFFERING COPIES OF THIS DOCUMENT TO MEMBERS OF CONGRESS BECAUSE THE UNITED STATES TRADE REPRESENTATIVE WAS SLOW IN DELIVERING THEM.

LAST FRIDAY, ON JUNE 15, 1984, GENERAL COUNSEL FOR THE UNITED STATES TRADE REPRESENTATIVE, []

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Approved: _____ Transmitted _____ Per _____
 (Number) (Time)

FD-38 (Rev. 8-28-82)

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- _____

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date _____

PAGE THREE DE WF #0017 ~~CONFIDENTIAL~~

CONTACTED [] OF THE AMERICAN ISRAELI PUBLIC AFFAIRS COMMISSION AND ASKED HER IF AIPAC HAD A COPY OF THIS REPORT.

[] REPLIED YES AND [] SAID THE MATERIAL WAS CLASSIFIED AND ASKED FOR IT TO BE RETURNED.

LATER ON, THE DIRECTOR OF AIPAC TELEPHONED [] AND ADVISED THAT HE HAD NO KNOWLEDGE THAT AIPAC HAD OBTAINED A CLASSIFIED DOCUMENT AND HE STATED THAT THE MATERIAL WOULD BE RETURNED AND THAT THEY WOULD COOPERATE IN EVERY WAY IN ANY INVESTIGATION TO DETERMINE HOW THEY RECEIVED A COPY OF A CLASSIFIED DOCUMENT.

LATER ON THAT DAY, AN UNBOUND XEROX COPY OF THIS DOCUMENT WAS DELIVERED BY AN AIPAC MESSENGER TO THE UNITED STATES TRADE REPRESENTATIVE OFFICE.

[] ADVISED THAT ALL INFORMATION CONTAINED IN THIS DOCUMENT WAS CLASSIFIED CONFIDENTIAL OR BUSINESS CONFIDENTIAL. THE HIGHEST LEVEL OF CLASSIFICATION IN THIS REPORT IS CONFIDENTIAL. [] ESTIMATES THAT BY OBTAINING THIS DOCUMENT, THE PRESIDENT'S NEGOTIATING ^{POSITION} ~~PHYSICIAN~~ CONCERNING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND THE STATE OF ISRAEL IS COMPROMISED BECAUSE THIS REPORT DIVULGES THOSE

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Approved: _____ Transmitted _____ Per _____
(Number) (Time)

FD-36 (Rev. 8-28-82)

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- _____

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date _____

PAGE FOUR DE WF #0017 ~~CONFIDENTIAL~~

PRODUCTS AND INDUSTRIES THAT HAVE BEEN IDENTIFIED BY THE INTERNATIONAL TRADE COMMISSION AS BEING THE MOST SENSITIVE TO IMPORTS FROM ISRAEL. ALSO, THE REPORT BASICALLY STATES THAT THE UNITED STATES CAN LOWER DUTIES ON ALL GOODS BEING IMPORTED FROM ISRAEL AND IT WILL ^{ONLY} ~~NOT~~ HURT ANY UNITED STATES INDUSTRIES EXCEPT SEVEN INDUSTRIES. THESE INDUSTRIES ARE LISTED IN THIS REPORT.

[] ADVISED THAT THIS DOCUMENT WAS STOLEN OR GIVEN TO THE AIPAC BY EITHER A MEMBER OF THE UNITED STATES TRADE REPRESENTATIVE STAFF OF THE INTERNATIONAL TRADE COMMISSION.

[] ADVISED THAT HE BELIEVES THE COPY CAME FROM THE INTERNATIONAL TRADE COMMISSION BECAUSE ALL INTERNAL COPIES KEPT AT THE UNITED STATES TRADE REPRESENTATIVE ASSOCIATION WOULD HAVE AN INTERNAL DOCUMENT CONTROL NUMBER IN THE UPPER RIGHT HAND CORNER OF THE COVER PAGE. THE DOCUMENT IDENTIFIED AS HAVING BEEN RETURNED FROM AIPAC HAD NO SUCH NUMBER.

INVESTIGATION CONTINUING, FBIHQ WILL BE ADVISED OF PERTINENT DETAILS.

~~C BY 5854. DECL. OADR.~~

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#0017

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Approved: _____ Transmitted _____ Per _____
 NNNN (Number) (Time)

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

December 22, 2011

Mr. Grant Smith
Institute for Research
Middle Eastern Policy
Calvert Station
P.O. Box 32041
Washington, D.C. 20007

Dear Mr. Smith:

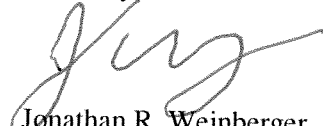
This letter is USTR's response to the ISCAP decision to declassify and release some portions of the report, "Probably Economic Effect of Providing Duty-Free Treatment for Imports from Israel," Investigation No.332-180.

On November 3, 2011 we sent to you, via e-mail, portions of the document and informed you that additional portions would be provided as they become available.

Today, we are providing you the remaining portions of the document. The ITC has asked us to redact some of the data from Appendix B pursuant to 5 U.S.C. §552 (b)(4), because the data discloses confidential business information which the ITC obtained from private sources.

If you have any questions regarding this release please contact David Apol at (202) 395-9633.

Sincerely,



Jonathan R. Weinberger
Associate General Counsel

TRANSMIT VIA: AIRTEL

CLASSIFICATION: _____

DATE: 11/15/85

FROM: Director, FBI

✓ TO: SAC, Washington Field (52B-18153)

UNKNOWN SUBJECTS,
THEFT AND UNAUTHORIZED DISCLOSURE
OF DOCUMENTS FROM THE UNITED STATES
INTERNATIONAL TRADE COMMISSION
TGP
OO: WASHINGTON FIELD
BUDED: 12/30/85

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-17-2009 BY 60324 uc baw/dk/sbs

Reference Bureau telephone call to Washington Field
Office on 11/15/85.

Enclosed for Washington Field are two copies of a self-
explanatory Department of Justice memorandum, with its enclosure,
dated 11/1/85, captioned as above.

Washington Field will reopen this matter and
expeditiously conduct investigation in accordance with the
provisions of Section 52, Manual of Investigative Operations and
Guidelines.

On 11/13/85, [redacted] ⁷²⁴⁻⁷¹³⁷ Public Integrity Section,
Department of Justice, advised FBIHQ that a meeting is scheduled
for Friday, 11/15/85 at 3:15 p.m. in his office to discuss this
matter. [redacted] requests that a representative from the FBI
attend this meeting. It is anticipated that the complainant,
[redacted] will be present and the Washington Field case Agent
is to be available to interview [redacted] regarding this case.

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Upon completion of this investigation Washington Field
will submit an LHM with copies of pertinent FD-302s attached
setting forth all investigation conducted in this matter to the
attention of the Fugitive/General Government Crimes Unit, FBIHQ,
by COB 12/30/85.

~~SECRET~~ MATERIAL ATTACHED.

Enclosures (2)

Report and
copy
12/2/85
12/2/85
52B-18153-5
not not
DL

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-17-2009 BY 60324 uc baw/dk/sbs

MEMORANDUM

TO: SAC, WFO (52B-18153) (P)

Date 12/17/85

FROM: SA JOHN HOSINSKI (C-4)

UNSUBS;
THEFT AND UNAUTHORIZED DISCLOSURE OF DOCUMENTS FROM THE U.S.
INTERNATIONAL TRADE COMMISSION
TGP
OO:WFO

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On December 3, 1985 SA [redacted] met with [redacted]

[redacted]
AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE (AIPAC), 500 North
Capitol Street, N.W., Suite 300, Washington, D.C. (202) 638-2256
regarding the receipt by AIPAC of a classified report published
by the U.S. INTERNATIONAL TRADE COMMISSION in June of 1984.

[redacted] advised that he was somewhat familiar with
this incident, but was not in a position to furnish the FBI with
any details regarding the matter. SA [redacted] advised [redacted]
that the FBI needed to know 1. Who at AIPAC had knowledge of this
report being in the possession of AIPAC 2. Who received or
handled this report at AIPAC 3. Who furnished this report to
AIPAC. 4. The current residence for a [redacted] a former
AIPAC employee with knowledge of this report being in the hands
of AIPAC.

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[redacted] stated that [redacted] of AIPAC
should be the person to address these questions and that he would
have [redacted] contacted SA [redacted] at the earliest possible
time.

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Regarding [redacted] stated that she
resigned her position at AIPAC shortly before the birth of her
child and that she is not expected to return.

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Continuous efforts to telephonically [redacted]
[redacted] during the period December 3, 1985 thru December 11, 1985 by
SA [redacted] proved negative.

USTIA
[redacted]

AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE
500 NORTH CAPITOL STREET, N.W., SUITE 300
WASHINGTON, D.C. 20001
(202) 638-2256

52B-18153-6
[handwritten initials]

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WFO 52B-18153

On December December 11, 1985, DEPUTY ASSISTANT DIRECTOR (DAD) PHIL PARKER, INTELLIGENCE DIVISION, FBIHQ, telephonically contacted SA [redacted] regarding captioned matter. DAD PARKER stated to SA [redacted] that this investigation had come to the attention of Director WEBSTER and asked for an explanation of investigation this far. DAD PARKER indicated that this matter would be studied at FBIHQ and WFO would be contacted re further investigation.

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On December 13, 1985, SSA [redacted] advised SA [redacted] that the investigation regarding captioned matter should proceed in the normal investigative procedure.

1-WFO

JAH:erw
(1)

FEDERAL BUREAU OF INVESTIGATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 04-20-2009 BY 60324 uc baw/dk/sbs

1/6/86

Date of transcription

1

[redacted]
Maryland, home telephone [redacted] was interviewed by FEDERAL
BUREAU OF INVESTIGATION (FBI) Special Agents (SAs) [redacted]
[redacted] regarding a classified report
received by the American Israel Public Affairs Committee (AIPAC)
in June 1984.

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[redacted] was interviewed in the presence of her
Attorney [redacted] representing the law firm of FRIED,
FRANK, HARRIS, SHRIVER AND JACOBSON, 600 New Hampshire Avenue,
N.W., Washington, D.C. (WDC), telephone #342-3622. [redacted]
provided the following information:

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[redacted] advised that while she was employed by
AIPAC, she was [redacted] She advised that she had been
employed by AIPAC from the period of [redacted]
[redacted] She stated that the address
for AIPAC is 500 North Capitol Street, N.W., Suite 300, WDC,
telephone #638-2256. She furthered advised that she does not
plan on returning to AIPAC [redacted]

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[redacted] advised that she first became aware of the
U.S. International Trade Commission Report on American Israeli
Free Trade when she received the report in June of 1984. She
stated that she received the report from [redacted] who
as employed as [redacted] with AIPAC. [redacted] advised
that when she was given the report by [redacted] she was told to
"keep it in a safe place" but was otherwise given no specific
instructions regarding the report or regarding who initially
received the report for AIPAC.

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[redacted] advised that as [redacted] it was
her responsibility to study any reports or documents pertaining
to American Israeli trade and considered the receipt of this
report a very ordinary event. She did not know if it was common
knowledge at AIPAC whether or not AIPAC had possession of this
report. She stated she received the report in June of 1984 and

Investigation on 12/19/85 at Wheaton, Maryland File # 52B-18153-8
by SAs [redacted] JAH:rlw Date dictated 12/23/85

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Continuation of FD-302 of [redacted], On 12/19/85, Page 2*

held on to it for a few weeks. She stated that sometime in July of 1984, the General Counsel for the U.S. Trade Representatives (USTR) [redacted] asked her if she had seen a copy of this report. She advised [redacted] that she had seen a copy and for her to check with AIPAC General Counsel [redacted] if he had any further questions regarding this document.

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[redacted] advised that subsequent to her conversation with [redacted] she turned the report over to someone at AIPAC but she does not remember specifically who it was. She further advised that she had no information regarding who provided this report to [redacted] and that [redacted] did not indicate to her how she received it.

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[redacted] described the report as being approximately 100 pages in length but stated she did not see a title to this report. She further described this report as being a study by the International Trade Commission (ITC) examining the different product sectors in America and the possible impact these sectors if duty free imports from Israel were allowed. She advised that she did not utilize any of the information gleaned from this report. She could not recall whether the report was classified or not.

[redacted] does not specifically recall to whom she returned the report at AIPAC but thinks it could have been [redacted]. She further advised that there was a general discussion of the report at AIPAC but that this was not considered an especially significant matter. [redacted] advised that her [redacted] became aware of the report at the time of the newspaper articles regarding this matter.

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[redacted] could otherwise provide no other information relating to how the report was received by AIPAC or who initially received the report. [redacted] advised that she has no pertinent information regarding this matter and requested that any future contact of her by the FBI be coordinated through her Attorney, [redacted].

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FEDERAL BUREAU OF INVESTIGATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 04-20-2009 BY 60324 uc baw/dk/sbs

1/6/86

Date of transcription

1

[redacted]
Maryland, home telephone [redacted] was interviewed by FEDERAL
BUREAU OF INVESTIGATION (FBI) Special Agents (SAs) [redacted]
[redacted] regarding a classified report
received by the American Israel Public Affairs Committee (AIPAC)
in June 1984.

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[redacted] was interviewed in the presence of her
Attorney [redacted] representing the law firm of FRIED,
FRANK, HARRIS, SHRIVER AND JACOBSON, 600 New Hampshire Avenue,
N.W., Washington, D.C. (WDC), telephone #342-3622. [redacted]
provided the following information:

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[redacted] advised that while she was employed by
AIPAC, she was [redacted] She advised that she had been
employed by AIPAC from the period of [redacted]
[redacted] She stated that the address
for AIPAC is 500 North Capitol Street, N.W., Suite 300, WDC,
telephone #638-2256. She furthered advised that she does not
plan on returning to AIPAC [redacted]

b6
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U.S. International Trade Commission Report on American Israeli
Free Trade when she received the report in June of 1984. She
stated that she received the report from [redacted] who
as employed as [redacted] with AIPAC. [redacted] advised
that when she was given the report by [redacted] she was told to
"keep it in a safe place" but was otherwise given no specific
instructions regarding the report or regarding who initially
received the report for AIPAC.

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[redacted] advised that as [redacted] it was
her responsibility to study any reports or documents pertaining
to American Israeli trade and considered the receipt of this
report a very ordinary event. She did not know if it was common
knowledge at AIPAC whether or not AIPAC had possession of this
report. She stated she received the report in June of 1984 and

Investigation on 12/19/85 at Wheaton, Maryland File # 52B-18153-8
by SAs [redacted] JAH:rlw Date dictated 12/23/85

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Continuation of FD-302 of [redacted], On 12/19/85, Page 2*

held on to it for a few weeks. She stated that sometime in July of 1984, the General Counsel for the U.S. Trade Representatives (USTR) [redacted] asked her if she had seen a copy of this report. She advised [redacted] that she had seen a copy and for her to check with AIPAC General Counsel [redacted] if he had any further questions regarding this document.

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[redacted] advised that subsequent to her conversation with [redacted] she turned the report over to someone at AIPAC but she does not remember specifically who it was. She further advised that she had no information regarding who provided this report to [redacted] and that [redacted] did not indicate to her how she received it.

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[redacted] described the report as being approximately 100 pages in length but stated she did not see a title to this report. She further described this report as being a study by the International Trade Commission (ITC) examining the different product sectors in America and the possible impact these sectors if duty free imports from Israel were allowed. She advised that she did not utilize any of the information gleaned from this report. She could not recall whether the report was classified or not.

[redacted] does not specifically recall to whom she returned the report at AIPAC but thinks it could have been [redacted]. She further advised that there was a general discussion of the report at AIPAC but that this was not considered an especially significant matter. [redacted] advised that her [redacted] became aware of the report at the time of the newspaper articles regarding this matter.

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[redacted] could otherwise provide no other information relating to how the report was received by AIPAC or who initially received the report. [redacted] advised that she has no pertinent information regarding this matter and requested that any future contact of her by the FBI be coordinated through her Attorney, [redacted].

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FEDERAL BUREAU OF INVESTIGATION

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 04-20-2009 BY 60324 uc baw/dk/sbs

Date of transcription 3/13/86

1

[redacted]
Embassy of Israel, 3514 International Drive, N.W., Washington, D.C. telephone (202) 364-5692 was interviewed by Federal Bureau of Investigation Special Agents [redacted] and [redacted] regarding the receipt of a U.S. International Trade Commission (USITC) report pertaining to free trade between the U.S. and Israel.

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During this interview, [redacted] was accompanied by [redacted] [redacted] for the Embassy of Israel, Washington, D.C.

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[redacted] advised that at some unrecalled time in 1984 he received this USITC report pertaining to free trade between America and Israel. [redacted] advised that he received this document from someone that he would not identify. He indicated that he received this information in his official capacity as a diplomat and that it would be against the principles of diplomatic work to divulge any information pertaining to the identity of the individual who provided him the report. He further advised that it is impossible within the professional ethics of a diplomat to identify individuals who provide certain information to a diplomat.

[redacted] did state that the individual who provided him with the report was not a U.S. Government Official nor was he an employee of the U.S. Government. [redacted] indicated that there were numerous negotiators regarding this free trade issue representing several U.S. Government agencies including the U.S. Trade Representatives, the U.S. Treasury, the U.S. Commerce Commission, the U.S. Department of State, and the U.S. Department of Agriculture. He advised that there were usually one or two principals representing each of these agencies which would attend most negotiations. He further advised that he thinks certain U.S. negotiators wanted the person who provided [redacted] the report to know about certain aspects pertaining to the United States

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Investigation on 3/7/86 at Washington, D.C. File # 52B-18153-12
by SAs [redacted] JAH:cjc Date dictated 3/13/86

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Continuation of FD-302 of 52B-18153; [REDACTED], On 3/7/86, Page 2

and Israel.

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Regarding the availability of this report, [REDACTED] advised that the report had been widely circulated among the staff and members of Capitol Hill, as well as among various consultants representing the interest of each agency affected by the free trade issue. He advised that the Government of Israel did not ask to receive the report and stated that when the individual provided him with the report, the transaction was not conducted in a discreet or secretive manner.

[REDACTED] advised that he furnished the report to an employee at the American Israel Public Affairs Committee (AIPAC) during the Spring or Summer of 1984. He believes he gave the report to either [REDACTED] or to [REDACTED]. [REDACTED] indicated that this report was only part of a package that he provided to AIPAC with other routine information.

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[REDACTED] advised that he could not recall the specific period of time when he was given the report but stated that the contents of the report were well known by the time he had received it. [REDACTED] advised that he did not try to conceal the fact that representatives of Israel had this report in their possession. He further stated that he believes that the controversy regarding this report is extremely exaggerated and that in his opinion, the fact that representatives of Israel viewed this report, caused no economic damage to any U.S. business or interest.

FOR FURTHER INFORMATION CONTACT:

Denise T. DiPersio, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202/523-0113.

Issued: February 7, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4141 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-181]**Certain Meat Deboning Machines; Order No. 1**

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge John J. Mathias as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: February 8, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-4142 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-181]**Certain Meat Deboning Machines; Investigation**

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 3, 1984, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Lever Brothers Co., 390 Park Avenue, New York, New York 10022; Protecon B.V., Wim de Korverstraat 43a, Postbus 9, 5830 44 Boxmeer, Holland; and Protecon, Inc., P.O. Box 1109, 1126-88th Place, Kenosha, Wisconsin 53151. Supplements to the complaint were filed on January 31, 1984 and February 1, 1984. The complaint as supplemented alleges unfair methods of competition and unfair acts in the importation of certain meat deboning machines into the United States, or in their sale, by reason of alleged infringement of claim 1 of U.S. Letters Patent 4,137,605. The complaint further alleges that the effect of tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an efficiently and economically operated domestic industry and/or to prevent the

establishment of such and industry in the United States.

Complainants request the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order and a permanent cease and desist order.

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in section 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on February 1, 1984, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain meat deboning machines into the United States, or in their sale, by reason of alleged infringement of claim 1 of U.S. Letters Patent 4,137,605, the effect or tendency of which is to prevent the establishment of an efficiently and economically operated domestic industry in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Lever Brothers Co., 390 Park Avenue, New York, New York 10022
Protecon B.V., Wim de Korverstraat 43a, Postbus 9, 5830 44 Boxmeer, Holland
Protecon, Inc., P.O. Box 1109, 1126-88th Place, Kenosha, Wisconsin 53151.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served.

Machiefabrieken H.J. Langen & Zonen B.V. Cuyk, Netherlands
H.J. Langen & Sons, LTD., 2357 Devon Ave., Elk Grove, Village, Illinois 60607.

(c) Linda L. Moy, Esq., Unfair Import Investigation Division, U.S. International Trade Commission, 701 E Street NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer. Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and

Procedure (19 CFR 210.21). Pursuant to § 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT:

Linda L. Moy, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-4693.

Issued: February 6, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4144 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[332-180]**Probable Economic Effect of Providing Duty-Free Treatment for Imports From Israel**

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) concerning the probable economic effect of providing duty-free treatment for imports from Israel on U.S. industries producing like or directly competitive articles and on consumers, at the direction of the President, and the scheduling of a hearing in connection therewith.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Roeder (202-724-1170)—
Agricultural and forest products

Mr. Robert Wallace (202-523-0120)—

Textiles and apparel

Mr. Jim Emanuel (202-523-0334)—

Energy and chemicals

Mr. Robert Ruhlman (202-523-0309)—

Minerals and metals

Mr. Nelson Hogge (202-523-0377)—

Machinery and equipment

Ms. Edith Hagelin (202-724-1746)—

Miscellaneous manufactures

All of the above staff are in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel at 202-523-0487.

Background and Scope of Investigation

The Commission instituted the investigation, No. 332-180, following receipt on January 30, 1984, of a request therefor by the President transmitted through the U.S. Trade Representative (USTR). The advice requested would be used in connection with negotiations with the Government of Israel relating to the establishment of a free trade area between the United States and Israel.

The Commission will, as requested by USTR, advise the President with respect to each item in the Tariff Schedules of the United States as to the probable economic effect of providing duty-free treatment for imports from Israel on industries in the United States producing like or directly competitive articles and on consumers.

As requested by USTR, the Commission will conduct this investigation as if the request had been made pursuant to section 131 of the Trade Act of 1974 (19 U.S.C. 2151). The Commission's scheduled completion date for the report is May 30, 1984.

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., on April 10, 1984, to be continued on April 11, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, April 3, 1984.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on April 3, 1984. Commercial or financial

information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submission, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: February 9, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4146 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 332-115]

Study of the Effect of the Enlargement of the European Community on U.S. Trade; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation.

EFFECTIVE DATE: February 10, 1983.

Background

The Commission, on its own motion, instituted the study, effective September 29, 1980, investigation No. 332-116, under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)). Notice of the institution of the investigation was published in the Federal Register on October 8, 1980 (47 FR 7350).

Issued: February 8, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4143 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. TA-201-52]

Unwrought Copper; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: January 26, 1984.

SUMMARY: Following receipt of a petition filed on January 26, 1984, on behalf of Anaconda Minerals Co.,

Asarco Inc., Copper Range Co., Cyprus Mines Corp., Duval Corp., Inspiration Consolidated Copper Co., Kennecott Corp., Magma Copper Co., Phelps Dodge Corp., Pinto Valley Copper Corp., and Ranchers Exploration and Development Corp., the Commission instituted investigation No. TA-201-52 under section 201 of the Trade Act of 1974 to determine whether black copper, blister copper, and anode copper, provided for in item 612.03 of the Tariff Schedules of the United States (TSUS), or unwrought copper, other than alloyed, provided for in TSUS item 612.06, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. The Commission must report its determination to the President by July 26, 1984.

FOR FURTHER INFORMATION CONTACT:

Daniel Leahy, Investigator (202/523-1369), or Vera A. Libeau, Supervisory Investigator (202/523-0368), U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after that date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Public Hearing

The Commission will hold a public hearing in connection with this investigation beginning at 10:00 a.m., on May 15, 1984, in the Hearing Room, U.S. International Trade Commission



NO. 84-44
TO: GC, IND
and Sec.
OFFICE OF THE
SECRETARY
Int'l. Trade Commission

Ethyl Corporation
611 Madison Office Building
1155 15th St., N.W.
Washington, DC 20005
Telephone 202-223-4411

November 1, 1985

585901

332-180

INTERNATIONAL TRADE AFFAIRS

DELIVERED BY MESSENGER

Dr. Paula Stern, Chairwoman
U.S. International Trade Commission
701 "E" Street, N.W.
Washington, D.C. 20436

Dear Dr. Stern:

Thank you for meeting with us this morning and for your genuine interest about our concerns relating to the Commission's security procedures for "business confidential" information submitted by the private sector. We very much appreciate your willingness to review the various matters we discussed with you, and particularly those included on the document (copy enclosed) that we left with you and Mr. Goodrich.

We look forward to your response on how you might be able to describe, characterize, or give us specifically what "business confidential" information, submitted by the U.S. Bromine Alliance, was included in the Commission's confidential report concerning the U.S. - Israel Free Trade Area proposal that was prepared for the U.S. Trade Representative. We are also hopeful you will be able to tell us (as an example on point) what you found within the Commission concerning the disposition of the 15 copies of "business confidential" information we recently submitted in connection with your GSP investigation.

As you review the other items in the enclosed document to see what type of further advice you can furnish to us with respect to the Commission's standard security procedures, we will undertake to draft a proposal (for consideration) on the type of handling we hope the Commission would adopt with respect to future submissions of "business confidential" information from the U.S. Bromine Alliance or the individual member companies of the Alliance. We also plan to review this same subject with the appropriate personnel at the Office of the U.S. Trade Representative.

Thank you again for your warm reception and cooperation.

Sincerely,

U.S. BROMINE ALLIANCE

By:

Max Turnipseed
Max Turnipseed

MT:clk

Enclosure

cc: U.S. Bromine Alliance Members
Edward R. Easton, Esquire
Will E. Leonard, Esquire

November 1, 1984

Talking Points for Meeting with Dr. Paula Stern,
Chairwoman, U.S. International Trade Commission

1. Persons present.

Max Turnipseed, Spokesman, U.S. Bromine Alliance, accompanied by Will E. Leonard and Edward R. Easton, attorneys, Busby, Rehm and Leonard, P.C.

2. General Topic.

Commission security procedures for confidential business information submitted to the agency.

3. Background.

The U.S. Bromine Alliance supplied very sensitive cost information to the Commission in response to the Commission's requests for confidential business data in connection with its report on a free trade agreement with Israel. The Alliance presumes that these data were quoted in the Commission's confidential report to the USTR, a copy of which was obtained by representatives of the American-Israel Public Affairs Committee.

The Alliance is currently an interested party in the on-going GSP-related investigations Nos. 503(a)-12 and 332-187. The Alliance has also submitted confidential business information to the Commission in connection with these investigations also.

- 2 -

4. Specific inquiries concerning the Commission's procedures for handling confidential business information;

a. When confidential Commission reports are supplied to the President, the Congress, USTR, or the GAO, what procedures are followed in addition to individually numbering the limited copies supplied? Does a contact person with the recipient undertake to insure that no additional copies will be made? Are there agreements to keep the copies of the reports in a secured filing system with "need to know access" at the recipient institution?

b. Does the Commission have a legal obligation to submit information that may be confidential to any other agencies?

c. The Commission's regulations require a signed original and fourteen copies of each document submitted by a party to an investigation. Is there a Commission policy statement identifying those persons who receive each of these copies? Is there a method for controlling additional copies made from the copies submitted? What criteria exist for guidance with respect to whether additional copies are made? Who is designated to know the location of each copy and those persons with access to it?

d. What are the Commission's instructions to its employees concerning the handling of confidential business submissions? Is the staff instructed not to accept writings which have not been declared confidential by the Secretary? What instructions exist concerning information solicited by telephone or in meetings? Does a staff person decide whether notes concerning such

- 3 -

information are to be treated as confidential information or is the staff instructed to consult supervisory personnel in making the decision?

e. How are the Commission's employees made aware of mandatory security procedures? How often does the Office of Administration survey compliance with these instructions?

f. Does the Commission have a training program for instructing its employees on the treatment of submissions from business entities? How often is the program presented? How often are employees required to participate? Would the Commission allow interested business groups to participate in designing future programs?

5. Unlike other administrative agencies such as the Environmental Protection Agency or the Federal Drug Administration, the Commission has not undertaken to notify the submitter of confidential business information when access to such information is sought under the Freedom of Information Act or otherwise. Would the Commission be willing to amend its regulations to notify the submitter when such access was sought?

CHAIKWOMAN



RECEIVED

OFFICE OF THE SECRETARY
U.S. INTERNATIONAL TRADE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D. C. 20436

November 29, 1984

Mr. Max Turnipseed
U.S. Bromine Alliance
c/o Ethyl Corporation
1155 15th Street, N.W.
Washington, D. C. 20005

Dear Mr. Turnipseed:

This is in reply to your November 1, 1984, letter sent to me following the meeting of the same day relating to the handling of "business confidential" information by the U. S. International Trade Commission. In addition to your observations on our security procedures you have specific inquiries concerning (1) the "business confidential" information submitted by the U. S. Bromine Alliance in connection with the U.S.-Israel free trade study, and (2) the disposition of the 15 copies of "business confidential" information the Alliance submitted in connection with the current GSP investigation. I would like to address these matters separately.

1. You requested us to describe, characterize, or specify what business confidential information submitted by the U.S. Bromine Alliance in your letter of April 27, 1984, was included in the U. S. International Trade Commission's confidential report to the U. S. Trade Representative on investigation No. 332-180, Probable Effect of Providing Duty-Free Treatment for Imports from Israel.

The specific business confidential numbers extracted from the Alliance's letter and shown in the report included: (1) the production cost for bromine, (2) production cost, raw material cost, depreciation, or manufacturing cost, by-product cost, and shipping cost for the compound TBBPA and (3) the length of time that sales of domestic TBBPA could be supplied from inventory.

As we discussed at the November 1 meeting the study is currently classified "confidential" from a national security standpoint by the Office of the U. S. Trade Representative. For your information I am enclosing a copy of the clearance (enclosure 1) we received from that office to allow us to provide you the above characterization of the "business confidential" information submitted by the Alliance.

2. Disposition of "business confidential" information related to investigation nos. 503(a)-12 and 332-187 ("GSP- to Add Products to the List of Eligible Articles for the Generalized System of Preferences") - in this particular case the 15 copies of the Alliance's "business confidential" information was distributed within the U. S. International Trade Commission as listed below. It should be noted that not all of the 15 copies are currently in the Commission's files. Some have already been processed for disposal by burning or shredding.

	<u>Number of Copies</u>
Chairwoman Stern	1
Vice Chairman Liebeler	1
Commissioner Eckes	1
Commissioner Lodwick	1
Commissioner Rohr	1
Energy and Chemicals Division	1
Office of the General Counsel	1
Office of Economics	1
Office of the Secretary	Original and 6 copies
Total: Original and 14 copies.	

I appreciate your comments concerning the Commission's information security procedures and welcome any suggestions you may have. You may be assured that we place a high priority on safeguarding sensitive data and we are currently preparing detailed internal procedures. At this point we can respond to items 4. a., 4. b. and 5 of the discussion paper you left with me on November 1 (enclosure 2).

I hope this information is useful to you and we look forward to the Alliance's participation in future Commission investigations and studies.

Sincerely,


Paula Stern
Chairwoman

Enclosures

cc: Norris Lynch
Xen Mason
Mike Mabile
Lorin Goodrich

MAY 24 2010

Before the Office
of the
United States Trade Representative
Section 301 Committee

The Institute for Research: Middle Eastern Policy, Inc.

Hand Delivered

BEFORE THE OFFICE OF THE
UNITED STATES TRADE REPRESENTATIVE

INSTITUTE FOR RESEARCH:
MIDDLE EASTERN POLICY, INC

) Petition for Relief Under
) Section 301(a) of the Trade
) Act of 1974, as Amended,
) 19 U.S.C. §§ 2411 et seq.

PETITION

The Institute for Research: Middle Eastern Policy (IRmep) represents American citizens and industries residing in 42 states concerned about trade, development and US Middle East policy formulation. IRmep also represents some of the US industries and organizations originally opposed to passage of the 1985 US-Israel Free Trade Area. (See Appendix #1)

During the spring of 1984 American trade associations, companies and industry representatives provided business confidential information solicited through the Federal Register by the International Trade Commission and US Trade Representative for development of a classified 300+ page report on proposed duty-free entry of Israeli products into the US market. In 1984 the Israeli Minister of Economy Dan Halpern obtained the classified US government report *Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel, Investigation No. 332-180*. Halpern passed it to the American Israel Public Affairs Committee (AIPAC) to lobby and engage in public relations in order to generate conditions favorable for passage of the FTA in the US. By request of the USTR, the FBI launched an investigation into how Israel and AIPAC obtained and circulated copies of the classified report during the most critical negotiation period. AIPAC was ordered to return the classified business confidential information, but instead made an unauthorized copy to continue leveraging the data against US industry. After Halpern claimed diplomatic immunity, the Justice Department closed down the investigation. US industries were never compensated. The FBI investigation file wasn't declassified until the summer of 2009. (See Appendix #2) The USTR continues to refuse declassification and release of the trade report due to the extreme sensitivity of the data. (See Appendix #3)

Section 301 of the U.S. Trade Act of 1974, “authorizes the President to take all appropriate action, including retaliation, to obtain the removal of any act, policy, or practice of a foreign government that violates an international trade agreement or is unjustified, unreasonable, or discriminatory, and that burdens or restricts U.S. commerce.”

An analysis of the performance of all other US-bilateral FTAs reveals that they do not deliver a systemic advantage to any partner. Whether one country or another has a trade surplus in any given year is a "random walk" responding to market forces. In 2010, the US had a \$31.43 billion surplus with its bilateral FTA partners, though in 2006 and 2007 these same agreements produced a narrow US deficit.

US-other Bilat FTA Trade in Goods

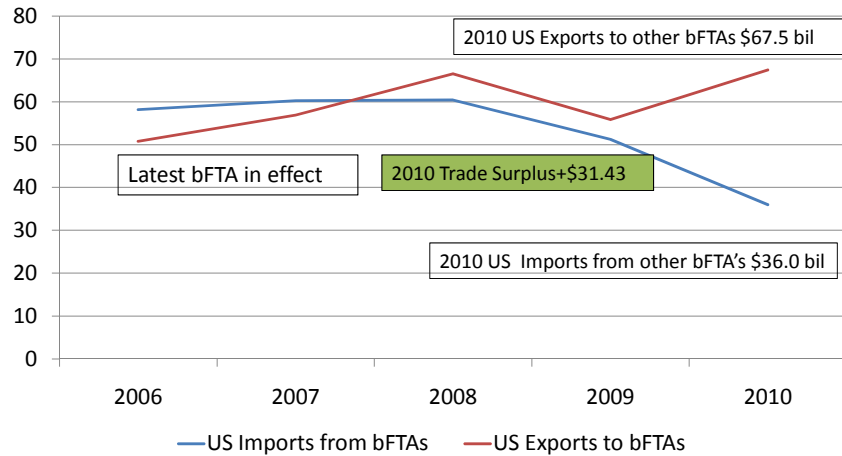
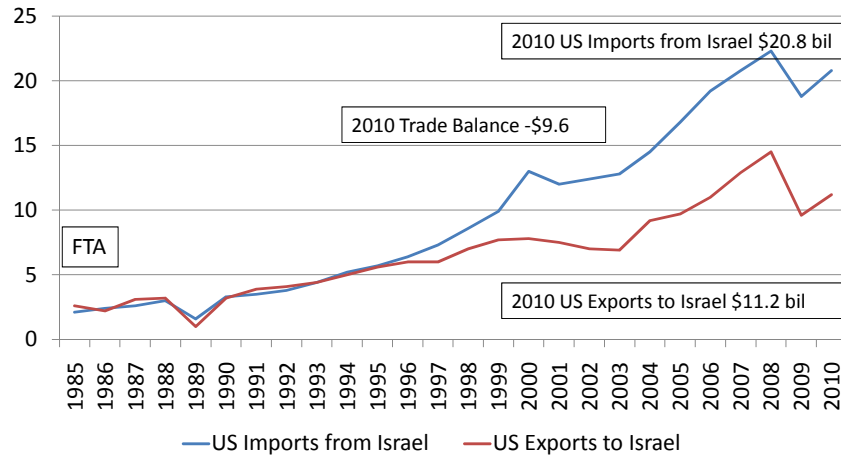


Figure 1 US-Bilateral FTA Performance

Because Israel unfairly leveraged business confidential information stolen from US corporations and industry groups to create new export oriented industries to penetrate the American market, it gained an unwarranted systemic advantage. The US-Israel FTA is an anomaly among FTAs in that it principally benefits the foreign party, providing a destination for 40% of Israel's exports. It resembles a private industry funded foreign aid program more than a bilateral FTA. In 2010 the US Israel FTA produced an \$11.2 billion US deficit in goods trade. Over the past 10 years, the US deficit has averaged \$7.09 billion per year. Since 1985 the cumulative US-Israel deficit in current dollars is \$80.9 billion.

US-Israel Trade in Goods



It is probable that if the US-Israel free trade negotiations and subsequent exchange had taken place without the misappropriation of classified US trade data, it would more resemble other US-bilateral trade agreement performance. Absent the Israeli advantage achieved through data misappropriation, it is highly likely US-Israel trade would have been in parity, producing no systemic deficit for the US. Under normal conditions, the US would have likely enjoyed a 50% share of bilateral flows, or \$33.2 billion in additional exports to Israel.

Assuming average wholesale margins of 20%, over the last ten years US exporters lost \$6.64 billion due to this Israeli violation of the U.S. Trade Act of 1974. The 76 organizations opposed to the FTA (or their successors) have never been fairly compensated for Israel's theft and ongoing use of their confidential business information.

This petition seeks Israeli government compensation for the trade data theft equal to a total \$6.64 billion settlement divided between the 76 US industry groups in proportion to their 10 year trailing gross revenue. If the Israeli government refuses to pay, an import duty to generate \$6.64 billion compensation over the next five years should immediately applied to Israeli exports to the US.

Appendix #1 – US Industries Opposed to the 1985 US-Israel FTA

Abex Corporation	Dow Chemical, U.S.A.
AFL-CIO	Ethyl Corporation
AG West, Inc.	Florida Citrus Mutual
American Butter Institute	Furman Canning Company
American Dehydrated Onion and Garlic Association	Gangi Bros Packing Co.
American Farm Bureau	Garden Valley Foods
American Fiber Textile Apparel Coalition	George B. Lagorio Farms
American Hoechst Corporation	Great Lakes Chemical Corporation
American Mushroom Institute	Greater Chicago Food Brokers
American Protective Services	Harter Packing Co.
Applewood Orchards	Hastings Island Land Company
Apricot Producers of California	Heidrick Farms, Inc.
Arkansas Industrial Development	Hunt-Wesson Foods
Axette Farms, Inc.	King Bearings, Inc.
Belger Cartage Service	Langon Associates
Bob Miller Ranch	Leather Products Coalition
Byrd Foods, Inc.	Letica Corporation
California Avocado Commission	California Farm Bureau Federation
California Dried Fig Advisory	Liquid Sugar
California League Food Processors	Mallet and Sons Trucking Company
California Tomato Growers Association	McGladdery & Gilton
California Tomato Research	Monsanto
California-Arizona Citrus	Monticello Canning Company, Inc.
Casa Lupe, Inc.	National Cheese Institute
Davis Canning Company	National Milk Producers Federation

New Jersey Food Processors

Ohio Farm Bureau Federation

Otto Brothers Farms

Pacific Coast Producers

Perrys Olive Warehouse

Radial Warehouse Company

Rominger & Sons, Inc.

Roses, Inc.

Rubber Manufacturers Association
Footwear Division

San Jose Chamber of Commerce

South Georgia Plant Growers

Sporting Arms and Ammunition
Manufacturers Institute, Inc.

Stephen Investments, Inc.

Sun Garden Packing Company

Sunkist Growers, Inc.

Transport Associates, Inc.

Tri/Valley Growers

U.S. Bromine Alliance

United Midwest Manufacturing Company

University of California

Victor A. Morris Farms

Warren Hicks & Sons, Inc.

Western Growers Association

Westpoint Pepperell, Inc.

Woolf Farming Co.

Zonner, Inc.

Appendix #2 -Declassified FBI Investigation into Israeli/AIPAC Theft of Classified Trade Data

Included in Exhibit E

Monsanto

THOMAS L. GOSSAGE
Group Vice President
and Managing Director

MONSANTO INTERNATIONAL
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Phone: (314) 894-2524

332-180

May 2, 1984

Secretary Kenneth Mason
United States International Trade Commission
701 E. Street, N.W.
Washington, D.C. 20436

250315

Dear Secretary Mason:

I would like to respond to the inquiry concerning the proposed U.S.-Israeli Free Trade Treaty now under discussion. There are some issues important to Monsanto and the chemical industry that should be considered during the ensuing discussion between the two governments.

- Intellectual Property Rights-Patents: While the protection offered by granted Israeli patents is satisfactory, a procedural flaw in this patent system can be manipulated to deny U.S. innovations' protection for extended periods of time. Monsanto, for example, has had a patent application pending on a product widely patented around the world for well over a decade.

Because a local concern has been able to take advantage of the procedural shortcomings in the Israeli "patent opposition system," the granting of a patent to Monsanto has been blocked. While these proceedings have gone on, the local firm has been producing and exporting Monsanto's proprietary product. Furthermore, it appears that the proceedings will continue beyond what would have been the full term of the patent -- if it had been issued in a reasonable time. Thus, at this point, Monsanto's patent application will be moot. All of these difficulties could be prevented by relatively simple changes in Israel's patent procedure laws.

If the problems inherent in the patent procedure laws are not corrected, the international competitiveness of U.S. high technology industries could be easily undercut. This is especially true in the agricultural chemical and pharmaceutical industries and has significant implications for the growing biotechnology area.

2.

We will be providing your office with a detailed paper outlining our concerns and possible solutions to problems that arise from Israeli patent procedure laws in the near future.

- Safeguards/Competitive Need Limits: Monsanto supports the establishment of a safeguard system modeled on the effective process developed in the GSP legislation. The need to maintain safeguards is important to ensure that U.S. chemical markets and U.S. manufacturers are not injured by imports. Three fourths of Israel's chemical industry is owned by the government, and it receives substantial export subsidies. The government also subsidizes research and development in the chemical industry. These incentives make Israel a strong competitor in agricultural chemicals and pharmaceuticals -- two areas which require a relatively low amount of capital investment compared to the traditional chemical businesses.

Currently 95% of Israel's chemical exports to the U.S. enter duty free through MFN and GSP privileges. In the decade ahead, Israel will become an increasingly active exporter of these products and may cause some market discontinuities in the U.S. Therefore, a system of safeguards, modeled on the GSP codes, would be extremely important to the chemical industry.

- Trade Distorting Factors and Non-Tariff Barriers: This agreement should also address non-tariff barriers and other trade-distorting practices such as export subsidies. For example, Israel requires importers to place on deposit 15% of the value of the import for one year in a non-interest bearing account. Because of Israel's high rate of inflation, this deposit acts as a 10% tariff on imports. In addition, as stated above, there are several export incentives that give Israeli producers a significant advantage compared to their international competitors.

In general, Monsanto strongly supports our government's efforts to strengthen U.S. international economic relations through bilateral trade and investment treaties with our trading partners. But these agreements should include strong statements on: 1) protection of intellectual property rights, 2) adequate and well-defined safeguard provisions, and 3) reduction and/or elimination of non-tariff barriers, export subsidies and performance requirements.

However, our government should also make a distinction between the advanced developing and developed countries with a strong current account position (such as Taiwan, Hong Kong and Japan) and those with severe balance of payments problems (such as Brazil, Mexico, and Argentina). In this regard, the United States should be willing to grant a "realistic" amount of time to obtain a phased-in reduction of tariff, non-tariff barriers, and export incentives with those countries with weak economies -- without sacrificing import safeguards or protection of U.S. property rights.

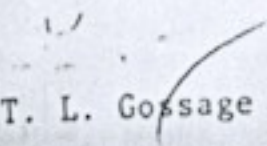
3.

With those countries with strong current account balances, the United States should be aggressive in obtaining lowered trade barriers, and protection of property rights. For example, Taiwan has a \$6.7 billion trade surplus with the U.S. and an average tariff rate of 30% -- the highest in the region. Taiwan has also resorted to quotas on U.S. imports despite the large U.S. trade deficit with Taiwan. The U.S. also has a \$20 billion trade deficit with Japan, and Japanese non-tariff barriers have been extremely successful in keeping out U.S. goods. The U.S. and Japanese government should work hard "to identify American sources that meet Japanese market requirements while encouraging Japanese procurement officials to purchase these products" -- as was stated in the Joint Communique of the 20th Japan-U.S. Businessmen's Conference.

In addition, we hope U.S. industry representation can continue to play a role in the bilateral negotiations. U.S. industry has a lot riding on these negotiations and our knowledge of the markets and products would be an asset in these discussions.

I hope these remarks prove useful in your discussions.

Yours truly,


T. L. Gossage

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing brief will be served on counsel for the Plaintiff-Appellant and Defendants-Appellees at the addresses set forth below by regular United States mail, this 3rd day of February, 2012.

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