

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* over issues raised by evidence he has gathered and distributed to the public through articles and books, which has been submitted as evidence by the Plaintiff-Appellant, which is also serving as evidence in other formal legal proceedings, but which has been materially misrepresented by the Defendant-Appellee.

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

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

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 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.” Smith has written a half-dozen books about Israel lobbying and espionage in the United States, as well as AIPAC’s history.

On July 25, 2011 the Defendant-Appellee filed its BRIEF OF APPELLEES claiming that the Plaintiff’s defamation suit was properly dismissed in Superior Court. As evidence it responded to declassified FBI files first obtained by the amicus curiae under the Freedom of Information Act. the Defendant-Appellee has previously cited the amicus curiae’s ongoing public interest correspondence with the Office of the President and subsequently introduced by the Plaintiff-Appellant into evidence in both Superior and Appeals court. The Defendant-Appellee fundamentally misrepresents the contents of the declassified FBI files and their meaning through erroneous statements and selective extraction.

As a recognized expert and public interest advocate, the amicus curiae is an interested party in questions raised by this matter. The negative effects of AIPAC’s possession 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 non-trivial and ongoing. The amicus curiae has led two separate efforts filed under Section 301 of the Trade Act of 1974 seeking \$6.64 billion in

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

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.⁵ 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 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 the large and growing body of evidence first presented to Foreign Agents Registration Act Section Chief Heather Hunt in November of 2009.⁶

Finally, the amicus curia is engaged in ongoing communications with the Tax Exempt Division of the Internal Revenue Service of the US Treasury Department over questions about AIPAC's 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

⁵ See Amicus Curie's Ex. A Filing to the USTR Section 301 Committee seeking \$6.64 billion in compensation for US Industry Organizations May 24, 2010

⁶ See Amicus Curie's Ex. B Heather H. Hunt, Chief, Registration Unit, Counterespionage Section, National Security Division response to Amicus Curiae request to Brief AG Holder, December 29, 2011

December of 2011.⁷ 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 made publicly available through the amicus curiae's public interest research. 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
Grant F. Smith, *pro se*



⁷ See Amicus Curie's Ex. C Nanette M. Downing, Director, Exempt Organization Examinations, confirmation of receipt of information about AIPAC tax exempt status, December 8, 2011

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion was served on counsel for the Plaintiff-Appellant and Defendants-Appellees at the addresses set forth below by regular United States mail, this 13th day of January, 2012.

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Grant F. Smith,



A. AIPAC WAS NOT CLEARED OF WRONGDOING OVER CIRCULATION OF 1984 CLASSIFIED US GOVERNMENT DOCUMENTS AS CLAIMED BY THE DEFENDANT-APPELLEE.

Between 1984 and 1987 the American Israel Public Affairs Committee was investigated by the FBI for theft of government property and espionage. The Defendant-Appellee argues in his July 25, 2011 BRIEF OF APPELLEES "what he [Rosen] does not go on to indicate is that following an FBI investigation, that AIPAC was cleared of any wrongdoing and the document that formed the basis of the investigation contained no classified national defense information. (App. 606-629)."

In fact, AIPAC was never "cleared of any wrongdoing." The FBI investigation files declassified and released to the amicus curiae in 2009 reveal that the investigation was terminated because the Israeli Minister of Economics who 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 and refused to reveal how he obtained it to FBI special agents. According to a final 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." 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 if any new leads 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."²

² See Amicus Curie's Ex. E Declassified FBI investigation files "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

B. AIPAC AND ITS EMPLOYEES WERE NOT CLEARED OF IMPROPRIETY OVER CIRCULATION OF 1984 CLASSIFIED US GOVERNMENT DOCUMENTS AS CLAIMED BY THE DEFENDANT-APPELLEE.

The Defendant-Appellee argues in his July 25, 2011 BRIEF OF APPELLEES that, "There was no evidence of any kind presented in the record that the alleged 1984 involvement by AIPAC that was investigated by the FBI, involved any impropriety by AIPAC or any AIPAC employee." This statement is also false. 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." Knowingly copying, retaining and continuing to use this report after the return order was clearly an impropriety of AIPAC and its employees.³

C. THE 1984 INVESTIGATION OF AIPAC CENTERED ON CLASSIFIED US GOVERNMENT DOCUMENT THEFT.

The Defendant-Appellee further argues in his July 25, 2011 BRIEF OF APPELLEES that "The matter clearly involved no classified documents." This is false. The FBI investigation was pursued 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*

³ See Amicus Curie's Ex. E Declassified FBI investigation files "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

for U.S. Imports from Israel, Investigation No. 332-180.⁴ This document was a product of an advice and consent process informing the US government whether or not to deliver valuable permanent trade preferences to Israel in the mid-1980s. This process involved soliciting and compiling confidential business data from over seventy US industry participants.

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* through a lengthy appeals process to the Interagency Security Classification Appeals Panel. However a December 22, 2011 letter the Office of the US Trade Representative affirmed that only "some portions" of the report had 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."⁵

D. AIPAC'S DE FACTO POLICY ON CLASSIFIED INFORMATION HANDLING IS OF PUBLIC INTEREST

The question of whether the Defendant-Appellee condones the receipt, circulation and tactical use of classified information is of primordial importance in this defamation suit and to outside efforts to properly regulate AIPAC. It is of vast public importance to outside stakeholders who believe that, based on public interest research and news reports, AIPAC engages in classified information trafficking with utter impunity. The Defendant-Appellee's efforts to minimize AIPAC's past activities is an attempt to muddy a deep and well-documented pool of evidence relevant to this question. Moreover,

⁴ See Amicus Curie's Ex. E Declassified FBI investigation files "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

⁵ 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.

this question could be rather easily resolved if both parties were compelled by the Appeals Court to engage in a bona fide process of discovery and cross-examination.

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*. On December 17, 1985 FBI Special Agent John Hosinki reported on a meeting with AIPAC 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.

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.” 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. On February 13, 1985 the FBI interviewed a third AIPAC employee who confirmed that after being ordered to return the classified document by the USTR, he “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.”

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.”

If this defamation proceeding wishes to understand AIPAC's de facto policy on classified US government information, it should depose and cross-examine the following parties who have now been identified through cross-referencing public information and newly released 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 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.

It is amicus curiae's view that the Plaintiff-Appellant has not deposed, nor would he ever call Douglas Bloomfield to testify about his classified information handling, compensation, retention by and employment incentives given by AIPAC. This is because Bloomfield has been publicly pressuring and advocating that AIPAC provide a private financial settlement to Rosen. In a *New Jersey Jewish News* article published days after the Plaintiff-Appellant filed his defamation suit, Bloomfield seemed to subtly threatened to reveal AIPAC as an Israeli government agent, claiming "Trials can be dangerous things. And not just for the accused. They can make or break prosecutors, defense lawyers, and judges. And even a vaunted lobby. The American Israel Public Affairs Committee and its leaders could be the biggest losers in a case that threatens to expose the group's inner secrets. One of the topics AIPAC won't want discussed, say these sources, is how closely it coordinated with Benjamin Netanyahu in the 1990s, when he led the Israeli Likud opposition and later when he was prime minister, to impede the

Oslo peace process being pressed by President Bill Clinton and Israeli Prime Ministers Yitzhak Rabin and Shimon Peres. That could not only validate AIPAC's critics, who accuse it of being a branch of the Likud, but also lead to an investigation of violations of the Foreign Agents Registration Act."⁶

Properly deposing AIPAC executives and Mr. Bloomfield about why he was allowed to continue working at the organization even after improperly handling US government classified information would serve the public's heavy interest in this proceeding. A proper deposition and interview of AIPAC employee Ester Kurz and her superiors along the same lines would also be of great value. This is because their past illicit activities continue to negatively impact thousands of US workers and tens of industries.

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

The Defendant-Appellant has previously described in Superior 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

⁶ See Amicus Curie's Ex. F Bloomfield, Douglas "The 'AIPAC Two' aren't the only ones on trial" New Jersey Jewish News, March 5, 2009

Representative, as originally announced through a February 15, 1984 *Federal Register* notice.⁷ In that notice, the US government specifically promised to protect confidential business information submitted 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..."⁸ 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."⁹

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

⁷ See Amicus Curie's Ex. H *Federal Register* / Vol. 49, No 32 / Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel" February 15, 1984

⁸ See Amicus Curie's Ex. I US Bromine Alliance Letter to the International Trade Commission over Data loss" ITC Public file November 1, 1984

⁹ See Amicus Curie's Ex. J International Trade Commission Chairwoman Paula Stern letter to the Bromine Alliance on confidential business data loss, November 29, 1984

competitor, was far from the only US 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 Evenson characterized AIPAC's action as "heavy handed".¹⁰ 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 providing information in favor of it.¹¹ By violating the due process of the negotiations, AIPAC and Israel were 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 able to launch a broad public relations campaign aimed at minimizing informed industry group concerns about impact of the trade preferences and while publicizing inflated estimates of mutual benefits in order to win its ratification by Congress. In reality the actual trade benefits have been almost entirely one-sided, an anomaly among all 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 agreement¹² 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

¹⁰ Hosenball, Mark "Footwear Industry News" October 1, 1984

¹¹ See Amicus Curie's Ex. A 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).

¹² Australia, Bahrain, Chile, Jordan, Morocco, Singapore.

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 is now the destination for up to 40% of Israel’s exports.¹³ There has been some 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 leadership’s concerns over Israeli patent protection.¹⁴ But Monsanto’s right to petition government effectively was subverted along the due process rights of the 73 other petitioner organizations when AIPAC obtained their closely held trade and market secrets.

E. AIPAC’S PAST CIRCULATION OF CLASSIFIED GOVERNMENT DOCUMENTS IS NON TRIVIAL AND SUBJECT TO FUTURE REDRESS AND DISGORGEMENT

In an earlier December 23, 2010 Superior Court motion 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 it rarely faces penalties for illegal acts. However, 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 in order to maintain the many considerable benefits granted to charities by

¹³ US Census Bureau International Trade Statistics Division TradeStat Express Database

¹⁴ See Amicus Curie’s Ex. K Monsanto Letter to Kenneth Mason of the International Trade Commission over patent concerns” ITC public file, May 2, 1984

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.

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 2012 finally begin to seek compensation from AIPAC and the Israeli Ministry of Economics over ongoing losses.


D. CONCLUSION

The Defendant-Appellee clearly wishes to minimize the contents and implications 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. 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 misrepresentations and omissions designed to minimize AIPAC's past handling of classified government documents are indistinguishable from the conduct for which it publicly chastised the Plaintiff as being outside “the conduct that AIPAC expects from its employees.” The *amicus curiae*

would invite the Appeals Court to exercise its inherent powers to craft and issue the appropriate orders against the Defendant-Appellee and its legal counsel as may be necessary in order to ensure that the court is able to reach a resolution that will be just and based on a full airing of all relevant past AIPAC activities.

The *amicus curiae* also notes that other courts, both criminal and civil, have started, or soon will be initiating, actions relevant to instances of classified US government information that is privately sought, obtained and circulated by persons not entitled to receive it. The consequence of the circulation of classified information by nongovernmental entities and individuals is becoming a matter of much broader public interest because the stakes are high and potential fallout enduring. If the Court thought it would be helpful, the *Amicus Curiae* could participate in upcoming hearings and the informed questioning of current and former AIPAC officials.

Finally, the *amicus curiae* notes the value of bona fide discovery and cross examination of AIPAC employees and officials directly involved in the 1984 incident investigated by the FBI. From the outside public interest standpoint, it is evident that AIPAC has been circulating classified US government information for a long time with impunity, to the lasting detriment of Americans. The Defendant-Appellee must not be allowed to use this or any other court proceeding to knit together dark yarn of false statements into an opaque cloak of manufactured facts.

	<p>Respectfully submitted Grant F. Smith, <i>pro se</i></p>  <hr data-bbox="922 1659 1144 1669"/> <hr data-bbox="1023 1795 1144 1806"/>
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DISTRICT OF COLUMBIA

COURT OF APPEALS


STEVEN J. ROSEN,)	
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Plaintiff-Appellant)	
v.)	
)	Appeal No. 11-cv-368
AMERICAN ISRAEL PUBLIC AFFAIRS)	
COMMITTEE, INC., et. al.,)	
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Defendants-Appellees)	
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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's review of the Defendants-Appellee's misrepresentations about the 1984-1987 FBI investigation of the American Israel Public Affairs Committee for espionage and theft of US government property.

Exhibit	DESCRIPTION
A	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).
B	Heather H. Hunt, Chief, Registration Unit, Counterespionage Section, National Security Division, US Department of Justice response to Amicus Curiae request to Brief AG Holder, December 29, 2011
C	Nanette M. Downing, Director, Exempt Organization Examinations, Internal Revenue Service confirmation of receipt of information about AIPAC tax exempt status, December 8, 2011
D	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
E	Declassified FBI investigation files "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	Bloomfield, Douglas "The 'AIPAC Two' aren't the only ones on trial" New Jersey Jewish News, March 5, 2009
H	Federal Register / Vol. 49, No 32 "Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel" February 15, 1984
I	US Bromine Alliance Letter to the International Trade Commission over Data loss, ITC Public file November 1, 1984
J	International Trade Commission Chairwoman Paula Stern letter to the Bromine Alliance on confidential business data loss, ITC Public file November 29, 1984
K	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;"/>
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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

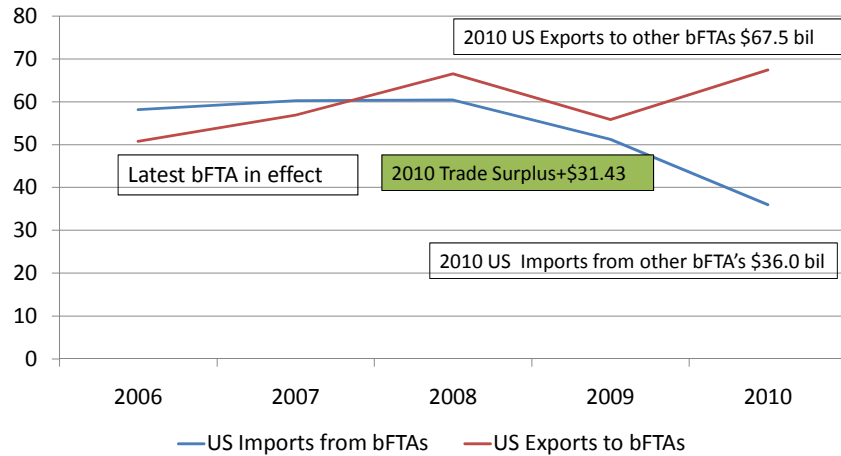
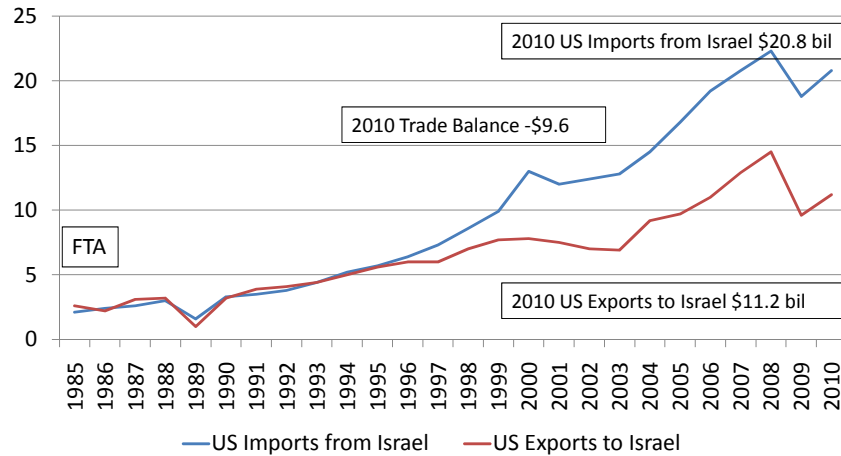


Figure 1 US-Bilateral FTA Performance

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**



U.S. Department of Justice

National Security Division

Washington, DC 20530

DEC 29 2011

Mr. Grant F. Smith
Director of Research
Institute for Research Middle Eastern Policy
Calvert Station
P.O. Box 32041
Washington, DC 20007

Dear Mr. Smith:

This is in response to your letter of August 23, 2011, to the Attorney General expressing your view that the American Israel Public Affairs Committee (AIPAC) should be required to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (FARA).

You will recall that representatives of the Department's Foreign Agents Registration Unit, including myself, met with you in November 2009. At that meeting you presented your position, both orally and in writing, as reflected in your recent letter, that AIPAC should register under FARA. On April 19, 2011, you requested a meeting with the Attorney General to discuss these same matters. We responded by letter dated May 18, 2011, requesting any additional information you may have regarding AIPAC. We have reviewed your August 23, 2011 letter and note that this letter contains the information previously presented in your prior letters and in our meeting. If you wish to share additional information with us please feel free to do so.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather H. Hunt", written over a horizontal line.

Heather H. Hunt, Chief
Registration Unit
Counterespionage Section
National Security Division

Exhibit C



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
MC 4910 DAL
1100 Commerce Street
Dallas, TX 75242**

**GRANT F SMITH
PO BOX 32041
WASHINGTON, DC 20007**

DATE OF THIS NOTICE:
December 08, 2011
CONTACT TELEPHONE NUMBERS:
Toll Free 1-877-829-5500

Dear Sir or Madam:

Thank you for the information you submitted regarding AMERICAN ISRAEL PUBLIC AFFAIRS. The Internal Revenue Service has an ongoing examination program to ensure that exempt organizations comply with the applicable provisions of the Internal Revenue Code. The information you submitted will be considered in this program.

Internal Revenue Code section 6103 protects the privacy of tax returns and tax return information of all taxpayers. Therefore, we cannot disclose the status of any investigation. If, at a later date, you have additional information that you believe is relevant to this matter, please attach a copy of this letter to the information and send it to the address shown above.

We appreciate your concern in bringing this matter to our attention. If you have additional questions, please call Customer Account Services at (877) 829-5500.

Sincerely,

A handwritten signature in cursive script that reads "Nanette M. Downing".

**Nanette M. Downing
Director, EO Examinations**



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) through (b)(6) and (d)(5) through (k)(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

Exhibit D

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,

A handwritten signature in black ink, appearing to read "David M. Hardy". The signature is cursive and somewhat stylized, with a prominent "D" and "H".

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.

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 (650-13189) (P), (C-9)

TO DIRECTOR, FBI PRIORITY

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

BT

~~C O N F I D E N T I A L~~

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 *[Signature]*
(4)

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

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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)

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
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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)

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
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PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

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- SECRET
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- 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.~~

BT

#0017

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

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FEDERAL BUREAU
OF INVESTIGATION
21 JUN 84 03 32z

Exec. AD-Adm.	
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Tech. Servs.	
Training	
Telephone Rm.	
Director's Sec'y	

Plates
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PP HQ

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

P 20 0224Z JUN 84

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

TO DIRECTOR, FBI PRIORITY

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.~~

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b7C

ON JUNE 19, 1984, [redacted] 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.

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[redacted] EXPLAINED THAT BEFORE THE PRESIDENT CAN ENTER INTO

PAGE TWO DE WF 0017 ~~CONFIDENTIAL~~

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

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b7C

PAGE THREE DE WF 0017 ~~CONFIDENTIAL~~

CONTACTED [REDACTED] OF THE AMERICAN ISRAELI PUBLIC AFFAIRS COMMISSION AND ASKED HER IF AIPAC HAD A COPY OF THIS REPORT. D [REDACTED] REPLIED YES AND [REDACTED] SAID THE MATERIAL WAS CLASSIFIED AND ASKED FOR IT TO BE RETURNED.

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LATER ON, [REDACTED] OF AIPAC TELEPHONED [REDACTED] 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.

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PAGE FOUR DE WF 0017 ~~CONFIDENTIAL~~

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

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[] 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.~~

BT

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DECLASSIFIED BY 60324 auc baw/dk/sbs
ON 04-17-2009

Airtel

Date: 8/13/84

TO: DIRECTOR, FBI

FROM: SAC, WASHINGTON FIELD OFFICE (65C-13191) (P) (CI-7)

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

~~SECRET~~

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

Re WFO tel to Director dated 6/20/84.

Enclosed for the Bureau are the original and four
copies of an LHM dated and captioned as above.

Preliminary investigation by WFO indicates that the
confidential report on trade with Israel was likely taken while
being prepared at the International Trade Commission (ITC). A
cursory review of security procedures at ITC disclosed no
security procedures are in place that would prevent outright
theft or the printing of an "extra" copy of the report.

This confidential report contains no national defense
information and was originally classified to protect the U.S.
bargaining position during negotiations with Israel. The
"Business Confidential" information identifies seven U.S.
industries that would be harmed by lowering import tariffs on
Israel products.

~~SECRET~~

~~Classified by: 558
Declassify on: OADR~~

2-Bureau (Enc. 5)
1-Washington Field

MFR:ldj
(3)

WFO 85C-13181

~~SECRET~~

Personnel at USTR and ITC were most angered by the fact that the American-Israeli Public Affairs Commission (AIPAC) had apparently attempted to influence members of Congress with the use of a purloined copy of the ITC report and had usurped their authority.

WFO files disclose that AIPAC is a powerful pro-Israel lobbying group staffed by U.S. citizens. WFO files contain an unsubstantiated allegation that a member of the Israeli Intelligence Service was a staff member of AIPAC.

REQUEST OF THE BUREAU

The Bureau is requested to coordinate this matter with the appropriate officials at the DEPARTMENT OF JUSTICE for a prosecutive opinion.

~~SECRET~~

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

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON FIELD OFFICE
WASHINGTON, D.C. 20535
August 6, 1984

UNKNOWN SUBJECTS:
THEFT OF CLASSIFIED DOCUMENTS FROM
THE OFFICES OF
THE UNITED STATES TRADE REPRESENTATIVES:
ESPIONAGE-ISRAEL
PRELIMINARY INQUIRY
(INITIATED JUNE 19, 1984)

~~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: August 13, 1984

BASIS FOR INVESTIGATION:

Investigation is based upon a complaint received from [redacted] Associate General Counsel, Office of the United States Trade Representative (USTR), 600 17th Street, NW, Washington, D.C. (WDC). This complaint alleges that person(s) unknown had made available to the government of Israel, a confidential report published by the International Trade Commission outlining The Probable Effect of Providing Duty-Free Treatment of Imports from Israel (332-180).

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b7c

INVESTIGATION TO DATE:

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. This report was to be available within four months. The first "prehearing report" was published April 4, 1984, by ITC. Twenty copies were distributed within ITC to key

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: 558
Declassify on: OADR~~

UNKNOWN SUBJECTS~~SECRET~~

personnel. On May 3, 1984, five more copies were distributed within ITC for senior staff/editorial review and for review by the six ITC Commissioners. On May 16, 1984, 13 more copies called "Action Jacket" copies were distributed within ITC as a device for recording the clearances and comments of the commissioners. On May 31, 1984, 40 copies of the final report were distributed with one copy to the President, 28 copies to USTR, and 11 copies within ITC. One copy of the statistical appendix to the subject report was made available to USTR on May 9, 1984, to assist in the preparation of testimony before Congress. No other copies were available to any other individuals or agencies until May 30, 1984.

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 a [redacted] of the Israeli delegation and an Israeli Embassy official from WDC. [redacted] stated 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.

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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 AIPAC, WDC, this member was left with the impression that AIPAC had a copy of the subject report although they did not offer a copy to this employee. This AIPAC member was familiar with the report's contents and conclusions.

On June 7, 1984, the Israeli trade minister and [redacted] lunched with Ambassador WILLIAM BROCK [redacted] 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, [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

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b7c~~SECRET~~

UNKNOWN SUBJECTS~~SECRET~~

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.

OBJECTIVE:

To identify individual(s) responsible for the unauthorized disclosure of the contents of the ITC report to the government of Israel and employees of AIPAC through interviews of ITC personnel and congressional staff aides.

~~SECRET~~

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DE HQ 0115 2442222

DECLASSIFIED BY 60324 uc baw/ak/sbs
ON 04-17-2009

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FM DIRECTOR FBI

TO FBI WASHINGTON FIELD OFFICE (85C-13191) ROUTINE

BT

~~SECRET~~

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

~~THIS COMMUNICATION IS CLASSIFIED "SECRET" IN ITS ENTIRETY.~~

RE WASH NGTON FIELD OFFICE AIRTEL, AND ENCLOSED LHM, DATED
AUGUST 13, 1984.

IN DISCUSSIONS WITH THE DEPARTMENT OF JUSTICE (DOJ)
REGARDING CAPTIONED CASE, DOJ OPINED THAT CAPTIONED MATTER DID
NOT REP

ESENT A VIOLATION OF THE ESPIONAGE STATUE AS IT WAS
REPORTED THAT NO NATIONAL DEFENSE INFORMATION WAS UTILIZED IN
THE PREPARATION OF THE REPORT. DOJ ADVISED A VIOLATION OF THE
THEFT OF GOVERNMENT PROPERTY (IGP) STATUS HAS OCCURRED AND THAT
THE MERITS OF THE IGP V SLATION SHOULD BE PRESENTED TO THE LOCAL
UNITEE STATES ATTORNEY'S OFFICE FOR A PROSECUTIVE OPINIDN.

~~C BY: 8049, DCL OADR.~~

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*Present joint w/ with
OSD Div. personnel*

AUG 30 8 07
70 X7951

52B-18153-1

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SERIALIZED <i>2/2</i>	FILED
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FBI-WASH. FIELD OFFICE	

present to AUSA w/

*9/17/84
52B*

1 2
8/30/84

~~SECRET~~

ROUTINE

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

FM DIRECTOR FBI

TO FBI WASHINGTON FIELD OFFICE (65C-13191) ROUTINE

BT

~~SECRET~~

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

~~THIS COMMUNICATION IS CLASSIFIED "SECRET" IN ITS ENTIRETY.~~

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REPORTED THAT NO NATIONAL DEFENSE INFORMATION WAS UTILIZED IN
THE PREPARATION OF THE REPORT. DOJ ADVISED A VIOLATION OF THE
THEFT OF GOVERNMENT PROPERTY (TGP) STATUS HAS OCCURRED AND THAT
THE MERITS OF THE TGP VIOLATION SHOULD BE PRESENTED TO THE LOCAL
UNITED STATES ATTORNEY'S OFFICE FOR A PROSECUTIVE OPINION.

TK8:LP (3)

8/30/84

4058/S 4570

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2 -

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SEE NOTE PAGE THREE

Exhibit E

~~C BY: 8049, DCL-OADR~~

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~~SECRET~~

PAGE THREE

NOTE:

THIS CASE WAS PREDICATED UPON RECEIPT OF INFORMATION FROM THE OFFICE OF THE U.S. TRADE REPRESENTATIVE (USTR), ON 6/19/84. USTR HAD REQUESTED THE U.S. INTERNATIONAL TRADE COMMISSION (ITC) TO PREPARE A REPORT REGARDING THE EFFECTS OF LOWERING IMPORT TARIFFS ON ISRAEL PRODUCTS. THE REPORT CLASSIFIED "CONFIDENTIAL" CONTAINS NO NATIONAL DEFENSE INFORMATION. BEFORE THE REPORT WAS MADE AVAILABLE TO THE USTR, THERE WERE REPORTS THAT THE AMERICAN ISRAELI PUBLIC AFFAIRS COMMISSION (AIPAC) HAD ALREADY RECEIVED A COPY OF THE REPORT. USTR CONTACTED AIPAC AND AIPAC SUBSEQUENTLY RETURNED A COPY OF THE REPORT TO THE USTR.

THIS MATTER WAS DISCUSSED WITH [REDACTED], INTERNAL SECURITY SECTION, DOJ, ON 8/21/84; WITH SSA [REDACTED], FUGITIVE/GENERAL GOVERNMENT CRIMES PROGRAM, ROOM 5062, ON 8/24/84; AND WITH [REDACTED] GENERAL LITIGATION AND LEGAL ADVISE SECTION, DOJ, ON AUGUST 24, 1984.

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THIS COMMUNICATION IS TO ADVISE WFO THAT THE DOJ HAS RECOMMENDED THAT CAPTIONED MATTER BE PRESENTED TO THE UNITED STATES ATTORNEY OFFICE FOR A PROSECUTIVE OPINION REGARDING VIOLATION OF THE TGP STATUE AS THE MATTER WOULD NOT WARRANT PROSECUTION AS A VIOLATION OF THE ESPIONAGE STATUE.



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No. 52B-18153

Washington Field Office
Washington, D. C. 20535

September 19, 1984

United States Attorney
Washington, D. C. 20001

Attention: Assistant United States Attorney
(AUSA) Charles Harkins

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

Re: Unknown Subjects;
Theft of Classified Documents
From The United States Trade
Representatives; Theft of
Government Property

Dear Sir:

Please recall a conversation between AUSA Charles Harkins and Special Agent [redacted] of this office on September 18, 1984. On this occasion, the following facts were discussed:

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On January 25, 1984, the U.S. International Trade Commission (ITC), Washington, D. C., was requested by the United States Trade Representatives (USTR) to prepare a report for the President relating to the establishment of a free trade area with Israel. This report was to be available within four months. The first "pre hearing report" was published April 4, 1984, by ITC.

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 AIPAC, Washington, D. C., this member was left with the impression that AIPAC had a copy of the subject report.

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

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- 2 - Addressee
- ② - Washington Field Office
- ① - 52B-18153
- ① - 65C-13191
- TVW:pep
- (4) JCP

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5/20/84
9/1/89

52-18153-2

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SEP 19 1984	
FBI-WASH. FIELD OFFICE	

return this report and all copies. Subsequently, [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. No national defense information was utilized in the preparation of the ITC report.

The USTR conducted an internal investigation into the unauthorized release of the document. This investigation revealed that 78 copies of the document were made prior to May 30, 1984, a large number of USTR personnel had access to the document. The investigation was inconclusive as to who released the document.

Representatives from FBIHQ discussed the case with Department of Justice (DOJ) officials and the DOJ officials stated the matter did not present a violation of the Espionage Statute because no national defense information was utilized in the preparation of the report. DOJ advised a violation of the Theft of Government Property (TGP) statute has occurred and that the merits of the TGP violation should be presented to the local U.S. Attorney's Office for prosecutive opinion.

AUSA Harkins and SA [redacted] discussed the matter and both agreed the case lacks prosecutive merit. Thus, AUSA Harkins declined prosecution of the matter under the TGP statute.

In view of AUSA Harkins' opinion, this office will not investigate the matter any further.

Sincerely,

Norman A. Zigrossi
Special Agent in Charge

By: [redacted]
Supervisory Special Agent

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

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

DECLASSIFIED BY: 60324 uc baw/dk/sbs
DN 04-17-2009

Date 9/21/84

TO: DIRECTOR, FBI

~~SECRET~~

FROM: SAC, WASHINGTON FIELD OFFICE (65C-13191) (C) (CI-7)

THEFT OF CLASSIFIED DOCUMENTS FROM
THE UNITED STATES TRADE REPRESENTATIVES;
ESPIONAGE-ISRAEL
OO:WFO

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

Reference Butel to WFO, 8/27/84.

Referenced communication advised that captioned matter had been coordinated with the DEPARTMENT OF JUSTICE (DOJ) and that the DOJ had determined that no violation of an espionage statute had occurred inasmuch as national defense information was not used in the preparation of the USTR report. DOJ recommended this matter be pursued as a Theft of Government Property (TGP) and that a prosecutive opinion be obtained from the U.S. Attorney, Washington, D.C.

On 9/18/84, Assistant U.S. Attorney (AUSA) CHARLES HARKINS advised that he had reviewed the captioned matter and decided that this case lacks prosecutive merit under the TGP statute and therefore declined prosecution.

Based upon the above prosecutive opinion, this matter is considered closed.

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

2-Bureau
1-Washington Field
MFR:ced
(3)

CARBON COPY

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

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

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

C-X

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

Date 12/6/84

TO: DIRECTOR, FBI
 (ATTN: FUGITIVE/GENERAL GOVERNMENT
 CRIMES UNIT)

FROM: SAC, WASHINGTON FIELD (65C-13191) (C) (CI-15)

UNSUB; THEFT OF CLASSIFIED
 DOCUMENTS FROM THE UNITED STATES
 TRADE REPRESENTATIVES;
 ESPIONAGE-ISRAEL;
 OO:WFO
 BUDED: 12/15/84

Preliminary inquiry initiated 6/21/84; closed 9/26/84.

Reference Bureau airtel to WFO, 11/13/84.

The above captioned matter was initially investigated as an espionage matter; however, the Department of Justice was consulted and advised that this matter should be pursued as a Theft of Government Property (TGP) matter inasmuch as no national defense information was utilized in the preparation of the report prepared for the U.S. Trade Representative.

On 9/19/84, this matter was presented to AUSA CHARLES HARKINS, U.S. Attorney, Washington, D.C., and HARKINS advised that he had reviewed the investigation to date and decided this case lacks prosecutive merit under the TGP statute and therefore declined prosecution. In view of AUSA HARKINS' opinion, this office did not pursue the matter further and terminated the investigation.

3-Bureau
 2-WFO
 (1-52B-18153)

cc-4

52-18153-3
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 Filed *mdt*
 12-6-84

MFR:ced
 (5)

Approved: _____ Transmitted _____ Per _____

(Number) 5
 (Time) 12/12/84
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*sdj 12/12/84
 already closed 9/26/84*

WFO 65C-13191

An investigative summary of this matter was prepared 8/6/84, and forwarded to the Bureau prior to coordination with DOJ. No other reports were prepared.



~~SECRET~~

Subject

Unknown Subjects, Theft and Unauthorized Disclosure of Documents From the United States International Trade Commission

Date

NOV 1 1985

SST:GEMcD:GAC:mtf

To

The Director
Federal Bureau of Investigation

From

Stephen S. Trott
Assistant Attorney General
Criminal Division

The Criminal Division has determined that additional investigation should be conducted to ascertain responsibility for the unauthorized disclosure of the report of the United States International Trade Commission (No. 332-180). This matter was the subject of a previous FBI inquiry which may be identified by reference to file no. 52B-18153.

The known information indicates that it is likely that offenses under 18 U.S.C. §641 (theft of government property) and 18 U.S.C. §1905 (disclosure of confidential business information) have occurred; therefore, please conduct an appropriate investigation, designed to identify the offender or offenders and to determine the details regarding the disclosure(s).

Reports of your investigation should be made to the Public Integrity Section to the attention of [redacted]

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[redacted] Any questions regarding the investigation should be addressed to him.

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

~~SECRET~~

52B-18153-4
SEARCHED _____
SERIALIZED *mdj*
INDEXED _____
FILED *mdj*
12-2-85

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, 724-7137 [redacted] 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
52B-18153-5
not not
not 12/2/85
not

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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.

USTRA
[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

Date of transcription 1/6/86

1

[redacted]
American Israel Public Affairs Committee (AIPAC), 500 North
Capitol Street, N.W., Suite 300, Washington, D.C. (WDC),
telephone #638-2256 was interviewed by FEDERAL BUREAU OF
INVESTIGATION Special Agents (SAs) [redacted] and
[redacted] regarding a trade report published by
the United States Trade Representatives (USTR) which allegedly
was in the possession of AIPAC in 1984.

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[redacted] was interviewed in the presence of her
Attorney, [redacted] representing the law firm of
DICKSTEIN, SHAPIRO, AND MORIN, 2101 L Street, N.W., WDC,
telephone #828-2236. [redacted] provided the following information:

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[redacted] advised that she has been employed with
AIPAC from January 1982 until present. She advised that in
April of 1984, she received a document from an Israeli Embassy
Official, [redacted] advised that [redacted]
is the [redacted] at the Israeli Embassy. [redacted]
[redacted] described this document as being an International Trade
Commission (ITC) report studying free trade between Israel
and America and the implications resulting from possible
agreements. She stated that the document was 50-80 pages in length and
that she was not aware of the title of this report. She further
advised that this document was marked "confidential".

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Regarding the receipt of this document, [redacted]
stated that [redacted] came to the AIPAC office for a meeting
and prior to the meeting he handed her an envelop which was
unmarked. At that time, she said she was unaware of the contents
of the envelop. She further stated that this meeting was a
conference on the free trade issue between America and Israel
but she advised she cannot recall who else was attending this
meeting.

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Investigation on 12/19/85 at Washington, D.C. File # 52B-18153-7
SAs [redacted]
by [redacted] JAH:rlw Date dictated 12/23/85

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Continuation of FD-302 of [REDACTED]

, On 12/19/85 , Page 2*

[REDACTED] stated that [REDACTED] never discussed the document with her and that he never explained to her how he received it. She stated that after she received the document, she placed the document in her desk and subsequently gave it a cursory examination a short time later before passing it on to [REDACTED] for AIPAC. She advised that she provided [REDACTED] with this document approximately one week after she had received it from [REDACTED]. [REDACTED] advised that when she gave this document to [REDACTED] she does not recall any specific instructions she gave to [REDACTED].

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[REDACTED] advised that she paid no attention to this document until she received a phone call from the U.S. Trade Representative (USTR) General Counsel [REDACTED] several weeks later. [REDACTED] called to ascertain if AIPAC had this trade report in their possession. She further advised that prior to that call she was given a duplicate copy of the report by AIPAC official [REDACTED]. She advised she had no information as to who duplicated this report but that after AIPAC received a call from [REDACTED] she then received a call from [REDACTED] telling her to destroy the duplicate copy of the report. [REDACTED] advised that she destroyed this duplicate copy by throwing it down the garbage chute at her residence. She stated that the original report was then returned to the U.S. Trade Representatives but that she does not know the identity of the person who returned the report.

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Regarding the availability of the report, [REDACTED] advised that the document was known to be "floating around town" and that the contents of the report were common knowledge to those interested in these matters.

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[REDACTED] advised that she could provide no opinion or comments regarding what other officials at AIPAC may have seen the report or in what manner [REDACTED] obtained the report. It was then requested by her Attorney, [REDACTED], that if the FBI had any further request of [REDACTED] that the FBI should contact [REDACTED] and he would submit any questions to [REDACTED]. [REDACTED] otherwise did not wish to furnish any additional information regarding this matter.

FEDERAL BUREAU OF INVESTIGATION

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

Date of transcription 1/6/86

[redacted]
Maryland, home telephone [redacted] was interviewed by FEDERAL BUREAU OF INVESTIGATION (FBI) Special Agents (SAs) [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] 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

SAs [redacted]
by [redacted] JAH:rlw Date dictated 12/23/85

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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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X AIRTEL

1/8/86

TO: DIRECTOR, FBI
ATTENTION: FUGITIVE/GENERAL CRIMES UNIT

FROM: SAC, WASHINGTON FIELD (52B-18153) (C) (C-4) ~~SECRET~~

UNSUBS; Theft and Unauthorized
Disclosure of Documents from the
United States International Trade
Commission
TGP;
(OO:WFO)

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

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

Re Bureau airtel dated 11/15/85, captioned as
above.

Enclosed for the Bureau are the original and
four (4) copies of an LHM captioned as above and two (2)
copies each of FD-302's concerning the interviews of [redacted]
[redacted] conducted by WFO on 12/19/85.

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Captioned matter initially investigated as an
espionage matter (Preliminary Inquiry initiated 6/19/84).
In August, 1984, DOJ advised that captioned matter did
not represent a violation of the espionage statute.

~~SECRET~~

Classified by: G-3
Declassify on: OADR

2 - Bureau (Enc. 9)
1 - Washington Field Office

JAH:cdd *ew*
(3)

Plot #5
11-11-86

52B-18153-9

SEARCHED
SERIALIZED
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JAN 1 1986
FBI - WASHINGTON

ret - for 52B

WFO 52B-18153

~~SECRET~~

On 9/18/84, Assistant United States Attorney (AUSA) CHARLES HARKINS declined prosecution of this matter under the Theft of Government Property (TGP) violation.

On 11/1/85, DOJ, Public Integrity Section requested re-investigation of captioned matter under captioned violations.

Subsequent investigation at WFO revealed that [REDACTED] EMBASSY OF ISRAEL, WDC, was the individual who presented this document to representatives of the AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE (AIPAC) in WDC.

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Logical investigation dictates that [REDACTED] be interviewed regarding this matter. However, due to the fact that [REDACTED] and has been granted immunity against prosecution in the U.S., WFO is considering this matter closed. WFO will re-open this matter if authority is granted regarding the interview of [REDACTED]

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REQUEST OF THE BUREAU

Liaison with appropriate officials at the DEPARTMENT OF JUSTICE and at the U.S. DEPARTMENT OF STATE to determine procedure for obtaining authority to interview [REDACTED] regarding captioned matter.

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

52B-18153

Washington, D.C. 20535
January 14, 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:

January 3, 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:cdd
(6)

UNKNOWN SUBJECT~~SECRET~~Investigation 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] of the Israeli Delegation and [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.

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On or about May 30, 1984, prior to the USTR distribution of the "final report", a member of the Trade Sub-Committee 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 Ministry and [redacted] lunched with Ambassador William Brock [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.

UNKNOWN SUBJECT~~SECRET~~

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, [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 Mr. [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,

~~SECRET~~

UNKNOWN SUBJECT~~SECRET~~

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:

Mr. [REDACTED] DOJ, Public Integrity Section, was designated to coordinate this investigation. A meeting took place on November 15, 1985, at the Department of 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, two employees at AIPAC [REDACTED] [REDACTED] were interviewed by WFO.

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On December 19, 1985, [REDACTED] was interviewed by WFO and advised that she was employed as [REDACTED] for AIPAC during the period of [REDACTED]

[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] [REDACTED] for AIPAC, in approximately June of 1984.

[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]

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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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UNKNOWN SUBJECT

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Both [redacted] and [redacted] were accompanied by their attorney's during their respective interviews.

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In an effort to locate the individual responsible for releasing this report, the USTR conducted an internal investigation into this matter. This investigation revealed that 78 copies of the document were made prior to May 30, 1984. Investigation revealed that a large number of USTR personnel had access to this document. The investigation was inconclusive regarding who released the report.

Conclusion:

Appropriate officials at the U.S. Department of State and at the U.S. Department of Justice will be requested to review this matter and make a determination regarding the feasibility of interviewing [redacted] [redacted] concerning captioned matter.

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M E M O R A N D U M

1/28/86

TO: SAC, WFO (52B-18153)

FROM: SSA [redacted]

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

Re telephone call of SSA [redacted] to SSA [redacted]
[redacted] 1/23/86.

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By referenced telcall, SSA [redacted] requested that
captioned investigation be reopened by WFO. SSA [redacted] stated
that Department of Justice had requested additional interviews be
conducted in furtherance of this investigation. Specifically,
SSA [redacted] requested that [redacted] of the Israeli
Embassy and MR. [redacted] of AIPAC be interviewed by WFO
personnel to obtain all details regarding their contact with
documents mentioned in this investigation.

[redacted] further advised that prior to [redacted] being
interviewed, authority should be obtained from the Israeli desk
at the U.S. State Department in view of [redacted] diplomatic
status.

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

2-WFO
CJD:pep (2)
pep

Reopen
As
2/3/86
assign
[redacted]

52-18153-10
SEARCHED INDEXED
SERIALIZED
FEB 3 1986
FBI - WASH DC
[redacted]

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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]

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[redacted] regarding a classified report received by AIPAC in June
of 1984.

[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

By

[redacted] DDR:erw Date dictated 2/14/86

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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.

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

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

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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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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

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[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.

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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~~SECRET~~

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

5-Bureau
1-Washington Field Office

JAH:las
(6)

UNKNOWN SUBJECT

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

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

Regarding the receipt of this report, [] 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. [] did state that this person was not a U.S. Government official or an employee of the U.S. Government.

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[] 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.

[] 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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[] 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 SUBJECT

Conclusion:

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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C-4

TRANSMIT VIA: AIRTEL

CLASSIFICATION: _____

DATE: 1/14/87

FROM: Director, FBI

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

UNSUBS;
THEFT AND UNAUTHORIZED DISCLOSURES
OF DOCUMENTS FROM THE UNITED STATES
INTERNATIONAL TRADE COMMISSION;
THEFT OF GOVERNMENT PROPERTY
OO: WASHINGTON FIELD

Enclosed for Washington Field are two copies of a self-explanatory letter received from the Department of Justice, dated August 25, 1986, classified Secret, pertaining to captioned matter.

Washington Field should close your investigation based on the enclosed letter.

Enclosures (2)
gaw

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

52B-18153-16

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[Handwritten signature]

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:

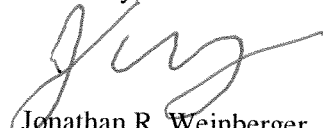
This letter is USTR's response to the ISCAP decision to declassify and release some portions of the report, "Probably Economic Effect of Providing Duty-Free Treatment for Imports from Israel," Investigation No.332-180.

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

The 'AIPAC Two' aren't the only ones on trial



by [Douglas M. Bloomfield](#)

March 5, 2009

Trials can be dangerous things. And not just for the accused. They can make or break prosecutors, defense lawyers, and judges. And even a vaunted lobby.

The American Israel Public Affairs Committee and its leaders could be the biggest losers in a case that threatens to expose the group's inner secrets.

The oft-delayed trial of two former AIPAC staffers charged with passing classified information to journalists and the Israeli government is now expected to begin May 27, but that could easily slip, and don't be surprised if it never happens, given a series of prosecutor setbacks.

Two of those setbacks occurred last month when prosecutors lost their attempt to block the former AIPAC staffers from using critical materials and witnesses in their defense.

The government case has been losing steam as a result of these and other court rulings. Many of the Justice Department professionals responsible for bringing the case are gone, most notably the chief prosecutor, who quit last year to go into private practice, a sign some see as a lack of faith in a high-profile case.

The case was brought by the secrecy-obsessed Bush administration, which had vowed to plug all leaks unless Dick Cheney authorized them to go after his enemies.

This case was on tenuous legal ground from the start. It was the first time the 1917 espionage law was invoked against civilian nongovernment employees who distributed information they received from the government.

In the face of an increasingly weak case, the Justice Department may try to avoid an embarrassing loss by dropping it under the cover of protecting classified information from public exposure, as it has done in similar cases.

Although AIPAC claims it has nothing to do with the convoluted case, it is also on trial, in a way. The organization fired the pair and said they were rogues acting beneath the group's standards. That will be shot full of holes from all directions in court, whether in the criminal case or in a likely civil suit by the defendants claiming damage to their reputations and careers.

The mere threat of a multimillion-dollar civil suit could prompt a very generous settlement offer from AIPAC in exchange for a vow of silence from the former staffers. But don't worry; AIPAC can easily afford it.

Soon after the FBI raided AIPAC offices, the organization launched a fund-raising campaign to defend against any charges, and the appeals for money didn't stop when it fired the pair. Since the scandal broke in 2004, AIPAC's fund-raising juggernaut has hauled in so much dough that one senior staffer told me that "it's coming in faster than we know what to do with it."

JTA quoted tax records showing AIPAC raised \$86 million in 2007, doubling 2003's \$43 million. Not all of that money was a result of the espionage case, but many millions were.

In cutting loose the pair, AIPAC insisted it had no idea what they were doing. Not so, say insiders, former colleagues, sources close to the defense, and others familiar with the organization.

One of the topics AIPAC won't want discussed, say these sources, is how closely it coordinated with Benjamin

Netanyahu in the 1990s, when he led the Israeli Likud opposition and later when he was prime minister, to impede the Oslo peace process being pressed by President Bill Clinton and Israeli Prime Ministers Yitzhak Rabin and Shimon Peres.

That could not only validate AIPAC's critics, who accuse it of being a branch of the Likud, but also lead to an investigation of violations of the Foreign Agents Registration Act.

"What they don't want out is that even though they publicly sounded like they were supporting the Oslo process, they were working all the time to undermine it," said a well-informed source.

"After Rabin came in in 1992 and said he wanted to make peace and signed the Oslo accords, and the U.S. was supposed to pay the tab, every restriction on all political and financial dealings [by the Palestinians] came out of our office," said the insider. "We took full advantage of every lapse by [Yasser] Arafat and the Palestinians to put on more restrictions and limit relations," the source added.

In addition to cooperating with the Israeli opposition, AIPAC worked closely with congressional Republicans to undermine the Clinton administration's Middle East policy, several sources confirmed.

If this case goes to trial, civil or criminal, the inner workings of AIPAC will be aired, and it will be clear that top professional and lay leaders were kept fully informed, said a former official.

Defense lawyers are expected to contend both staffers were following routine practices not only condoned but encouraged by the organization's leadership. The FBI has evidence showing that when juicy material was collected it was shared with the higher-ups.

Will the organization want to go through discovery, depositions, interrogatories, subpoenas, and compelled testimony under oath about all the elements of this case? That could be the key to very generous out-of-court settlements for Steve Rosen and Keith Weissman.

That will leave unanswered the biggest question of all: Why was this case brought in the first place?

Douglas M. Bloomfield is the president of Bloomfield Associates Inc., a Washington lobbying and consulting firm. He spent nine years as the legislative director and chief lobbyist for AIPAC.

Comment: comments@njewishnews.com

--TOP--



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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



RECEIVED FOR
ACTION

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

RECEIVED
NOV 11 1985

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.

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

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?



RECEIVED

 NOV 29 1984
 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.

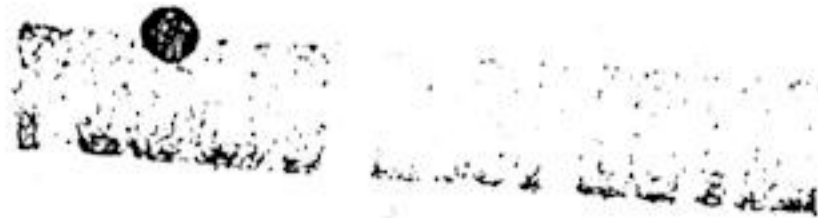
Sincerely,


Paula Stern
Chairwoman

Enclosures

cc: Norris Lynch
Xen Mason
Mike Mabile
Lorin Goodrich

Monsanto



THOMAS L. GOSSAGE
Group Vice President
and Managing Director

MONSANTO INTERNATIONAL
800 N. Lindbergh Boulevard
St. Louis, Missouri 63167
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.

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.

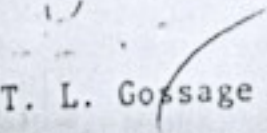
However, our government should also make a distinction between the advanced developing and developed countries with a strong current account position (such as Taiwan, Hong Kong and Japan) and those with severe balance of payments problems (such as Brazil, Mexico, and Argentina). In this regard, the United 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.

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

Brief

I hereby certify that a true and accurate copy of the foregoing Motion was served on counsel for the Plaintiff-Appellant and Defendants-Appellees at the addresses set forth below by regular United States mail, this 13th day of January, 2012.

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