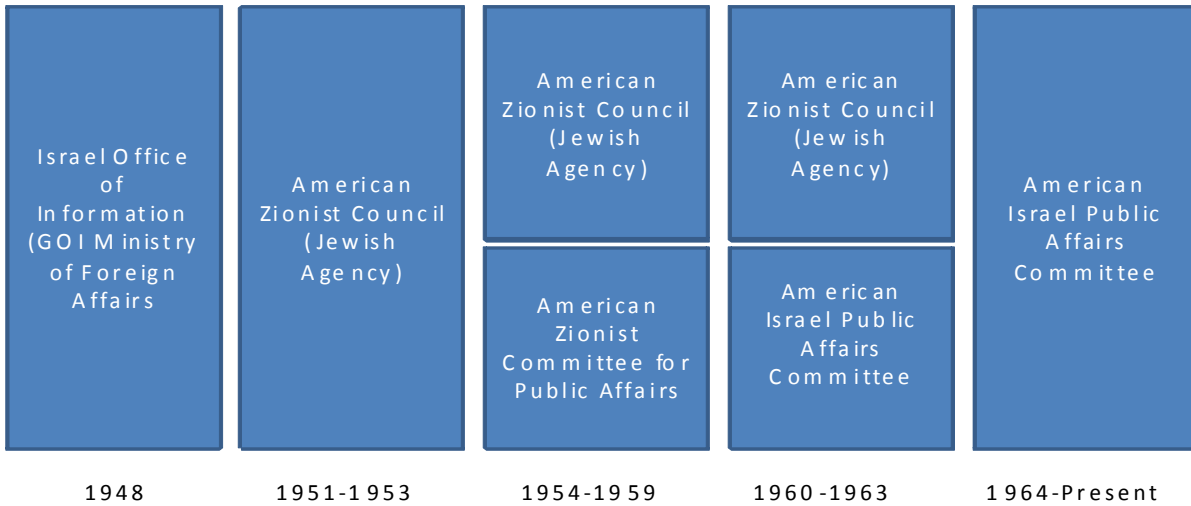


# American Israel Public Affairs Committee (AIPAC)

## The Case for Revocation of Tax Exemption

EIN 53-0217164





## The Case for Revocation of Tax Exemption

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*“In America, the law is king.” – Thomas Paine*

*“A government of laws and not men.” – John Adams*

*“If a charity is breaking the tax law, is engaged in activities that they are not supposed to be engaged in, we certainly will go after them. Every year we pull 501(c)(3) charity status from a number of charities. We've got thousands of audits going on regarding charities, and so we don't hesitate to administer the tax laws and make sure that people are following the rules.” – Douglas Shulman, Commissioner, IRS<sup>1</sup>*

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## Executive Summary:

The American Israel Public Affairs Committee (AIPAC) is ineligible for tax-exempt status granted by the IRS on January 25, 1968 (see appendix AIPAC IRS Determination Letter 1/25/1968). Representations made to the IRS on AIPAC's form 1024 application for tax-exempt status (see appendix AIPAC Application for Tax Exempt Status Form 1024 11/27/1967) contained material omissions and misrepresentations that have recently come to light. The unsealing, declassification and release of records compiled in a Senate Foreign Relations Committee investigation (see appendix Senate Record 87<sup>TH</sup>-88<sup>TH</sup> Congress, Committee on Foreign Relations Investigation into the Activities of Non-Diplomatic Representatives of Foreign Principals in the United States) FBI counter espionage and theft of government property investigations (see appendix 1984-1987 FBI Investigation of AIPAC for Espionage and Theft of Gov't Property and appendix FBI 1999-2005 AIPAC Espionage Investigation News Clipping Files), and other releases can now be evaluated against AIPAC's claimed tax exempt activities.

AIPAC's founder left the Israeli government after agreeing with its representatives to lobby for aid and support in the United States. He formed a lobbying division for the American Zionist Council (AZC) and managed to skirt the 1938 Foreign Agents Registration Act for over a decade until the Department of Justice ordered the AZC to begin registering as an Israeli foreign agent in 1962. AIPAC failed to report how its conduit financing and the legal violations documented by a US Senate investigation in 1961-1964 led to the incorporation of AIPAC just six weeks after the FARA order. AIPAC's tax exemption therefore was granted on the basis of incomplete and fraudulent information herein detailed.

Little inside knowledge and few declassified documents are needed to understand that AIPAC's purpose is to represent and secure concessions for the Israeli government in the United States. AIPAC's activities have inevitably led to many costly law enforcement actions as different regulators attempted to limit its harmful impact on society. AIPAC's earliest “educational” activities helped spur nuclear proliferation in the Middle East in direct opposition to official US policy while its foreign funded propaganda campaigns undermined the US news media, academia and freedom of speech. Documented AIPAC propaganda campaigns funded and conducted on behalf of Israel confirm that is not an “educational” association either by the IRS definition or section of DC Code under which it was organized.

AIPAC's actual activities also reveal it serves few discernable social welfare functions in the United States—a requirement for 501(c)(4) status. The Department of Justice, the Senate Foreign Relations Committee, the FBI, the US Trade Representative and the federal judiciary system have all undertaken costly monitoring and enforcement actions in response to the harmful AIPAC activities documented here. Declassified, organized and analyzed, these enforcement files provide a compelling documentary record of violations the IRS must now review against AIPAC's claimed charitable

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<sup>1</sup> “The Diane Rehm Show,” National Public Radio, 1/11/2010

purposes. Acting on the evidence contained in this complaint is a litmus test for whether the US is a country functioning under rule of law, or under the power and influence of groups of highly organized individuals who operate above the law.

## IRS Enforcement

The following complaint refers to specific, documented AIPAC violations of IRS rules and regulations. Revoking an organization's tax-exempt status ruling is an authority held by the IRS.<sup>2</sup> There are three principal considerations which may lead to revocation:

1. Omission or misstatement of a material fact in the process of acquiring recognition of exemption or in connection with the filing of an annual information return.
2. Operation in a manner materially different from that originally represented.
3. Prohibited transactions, entered into for the purpose of diverting a substantial part of an organization's corpus or income from its exempt purpose.<sup>3</sup>

The IRS has discretion whether to revoke an organization's tax-exempt status prospectively or retroactively. This discretion is broad, reviewable by the courts only for its abuse.<sup>4</sup> Generally, a public charity that has its tax-exempt status retroactively revoked will be treated as a corporation for tax purposes.<sup>5</sup> The IRS rules and regulations applicable to AIPAC include—but are not limited to—the following.

## Illegal Activities

Charitable organizations may not engage in illegal activities.<sup>6</sup> Organizations may not claim charitable purpose as a cover for stealth activities that are illegal or contrary to public policy.<sup>7</sup> They also may not claim tax exempt charitable status or status as a social welfare organization if openly encouraging violations of local ordinances and breaches of public order.<sup>8</sup> In one test case the IRS ruled:

*In this case the organization induces or encourages the commission of criminal acts by planning and sponsoring such events. The intentional nature of this encouragement precludes the possibility that the organization might unfairly fail to qualify for exemption due to an isolated or inadvertent violation of a regulatory statute. Its activities demonstrate an illegal purpose which is inconsistent with charitable ends. Moreover, the generation of criminal acts increases the burdens of government, thus frustrating a well recognized charitable goal, i.e. relief of the burdens of government. Accordingly, the organization is not operated exclusively for charitable purposes and does not qualify for exemption from Federal income tax under section 501(c)(3) of the code.*

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<sup>2</sup> Friedland, "Constitutional Issues in Revoking Religious Tax Exemptions: Church of Scientology of California v. Commissioner," 39 U. Fla L. Rev 565 (1985); Yaffa, "The Revocation of Tax Exemptions and Tax Deductions for Donations to 501(c)(3) Organizations on Statutory and Constitutional Grounds," 30 U.C.L.A. L. Rev. 156 (1982).

<sup>3</sup> Hopkins, Bruce R., "The Law of Tax Exempt Organizations", 9<sup>th</sup> Edition p. 893

<sup>4</sup> Automobile Club of Mich. V. Comm't, 353 U.S. 180 (1957). Also Dixon v. United States, 380 US (1965)

<sup>5</sup> IRC §7701

<sup>6</sup> Hopkins, Bruce R., "The Law of Tax Exempt Organizations", 9<sup>th</sup> Edition p. 191

<sup>7</sup> Restatement of Trusts (2d ed. 1959) § 377, Tank Truck Rentals, Inc. v. Comm'r, 356 U.S. 30 (1958)

<sup>8</sup> Rev. Rul. 75-384, 1975-2 C.B. 204

Illegal activities, which violate the minimum standards of acceptable conduct necessary to the preservation of an orderly society, are contrary to the common good and the general welfare of the people in a community and thus are not permissible means of promoting the social welfare for purposes of section 501(c)(4) of the Code. A string of illegal activities documented in FBI and other law enforcement and court files reveal that AIPAC is not operated exclusively for the promotion of social welfare and does not qualify for exemption from Federal income tax under section 501 (c)(4).

### **False Charitable Purpose**

The IRS has held that the “common element of all charitable purposes is that they are designed to accomplish objects which are beneficial to the community.”<sup>9</sup> As documented in the following pages, AIPAC has a history of Foreign Agents Registration Act violations, espionage, money laundering, theft of government property, acting as an unregistered foreign agent. Former AIPAC insiders openly claim a right to violate statutes governing the handling of classified national defense information in order to advance Israeli interests and engage in covert operations to subvert sanctioned US government policies.

### **Front Groups**

The corporate form may be disregarded and the tax liabilities passed through to another entity where the revoked corporation is in substance a sham that should be disregarded as the “alter ego” of a controlling individual or group or where the corporation is functioning as an agent with respect to contributed funds.<sup>10 11</sup> The majority of AIPAC’s startup funding, as documented here, was provided by the Jewish Agency, a Jerusalem based quasi-governmental organization.

### **Fraudulently Obtained Determination Letters**

A determination letter or ruling recognizing tax exemption usually is effective as of the date of formation of the organization where its purposes and activities during the period prior to the date of the determination letter or ruling were consistent with the requirements for tax exemption.<sup>12</sup> AIPAC’s were not. If the organization is required to alter its activities or to make substantive amendments to its enabling instrument, the determination letter or ruling recognizing its tax-exempt status is effective as of the date specified in the determination letter or ruling. If a nonsubstantive amendment is made, tax exemption is ordinarily recognized as of the date the entity was formed.<sup>13</sup>

An organization is considered organized on the date it became a charitable entity.<sup>14</sup> The IRS recognizes AIPAC’s organization date as 1954, even though it was determined to be a Jewish Agency front organization by a Senate investigation. In determining the date on which a corporation is organized for purposes of this exemption recognition process, the IRS looks to the date the entity came into existence under the law of the state in which it was incorporated, which usually is the date its articles of incorporation were filed in the appropriate state office.<sup>15</sup>

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<sup>9</sup> Restatement of Trusts (2d ed. 1959) § 368, comment a.

<sup>10</sup> E.g., *Comm’r v Bollinger*, 485 U.S. 340 (1988); *National Carbide Corp. v. Comm’r*, 336 U.S. 422 (1949).

<sup>11</sup> Hopkins p. 895

<sup>12</sup> Reg. §601.201(n)(3)(i); Rev. Proc. 90-27, 1990-1 C.B. 514 § 13.01.

<sup>13</sup> Rev. Proc. 90-27, 1990-1 C.B. 514 § 13.01. Nonsubstantive amendments include correction of a clerical error in the enabling instrument or the addition of a dissolution clause.

<sup>14</sup> Reg §508-1(a)(2)(i) E.g. *Peek v Comm’r*, 73 T.C. 912 (1980); Rev. Rul 90-100, 1990-2 C.B. 156.

<sup>15</sup> IRC § 7502(a)(1).

This date is not the date the organizational meeting was held, bylaws adopted, or actual operations began.<sup>16</sup> Where a charitable organization files a timely application for recognition of tax exemption, and the determination letter or ruling ultimately is favorable, the ability to receive deductible charitable gifts is effective as of the date the organization was formed. An organization that qualifies for tax exemption as a charitable organization but files for recognition of exemption after the threshold notice period can be tax-exempt as a social welfare organization for the period commencing on the date of its inception to the date tax exemption as a charitable organization becomes effective.<sup>17</sup>

Contributions to social welfare organizations are generally not deductible as charitable gifts so this approach is of little utility to charitable organizations that rely significantly on contributions.<sup>18</sup> However tax exempt 501(c)(4) organizations receive substantial operational and reputational benefits from tax exempt status. **The IRS can revoke an organization's exempt status if the agency determines that the organization omitted or misstated a material fact in its application or operates in a manner materially different from that originally represented in the application.** AIPAC was incorporated in 1963, ten years after it claimed to initiate charitable activities. **It did so as the "breakaway" division of an organization engaged in illegal activities. AIPAC applied for tax exempt status in 1967, assuming that the resolution of the parent organization's illegal activity would be kept secret under the terms of an agreement with the Department of Justice. Its application for exemption is rife with fraudulent statements and material omissions of required information.**

## Petition for Relief

Third parties do not have legal standing to challenge 501(c) status in court. *Allen v. Wright*<sup>19</sup> set a precedent that citizens, watchdog organizations and even victims of actions that ought to disqualify an organization from tax exempt status (racial discrimination in the reference case) are not redressable by the remedy of removing tax exemptions because the injury is not directly caused by IRS action and such claims are usually dismissed for lack of standing.

Lack of third party standing makes timely, warranted IRS responses to citizen and public interest complaints a vital expression of Americans' constitutional right to petition government for redress of grievances. US taxpayers provide a de facto subsidy to 501(c)(4) organizations violating IRS regulations since it is they who fill the "tax gap" created by a rouge organization's many tax preferences.

The IRS process for responding to complaints is governed by the set of procedures below "designed to assure the public of the IRS's objectivity in the treatment of tax-exempt organizations"<sup>20</sup>

1. A referral of an exempt organization is made by submitting Form 13909, Tax-Exempt Organization Complaint (Referral) Form.
2. Upon receipt, research is done to confirm the identity of the organization in question and once this is complete, information is entered into a database to help the IRS keep track of the progress of the review.
3. An experienced Exempt Organization revenue agent then performs a thorough technical analysis of the allegation made on the referral.

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<sup>16</sup> Hopkins, Bruce R., "The Law of Tax Exempt Organizations", 9<sup>th</sup> Edition p. 856

<sup>17</sup> Rev. Rul 80-108, 1980-1 C.B. 119. Social welfare organizations are not required to apply for recognition of tax-exempt status. The IRS requests an organization in this circumstance to file Form 1024, page 1, with its application for recognition of exemption (form 1023, Part III, instructions accompanying line 6).

<sup>18</sup> Hopkins, Bruce R., "The Law of Tax Exempt Organizations", 9<sup>th</sup> Edition p. 857

<sup>19</sup> 468 U.S. 737 (1984), see also *Khalaf v. Regan*, 1985 U.S. Dist. LEXIS 23631

<sup>20</sup> FS-2008-13, February 2008, updated June 23, 2010



4. The agent uses a “reasonable belief” standard to evaluate the facts and to determine whether EO should take further action.
5. Before taking further action, the revenue agent must determine that the facts create a reasonable belief that the allegations may be true when considered fairly and in light of other reliable information.
6. The reviewing EO agent will decide one of the following:
  - a. The information does not warrant further action. In this case, the agent inputs information, including rationale, into the database and closes the referral.
  - b. The referral relates to activities that should be considered at a future date. The agent documents the database and schedules the appropriate date to re-evaluate the information.
  - c. The referral contains characteristics that require it to be forwarded to a committee of career EO managers and agents. This committee evaluates referrals monthly—more often in some circumstances—and decides whether to proceed with an examination of the organization.
  - d. The agent documents his or her decision and the reasons for it in the database.
  - e. The information then becomes part of the examination file.
7. If this process results in a decision to examine an organization, the Classification Office will forward the case to a field group for assignment to a revenue agent. The revenue agent will contact the organization and schedule an appointment to begin the examination.<sup>21</sup>

These procedures were not specifically developed to address gross violations uncovered through the declassification of documentary evidence withheld from the public for long periods of time by government agencies that do not have as a primary function the enforcement of IRS regulations. **This complaint could only be made now that formerly classified and contextual information about AIPAC activities incompatible with its tax exempt status have been publicly released.** They include the US Department of Justice Internal Security Section FARA files on AIPAC Founder Isaiah L. Kenen and the 1962 AZC FARA order investigation file (released in 2008), FBI investigation files into AIPAC espionage and theft of stolen property in the mid 1980s (released in 2009), the 1961-1964 Senate Foreign Relations Committee hearings files on the activities of the registered agents of foreign principals in the US (released in 2010), and FBI files into a 2005 case that resulted in the espionage conviction of a Department of Defense official and indictments of two AIPAC employees (release in 2010).

The exempt organization review process is entirely closed according to the IRS to “ensure that the IRS operates in an unbiased and appropriate manner and that its compliance programs are not improperly influenced by outside intervention.”<sup>22</sup>

Because of the need to document and evaluate ongoing violations over almost 60 years, the “13909 process” is less than perfect in this particular case. IRS complaints undergo a closed process with no petitioner visibility, consultation, opportunity for clarification or any communication beyond an acknowledgement letter. There is no mechanism for petitioners to review how their complaint is prioritized and proceeding. There is no oversight by outside agencies. Petitioners are unable to appeal any internal (but possibly arbitrary or uninformed) IRS decisions that a particular petition does not warrant further action or clarify points made in complaints.

The IRS is apparently already aware of exempt status abuses from some Israel-oriented nonprofits. This year (2010) the IRS has instituted a special process for evaluating applications for exemptions in a special IRS unit located in Washington DC. This process has become public knowledge via a legal challenge from one organization. The plaintiff has sued the

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<sup>21</sup> IRS Complaint Process For Tax Exempt Organizations <http://www.irs.gov/irs/article/0,,id=178241,00.html>

<sup>22</sup> IRS Complaint Process For Tax Exempt Organizations <http://www.irs.gov/irs/article/0,,id=178241,00.html>

IRS claiming that “application for tax-exempt status has been at least delayed and may be denied because of a special IRS policy in place regarding organizations in any way connected with Israel, and further that the applications of many such Israel-related organizations have been assigned to ‘a special unit in the D.C. office to determine whether the organization’s activities contradict the Administration’s public policies.’”<sup>23</sup>

**Such special treatment in our view is overdue, since many Israel-related charities and front groups have long been involved in abuse of TE status with serious repercussions.** In the 1940s nonprofit Israeli fronts were used to steal, divert and smuggle arms and equipment that was otherwise destined for scrap by the War Assets Administration<sup>24</sup> to the Middle East in violation of US Arms Export Controls (see the appendix Arming David: The Haganah’s Illegal Arms Procurement Network in the United States and the appendix Declassified US Justice Department Memo on Arms Smuggling). In the 1950s and 1960s US charitable tax exempt donations were used to fund or enable Israel’s clandestine nuclear weapons program, in direct challenge to US nonproliferation policies. In the 1980s and 1990s nonprofit (and for profit) organizations facilitated commercial espionage against US industries to further the trade interests of Israeli industries. In the years 2000-2005 AIPAC was at the center of an intense FBI investigation focusing on the diversion of classified National Defense Information to persons not entitled to receive it, including Israeli diplomats in the interest of touching off US military action against Iran.

Given these realities, we recommend that the normal end result of the IRS process—an examination—offers little meaningful relief to petitioners, US taxpayers or law enforcement stakeholders. The serious violations documented over time herein are driven by one inescapable AIPAC attribute—that it is a front organization originally created within the United States to coordinate and advance policies to benefit a foreign government. As documented herein, whenever AIPAC and its predecessor organizations engaged in behaviors so egregious that they triggered serious enforcement actions, AIPAC then took measures to avoid warranted regulation or enforcement action by renaming or reconstituting itself into new shell corporations. (see the appendix Motion for Summary Judgment, Rosen v AIPAC, 11/08/2010

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<sup>23</sup> Z Street v Douglas H. Shulman, IRS Commissioner, 8/25/2020.

<sup>24</sup> [http://www.irmep.org/ila/slater/09171970\\_DOJ\\_Pledge.pdf](http://www.irmep.org/ila/slater/09171970_DOJ_Pledge.pdf)

The Origins of AIPAC – A Corporate Chronology). AIPAC was then free to continue engaging in various overt and covert activities in service to its foreign principals. Some specific AIPAC IRS violations over time have been event-driven and therefore dynamic—they vary according to the necessities of AIPAC’s foreign principals and temporal needs and are therefore rarely repeated. But any bona fide IRS examination will reveal that the institutionalization of AIPAC’s ongoing receipt and circulation of classified US information to which it is not entitled is a function of the need to “front-run” US policy making to benefit a foreign government. **This demonstrated function and unacknowledged corporate purpose is incompatible with US tax-exempt status.**

We recommend the IRS “Israel Special Policy” unit examine this petition. **We believe the evidence contained herein provides a basis for the IRS to immediately (and retroactively) revoke AIPAC’s tax exempt status on the basis of these independently verifiable facts.** We further recommend that AIPAC be prohibited from reconstituting under the auspices of a new tax exempt organization, as it has twice done since emerging from the Israeli Ministry of Foreign Affairs in 1951.

## Table of Findings

Finding: According to its founder’s official history, AIPAC was created for the purpose of promoting US legislation for aid and support for Israel at the behest of its government. However lobbying for a foreign government via illegal activities does not fit the IRS definition of “social welfare.” Since this was (and is) not a charitable purpose, AIPAC adopted different formal statements of corporate mission and purpose, though time and law enforcement files confirm its true purpose as a US front organization for the Israeli government. ....	19
Finding: AIPAC’s founder never again registered as a foreign agent. The DOJ FARA office mandate that Kenen continue to register meant that Kenen would attempt to organize his activities carefully to avoid detection and calls that he openly declare himself a registered foreign agent of the Israeli government. ....	20
Finding: Despite the demands of AIPAC’s founder, the DOJ FARA Section never purged his name from the foreign agent rolls and continued to maintain his FARA registrations on file. ....	20
Finding: Through convoluted and incomplete filings about “leaving” and “rejoining” the AZC, AIPAC’s founder was determined to limit his disclosures of relevant information to the FARA office to avoid calls that he again formerly register as an Israeli foreign agent. This same deception would later be applied against the IRS.....	21
Finding: Although the AZC claimed to lobby for “American aid to Israel and the Middle East” a review of its lobbying activities reveals that all of its efforts and expenditures were devoted solely to Israel. ....	22
Finding: The American Zionist Council’s misuse of tax-exempt charitable donations for lobbying was the reason the allegedly “independent” American Zionist Council for Public Affairs was formed. Time, financial flows, and a US Senate investigation (fully unsealed in 2010) reveal the unincorporated AZCPA was in substance a sham organization that should be disregarded as the “alter ego” of the controlling AZC, which continued to fund the AZCPA and Kenen through stealth “conduits.” The AZC was in turn funded and controlled by the Jewish Agency, a quasi Israeli governmental agency. ....	23
Finding: The American Zionist Council never again filed a lobbying report as the AZCPA seamlessly assumed its functions without missing a quarterly lobbying filing. The unbroken string of lobbying reports reveal continuity of purpose with only the name of the organizations changing.....	23
Finding: The AZCPA’s initial inability to attract non tax-deductible donations was an early signal from donors that what it was doing (lobbying for a foreign government) was neither a charitable activity nor something to which ordinary American donors would contribute. The AZC and AZCPA then tapped prohibited (Jewish Agency) as well as unsavory (mob connected donor) sources as the only means for financing their operations. Illegal “conduit” (money laundering) financing schemes finally attracted both DOJ and Senate investigation and actions. ....	25
Finding: The Senate Foreign Relations Committee chartered investigations into AIPAC, the AZC and the Jewish Agency in 1961-1964 due to fears that these organizations were engaged in illegal, foreign coordinated covert activity designed to influence US policy. This investigation imposed a significant burden on US taxpayers and diverted irreplaceable legislator attention away from pressing, vital issues.....	25
Finding: The ongoing Jewish Agency conduit payments through the AZC to Kenen for lobbying reveal the AZCPA was really a “sham” organization. When the American Israel Public Affairs Committee (or AIPAC) finally incorporated, it should have claimed its major funders—the AZC and Jewish Agency—as its predecessor organizations. Instead, the AIPAC claimed the sham AZCPA as a predecessor.....	27
Finding: A cursory examination of all past and present issues of the Near East Report reveal that it is a lobbying newsletter exclusively dedicated to shaping US opinion about and winning foreign aid and political support for Israel. .	28
Finding: The Jewish Agency funded US pressure and covert media action campaign went beyond hardball public relations tactics. It suppressed free speech in America by undermining academia, informed consent governance and	

inflicted lasting harm on news gathering institutions. The expenditures and tactics executed through the AZC/AZCPA and AIPAC fell well outside the Jewish Agency’s tax exempt mandate..... 32

Finding: The tactics revealed in the media reports are the opposite of “public education” e.g. killing unfavorable stories in the press, stifling competing expert points of view, having competing scholars fired by dubious means rather than engaging in the free exchange of ideas. .... 32

Finding: AIPAC and the Near East Report and Israel’s funding coordinator subverted US nuclear nonproliferation policy by promoting phony news stories that Dimona was not an Israeli nuclear weapons production facility. This drive to subvert official US policy helped promote nuclear proliferation in the Middle East. Once again, the funders and principals were engaged in the opposite of the public education their tax exempt mandates required. .... 33

Finding: The AZCPA’s donor base included unprosecuted conventional arms smugglers, mob figures, and the US funding coordinator for Israel’s clandestine nuclear weapons program. In some cases, such as Feinberg’s, the funding was used in coordinated ways that conflicted with nonprofit exempt purposes. .... 34

Finding: The Jewish Agency’s tax exempt mandate did not permit clandestine lobbying and publicity campaigns in the US carried out by conduit organizations. .... 34

Finding: The Jewish Agency’s clandestine, undeclared payments to the AZC triggered a DOJ order that AZC begin to register under the 1938 Foreign Agents Registration Act. .... 34

Finding: The American Zionist Council was put out of business by the Justice Department’s 1962 order that it begin registering as an Israeli foreign agent. However, breaking up the AZC had no impact on the constituent organizations, which eventually formed the core of AIPAC’s new executive committee..... 35

Finding: The reason AIPAC was incorporated six weeks after the 11/21/1962 AZC FARA order was to fill the void left by its parent organizations as Israel’s lead lobbying and public relations organization in the United States. .... 35

Finding: AIPAC fraudulently omitted the Israeli Ministry of Foreign Affairs, the Jewish Agency and American Zionist Council as predecessor organizations on its application for tax exempt status..... 36

Finding: AIPAC fraudulently stated that no payments were made to Kenen on its application for tax exempt status when in fact thousands were paid for distribution of his privately owned Near East Report. .... 38

Finding: AIPAC fraudulently omitted any declaration of exempt purpose on its form 1024 application of tax exempt status..... 38

Finding: AIPAC fraudulently omitted any declaration of fund raising activities on its form 1024 application of tax exempt status. It omitted seeking out Jewish Agency and AZC funding. .... 38

Finding: AIPAC fraudulently omitted any declaration of general activities on its form 1024 application of tax exempt status that would have provided insight, hindsight, or foresight into the activities documented in this complaint. .... 38

Finding: AIPAC fraudulently omitted any declaration of discontinued activities on its form 1024 application for tax exempt status that would have provided insight, hindsight, or foresight into the activities documented in this complaint. .... 38

Finding: AIPAC fraudulently omitted any declaration of funding distribution on its form 1024 application of tax exempt status that would have provided insight, hindsight, or foresight into the activities documented in this complaint. .... 39

Finding: The IRS granted AIPAC tax exempt status retroactive to 1954. If AIPAC had provided the required, accurate and warranted responses to closed and open questions on form 1024 about activities between 1954 and 1963, the IRS could not in good faith have granted tax exempt status..... 39

Finding: Because the US Department of Justice kept administrative and FARA filings classified until released under FOIA in 2008, key details and the history of the AZC to AIPAC transformation were unavailable for public or IRS review..... 41

Finding: AIPAC obtained illicit access to the classified 1983 ITC report in order to counteract valid US industry and interest group concerns about the impact of bilateral trade preferences. Tax exempt organizations may not engage in illegal activity to further their policy objectives. .... 43

Finding: The FBI discovered the Israeli government also possessed the classified ITC report indicating AIPAC-Israeli government collusion in illegal activities in order to obtain trade preferences..... 44

Finding: Tax exempt charities are supposed to reduce the burdens of government through beneficial acts. In circulating classified US government material that necessitated a three year investigation, AIPAC increased the burden of government and on law enforcement officials and the Justice Department. .... 45

Finding: The joint illegal use of proprietary US government/industry information gave Israel a significant advantage in trade negotiations. It also undermined the sanctity of the US process for negotiating trade preferences..... 46

Finding: AIPAC denied any wrongdoing in possessing the classified ITC report..... 46

Finding: A copy of the ITC report returned by AIPAC was clearly classified as “confidential.” ..... 46

Finding: The FBI investigated AIPAC and the Israeli embassy for theft of government property over their possession of the classified ITC report. .... 46

Finding: AIPAC countered legitimate US industry concerns with PR and educational materials developed with classified information about the trade agreement. Time has proven the PR to be wildly inaccurate and the concerns more than legitimate. .... 47

Finding: AIPAC and the Israeli government obtained all of the US Bromine Alliance’s confidential business data contained in the classified ITC report, according to the ITC. The Alliance demanded redress, but received none. .... 47

Finding: The Israeli Economics minister made highly deceptive forecasts about US market share in the Israeli import market, to counter and preempt findings that certain US sectors would be hurt. .... 48

Finding: Israeli Economics minister Dan Halpern passed the stolen, classified ITC document to AIPAC because it was best positioned to use the secret data against fellow US industries to gain passage of trade preferences for Israel. .... 49

Finding: AIPAC employees certified to the FBI that they knew the report in their possession was government classified.49

Finding: After AIPAC was ordered to return the classified, stolen ITC report, AIPAC employees made an illegal duplicate copy for AIPAC’s further use. It then returned the original classified document by courier. This retention of classified information for use against the corporations that provided confidential business information was illegal and incompatible with tax exempt status. .... 51

Finding: Israeli economics minister Dan Halpern admitted to the FBI that he illegally obtained and passed the classified US trade report to AIPAC. .... 51

Finding: Israeli economics minister Dan Halpern claimed to the FBI that his illegal activity would cause no harm to the US and that the classified data was not sensitive or confidential. However as of the year 2010 the report is still classified and the US government refuses to declassify it. .... 51

Finding: The Department of Justice did not prosecute theft of government property because Israel’s minister of economics claimed diplomatic immunity. But AIPAC’s receipt, duplication and use of the classified ITC report was well documented, illegal and therefore incompatible with tax exempt status. .... 52

Finding: US industry groups were negatively impacted by AIPAC and the Israeli government’s theft of their confidential business data. The USIFTA reversed a balance trading relationship by using purloined business data against the industries that provided it. AIPAC’s documented role in this outcome was not compatible with its tax exempt status. ... 53

Finding: The US-Israel Free Trade Area is an anomaly among all US Trade Agreements in that it mainly benefits Israel. The only key difference with other trade negotiations is Israel’s and AIPAC’s acquisition and use of classified US government and industry data against the US industries and interest groups that provided it. This type of illegal activity is not compatible with tax exempt status..... 59

Finding: AIPAC employees were well documented obtaining and circulating NDI in furtherance of AIPAC policy objectives though their criminal case was not allowed to proceed due to extraordinary evidentiary thresholds. Obtaining and circulating classified NDI is an illegal activity that tax exempt organizations are not allowed to engage in, whether or not they believe information should not have been classified by the government..... 61

Finding: AIPAC employees are not cleared to obtain or circulate NDI in furtherance of AIPAC policy objectives. However, AIPAC has an internal created unit for this activity which is incompatible with the law and AIPAC’s status as a tax exempt organization. .... 62

Finding: AIPAC’s thwarting of US government sponsored peace initiatives is incompatible with its charitable purpose and significantly increased government burden. .... 63

Finding: AIPAC’s illegal efforts to obtain classified US government information has been going on for so many decades that insiders claim it is now institutionalized. AIPAC’s major, repeat violations have harmed US industry and workers as well as jeopardizing US national security. AIPAC’s activities to secure classified information demonstrate an undeclared purpose which is inconsistent with charitable ends trough present since it emerged from the Israeli Ministry of Foreign Affairs Israel Office of Information, Jewish Agency, AZC “boutique”. .... 64

Finding: AIPAC’s criminal acts increase the burdens of government by requiring years of investigation, documentation, court action and other efforts to secure US classified information and property, thus frustrating a well recognized charitable goal, i.e. relief of the burdens of government. Accordingly, AIPAC is not operated exclusively for charitable purposes and does not qualify for exemption from Federal income tax under section 501(c)(3) of the code. .... 64

Finding: AIPAC’s work environment is vastly less professional than other large to medium sized nonprofit organizations in terms of activities and language. .... 65

Finding: Numerous former AIPAC insiders freely admit that, despite the pretenses, AIPAC’s conduct does not merit the label “domestic lobbying organization.” By extension, it also cannot merit IRS exempt status. .... 66

Finding: If AIPAC were a legitimate tax exempt nonprofit organization engaged in legitimate activities, it would have implemented strong policies against soliciting or circulating classified US government information in the 1980s after it was investigated by the FBI for espionage and theft of government property..... 66

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## The Basis for AIPAC's Tax-Exemption is Fraudulent

Today AIPAC describes its beginnings in this way, "For more than half a century, the American Israel Public Affairs Committee has worked to help make Israel more secure by ensuring that American support remains strong. From a small pro-Israel public affairs boutique in the 1950s, AIPAC has grown into a 100,000-member national grassroots movement described by The New York Times as "the most important organization affecting America's relationship with Israel."<sup>25</sup>

The American Israel Public Affairs Committee abbreviates its corporate history for very good reasons.



← → ↻ www.aipac.org/default.htm

**AIPAC**  
THE AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE  
America's Pro-Israel Lobby  
www.aipac.org

Home > About AIPAC

### What is AIPAC?



For more than half a century, the American Israel Public Affairs Committee has worked to help make Israel more secure by ensuring that American support remains strong. From a small public affairs boutique in the 1950s, AIPAC has grown into a 100,000-member national grassroots movement described by *The New York Times* as "the most important organization affecting America's relationship with Israel."

[Click on the image to see a slideshow about AIPAC.](#)

### Take Action

- [Stop Iran's Nuclear Program](#)
- [Support Military Aid to Israel](#)
- [Support Divestment from Iran](#)



Learn how AIPAC helps keep America's relationship with Israel strong in this interactive timeline tracing a half-century of AIPAC's work.

Figure 1 AIPAC's official website offers no detailed information about the organization's long and troublesome corporate history

The reason the "boutique" came together, transformed, and culminated in AIPAC, which finally applied for exemption after it incorporated under highly unusual circumstances, is very material to its tax exempt status. The best way to trace AIPAC's development is through the career path of its founder and executive director, Isaiah L. Kenen.

<sup>25</sup> AIPAC website, [http://www.aipac.org/about\\_AIPAC/Learn\\_About\\_AIPAC/26.asp](http://www.aipac.org/about_AIPAC/Learn_About_AIPAC/26.asp)

## The Israel Office of Information

On October 6, 1948 Arthur C. A. Liverhart of the state of Israel’s UN Mission submitted a foreign agent registration cover letter to the US State Department announcing the opening a new “Israel Office of Information” in compliance with the 1938 Foreign Agents Registration Act.<sup>26</sup> AIPAC’s founder Isaiah Kenen was among the new registrants. (See appendix The Israel Office of Information). He later filed a personal FARA registration form with the US Department of Justice listing “pamphlets and press releases” as among his former duties as a representative of the Jewish Agency. (See Appendix Isaiah Kenen Israel Office of Information Foreign Agent Declarations). Kenen noted on the FARA declaration that he worked as an employee of the Jewish Agency (a quasi governmental nonprofit organization with pre-legislative review powers headquartered in Jerusalem) from April 15, 1947 to May 15, 1948.<sup>27</sup>

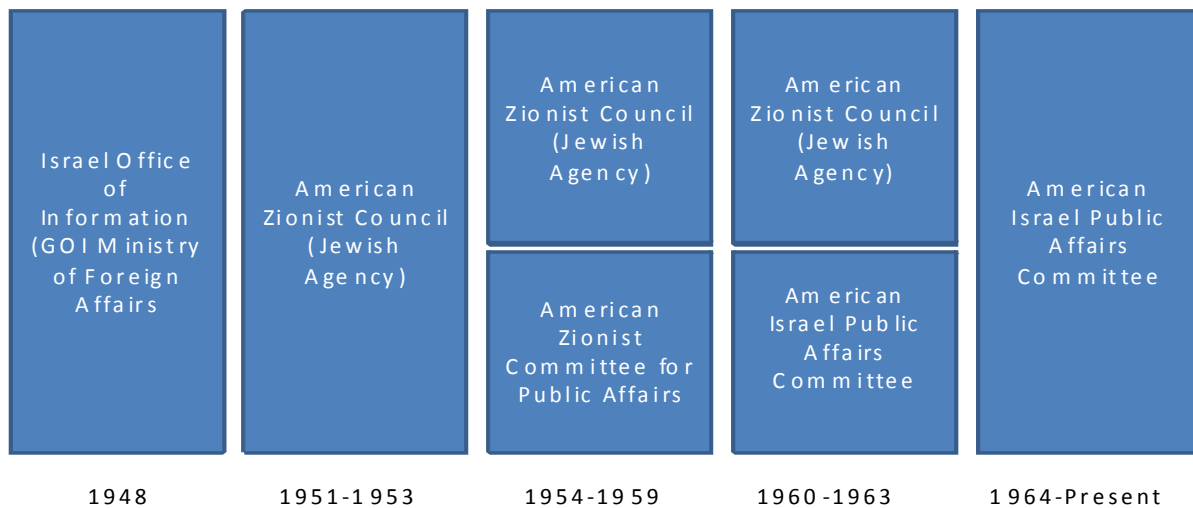


Figure 2 Israel Lobbying and PR Center of Gravity over Time

Isaiah Kenen filed the FARA declaration for the IOI listing himself as in charge of the New York office, with the three branches reporting to Moshe Pearlman, of the Israeli Ministry for Foreign Affairs. Kenen reported activities including “information, news, and statements issued either in the name of foreign principal or Office of Information through press releases, speeches, news bulletins, special statements, pamphlets, documents, and broadcasts. At the time, FARA required all such materials had to disclose they were being made on behalf of a foreign principal. Kenen noted that he worked directly out of the Israeli consulate. (see appendix FARA Filing Israel Office of Information 10/12/1948). The IOI was later cited for numerous deficiencies. On June 17, 1949 the DOJ cited it for failing to mention an office operating out of Los Angeles (appendix DOJ Deficiency Notice – Israel Office of Information 06/17/1949).

<sup>26</sup> The Foreign Agents Registration Act (FARA) was enacted in 1938. FARA is a disclosure statute that requires persons acting as agents of foreign principals in a political or quasi-political capacity to make periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts and disbursements in support of those activities. Disclosure of the required information facilitates evaluation by the government and the American people of the statements and activities of such persons in light of their function as foreign agents. The FARA Registration Unit of the Counterespionage Section (CES) in the National Security Division (NSD) is responsible for the administration and enforcement of the Act.

<sup>27</sup> <http://www.irmep.org/ila/Kenen/IOI/KenenFA-1/default.asp>

According to his book, "Israel's Defense Line," Kenen soon tired of the strict disclosure requirements of working for the Israeli Ministry of Foreign Affairs. He wrote,

*"Israelis began looking for a lobbyist to promote the necessary legislation...would I leave the Israeli delegation for six months to lobby on Capitol Hill? There were other questions. Should I continue my registration as an agent of the Israel government? Was it appropriate for an embassy to lobby? Embassies talked to the State Department, and American voters talked to their congressmen."<sup>28</sup>*

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The IRS definition of "social welfare purpose" is broad, as stated in an internal training article,

*"Although the Service has been making an effort to refine and clarify this area, [section] 501(c)(4) remains in some degree a catch-all for presumptively beneficial non-profit organizations that resist classification under the other exempting provisions of the Code. Unfortunately, this condition exists because "social welfare" is inherently an abstruse concept that continues to defy precise definition."<sup>29</sup>*

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However the creation of a 501 (c)(4) organization to engage in illegal activities (lobbying for a foreign government) does not fit even the most expansive definition of "social welfare" required for a tax exemption.

***Finding: According to its founder's official history, AIPAC was created for the purpose of promoting US legislation for aid and support for Israel at the behest of its government. However lobbying for a foreign government via illegal activities does not fit the IRS definition of "social welfare." Since this was (and is) not a charitable purpose, AIPAC adopted different formal statements of corporate mission and purpose, though time and law enforcement files confirm its true purpose as a US front organization for the Israeli government.***

On January 17, 1951, Kenen visited Chief Nathan Lenvin of the Foreign Agents Registration Act Section of the US Department of Justice. Lenvin filed a memo of the visit. (see appendix Department of Justice File Memo – Isaiah L. Kenen visit to FARA, 01/17/1951).

*"Mr. Isaiah L. Kenen, Director of Information for the Government of Israel's Mission to the United Nations and one of the officers of the Israeli Office of Information, visited my office on January 17, 1951 to discuss his possible obligations under the Foreign Agents Registration Act in the event he terminates his present activities and establishes his own public relations business.*

*Mr. Kenen stated that his first client would probably be the Government of Israel and consequently I told him that he should file a new registration statement on Form FA-1. I explained to Mr. Kenen the registration statement of the Israeli Office of Information and the necessity for the filing of a new statement. Mr. Kenen stated that he would file a new statement as soon as he commences his activities on behalf of the Government of Israel. Suitable forms were given to Mr. Kenen."*

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<sup>28</sup> Kenen, Isaiah L Israel's Defense Line: Her Friends and Foes in Washington, New York, New York, Prometheus Books, p. 69

<sup>29</sup> <http://www.irs.gov/charities/nonprofits/article/0,,id=156372,00.html>

***Finding: AIPAC's founder never again registered as a foreign agent. The DOJ FARA office mandate that Kenen continue to register meant that Kenen would attempt to organize his activities carefully to avoid detection and calls that he openly declare himself a registered foreign agent of the Israeli government.***

On February 13, 1951, Kenen announced to the FARA Section that he was resigning from the Israel Office of Information. In his letter he stated, "Since January 1st, I was retained by the Government of Israel in an advisory capacity in the field of public relations. However, I have now changed my plans and severed my relations with the Israel government. I would, therefore, request that my name be removed from your lists..." (see appendix Isaiah Kenen Letter to FARA 02/13/1951). On April 10, 1951 Kenen again requested that he be withdrawn from the FARA list of foreign agents. "On February 13 I informed you that I had resigned from the service of the Government of Israel and requested you to withdraw my name from the registration of the Israel Office of Information where I had been registered on an Exhibit A form." (see appendix Isaiah Kenen Letter to FARA 04/10/1951)

***Finding: Despite the demands of AIPAC's founder, the DOJ FARA Section never purged his name from the foreign agent rolls and continued to maintain his FARA registrations on file.***

## The American Zionist Council

On February 2, 1952 the New York Times published an article titled "I.L. Kenen in Zionist Unit Post" it read,

*"The appointment of I.L. Kenen, former director of information for the Jewish Agency in Palestine, as the Washington Representative of the American Zionist Council, the public relations arm of Zionist groups in this country, was announced yesterday by Louis Lipsky, chairman of the council. Mr. Kenen, who also has served as director of information of the Israel delegation to the United Nations, recently returned from Israel."*

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Kenen, who knew the FARA section monitored the press, likely felt compelled to contact the FARA office to establish his version of compensation, and new job as a lobbyist for the American Zionist Council. (see appendix Isaiah Kenen Letter to FARA 03/14/1951) He wrote,

*"At the outset I should like to refer you to my letters of February 13, 1951 and April 10, 1951, in which I advised you of my receipts and expenses in connection with personal services rendered to the Government of Israel prior to February 14, 1951. Following that date I took a position with the American Zionist Council. That appointment expired in October, 1951. In November of 1951, I went with my wife to Israel as guests of the Government of Israel. I was not an employee of the Government of Israel. However, the Government of Israel did pay for my passage and also a sum to cover expenses, amounting to approximately \$2518.00, calculating Israel pounds at the tourist rate. During this trip to Israel, I did not publish or transmit to the United State any documents, printed or propoganda material, whatever. In January 1952, after returning from my trip to Israel, I again reverted to the American Zionist Council where I am presently employed. I do not believe this is required to be filed under the Foreign Agents Registration Act, but am submitting this information to you to avoid any possible question."*

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The US Department of Justice responded (see Appendix FARA letter to FARA Letter to Isaiah Kenen 04/9/1951) that:

*"during the trip to Israel you did not publish or transmit to the United State any documents or propoganda material. In view of your statement, you were not acting within the United States as an agent of a foreign principal and, therefore, your registration under the Statute is not required."*

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Kenen did not disclose to the DOJ as he later detailed in his book *All My Causes* that he was conducting tours and lobbying initiatives on behalf of the Israeli government with visiting Senator Javits, or Congressmen Ribicoff, Fugate, Keating, O'Toole, Barrett and Fein while they visited Israel.

***Finding: Through convoluted and incomplete filings about "leaving" and "rejoining" the AZC, AIPAC's founder was determined to limit his disclosures of relevant information to the FARA office to avoid calls that he again formerly register as an Israeli foreign agent. This same deception would later be applied against the IRS.***

The AZC was a nonprofit umbrella organization formed in 1949. Member organizations included the Zionist Organization of America, Hadassah and other organizations active in the US. Kenen filed a preliminary disclosure as a

domestic lobbyist for the American Zionist Council to the US Congress under the Federal Regulation of Lobbying Act on February 20, 1951. Kenen reported \$1,575 in lobbying services. (See the appendix AZC/AZCPA/AIPAC Quarterly Lobbying Division Disclosures from 1951-1960)

On his 2<sup>nd</sup> Quarter 1951 lobbying form Kenen claimed he spent \$11,357 lobbying for the "Israel Aid Act of 1951" His third quarter 1951 lobbying disclosure date stamped October 12, 1951 listed him as "Public Relations Counsel" and declared \$3,150 in expenses, the same as the previous quarter. The AZC's fourth quarter lobbying disclosure for 1951 was date stamped October 25, 1951, presumably because Kenen was at the time "leaving" his employment at the AZC for Israel. The AZC's main lobbying expenditures were for 8,500 reprints of materials making the case for increased US aid to Israel.

Kenen continued to lobby for "American aid to Israel and the Middle East" throughout the 4th quarter of 1953. Kenen's 2Q1953 AZC lobbying publications were extensive. He reported the following publication distribution: "The AZC lists "Publications: - 13,000 copies, pamphlet, "The Mutual Security Program in the Near East," May and June, 1953 - International Press; 200 copies, pamphlet, "Who is For Peace in the Middle East?" June, 1953, Herbert Levy Printing Co.; 200 copies reprint, newspaper article, N.Y. Times, June, 1953, AAA Letter Service; 3000 copies, reprint, speech by Senator Taft, April, 1953, Government Printer; 3000 copies, speech by Senator Lehman, April, 1953, Government Printer."

***Finding: Although the AZC claimed to lobby for "American aid to Israel and the Middle East" a review of its lobbying activities reveals that all of its efforts and expenditures were devoted solely to Israel.***

This heavy lobbying quickly raised the attention of the US State Department, according to Kenen, who wrote:

*Now, however we heard that the State Department was busily comparing my critical 1953 memoranda with those circulated by the Israeli Embassy.*

*"Shouldn't Kenen register as an agent of a foreign government?" a desk officer indignantly demanded of an Israeli journalist, Eliahu Salpeter of Haaretz, who called me to sound the alarm.<sup>30</sup>*

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Kenen also received notice from allies in Congress that the Eisenhower administration was concerned about his lobbying for the Israeli government.

*Then, late in December 1953, a Republican member of our Executive Committee, who worked in Washington, told our Committee that I might be a target...<sup>31</sup>*

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Scholar Steven Spiegel noted:

*"The tension between the Eisenhower administration and Israeli supporters was so acute that there were rumors (unfounded as it turned out) that the administration would investigate the American Zionist Council. Therefore, an independent lobbying group was formed within the auspices of the American Zionist Committee." <sup>32</sup>*

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<sup>30</sup> Kenen, Isaiah L., Israel's Defense Line: Her Friends and Foes in Washington, New York, New York, Prometheus Books, p. 106

<sup>31</sup> Kenen, Isaiah L., Israel's Defense Line: Her Friends and Foes in Washington, New York, New York, Prometheus Books, p. 106

<sup>32</sup> Steven Spiegel, pp. 87-9. The Other Arab-Israeli Conflict

Kenen subsequently filed a 1Q1954 lobbying disclosure with the following claim, “

*"This is to inform you that my connection with the American Zionist Council terminated on March 14, 1954, and that this is a final return. I engaged in no legislative activity in this past quarter."*

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For 2Q1954 Kenen filed a lobbying disclosure on behalf of the “American Zionist Council for Public Affairs” rather than the American Zionist Council, adding Paul S. Green in the AZCPA leadership addition to himself.

Kenen stated in his book that:

*Our acrimonious clashes with the Eisenhower-Dulles regime over arms and water led to rumors that the American Zionist Council faced investigation. The rumors were ill-founded but they were persistent and could not be ignored. We reorganized and established a lobbying committee—the forerunner of the American Israel Public Affairs Committee (AIPAC).*

*Between 1951 and 1953, I had been the Washington representative of the AZC, a tax-exempt organization. A government agency had ruled that only an insubstantial portion of AZC funds had been used for lobbying.<sup>33</sup>*

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***Finding: The American Zionist Council’s misuse of tax-exempt charitable donations for lobbying was the reason the allegedly “independent” American Zionist Council for Public Affairs was formed. Time, financial flows, and a US Senate investigation (fully unsealed in 2010) reveal the unincorporated AZCPA was in substance a sham organization that should be disregarded as the “alter ego” of the controlling AZC, which continued to fund the AZCPA and Kenen through stealth “conduits.” The AZC was in turn funded and controlled by the Jewish Agency, a quasi Israeli governmental agency.***

***Finding: The American Zionist Council never again filed a lobbying report as the AZCPA seamlessly assumed its functions without missing a quarterly lobbying filing. The unbroken string of lobbying reports reveal continuity of purpose with only the name of the organizations changing.***

When Kenen established the AZCPA in 1954, he claimed that no tax-deductible contributions would be used for lobbying, but in reality the AZCPA was functionally still a part of the AZC, and even referred to internally as the “Kenen committee<sup>34</sup>” by AZC employees. The AZCPA never bothered to formally incorporate itself with any secretary of state or apply to the IRS for tax exempt status. According to Kenen:

*Nevertheless, because of the possibility that we might be subject to attack, we organized a new and separate lobbying committee in 1954, independent of AZC control and financing and thus impervious to challenge. It was named the American Zionist Committee for Public Affairs (AZCPA). There was no change in leadership or membership, but we stopped receiving tax-exempt funds*

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<sup>33</sup> Kenen, Isaiah L., Israel’s Defense Line: Her Friends and Foes in Washington, New York, New York, Prometheus Books, p. 106

<sup>34</sup> Senate Foreign Relations Committee investigation into the Activities of Agents of Foreign Principals in the United States, page 1343, May 23, 1963

*from the AZC. Instead, we solicited contributions which would not be deductible from income tax.*<sup>35</sup>

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Kenen listed the duration of the new AZCPA as only temporary "Until adjournment of the 83rd Congress" while lobbying "in favor of the Mutual Security Program." The AZCPA's reported income for the entire year of 1953 was only \$4,922 (down from the AZC's 1952 lobbying income of \$6,230.) According to Kenen, fundraising was now a major problem:

*We were always in the red, and I often had to wait a long time for my modest \$13,000 a year salary. I frequently had to lend money to the Committee, and I had to dispense with a capable assistant. The budget was not lifted until the Six-Day War.*<sup>36</sup>

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According to Kenen, donors did not want to contribute non-tax deductible donations to an organization lobbying for the Israeli government, when logically such funds would come from the foreign government itself. He wrote,

*"Many could not understand why the Israeli government could not subsidize this modest undertaking; they did not realize that foreign agents were limited in expression and activity."*<sup>37</sup>

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<sup>35</sup> Kenen, Isaiah L., Israel's Defense Line: Her Friends and Foes in Washington, New York, New York, Prometheus Books, p. 107

<sup>36</sup> Kenen, Isaiah L., Israel's Defense Line: Her Friends and Foes in Washington, New York, New York, Prometheus Books, p. 107

<sup>37</sup> Kenen, Isaiah L., Israel's Defense Line: Her Friends and Foes in Washington, New York, New York, Prometheus Books, p. 107



***Finding: The AZCPA's initial inability to attract non tax-deductible donations was an early signal from donors that what it was doing (lobbying for a foreign government) was neither a charitable activity nor something to which ordinary American donors would contribute. The AZC and AZCPA then tapped prohibited (Jewish Agency) as well as unsavory (mob connected donor) sources as the only means for financing their operations. Illegal "conduit" (money laundering) financing schemes finally attracted both DOJ and Senate investigation and actions.***

On March 17, 1961 the Senate Foreign Relations Committee began contemplating a comprehensive investigation into "the nature and extent of efforts of foreign governments to influence the content and direction of United States foreign policy."

A confidential Senate Foreign Relations Committee memo<sup>38</sup> declassified in September of 2010 stated,

*"there have been occasions when representatives of other governments have been privately accused of engaging in covert activities within the United States and elsewhere, for the purposes of influencing United States policy (the Lavon Affair)."*

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The memo recommended a comprehensive review of how the Foreign Agents Registration Act was being enforced in the United States, and the need for testimony, including ,

*"Executive (perhaps public) receipt of testimony on the Lavon Affair, and similar 'gray area' activities."*

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The Lavon Affair mentioned twice in a three page memo (see appendix Declassified 3/17/1961 Senate Foreign Relations Committee Memo on Need to Investigate Efforts of Foreign Governments Influencing the Content and Direction of United States Foreign Policy) refers to false flag Israeli terrorist attacks on US and other facilities in Egypt designed to convince US policy makers not to allow the transfer of the Suez Canal from British to Egyptian sovereignty.

The Senate Foreign Relations Committee adopted a confidential committee report to investigate foreign agents active in the United States. The entire redacted Senate record referenced throughout this complaint (see appendix Senate Record 87<sup>TH</sup>-88<sup>TH</sup> Congress, Committee on Foreign Relations Investigation into the Activities of Non-Diplomatic Representatives of Foreign Principals in the United States) and the referenced contents of 67 boxes of newly unsealed, screened and declassified records from this investigation were made available by the National Archives and Records Administration in the summer and fall of 2010.

***Finding: The Senate Foreign Relations Committee chartered investigations into AIPAC, the AZC and the Jewish Agency in 1961-1964 due to fears that these organizations were engaged in illegal, foreign coordinated covert activity designed to influence US policy. This investigation imposed a significant burden on US taxpayers and diverted irreplaceable legislator attention away from pressing, vital issues.***

The subpoenaed records detail many organizations, lobbying and PR firms registering under the 1938 FARA and compared their declarations with their actual activities. Closed hearings were conducted in 1963, and in both May and August members of the Jewish Agency and American Zionist Council were compelled to testify and respond to questions

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under oath. **Although the some testimony and seized evidence was published in the official Senate record, a great deal of it was kept under seal until July 23, 2010 when it began to be released by the National Archives and Records Administration. The records reveal not only why AIPAC was incorporated and applied for tax exemption as an independent entity when it did, but that AIPAC's application to the IRS was and is highly fraudulent.**

Between January 1, 1955 and December 31, 1962 the Jewish Agency made more than \$5 million in covert illegal "conduit" payments to the American Zionist Council. A contemporary *Dow Jones* publication described it as a

*"conduit operation run by an organization called the American Zionist Council. Over an eight-year period, this council received more than \$5,000,000 from the Jewish Agency to create a favorable public opinion in this country for Israeli government policies. The Senate investigation closed down the conduit, but the extensive propaganda activities still go on."*<sup>39</sup>

The American Zionist Council issued serial reports to the Jewish Agency providing summaries about how funding was disbursed on education as well as prohibited lobbying and public relations activities (see appendix American Zionist Council Financial Reports to the Jewish Agency, 1957-1959).

Because the Jewish Agency failed to properly itemize suspiciously large lump sum payments on its mandatory Foreign Agents Registration Act declarations to the US Department of Justice, the FARA section ordered the Jewish Agency to provide breakdowns in 1962. In early 1963 damning payment vouchers were seized and photocopied the Senate investigators under threat of subpoena revealing that the Jewish Agency was directing funding through the AZC "conduit" to AIPAC founder Isaiah L. Kenen who was promised \$5,000 each quarter while he led the AZCPA for "public relations services". The 2/7/1957 AZC report to the Jewish Agency notes a "Quarterly payment to [AIPAC Founder] Mr. I.L. Kenen for public relations services" of \$5,000. These payments continued until the AZC was ordered to register as the Jewish Agency's foreign agent, and far exceeded total donations from Americans raised by the AZCPA, which had even turned to organized crime figures and arms smugglers for donations. (See appendix AZCPA Lobbying Expenditures – 1954-1960 Highlights).

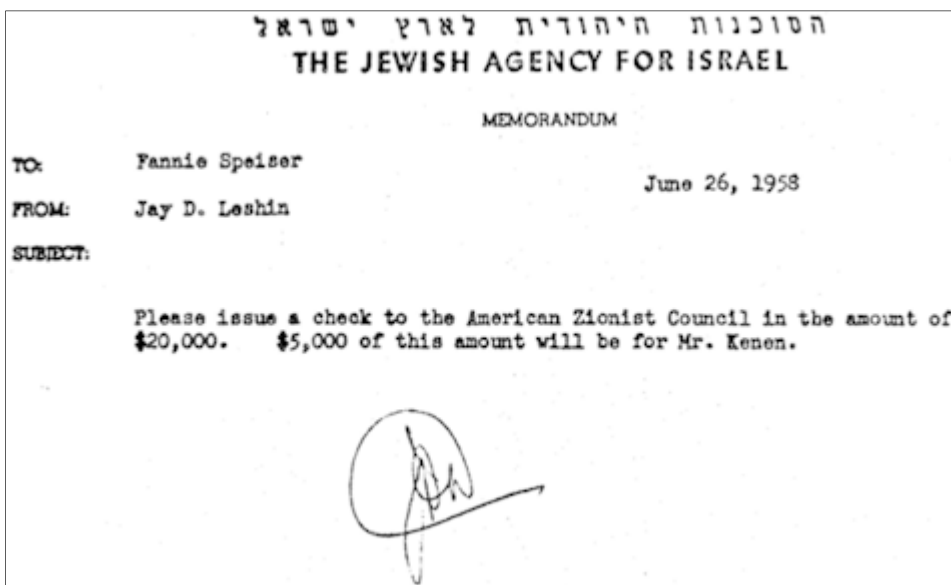


Figure 3 Jewish Agency Payments to AZC/AZCPA designated to AIPAC's founder

<sup>39</sup> Lawrence Mosher, *National Observer* (Dow Jones), May 19, 1970.

The quarterly Jewish Agency commitment to Kenen on average exceeded the amount of actual funding raised from “independent” donors to the AZCPA (which between 1954 to 1960 averaged only \$2,936 per quarter) by \$2,064.

**Finding: The ongoing Jewish Agency conduit payments through the AZC to Kenen for lobbying reveal the AZCPA was really a “sham” organization. When the American Israel Public Affairs Committee (or AIPAC) finally incorporated, it should have claimed its major funders—the AZC and Jewish Agency—as its predecessor organizations. Instead, the AIPAC claimed the sham AZCPA as a predecessor.**

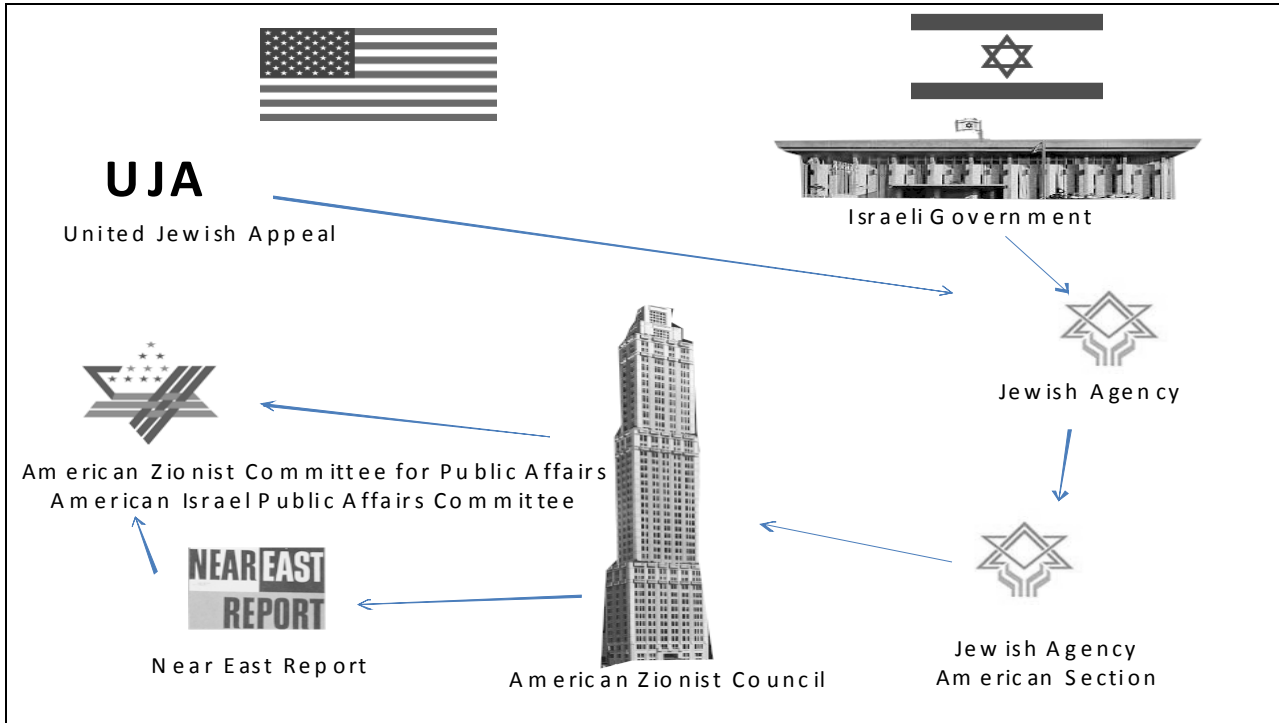


Figure 4 AZCPA/AIPAC Charitable Contribution and Israeli Government Funds Laundering

## Another Conduit: the Near East Report

Wary of FARA oversight and filing requirements, Isaiah Kenen established, owned and edited the *Near East Report*, a professional lobbying bulletin published in Washington, DC beginning in 1957. It also served as a “conduit” for receiving Jewish Agency and Israeli consulate funding and allowed Kenen to keep some cover lobbying funding flows and his own compensation off the AZCPA’s “books” and congressional filings. Between June 1957 and May 1959 Kenen churned out 48 issues. The mission and mandate of the newsletter appeared in a print issue two years after it commenced publication. It made no mention at all of the Jewish Agency’s, AZC, AZCPA’s or Kenen’s core lobbying concern, supporting the State of Israel:

*In the last decade, the Near East has attained international significance in contemporary history. Always a center of religion, culture and philosophy, the Near East is now of primary concern in our "cold war" world. Events shaping the destiny of this crucial region are playing a decisive part in the arena of world politics—and propaganda in both a new mouthpiece to rewrite the past and a deadly weapon to determine the future.*

*Two years ago, the Near East Report was established as a Washington newsletter reporting and interpreting American foreign policy in the Near East. Our purpose, then and now: to sift out the propaganda and to clarify the facts. Our policy: to provide a lucid analysis of developments as they occur. Our aim: to contribute to a positive, constructive policy which will enlarge and strengthen the circle of American friendship in the Near East.*<sup>40</sup>

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***Finding: A cursory examination of all past and present issues of the Near East Report reveal that it is a lobbying newsletter exclusively dedicated to shaping US opinion about and winning foreign aid and political support for Israel.***

The *Near East Report* became absolutely vital to Kenen's lobbying efforts by counting votes and spurring support for US military sales and aid to Israel. Kenen kept a tight binary tally of what he categorized as "anti-Israel" votes in Congress and the UN. His expanded serialized criticism of members of Congress who attempted to craft more broadly representative Middle East policy was phrased in a lofty and disembodied third-person-plural voice. The prose was geared to instill a sense of an observant, omnipotent, and unified base of US support for Israel. Kenen also drummed up opposition phone calls, letters, and impassioned responses in key congressional districts. Early on Kenen went after Senator J. W. Fulbright, printing articles bearing lofty titles such as "We Differ with Fulbright" that chastised the senator for reaching out to Arab countries. Kenen also reprinted letters from activists and allies that appeared in leading regional and national newspapers.

The *Near East Report* also published many timely and detailed media monitoring reports from the Arab press and radio broadcasts, which appeared in the Comments section. Kenen seemed to be instantly privy to expansive in-region foreign press monitoring, though no information about his translation and collection methods ever appeared in the *Near East Report*.<sup>41</sup>

Kenen traveled to Los Angeles on July 15, 1960 to participate in the formulation of the "Near East" plank at the Democratic Convention, which he reprinted in full in the *Near East Report*:

*In the Middle East we will work for guarantees to ensure independence for all states. We will encourage direct Arab-Israel peace negotiations; the resettlement of Arab refugees in lands where there is room and opportunity for them; an end to boycotts and blockades; the unrestricted use of the Suez Canal by all nations.*

*We urge continued economic assistance to Israel and the Arab peoples to help them raise their living standards. We pledge our best efforts for peace in the Middle East by seeking to prevent an arms race while guarding against the dangers of a military imbalance resulting from Soviet arms shipments.*<sup>42</sup>

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<sup>40</sup> *Near East Report*, Washington, DC, 1959 issues

<sup>41</sup> Since 1998, a nonprofit organization called the Middle East Media Research Institute, founded by a former colonel of Israeli Intelligence and two other intelligence officers, has provided free translated content from Arabic and Farsi sources in the Middle East. With a pipeline to many American journalists and media personalities including content prominently featured on Fox News, MEMRI's success has supplanted the fledgling media monitoring found in Isaiah Kenen's newsletter. One critic states, "MEMRI's intent is to find the worst possible quotes from the Muslim world and disseminate them as widely as possible." Scholar Juan Cole hypothesized that MEMRI is fed, and thus subsidized, by Israeli intelligence service press monitors.

<sup>42</sup> *Near East Report*, Washington, DC, Vol. 4, No. 4, July 15, 1960

For Kenen the value of highlighting his personal involvement in both Democratic and Republican Party politics was irresistible. He momentarily broke from his usual background role dictated by his tight public relations standards. Kenen provided rare "meta level" analysis of the national and international impact of his participation in the plank formulation to Near East Report readers:

*The importance of platforms. Many people are skeptical about political platforms. But skepticism is unjustified. Platform declarations have a positive value in the clarification and implementation of our national policies. They help to mold public opinion at home because they inform and guide candidates, who stand for election on their party's program. They have importance abroad because they transmit to other governments the views of the American people. Sometimes our foreign policy is expressed more forcibly and plainly in a platform than when masked in the language of diplomacy.<sup>43</sup>*

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In this way, the Near East Report also served as a paper-based lobbying mini-seminar to educate and energize donors and activists in each congressional district. Kenen's teachings would multiply as the lobby later began grooming candidates, executing opposition research and smear campaigns, and later establishing an archipelago of coordinated stealth political action committees to tip key races.

Copies of the Near East Report reached the desks of US media, social and political elites, often accompanied by a heavy linen bond presentation card reading, "With the Compliments of I. L. Kenen." Behind the scenes the Israeli-government-funded Jewish Agency was partially footing the bill. Between June 29, 1960 and October 13, 1961 alone, Kenen received \$38,000 (equivalent to \$279,300 in 2010 dollars), usually in \$5,000 increments, from the Jewish Agency, laundered through the American Zionist Council, to publish the Near East Report.<sup>44</sup>

The Jewish Agency–American Section in New York filed highly deceptive registration statements with FARA, first omitting the transfers, then disclosing only "lump sum" disbursements to the American Zionist Council, which it called "subventions"<sup>45</sup> for "education". These payments not only allowed Kenen to finance his own startup activities at AIPAC, but also allowed AIPAC to distribute free Near East Report subscriptions to every member of Congress, large donors, editors, and allies in the private sector news and information services. Although the term "money laundering" was not used at the time, it is a highly accurate description of how this financial flow thwarted FARA.<sup>46</sup>

Fulbright's investigation created an unassailable public record of the fact that Kenen never formally severed ties to the Israeli government and related foreign principals as he had represented in his FARA correspondence. The *Near East Report* was eventually transferred from Kenen's private ownership to an affiliated AIPAC nonprofit shell corporation called Near East Research, now housed in the same building as AIPAC's Washington DC headquarters.

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<sup>43</sup> Near East Report, Washington, DC, Vol. 4, No. 4, July 15, 1960

<sup>44</sup> Senate Foreign Relations Committee Investigation into the Activities of Agents of Foreign Principals in the United States, 88<sup>th</sup> Congress, 1<sup>st</sup> session, Washington, US Government Printing Office, May 23, 1963, p. 1211

<sup>45</sup> A subvention is a grant of money, as by a government or some other authority, in aid or support of some institution or undertaking.

<sup>46</sup> The Financial Action Task Force, a Paris-based multinational group formed in 1989 by the Group of Seven industrialized nations to foster international action against money laundering, agreed to a "working definition" of money laundering that includes legitimate proceeds used with the intent to promote unlawful activity. In this case, tax-exempt charitable donations made by a foreign entity were surreptitiously moved into the US financial system to fund lobbying on behalf of Israel in a way designed to avoid FARA disclosures. All of this came out, painfully and abruptly, in J. W. Fulbright's historic 1963 hearings.



## The Jewish Agency/AZC/AZCPA/AIPAC Propaganda Campaign Tactics

The Jewish Agency funded a comprehensive US propaganda campaign through the AZC/AZCPA revealed in documents subpoenaed and seized for the Senate Foreign Relations Committee campaign. Reports from the American Zionist Council to the Jewish Agency reveal a comprehensive propaganda program (see the appendix Jewish Agency/AZC/AZCPA/AIPAC Propaganda Campaign). Tactics deployed (summarized from the reports) included:

1. Discrediting independent fact-finding and Middle East analysis by deploying sympathetic experts.
2. Pushing Israeli government talking points through background briefing sessions with editors.
3. Using a “subtle” approach.
4. Rallying committed volunteers
5. Rapid response to event driven news.
6. Responses in “well-known publications devoted to Israel’s cause”.
7. Content placement in association publications.
8. Contract reprints of laudatory letters to the editor for important content.<sup>47</sup>
9. Buying large volume article reprints for redistribution to reward publications.
10. Approaching editors with anniversary celebrations, draft Israel proclamations, and other “events” support.
11. Creating elite opinion journals to pitch Israel’s cause.
12. Providing research to substantiate PR frames favorable to Israel .
13. Turning down editorial debate invitations with opposition experts.
14. Funding public speaking events.
15. Refusing to debate other groups.
16. When events are organized by critics, trying to get them canceled.
17. If an event can’t be cancel, insisting on placement of speakers on same platform in the name of “balance.”
18. Coordinated policy of “no invitation” to critical speakers.<sup>48</sup>
19. Monitoring Middle East presentations and encouraging that Israel not be brought up by critics.
20. Distributing centrally developed material to local gatherings to counter critical speakers.
21. Monitoring opposition content presentation trends.
22. Infiltrating NGOs.
23. Creating and funding friendly front groups “American Christian Association for Israel” – run out of the same office as Jewish Agency
24. Creating and financing friendly US based think tanks (the Council for Middle East Affairs).
25. Staffing full time staff to counter opposition NGOs.
26. Conducting covert counter measures against independent press. “For obvious reasons our activities in this area cannot be minutely described.”
27. Coordinating action with Israeli consulates.
28. Tracking the movement of ideological opponents.
29. Giving advance warning of opposition presentations to community contacts.
30. Monitoring meetings and reporting to a central office for counteraction.
31. Furnishing after-event speakers by pleading for “equal time”.
32. Notifying “national defense agencies” of any “anti-Israel propaganda “ events.
33. Monitoring press by region.

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<sup>47</sup> 11-12 1961

<sup>48</sup> 0-02 1961

34. Providing talking points and digests to “thought leaders”.
35. Trying to have ideologically opposed professors fired.
36. Offering secret dossiers to hiring committees to preempt unfavorable hires.
37. Mobilizing “friends” in an academic institution’s community to oppose academic appointments
38. Lobbying college presidents that hiring certain professors will have “public relations implications.”
39. Organize conferences on campus.
40. Creating scholarships and transfer in students to “hostile” campuses.
41. Obtaining endowed chairs to be held only by Jews “who should be a distinguished Semiticists.”
42. Motivating community leaders to present a “suitable” Israel or Middle East “bookshelf” to local and college libraries.
43. Placing Israeli scholars onto college campuses.
44. Developing Israel advocates on campus faculty
45. Developing a student network that can perceive implications of programs and support requests for program revision.
46. Recommended speakers list.
47. Underwriting and promoting favorable books.
48. Circulating counterpoints to unfavorable books.
49. Preparation of textbook materials, publisher identification, distribution in school systems.
50. Providing free books to libraries.
51. Encouraging wide distribution of pro-Zionist histories<sup>49</sup>
52. Pitching ideas to TV and Radio producers.
53. Finding “personalities of more than average stature who will be in a position to approach top network officials” (presumably to shut down opposition access).
54. If hostile speakers are given platform, questioning their legitimacy as spokespeople.
55. Enforcing policy of “not to enter into public debates” so producers will drop programs.
56. Visits to Israel - subsidizing VIP visits, and sending back “news” to local US geographies.

***Finding: The Jewish Agency funded US pressure and covert media action campaign went beyond hardball public relations tactics. It suppressed free speech in America by undermining academia, informed consent governance and inflicted lasting harm on news gathering institutions. The expenditures and tactics executed through the AZC/AZCPA and AIPAC fell well outside the Jewish Agency’s tax exempt mandate***

***Finding: The tactics revealed in the media reports are the opposite of “public education” e.g. killing unfavorable stories in the press, stifling competing expert points of view, having competing scholars fired by dubious means rather than engaging in the free exchange of ideas.***

One example reveals how the AZC, AIPAC donors and the *Near East Report* coordinated a campaign to divert US attention away from Israel’s clandestine nuclear weapons program in the 1960s. According to *Israel and the Bomb* author Avner Cohen, in 1958 Israeli Prime Minister David Ben Gurion secretly designated Democratic Party fundraiser Abraham Feinberg to be the key “benedictor” for organizing and raising private American donor funding for the clandestine Israeli nuclear weapons program in direct opposition to president Kennedy’s nuclear non-proliferation drive. In 1960 Feinberg began a series of payments (see appendix AZCPA Lobbying Expenditures – 1954-1960 Highlights) to AIPAC, then only recently renamed from the American Zionist Council for Public Affairs. In return, the AZC and Near East

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<sup>49</sup> 11-12 1960



Report helpfully ran U.S. publicity promoting Dimona as a peaceful research facility rather than a nuclear weapons production site.

AIPAC founder Isaiah L. Kenen penned an article called “No Bombs Possible” in his Jewish Agency/AZC-subsidized Nov. 2, 1961, *Near East Report* newsletter to Congress and activists. Kenen wrote,

*“Meanwhile, many asked whether the Israel reactor could really produce sufficient plutonium, a nuclear weapon component, to construct a bomb. Science editor William L. Laurence of the New York Times deflated these reports, on Dec. 25, when he wrote that ‘the plutonium produced in a small nuclear reactor of 24,000 thermal kilowatts is very minute indeed ... and ‘completely useless for bomb material.’ The basic facts, if fully understood, would make it clear why only great industrial nations, particularly the United States and Soviet Russia, can be full-fledged members of the ‘atomic club.’”*

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AIPAC and Feinberg’s well-financed Dimona PR deception, spread in the US by overseas funding, was a complete success in fooling the American public. AIPAC circulated the free edition of the *Near East Report* to its base of opinion molders and legislators.

***Finding: AIPAC and the Near East Report and Israel’s funding coordinator subverted US nuclear nonproliferation policy by promoting phony news stories that Dimona was not an Israeli nuclear weapons production facility. This drive to subvert official US policy helped promote nuclear proliferation in the Middle East. Once again, the funders and principals were engaged in the opposite of the public education their tax exempt mandates required.***

The AZCPA/AIPAC raised funding from organized crime figures and arms smugglers. (see appendix AZCPA Lobbying Expenditures – 1954-1960 Highlights) Mob accountant Meyer Lansky’s associate Aaron Weisberg was a Las Vegas investor who testified reluctantly in the tax-evasion case of notorious mobster Joseph “Doc” Stacher. Beginning in 1955, Weisberg provided many rounds \$500 of AIPAC startup funding from the Sands Casino, which he partially owned. According to E. Parry Thomas, who helped clean up Las Vegas by forcing all shadowy backers to stand before casino licensing boards, “Aaron Weisberg had 20 [percent] and he probably owned only half of it [the Sands] because he was Meyer Lansky’s man. This went on everywhere.”<sup>50</sup>

John Factor (a.k.a. Iakov Faktorowicz) was known to friends and enemies alike as “Jake the Barber.” Factor “shaved” English investors of an estimated \$8 million through stock frauds. In the U.S. he colluded with Al Capone to fake his own kidnapping<sup>51</sup> in order to frame and take down a rival. Like Weisberg, Jake the Barber became a “straw buyer” for a Chicago criminal ring’s purchase of the Stardust Resort and Casino in Las Vegas. Factor’s infamy was well known by the time AIPAC received the Barber’s \$1,000 investment late in 1959. Just before his immanent extradition from the U.S., Factor received a rushed, mysterious presidential pardon on December 24, 1962, from John F. Kennedy.

Zimel Resnick was another early AIPAC funder. When three trucks containing 80 tons of highly explosive WWII surplus cyclonite blocks along with a cache of 5,200 U.S. Navy combat knives were seized in New York by police in 1948, it quickly became apparent it was a clandestine illegal shipment bound for Jewish fighters in Palestine. The size, scale, and front companies of the Haganah smuggling network organized in direct violation of U.S. arms embargoes and the War

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<sup>50</sup> <http://www.lvrj.com/living/44256012.html>

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[http://books.google.com/books?id=m5cbT\\_sNq9AC&pg=PA244&dq=john+factor+capone&hl=en&ei=4ch3TJyqKYHGIQfdooSwCg&sa=X&oi=book\\_result&ct=result&resnum=1&ved=0CCsQ6AEwAA#v=onepage&q=john%20factor%20capone&f=false](http://books.google.com/books?id=m5cbT_sNq9AC&pg=PA244&dq=john+factor+capone&hl=en&ei=4ch3TJyqKYHGIQfdooSwCg&sa=X&oi=book_result&ct=result&resnum=1&ved=0CCsQ6AEwAA#v=onepage&q=john%20factor%20capone&f=false)

Assets Administration, are only slowly emerging into the history books. Zimel Resnick bailed his captured business associate out of jail<sup>52</sup> after this key front company operative smuggling 199 tons of explosives was caught. Running with arms smugglers apparently paid off. By 1956, AIPAC began receiving \$1,000 Resnick contributions totaling \$3,000.

***Finding: The AZCPA's donor base included unprosecuted conventional arms smugglers, mob figures, and the US funding coordinator for Israel's clandestine nuclear weapons program. In some cases, such as Feinberg's, the funding was used in coordinated ways that conflicted with nonprofit exempt purposes.***

The Jewish Agency, incorporated in 1949 under the laws of the State of New York. It was granted IRS tax exempt status in 1953 in order to raise funds "to give aid to persons seeking refuge in Israel, to provide for their transportation to and resettlement in Israel, to provide for their rehabilitation and training, to aid and assist religious, cultural, scientific, industrial, agricultural and other institutions and activities in Israel heretofore and hereafter carried out by the Jewish Agency for Palestine; and to raise funds for such purposes." The IRS did not grant tax exempt status for funds transmitted to the Jewish Agency for Israel in Jerusalem to be laundered back into the United States to lobby congress and conduct media campaigns through stealth conduits. (see appendix US Treasury Department Letter, RE: The Jewish Agency for Israel Inc.)

***Finding: The Jewish Agency's tax exempt mandate did not permit clandestine lobbying and publicity campaigns in the US carried out by conduit organizations.***

The Jewish Agency was also regulated by the Foreign Agents Registration Act under which it registered and began disclosing activities in 1939.<sup>53</sup> Through 1962, it made lump-sum, non-itemized FARA declarations of expenditures in the United States. On November 1, 1962 the Attorney General was notified that preliminary findings of a Senate Foreign Relations Committee staff study into foreign agents revealed significant funding flows from the Jewish Agency to the American Zionist Council. After the Justice Department confirmed these flows were directed to the AZC for political activities, the Attorney General approved that it be ordered to register as a foreign agent under the 1938 Act. On November 21, 1962, the Department of Justice ordered the American Zionist Council to register as foreign agents. (see appendix DOJ Orders AZC to Register as a Foreign Agent).

***Finding: The Jewish Agency's clandestine, undeclared payments to the AZC triggered a DOJ order that AZC begin to register under the 1938 Foreign Agents Registration Act.***

## **AIPAC's Incorporation Timing and Fraudulent Application for Tax Exemption**

As stated in the introduction, the reason that AIPAC today is vague about its corporate history is that it could not justify the tax exempt status it has benefitted from ever since the late 1960s. As previously documented, AIPAC's founder never severed ties with the Jewish Agency or AZC, he was receiving \$5,000 in quarterly Jewish Agency installments to support his lobbying and PR activities while leading the supposedly "independent" AZCPA/AIPAC. While the authorship of periodic AZC public relations section reports sent to the Jewish Agency were signed "the committee," their true author was Isaiah Kenen, who then executed many of the PR strategies through his Near East Report and AZCPA/AIPAC lobbying.

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<http://pqasb.pqarchiver.com/chicagotribune/access/483271992.html?dids=483271992:483271992&FMT=ABS&FMTS=ABS:AI&type=historic&date=Jan+10%2C+1948&author=&pub=Chicago+Tribune&desc=Seize+Knives%2C+Explosives+in+Hunt+for+Zionist+Cache&pqatl=google>

<sup>53</sup> "15 More Registered as Foreign Agents", New York Times, 03/28/1939

**This is why the crisis that enveloped the AZC when the Justice Department ordered it to register as a foreign agent on November 29, 1962 precipitated immediate changes in the AZC PR Department.** On November 29, 1962, the AZC president Jerome Unger issued a memo centralizing all public relations activities. "Beginning immediately and extending through April 30, 1963 we have engaged Mr. Ernest Barbarash to conduct the 'internal public relations' activities of the AZC...You may submit your material and requests directly to Mr. Barbarash or channel them through my office, as you desire...it is rare that we are concerned with this kind of need suddenly..."<sup>54</sup>

The AZC was also forced to cancel the conduit funding to Kenen and the AZCPA by cutting off payments to the *Near East Report*. "We know that community leaders, as well as Christian public opinion molders, who are actively engaged in the creation of a better understanding of Israel and the Middle East have found the Near East Report an important and vital source of information....Unfortunately, we must now inform you that the Council is no longer in a position to continue this service..."<sup>55</sup> (see final entries in appendix AZCPA Lobbying Expenditures – 1954-1960 Highlights or the actual reports at Jewish Agency/AZC/AZCPA/AIPAC Propaganda Campaign

The AZC then entered into a protracted battle with the US Department of Justice (the internal DOJ files were declassified in 2008), alternately refusing to register as a foreign agent, or offering to partially comply with the order in exchange for special treatment (e.g. being allowed to file disclosures secretly, instead of under the public disclosure required by FARA). (See <http://irmep.org/ILA/AZCDOJ/> for the full documentary record of the FARA order, declassified and released by the National Archives in 2008.) The AZC was allowed to submit a 3 month summary FARA registration in nonstandard format in March of 1965. The list of recipients of Jewish Agency/AZC funding was filed in secret, and not publicly disclosed by the DOJ until 2008. Assistant AG J. Walther Yeagley notified the FBI (which offered to help investigate and secure FARA compliance) that "the material does not comprise a registration statement but does supply basic information regarding the activities of the AZC financed in part by the Jewish Agency."<sup>56</sup>

The public record of activities in news clippings about the AZC ends in 1965.

***Finding: The American Zionist Council was put out of business by the Justice Department's 1962 order that it begin registering as an Israeli foreign agent. However, breaking up the AZC had no impact on the constituent organizations, which eventually formed the core of AIPAC's new executive committee.***

The DOJ FARA order threatened to leave a gap in Israel public relations and lobbying in the United States. With no lead organization to finance and coordinate PR and lobbying, foreign aid packages and diplomatic cover desired by the Israeli government would have been interrupted. **The AZC had to be replaced with another tax exempt organization.**

This is why Isaiah Kenen incorporated the American Israel Public Affairs Committee as an independent organization on January 2, 1963 in Washington, DC as a "Charitable, Educational, and Religious Association) under Title 29, Chapter 6 of DC Code. (see appendix AIPAC Articles of Incorporation 1/2/1963) Previously, as the functional adjunct of the AZC, receiving Jewish Agency funding, the AIPAC never had an urgent need to incorporate independently until its parent was ordered to register under FARA and began shutting down while fighting with the Justice Department.

***Finding: The reason AIPAC was incorporated six weeks after the 11/21/1962 AZC FARA order was to fill the void left by its parent organizations as Israel's lead lobbying and public relations organization in the United States.***

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<sup>54</sup> <http://irmep.org/ILA/AZC/box%202022/11291962%20AZC%20Memo%20on%20New%20Head%20of%20PR.pdf>

<sup>55</sup> <http://irmep.org/ILA/AZC/box%202022/12101962%20AZC%20discontinues%20free%20subscriptions%20of%20the%20Near%20East%20Report.pdf>

<sup>56</sup> <http://irmep.org/ILA/AZCDOJ/p6100003/default.asp>

On November 27, 1967 Isaiah Kenen submitted an application for tax exempt status to the IRS on form 1024 (see appendix AIPAC Application for Tax Exempt Status Form 1024 11/27/1967) along with a Power of Attorney and copy of AIPAC's articles of incorporation. On line 6a of AIPAC's application, "Are you the outgrowth or continuation of any firm or predecessors?" Kenen marked an x on "no." This is a fraudulent answer. In reality, AIPAC is the outgrowth of three related organizations:

1. The Israeli Ministry of Foreign Affairs: Kenen left the Israeli government because FARA created disclosure standards too rigorous to be effective. The Ministry of Foreign Affairs Information Office provided AIPAC's original mandate, securing foreign aid for Israel. Kenen left by agreement with Israeli officials.
2. The Jewish Agency: This quasi-governmental organization was not only Kenen's former employer, but provided the majority of funding for the American Zionist Council, which in turn, funded the *Near East Report*, paid \$5,000 per quarter to Kenen for public relations and lobbying, sustaining ACZPA/AIPAC's lobbying operations as "conduits."
3. The American Zionist Council: The AZC's lobbying division, in a strict corporate sense, became the AZCPA from 1Q1954 to 2Q1954. The unbroken string of lobbying records in (appendix AZC/AZCPA/AIPAC Quarterly Lobbying Division Disclosures from 1951-1960) reveals this continuity.

***Finding: AIPAC fraudulently omitted the Israeli Ministry of Foreign Affairs, the Jewish Agency and American Zionist Council as predecessor organizations on its application for tax exempt status.***

On line 6e of AIPAC's application, "Have you or do you plan to make any payments to members or shareholders for services rendered or to be rendered?" Kenen marked an "x" on "no." This is a fraudulent answer. In reality, the AZC, the Jewish Agency and the Israeli consulate all paid for the distribution of copies of the *Near East Report*, which at the time was privately owned by Isaiah L. Kenen. Because the application for exemption was retroactive to 1954, Kenen was denying all of the payments documented on AZCPA lobbying disclosures, AZC activity reports and in the Senate record in a fraudulent response to the question. This fraudulent "no" answer also applies to question 6e "Have you made or do you plan to make any payments to members or shareholders for services rendered or to be rendered" and "Does any part or do you plan to have any part of your net income insure to the benefit of any private shareholder or individual?"

FORM 1024

(Rev. March 1964)  
U.S. Treasury Department  
Internal Revenue Service

### EXEMPTION APPLICATION

(To be made only by a principal officer of the organization claiming exemption)

To be filed in duplicate with the District Director for your District.

For the use of organizations applying for exemption under section 501 (n) of the Internal Revenue Code which are described in the following subsections: (Check the applicable subsection.)

- Section 501 (c) (4)—Civic leagues or social welfare organizations (including posts, councils, etc., of veterans' organizations).
- Section 501 (c) (4)—Local associations of employees.
- Section 501 (c) (5)—Labor, agricultural, or horticultural organizations.
- Section 501 (c) (6)—Business leagues, chambers of commerce, etc.
- Section 501 (c) (8)—Fraternal beneficiary societies, etc.

EVERY ORGANIZATION THAT CLAIMS TO BE EXEMPT MUST FURNISH THE INFORMATION AND DATA SPECIFIED IN DUPLICATE. IF ANY ORGANIZATION FAILS TO SUPPLY THE INFORMATION AND DATA REQUIRED, THIS APPLICATION WILL NOT BE CONSIDERED ON ITS MERITS AND WILL BE RETURNED.

1a. FULL NAME OF ORGANIZATION  
**American Israel Public Affairs Committee**

b. EMPLOYER IDENTIFICATION NUMBER  
(See instruction F)  
**53-0217164**

2. COMPLETE ADDRESS (Number, street, city or town, State and Postal ZIP code)  
**1341 "G" Street, N. W. Washington, D. C. 20005**

3. DATE SUBMITTED  
**Nov. 27, 1967**

4a. IS THE ORGANIZATION INCORPORATED?  
 Yes  No

b. IF "YES," IN WHICH STATE AND UNDER WHICH LAW (GENERAL CORPORATION, NOT FOR PROFIT, MEMBERSHIP, EDUCATIONAL, ELEEMOSYNARY, ETC.)? CITE STATUTORY PROVISIONS.  
**District of Columbia, Charitable, Educational, and Religious Associations Title 29, Chapter 6, D.**

c. IF NOT INCORPORATED, WHAT IS FORM OF ORGANIZATION?

On question 6e AIPAC responded "no" - even though it was an outgrowth and continuation of the AZC, which was a sham organization of the Jewish Agency shut down by a 1962 DOJ FARA order.

5a. HAS ORGANIZATION FILED FEDERAL INCOME TAX RETURN (S)?  
 Yes  No

b. IF "YES," FOR WHICH DISTRICT WILL FORM 1120 BE FILED?

6a. ARE YOU THE OUTGROWTH OR CONTINUATION OF ANY FORM OF PREDECESSOR(S)?

b. IS CAPITAL STOCK ISSUED AND OUTSTANDING?

If "Yes," attach a statement indicating (1) class or classes of such stock, (2) the number and par value of the shares, (3) the consideration for which issued, and (4) whether any dividends have been paid or whether your certificate of organization authorizes such payment on any class of such stock.

c. HAVE YOU MADE OR DO YOU PLAN TO MAKE ANY DISTRIBUTION OF YOUR PROPERTY OR SURPLUS TO SHAREHOLDERS OR MEMBERS?

If "Yes," attach a statement containing full details, including (1) amounts or value, (2) source of funds or property distributed or to be distributed, and (3) basis of and authority for distribution or planned distribution.

d. DOES ANY PART OR WILL ANY PART OF YOUR RECEIPTS REPRESENT PAYMENT FOR SERVICES OF ANY CHARACTER RENDERED OR TO BE RENDERED?

If "Yes," attach a statement explaining in detail.

e. HAVE YOU MADE OR DO YOU PLAN TO MAKE ANY PAYMENTS TO MEMBERS OR SHAREHOLDERS FOR SERVICES RENDERED OR TO BE RENDERED?

AIPAC paid substantial sums to the *Near East Report*, owned by its founder, but refused to reveal this in questions 6d, e, or f as required

f. DOES ANY PART OR DO YOU PLAN TO HAVE ANY PART OF YOUR NET INCOME INURE TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL?

g. DO YOU PAY OR DO YOU PLAN TO PAY SICK OR DEATH BENEFITS, OR PENSIONS OR ANNUITIES TO YOUR MEMBERS?

7. YOU MUST SUBMIT COPIES OF ALL ADMINISTRATIVE OPINIONS AND DECISIONS (IF ANY) RELATING TO THE FOLLOWING QUESTIONS:

- a. HAVE YOU EVER RECEIVED OR REQUESTED ANY EXEMPT OR SPECIAL STATUS UNDER THE LAW OF THE STATE OF YOUR INCORPORATION OR OPERATION, SUCH AS INCOME OR PROPERTY TAX EXEMPTION?  
 Yes  No
- b. ARE YOU UNDER THE SUPERVISORY JURISDICTION OF ANY STATE, COUNTY, OR CITY REGULATORY BODY, SUCH AS THE SOCIAL WELFARE AGENCY, BOARD OF REGENTS, ETC., OR HAS SUCH STATUS EVER BEEN REQUESTED?  
 Yes  No
- c. HAS ANY COURT (INCLUDING A COURT OF PROBATE, SUCROGATE'S COURT, ETC.) EVER DECLARED THAT YOU WERE ORGANIZED AND OPERATED FOR CHARITABLE, ETC., PURPOSES?  
 Yes  No

8. IF YOU ARE CLAIMING EXEMPTION AS AN ORGANIZATION DESCRIBED IN SECTION 501 (c) (4) AS A LOCAL ASSOCIATION OF EMPLOYEES, ATTACH A STATEMENT GIVING NAMES AND ADDRESSES OF EMPLOYEES WHOSE EMPLOYERS ARE ELIGIBLE FOR MEMBERSHIP IN THE ASSOCIATION. IF EMPLOYERS OF MORE THAN ONE PLANT OR OFFICE OF THE SAME EMPLOYER ARE ELIGIBLE FOR MEMBERSHIP, GIVE THE ADDRESS OF EACH SUCH PLANT OR OFFICE.  
**Not applicable**

9. IF YOU ARE CLAIMING EXEMPTION AS AN ORGANIZATION DESCRIBED IN SECTION 501 (c) (6), DO YOU PERFORM OR DO YOU PLAN TO PERFORM PARTICULAR SERVICES FOR MEMBERS, SHAREHOLDERS, OR OTHERS, SUCH AS FURNISHING CREDIT REPORTS, COLLECTING ACCOUNTS, INSPECTING PRODUCTS, CONDUCTING ADVERTISING, PURCHASING MERCHANDISE, OR OTHER SIMILAR UNDERTAKINGS?  Yes  No  
If "Yes," ATTACH A STATEMENT IN DETAIL, INCLUDING INCOME REALIZED AND EXPENSES INCURRED, REGARDING SUCH ACTIVITIES. IF ENGAGED IN ADVERTISING, ATTACH SPECIMEN COPIES OF MATERIAL.  
**Not applicable**

Figure 5 AIPAC's Fraudulent Tax Exempt Application

***Finding: AIPAC fraudulently stated that no payments were made to Kenen on its application for tax exempt status when in fact thousands were paid for distribution of his privately owned Near East Report.***

Section 11 of form 1024 required elaboration of several material facts. Question e asked for “A brief statement which states the specific purposes for which the organization was formed. (Do not quote from or make reference to the articles of incorporation or bylaws for this purpose.)” Honestly answered, the application would have stated that lobbying for taxpayer funded US aid, positive publicity and diplomatic support to Israel, all in coordination with the Israeli government, was AIPAC’s core purpose. However, these are not tax exempt activities, so the tax exempt application omits this vital information, and undermined the opportunity for watchdog groups or taxpayers to challenge any false representations.

***Finding: AIPAC fraudulently omitted any declaration of exempt purpose on its form 1024 application of tax exempt status.***

Section 11, question f. requires a statement “explain in detail such fund-raising activity and each business enterprise you have engaged in or plan to engage in, accompanied by copies of all agreements, if any, with other parties for the conduct of such fund-raising activity or business enterprises.” AIPAC could have detailed funding flows from the Jewish Agency, AZC, and Near East Report in this section, including the \$5,000 per quarter from the Jewish Agency for public relations, but instead provided no response.

***Finding: AIPAC fraudulently omitted any declaration of fund raising activities on its form 1024 application of tax exempt status. It omitted seeking out Jewish Agency and AZC funding.***

Section 11, question g. requires a “statement which describes in detail the nature of your activities, activities which you sponsor, and proposed activities.” If AIPAC had responded in a forthright manner, it would have described a process for rewarding or punishing US politicians (via campaign funding flow coordination) in order to secure aid for Israel. AIPAC could have detailed coordinated work to coerce Israeli propaganda into US news sources for such initiatives as the clandestine Israeli nuclear program, as well as occasional covert operations alluded to in AZC progress reports. However, AIPAC refused to provide any declaration providing insight into its activities, denying public interest challengers the right to rebut.

***Finding: AIPAC fraudulently omitted any declaration of general activities on its form 1024 application of tax exempt status that would have provided insight, hindsight, or foresight into the activities documented in this complaint.***

Section 11, question h. requires “a statement which explains fully any specific activities that the organization has engaged in or sponsored and which have been discontinued. (give dates of commencement and termination and the reasons for discontinuance).” This question would have required a rather long response. AIPAC could have indicated that it was forced to stop receiving Jewish Agency funding via the AZC and *Near East Report*, because the AZC was ordered to register as an Israeli foreign agent in November of 1962. AIPAC could have stated that its director stopped running the AZC public relations organization on the same date, for the same reason. However an honest and complete response to this question would most likely have resulted in denial of tax exemption, so it was left blank, again denying public interest challengers the right of rebuttal.

***Finding: AIPAC fraudulently omitted any declaration of discontinued activities on its form 1024 application for tax exempt status that would have provided insight, hindsight, or foresight into the activities documented in this complaint.***



Section 11, question i. requires “a statement which describes the purposes other than in payment for services rendered or supplies furnished, for which the organization’s funds are expended or will be expended.” AIPAC could have given an example, such as, “funds were received from Israeli’s US clandestine nuclear weapons funding coordinator, which were spent publicly positioning the Dimona weapons facility as a peaceful endeavor.” Of course, such a forthright response would have resulted in denial of the desired tax exemption; so instead, AIPAC provided no details at all of funding distribution, denying public interest challengers the right of rebuttal.

***Finding: AIPAC fraudulently omitted any declaration of funding distribution on its form 1024 application of tax exempt status that would have provided insight, hindsight, or foresight into the activities documented in this complaint.***

AIPAC’s application for tax exempt status is full of fraudulent responses and material omissions to questions which, if answered honestly, would have resulted in IRS denial of tax exempt status. However, on the basis of the fraudulent application, the IRS granted tax exempt status to AIPAC on January 25, 1968. (see appendix AIPAC IRS Determination Letter 1/25/1968). The IRS granted tax exempt status retroactive to 1954, through the time period under which a great many of the abuses leading to the AZC foreign agent registration occurred. The IRS determination letter states,

*“This determination is also applicable to your unincorporated predecessor organization under the same name and under the name of American Zionist Committee for Public Affairs.”*

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***Finding: The IRS granted AIPAC tax exempt status retroactive to 1954. If AIPAC had provided the required, accurate and warranted responses to closed and open questions on form 1024 about activities between 1954 and 1963, the IRS could not in good faith have granted tax exempt status.***

10a. IF YOU ARE CLAIMING EXEMPTION AS A FRATERNAL BENEFICIARY SOCIETY, ETC., AS DESCRIBED IN SECTION 501(c)(15), STATE WHETHER THE ORGANIZATION OPERATES OR PLANS TO OPERATE UNDER THE LODGE SYSTEM OR FOR THE EXCLUSIVE BENEFIT OF THE MEMBERS OF AN ORGANIZATION SO OPERATING. (Operating under the lodge system means carrying on activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like.)

Not applicable

- b. IN THE CASE OF A SUBORDINATE OR LOCAL LODGE, ETC., ATTACH A CERTIFICATE SIGNED BY THE SECRETARY OF THE PARENT ORGANIZATION, UNDER THE SEAL OF THAT ORGANIZATION, CERTIFYING THAT THE SUBORDINATE LODGE IS A DULY CONSTITUTED BODY OPERATING UNDER THE JURISDICTION OF THE PARENT BODY.
- c. IN THE CASE OF A PARENT OR GRAND LODGE, ATTACH A STATEMENT SHOWING (1) THE NUMBER OF SUBORDINATE LODGES IN ACTIVE OPERATION, AND (2) WHETHER PERIODICAL MEETINGS ARE ACTUALLY HELD.
- d. ATTACH A STATEMENT DESCRIBING THE TYPES OF BENEFITS (LIFE, SICK, ACCIDENT, OR OTHER BENEFITS) PAID OR TO BE PAID MEMBERS.

11. YOU MUST ATTACH COPIES IN DUPLICATE OF THE FOLLOWING:

- a. If incorporated, a copy of your articles of incorporation, or if not incorporated, a copy of your constitution, articles of association, declaration of trust, or other document setting forth your aims and purposes. (Conferred copies must be furnished of the original document, all amendments thereto, and any changes presently proposed.)
- b. A copy of your bylaws or other code of internal laws. (Conferred copies must be furnished of the original document, all amendments thereto, and any changes presently proposed.)
- c. A complete statement of assets and liabilities as of the end of each annual period if you were in existence for less than a year).
- d. A statement of receipts and expenditures for each annual accounting period of a year). This statement should set forth clearly the sources of receipts and purpose: (1) Where funds have been loaned or borrowed, the reason for the transaction, (2) The extent to which the receipts or income is derived from nonmembers, and (3) Where applicant is a party to a lease, the other party being an officer, must received or paid for the lease, reasons for the transaction, and a statement determined.
- e. A brief statement which states the specific purposes for which the organization incorporation or bylaws for this purpose.)
- f. A statement explaining in detail each fund-raising activity and each business or of all agreements, if any, with other parties for the conduct of each fund-raising activity.
- g. A statement which describes in detail the nature of your activities, activities v
- h. A statement which explains fully any specific activities that the organization dates of commencement and termination and the reasons for discontinuance.)
- i. A statement which describes the purposes, other than in payment for service expended or will be expended.
- j. A copy of each lease, if any, in which you are the lessee or lessor of property for such lease, together with copies of all agreements with other parties for development of such property.
- k. A statement which clearly indicates what State statutes or court decisions govern the distribution of assets upon dissolution. (This statement may be omitted if the organization's charter, certificate, or other instrument of organization makes provision for such distribution.)
- l. A statement which clearly indicates what qualifications are necessary for membership in the organization. (This statement may be omitted if the charter, certificate, or other instrument of organization so provides.)

AIPAC fraudulently omitted all of the required Section 11 declarations of exempt purpose, fund raising activities, general activities, discontinued activities, and funding distribution on its form 1024 application for exemption.

If AIPAC had provided the required answers to these questions in an accurate fashion, the IRS could not have granted tax exempt status in 1968.

INSTRUCTIONS

A. FILING OF APPLICATION

The completed application, together with all information and data required, should be filed in duplicate with your District Director of Internal Revenue. As soon as practicable after the information and data are received, the organization will be advised of the Commissioner's determination and of the annual returns which will be required to be filed.

B. ATTACHMENTS

Every attachment should show the name and address of the organization, the date, an identifiable heading, and that it is an attachment to Form 1024.

In addition to the documents and statements listed which must be filed, any additional information citing court decisions, rulings, opinions, etc., should be filed for purposes of expediting processing of the application.

C. POWER OF ATTORNEY

If the organization expects to be represented in person or by correspondence by an agent or an attorney, a power of attorney specifically authorizing the agent or attorney to represent the organization must be filed.

D. CLAIM FOR EXEMPTION

A mere claim or contention by an organization that it is exempt from income tax under section 501 (a) of the Internal Revenue Code will not relieve the organization from filing income tax returns and paying the tax.

E. REQUESTS FOR WITHHOLDING OF INFORMATION

Any information which is submitted in the application or in support of it and which is determined by the Commissioner to relate to any trade secret, patent, process, style of work, or apparatus, may upon request be withheld from public inspection if the Commissioner determines that the disclosure of such information would adversely affect the organization. Such requests must (1) clearly identify the material to be withheld (the document, page, paragraph, and line), (2) include the reasons for the organization's position that the information is of the type which may be withheld from public inspection, and (3) be filed with the documents in which the material to be withheld is contained.

F. EMPLOYER IDENTIFICATION NUMBER

Enter your employer identification number on line 1 b. If you have no identification number, you must obtain one before filing this exemption application. To obtain one, file Form SS-4, Application for Employer Identification Number, with your District Director of Internal Revenue.

DECLARATION

Under penalties of perjury, I declare that I have examined this application, including accompanying statements, and to the best of my knowledge and belief it is true, correct, and complete.

Nov. 27, 1967

Date

Signature of officer

EXECUTIVE DIRECTOR

Title

Figure 6 Fraudulent Material Omissions – AIPAC form 1024



One of the factors that limited public review of AIPAC's tax exempt application is the US Department of Justice FARA offices decision to treat the AZC FARA filing differently than other public filings. The FARA filing was not submitted on standard forms, covered only ten months of activities, and a large portion of the information was kept from public view in a special folder under a special deal the Jewish Agency made with the US Attorney General. The head of the FARA office, Nathan Levin, noted that (see appendix DOJ FARA Section Memo on AZC File Secrecy – 5/20/1965)

*“This material of the AZC was placed in an expandable portfolio to distinguish it in appearance from the registration statements which are filed in manila folders. In the event Mrs. Eldred [a secretary] receives inquiries as to whether the AZC is registered under the Act, she has been instructed to respond in the negative. She is to advise, however, that the AZC has filed information material with this section which is available for public examination.*”

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The head of the section, J Walter Yeagley noted,

*“OK. This seems to be what the Attorney General Kennedy and the then Deputy AG Katzenbach had in mind.”*”

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***Finding: Because the US Department of Justice kept administrative and FARA filings classified until released under FOIA in 2008, key details and the history of the AZC to AIPAC transformation were unavailable for public or IRS review.***

## AIPAC Illegally Obtains Classified Industry and Proprietary Data from US Corporations in 1985

On July 31, 2009 the FBI released under FOIA a 1984-1987 investigation file into how AIPAC illicitly obtained a classified International Trade Commission report prepared for the US Trade Representative containing proprietary corporate information. AIPAC used the information to lobby for trade preferences for Israel in a manner that undermined the rights and violated the intellectual property of US business and interest groups. (see appendix 1984-1987 FBI Investigation of AIPAC for Espionage and Theft of Gov't Property) US corporations lodged protests over the theft of their intellectual property and the US trade balance was slowly reversed. **AIPAC's receipt, handling, and illegal retention of this still-classified US information was illegal and incompatible with its tax exempt status.**

US-Israeli bilateral trade negotiations for a "Free Trade Area" entered their advice and consent phase in 1984. The strictly regulated and choreographed fast track processes formally commenced on January 1, when USTR ambassador William E. Brock formally requested that the U.S. International Trade Commission perform a detailed investigation into the effects of a free trade area with Israel on U.S. industries.<sup>57 58</sup> American industry and the public were notified on February 15, 1984 via a Federal Register notice soliciting industry input for a written report to be completed by May 30, 1984.<sup>59</sup> The notice also announced that public hearings in Washington, DC were scheduled for April 10-11, 1984, with the deadline for requests for appearances and testimony before the ITC set no later than noon, April 3, 1984.

**Businesses were told to submit their most closely held (and potentially damaging) proprietary information in confidence to the ITC:** "In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation...by the close of business on April 3, 1984." The International Trade Commission underscored its commitment to properly handling industry trade secrets stating that "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."<sup>60</sup> But the ITC and USTR's ability to keep such secrets from a country eager to build its own economy was about to be severely tested by operatives working out of the Israeli embassy in Washington, DC and AIPAC's own public relations, research and lobbying team members.

76 major US trade and industry groups opposed a bilateral trade deal with Israel. (See appendix US Companies, Organizations and Associations In Favor, Neutral and Against a US-Israel Free Trade Area) A delegation from Arkansas, led by then Governor Bill Clinton, was given preferential scheduling for the hearing. Clinton argued against the undue burden USIFTA would create for his state: "So I would just plead with you to consider the enormously concentrated adverse economic impact of including bromine in this FTA, because 85 percent of the production is concentrated in two small rural counties..." U.S. Senator Dale Bumpers railed against state involvement in Israel's bromine industry: "All of us are concerned about the potentially serious consequences that an FTA could have upon the United States bromine industry, a small but vital sector of the American economy... The Israeli bromine industry enjoys a series of subsidies and other special advantages...To begin with, the Israeli bromine industry is government-owned."

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<sup>57</sup> Brock, William E., "USTR Letter to Alfred Eckes, Chairman of the ITC," January 31, 1984.

<sup>58</sup> He specifically ordered ITC to "Conduct an investigation pursuant to section 332(g) of the Tariff Act of 1930, and to 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."

<sup>59</sup> Federal Register Vol. 49, No. 32/ Notices February 15, 1984

<sup>60</sup> It further stated, "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." Federal Register Vol. 49, No. 32/ Notices February 15, 1984

On April 11, the ITC heard public testimony on behalf of the American Israel Commerce and Industry Association and AIPAC. Thomas A. Dine, then executive director of AIPAC, testified on the mutual benefits of the agreement while lobbying against any special exemptions by economic sector: "Because of Israel's small size and limited production capacity relative to the U.S., there is little reason to fear major short term negative effects from increased Israeli imports into the U.S....The proposed Free Trade Area is therefore a two-way gain—both countries will reap the benefits from the pact..."<sup>61</sup>

The AIPAC executive also argued for "keeping the proposed FTA as 'clean' as possible and avoid[ing] gutting the agreement by carving out exception after exception."<sup>62</sup> **AIPAC's formal testimony for the agreement and coordinated lobbying for Israeli Dead Sea bromine suggested access to proprietary information.** How much proprietary inside information AIPAC had obtained soon became publicly known—though its impact wasn't fully appreciated until decades later.

AIPAC ramped up its public relations effort to build support for the USIFTA in an April 30, 1984 memorandum to its members and stakeholders. In a "benefits to the U.S." section, AIPAC pitched USIFTA as a way for the U.S. to compete with the European Community's duty-free trade deal with Israel. An AIPAC memo forecast expansion of U.S. exports, noting that the U.S. already enjoyed a "six-to-one surplus in agricultural products and textiles in its trade with Israel." A section titled "Cause few problems to domestic industries" noted that "Israel's ability to increase exports is restricted by its limited amounts of land and water and the expensive costs of shipping perishable products long distances."<sup>63</sup>

On April 4, 1984, 20 copies of an ITC "prehearing report" for the USTR were made and circulated in the ITC. **Word soon spread that AIPAC was handling the classified material.** Early access to this classified information was critical in AIPAC's drive to counteract U.S. industry exemptions and effective opposition to the USIFTA.

***Finding: AIPAC obtained illicit access to the classified 1983 ITC report in order to counteract valid US industry and interest group concerns about the impact of bilateral trade preferences. Tax exempt organizations may not engage in illegal activity to further their policy objectives.***

This was important because some concerned U.S. companies were already raising major red flags about potential intellectual property theft based on their previous trade experiences in Israel. On May 2, 1984, Monsanto International voiced concerns that:

*"a local concern has been able to take advantage of the procedural shortcomings in the Israeli 'patent opposition system,' [and] the granting of a patent to Monsanto has been blocked." The heavy state involvement in Israel's economy was also raised as a concern: "Three fourths of Israel's chemical industry is owned by the government and it receives substantial export subsidies....In the decade ahead Israel will become an increasingly active exporter of these products and may cause some market discontinuities in the U.S."*<sup>64</sup>

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<sup>61</sup> Dine, Thomas A., Written Testimony of AIPAC, before the ITC, 4/10/1984, [http://irmep.org/ILA/FTA/AIPAC\\_Testimony/default.asp](http://irmep.org/ILA/FTA/AIPAC_Testimony/default.asp)

<sup>62</sup> Dine, Thomas A., Written Testimony of AIPAC, before the ITC, 4/10/1984, [http://irmep.org/ILA/FTA/AIPAC\\_Testimony/default.asp](http://irmep.org/ILA/FTA/AIPAC_Testimony/default.asp)

<sup>63</sup> "A U.S.-Israel Free Trade Area," Memorandum, American Israel Public Affairs Committee, April 30, 1984, <http://irmep.org/ILA/FTA/04301984/default.asp>

<sup>64</sup> Gossage, Thomas L., "Monsanto Letter to Kenneth Mason, ITC," ITC Public File, May 2, 1984, <http://irmep.org/ILA/FTA/Monsanto/default.asp>

Echoing many other industry expert petitions in the public fast track process, Monsanto questioned the overriding wisdom of signing a bilateral trade agreement with such a small, developing economy:

*"Our government should make the 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..."*

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But Monsanto's concerns about intellectual property were sent on May 2 (just after the April 3, 1984 comment filing deadline) and were rejected by the ITC.<sup>65</sup> Curiously, the ITC committee chair accepted a late filing from Israel's Dead Sea Bromine Company, LTD on May 11, 1984.<sup>66</sup>

A Department of Commerce (DOC) delegation participated in formal U.S.-Israel negotiations the week of May 14, 1984 in Jerusalem. A DOC employee who stayed a week after the meetings made a disconcerting discovery: on May 21, in a meeting with the Israeli delegation and diplomats from the Washington DC embassy, an Israeli announced he had received a cable from Israel's Washington, DC embassy,

*"and then proceeded to read from this cable what appeared to be a full summary of the [classified] report, including the conclusions regarding sensitive products."<sup>67</sup>*

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***Finding: The FBI discovered the Israeli government also possessed the classified ITC report indicating AIPAC-Israeli government collusion in illegal activities in order to obtain trade preferences.***

The House Ways and Means Committee reviewed draft USIFTA legislation on May 22, 1984, publicly assuring that both the Senate and the president backed the measure. But troubling reports of leaks of the classified ITC report continued to pour in. On or around May 30, a member of the Trade Sub-Committee notified the 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." The unidentified AIPAC member was familiar with the report's contents and conclusions.<sup>68</sup> But it was too late to delay the final report.

On May 30, 1984, Chairman of the ITC Alfred Eckes transmitted the final 300-page report, derived from both public and confidential business information. The classified final report, titled *Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel, Investigation No. 332-180*, was sent to the office of President Ronald Reagan, giving the deal a green light but warning of industry consequences in a cover letter.

*"Based on the information gathered in the U.S. International Trade Commission's investigation of the proposed free trade area, the Commission does not expect duty-free treatment for U.S. imports from Israel to have a significant adverse effect at the aggregate level for any of the major*

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<sup>65</sup> Gossage, Thomas L., "Monsanto Letter to Kenneth Mason, ITC," ITC Public File, May 2, 1984, <http://irmep.org/ILA/FTA/Monsanto/default.asp>

<sup>66</sup> Electronic docket report generated May 9, 1994, "Probable Economic Effect of Providing Duty Free Treatment for Imports from Israel," International Trade Commission, Public File, p. 46

<sup>67</sup> FBI Report, "Theft and Unauthorized Disclosure of Documents from the United States International Trade Commission, Theft of Government Property," January 14, 1986; declassified on April 20, 2009, released July 31, 2009

<sup>68</sup> FBI Report, "Theft and Unauthorized Disclosure of Documents from the United States International Trade Commission, Theft of Government Property," January 14, 1986; declassified on April 20, 2009, released July 31, 2009

*sectors examined; however, at the less aggregated commodity level, significant adverse effects are likely in seven different product areas as discussed in the report.*"<sup>69</sup>

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Organizations formally petitioning from the ITC "advice and consent" track in opposition to the agreement outnumbered parties in favor by three to one (see appendix US Companies, Organizations and Associations In Favor, Neutral and Against a US-Israel Free Trade Area), and thousands of individual Americans also submitted signatures on petitions opposing the deal. Only AIPAC, the American Israel Chamber of Commerce, and organizations such as a tiny, recently chartered bank operating out of Bethesda provided supporting testimony to the ITC.

**USTR ambassador William Brock became aware of the report leak during a June 7 luncheon with the Israeli Trade Ministry.** Brock heard not only news of the circulation of the report, but analysis of its contents, while seated at the table. News that "certain members of Congress could acquire copies of the ITC report through AIPAC" filtered into the USTR office on June 12 and 13.<sup>70</sup> A congressional staffer advised the USTR that,

*"...the Israelis were offering copies of this document to members of Congress because the United States Trade Representative was slow in delivering them."*<sup>71</sup>

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On June 15, 1985, USTR General Counsel Claude Gingrich called Ester Kurz and demanded to know whether AIPAC possessed the classified ITC report. Kurz admitted it did.<sup>72</sup> Gingrich told her the document was classified and demanded that AIPAC return it.<sup>73</sup> Thomas Dine, AIPAC's executive director, immediately contacted the USTR to "claim no knowledge of the report himself and to disassociate himself from such activities."<sup>74</sup> Dine promised that the material would be returned and they would cooperate in every way in any investigation to determine how they received a copy of a classified document.<sup>75</sup> On June 19, the USTR referred the matter to the FBI, which began a formal investigation.<sup>76</sup> But AIPAC's massive public relations campaign to push USIFTA soon eliminated the possibility of any meaningful industry exceptions or advice and consent feedback.

***Finding: Tax exempt charities are supposed to reduce the burdens of government through beneficial acts. In circulating classified US government material that necessitated a three year investigation, AIPAC increased the burden of government and on law enforcement officials and the Justice Department.***

On August 30, 1984 the *Washington Post* reported that the FBI had launched an investigation of the American Israel Public Affairs Committee. The *Washington Post* was frank in its damage assessment that the report:

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<sup>69</sup> Eckes, Alfred, "Letter to President Ronald Reagan from the ITC," ITC Public File, May 30, 1984,

[http://www.irmep.org/ila/FTA/05301984\\_ITC\\_POTUS/default.asp](http://www.irmep.org/ila/FTA/05301984_ITC_POTUS/default.asp)

<sup>70</sup> Hudgins, Edward L., "The Case for a U.S. -Israel Free Trade Area," Executive Memorandum #53, The Heritage Foundation, May 22, 1984,

<http://www.heritage.org/research/tradeandeconomicfreedom/em53.cfm>

<sup>71</sup> Priority Teletype, FBI Washington Field Office to Director, "Theft of Classified Documents from the Office of the United States Trade Representatives; Espionage-Israel," June 20, 1984

<sup>72</sup> Priority Teletype, FBI Washington Field Office to Director, "Theft of Classified Documents from the Office of the United States Trade Representatives; Espionage-Israel," June 20, 1984

<sup>73</sup> Priority Teletype, FBI Washington Field Office to Director, "Theft of Classified Documents from the Office of the United States Trade Representatives; Espionage-Israel," June 20, 1984

<sup>74</sup> FBI Report, "Theft and Unauthorized Disclosure of Documents from the United States International Trade Commission, Theft of Government Property," January 14, 1986; declassified on April 20, 2009, released July 31, 2009

<sup>75</sup> Priority Teletype, FBI Washington Field Office to Director, "Theft of Classified Documents from the Office of the United States Trade Representatives; Espionage-Israel," June 20, 1984

<sup>76</sup> FBI Report, "Theft and Unauthorized Disclosure of Documents from the United States International Trade Commission, Theft of Government Property," January 14, 1986; declassified on April 20, 2009, released July 31, 2009

*"contains proprietary data supplied by American industries and other sensitive information for the negotiations, which began early this year...Trade officials said the report would give Israel a significant advantage in the trade talks because it discloses how far the United States is willing to compromise on contested issues. Some of the proprietary information, moreover, could help Israeli businesses competing with U.S. companies, officials said."*<sup>77</sup>

But the USTR also privately worried about the impact on the sanctity and "effectiveness of the ITC to solicit data from the U.S. business community," according to FBI files released in 2009.<sup>78</sup>

***Finding: The joint illegal use of proprietary US government/industry information gave Israel a significant advantage in trade negotiations. It also undermined the sanctity of the US process for negotiating trade preferences.***

An AIPAC spokesman publicly acknowledged that AIPAC had obtained a copy of the classified ITC document, but brashly stated that "the lobbying group did nothing illegal" and had "returned" the report.<sup>79</sup> It claimed it had returned the classified report to the USTR by "AIPAC messenger."<sup>80</sup>

***Finding: AIPAC denied any wrongdoing in possessing the classified ITC report.***

The classified FBI incident report noted that AIPAC returned a "copy of the final report" that "had no identifying mark on the outside cover which was clearly stamped confidential." The FBI went on to observe that "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."<sup>81</sup>

***Finding: A copy of the ITC report returned by AIPAC was clearly classified as "confidential."***

The FBI noted that the copy probably came from the ITC, since "all internal copies kept at the United States Trade Representative...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."<sup>82</sup>

On August 24, 1984 the Department of Justice Internal Security Section and General Litigation and Legal Advice Section, under the permissive Attorney General William French Smith 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 [ITC] report." But the DOJ did believe that a violation of the Theft of Government Property statute had occurred, and it referred the matter to Assistant United States Attorney Charles Harkins "for a prosecutive opinion."<sup>83</sup> The largest Israeli espionage scandal of the decade, the Jonathan Pollard affair, had not yet broken. But when it did, it would refocus the DOJ's attention toward unearthing an Israeli Embassy-AIPAC connection in the document theft.

***Finding: The FBI investigated AIPAC and the Israeli embassy for theft of government property over their possession of the classified ITC report.***

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<sup>77</sup> Auerbach, Stuart, "FBI Investigates Leak on Trade to Israel Lobby," *Washington Post*, August 3, 1984

<sup>78</sup> FBI Report, "Theft and Unauthorized Disclosure of Documents from the United States International Trade Commission, Theft of Government Property," January 14, 1986; declassified on April 20, 2009, released July 31, 2009

<sup>79</sup> Auerbach, Stuart, "FBI Investigates Leak on Trade to Israel Lobby," *Washington Post*, August 3, 1984

<sup>80</sup> Priority Teletype, FBI Washington Field Office to Director, "Theft of Classified Documents from the Office of the United States Trade Representatives; Espionage-Israel," June 20, 1984, Document H

<sup>81</sup> FBI Report, "Theft and Unauthorized Disclosure of Documents from the United States International Trade Commission, Theft of Government Property," January 14, 1986; declassified on April 20, 2009, released July 31, 2009

<sup>82</sup> Priority Teletype, FBI Washington Field Office to Director, "Theft of Classified Documents from the Office of the United States Trade Representatives; Espionage-Israel," June 20, 1984; declassified on April 20, 2009, released July 31, 2009

<sup>83</sup> FBI Report, "Theft and Unauthorized Disclosure of Documents from the United States International Trade Commission, Theft of Government Property," January 14, 1986; declassified on April 20, 2009, released July 31, 2009

In September, AIPAC employees Ester Kurz, Martin Indyk, and Steven J. Rosen issued a densely written, highly detailed 46-page booklet for AIPAC's public relations series, titled "A U.S.-Israel Free Trade Area: How Both Sides Gain," under Peggy Blair's byline. It rebutted U.S. industry concerns about the USIFTA with optimistic job creation and opportunity forecasts that, while widely echoed in establishment media in 1984 and 1985, proved to be wildly inaccurate.<sup>84</sup> The report listed "Thirteen U.S. Exports that Will Gain," but did not mention sensitive US industries subject to harm, such as bromine.

***Finding: AIPAC countered legitimate US industry concerns with PR and educational materials developed with classified information about the trade agreement. Time has proven the PR to be wildly inaccurate and the concerns more than legitimate.***

On September 19, 1984, DOJ prosecutor Charles Harkins "opined that this matter lacked prosecutive merit" and declined to pursue Theft of Government Property indictments against AIPAC.

The U.S. Bromine Alliance was incensed about the leak of their classified information and demanded action and gathered together legal counsel for a high-level confrontation at the ITC . Accompanied by lawyers Will E. Leonard and Edward R. Easton from the law firm of Busby, Rehm, and Leonard, P.C., the Bromine Alliance director met with ITC Chairwoman Paula Stern on November 1, 1984. They requested a detailed confirmation that confidential Alliance business information had been disclosed to AIPAC in the classified report.<sup>85</sup>

After considerable internal consultation about whether the ITC could even publicly respond to industry queries about what secret data from the classified report had been obtained by AIPAC, on November 29, 1984 ITC Chairwoman Paula Stern formally confirmed that all of the Bromine Alliance's most confidential business data had been contained in the classified report. (see appendix US Bromine Alliance Complaint to ITC over AIPAC IP Theft)

***Finding: AIPAC and the Israeli government obtained all of the US Bromine Alliance's confidential business data contained in the classified ITC report, according to the ITC. The Alliance demanded redress, but received none.***

Specific business confidential numbers extracted from the Alliance's letter and shown in the stolen ITC 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."<sup>86</sup> Stern confirmed that 15 copies of the confidential information were made and circulated, and stated, "You may be assured that we place a high priority on safeguarding sensitive data and we are currently preparing detailed internal procedures."<sup>87</sup> For its part, the FBI concluded 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

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<sup>84</sup> The two editors of the report, Martin Indyk and Steven J. Rosen, had subsequent involvement with classified information. In September of 2000, Indyk had his security clearance suspended by the U.S. State Department while acting as U.S. ambassador to Israel. Rosen was indicted in 2005 under the Espionage Act over an incident involving national defense information and was subsequently fired by AIPAC. In 2009, he sued AIPAC for defamation.

<sup>85</sup> Turnipseed, Max, "US Bromine Alliance Letter to Dr. Paula Stern, ITC," ITC Public File, November 1, 1984, [http://irmep.org/ILA/FTA/11011984US\\_Bromine/default.asp](http://irmep.org/ILA/FTA/11011984US_Bromine/default.asp)

<sup>86</sup> Stern, Dr. Paula, "ITC Letter to Max Turnipseed, US Bromine Alliance," ITC Public File, November 29, 1984, <http://irmep.org/ILA/FTA/11291984USITC/default.asp>

<sup>87</sup> Stern, Dr. Paula, "ITC Letter to Max Turnipseed, US Bromine Alliance," ITC Public File, November 29, 1984, <http://irmep.org/ILA/FTA/11291984USITC/default.asp>



there are no security procedures in place that would prevent the outright theft or the printing of an 'extra' copy of a report."<sup>88</sup>

Despite ongoing U.S. industry concerns over the classified AIPAC document release, on January 7, 1985 the ITC secretary formally brought the fast-track U.S. IFTA negotiation process to a close.<sup>89</sup> In March, Dan Halpern, the economic minister of the Israeli Embassy in Washington, went on a U.S. public relations blitz for USIFTA. "This is going to help the Israeli economy in the long run." Halpern ignored the existing U.S. trade surplus with Israel, stating that "with a rising American trade deficit, it was essential for the U.S. to maintain a twenty percent share of the Israeli import market."

***Finding: The Israeli Economics minister made highly deceptive forecasts about US market share in the Israeli import market, to counter and preempt findings that certain US sectors would be hurt.***

Reading from the new AIPAC-supplied USIFTA booklet, the Israeli stressed the looming threat to U.S. exporters of the decade-old Israeli-European Common Market free trade agreement. The *New York Times* summarized that,

*"from the American viewpoint, the most sensitive Israeli exports include cut roses, gold jewelry, leather goods, footwear, bromines (a sulfur derivative), olives, citrus juices and dehydrated garlic. Israel regards as sensitive American-made refrigerators, radio navigation equipment and aluminum bars."*

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The *New York Times* positioned the deal positively. "For the United States it represents a further refinement of the use of trade to help countries that it considers strategically, and politically, important."<sup>90</sup>

On the other hand, the *Providence Journal* viewed the deal as an "insurance policy" for Israel. Under the international trade General System of Preferences then in place, 90 percent of the merchandise sold by Israel to the U.S. was already duty-free, but the deal was a potential life preserver if global trade regimes collapsed. "It gains duty-free status for the remaining ten percent, plus confidence that what it now gets under the system will not be lost if the system should ever collapse." But the *Providence Journal* made no allusions that USIFTA was anything but aid for Israel:

*"Over time, Israel's trade balance likely will benefit more than America's. Any time such a strong economy makes it easier for such a weak economy to penetrate its markets, an element of generosity exists. Thus the free-trade pact can be seen as further U.S. aid to Israel."<sup>91</sup>*

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In April, Ariel Sharon, Israel's Minister of Industry and Commerce, and USTR ambassador William Brock signed the USIFTA agreement. President Reagan praised the deal as "an important milestone in our efforts to liberalize trade," and pledged to "continue to help Israel achieve its great potential."<sup>92</sup> The Israeli Cabinet approved the formal agreement in August of 1985, expecting the pact to add an additional \$200 million in exports over the next two years.<sup>93</sup> The Senate Finance Committee also approved the measure, agreeing to "make clear in a report accompanying the bill that it should

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<sup>88</sup> FBI Washington Field Office Report on Theft and Unauthorized Disclosure of Documents from the US International Trade Commission, March 31, 1986; declassified on April 20, 2009, released July 31, 2009

<sup>89</sup> Mason, Kenneth R., ITC Notice, ITC Public File, January 7, 1985

<sup>90</sup> Farnsworth, Clyde H., "U.S. and Israel Set Pact to End Tariffs by 1995," *New York Times*, March 5, 1985

<sup>91</sup> "Israeli/U.S. Trade Benefits," *Providence Journal*, March 10, 1985.

<sup>92</sup> Johnston, Oswald, "U.S., Israel to Mutually End Trade Barriers," *Los Angeles Times*, April 23, 1985

<sup>93</sup> "Israeli Cabinet OKs U.S. Free-Trade Pact," *Chicago Tribune*, August 19, 1985



not be viewed as a precedent for dropping trade barriers with Mexico, Canada and other nations."<sup>94</sup> The U.S.-Israel Free Trade Agreement went to Congress for an up or down vote, passed 422-0, and took effect on September 1, 1985.

However, when civilian Naval Intelligence analyst Jonathan Pollard was discovered in late 1985 conducting a massive espionage operation for Israel, the DOJ and FBI clearly related Pollard's activities to the 1984 AIPAC investigation. The Washington Field Office had earlier noted an "allegation that a member of the Israeli Intelligence Service was a staff member of AIPAC."<sup>95</sup> The FBI quietly reopened its previously aborted investigation of AIPAC under the direction of Assistant Attorney General Stephen S. Trott. The Public Integrity Section of the DOJ met on November 15, 1985 with representatives of the FBI to "outline investigative strategies." They settled on hitting the fading trail anew by simultaneously interviewing the AIPAC employees known to have had first contact with the ITC report in order to finally determine how they obtained it. The FBI sought to determine whether AIPAC's Ester Kurz and Peggy Blair had violated Theft of Government Property and Disclosure of Confidential Business Information statutes.<sup>96 97</sup>

On December 11, 1985, as the deep impact of Pollard espionage was cascading through the administration; Deputy Assistant Director Phil Parker from the Intelligence Division at FBI headquarters contacted the special agents in charge of the AIPAC investigation at the Washington Field Office. Parker notified the agents that "this investigation had come to the attention of Director [William] Webster," "asked for an explanation of [the] investigation thus far," and told them the case was being "studied" at FBI headquarters and the Washington Field Office would soon be contacted about its renewed investigation.<sup>98</sup>

Ester Kurz and Peggy Blair were less than forthcoming during their separate December 19, 1985 interviews with the FBI.<sup>99</sup> In the presence of a lawyer, Kurz detailed her employment status at AIPAC and the explosive news that she had received the classified ITC report from Dan Halpern, the economic minister at the Israeli Embassy who had been so active in public relations for USIFTA.

***Finding: Israeli Economics minister Dan Halpern passed the stolen, classified ITC document to AIPAC because it was best positioned to use the secret data against fellow US industries to gain passage of trade preferences for Israel.***

Kurtz described it as being 50-80 pages in length, but denied being aware of the document title, though she did confirm it was marked "confidential."

***Finding: AIPAC employees certified to the FBI that they knew the report in their possession was government classified.***

Kurz claimed she couldn't recall who was at the AIPAC meeting about USIFTA where Halpern passed the secret document. Kurz said that about a week after receiving the document, she passed it to Margaret [Peggy] Blair, the author of the special USIFTA lobbying booklet, but "did not recall any specific instructions" she gave to Blair. Kurz said she also received a duplicate copy of the secret report from AIPAC employee Douglas Bloomfield. She claimed she "paid no attention to" the classified ITC report until she received a phone call "several weeks later" from USTR General Counsel Claude Gingrich, seeking to "ascertain if AIPAC had this trade report in their possession." After Gingrich called,

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<sup>94</sup> "House Passes Bill to Lift U.S.-Israel Trade Barriers," *San Francisco Chronicle*, May 8, 1985.

<sup>95</sup> Memo to FBI Director from Washington Field Office, "Theft and Unauthorized Disclosure of Documents from the United States International Trade Commission, Theft of Government Property – Espionage-Israel," August 13, 1984

<sup>96</sup> 18 U.S.C. 641 and 18 U.S.C 1905

<sup>97</sup> FBI Report, "Theft and Unauthorized Disclosure of Documents from the United States International Trade Commission, Theft of Government Property," January 14, 1986; declassified on April 20, 2009, released July 31, 2009

<sup>98</sup> Hosinki, John, "FBI Washington Field Office Memo to Special Agent in Charge on Theft and Unauthorized Disclosure of Documents from the US International Trade Commission," December 17, 1985; declassified on April 20, 2009, released July 31, 2009

<sup>99</sup> The records of AIPAC staff interviewed by the FBI were submitted to headquarters on FD-302 forms. These are used for noting interviews that may become testimony.

Douglas Bloomfield told Kurz to destroy the duplicate copy of the report, which she claimed she did by "throwing it down the garbage" chute at her residence. She told the FBI the original report was returned to the USTR. Kurz wouldn't speculate about who else at AIPAC had the document or what use they made of it, but claimed it was "floating around town" and that the contents were common knowledge to those interested in these matters. What Kurz couldn't explain, if the report was all but blowing like tumbleweed throughout Washington, was why she had to acquire it from the Israeli embassy, and who provided it to them. Her lawyer then stepped in and advised the FBI that it should submit any further questions for Mrs. Kurz to him, but that otherwise she "did not wish to furnish any additional information regarding this matter."<sup>100</sup>

Margaret "Peggy" Blair had even less to say when she met with the FBI in the presence of her lawyer from the firm Frank, Harris, Shriver, and Jacobson. She confirmed that Ester Kurz had passed her the classified ITC report, telling her to "keep it in a safe place," but claimed no specific direction about how to use the report in AIPAC's lobbying campaign or who initially gave the report to AIPAC. Blair confirmed that sometime in July, the general counsel for the USTR had asked her if she'd seen a copy; she advised him she had, but passed him off to AIPAC's general counsel. Like Kurz, Blair claimed she "did not see a title to this report," but described it as being an ITC document "examining the different product sectors in America and the possible impact [on] these sectors if duty free imports from Israel were allowed." Blair claimed she did not "utilize any of the information gleaned from this report" and that she "could not recall" whether the report was classified or not. Blair also confirmed that there was "general discussion of the report at AIPAC but that this was not considered an especially significant matter." Like Kurz, she ended the interview by asking the FBI to direct any future questions about the affair to her lawyer.<sup>101</sup>

The FBI was unable to interview Douglas Bloomfield, AIPAC's head of congressional relations and lobbying on Capitol Hill, until February 13, 1986. Bloomfield claimed he first become aware of the secret ITC report when Ester Kurz "advised him that she received a call from the USTR General Counsel Gingrich." According to the FBI transcript, "Bloomfield advised that Kurz stated to Gingrich that she had the document and at that point Gingrich asked that she return it to the USTR. Bloomfield asked Kurz if that was true that she had this report and she advised that she did have it." Bloomfield's account of when a copy of the secret document was made differed substantially from the Kurz account. Kurz claimed that Bloomfield came into possession of it and copied it to her before the USTR call, but Bloomfield outlined a private and lawyerly review of the ITC document with AIPAC director Thomas Dine following the USTR call, after which a duplicate was made for imminent AIPAC lobbying on the USIFTA.

*Dine immediately called Gingrich 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, UNKNOWN asked to have a duplicate copy of the document made so that the staff of the AIPAC could further examine the report. Bloomfield advised that he saw no "secret classifications"<sup>102</sup> 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 UNKNOWN to examine the document regarding the free trade issue between the U.S. and Israel. He stated that Kurz retained the duplicate copy of the report and that the original report was returned to the*

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<sup>100</sup> FD-302 Federal Bureau of Investigation interview transcript, Ester Kurz, AIPAC deputy legislative director, December 19, 1985; dictated December 23, 1985, transcribed January 6, 1986; declassified April 20, 2009 and released July 31, 2009

<sup>101</sup> FD-302 Federal Bureau of Investigation interview transcript, Margaret Blair, AIPAC deputy legislative director, December 19, 1985; dictated December 23, 1985, transcribed January 6, 1986; declassified April 20, 2009 and released July 31, 2009

<sup>102</sup>The United States government has three levels of classification: confidential, secret, and top secret. The ITC report was marked "confidential."

*USTR. Bloomfield advised that he did not consider this report to be especially important and thought that any controversy regarding the report had ended.*<sup>103</sup>

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Bloomfield said he followed up with Ester Kurz about the duplicate ITC report in November of 1985, confirming that she had "eventually thrown it away." Bloomfield claimed no firsthand knowledge of "the individual who provided the report to AIPAC, but advised he was told that Dan Halpern at the Israeli Embassy originally passed the report to AIPAC."<sup>104</sup> The FBI was soon on a trail that led directly to the Israeli embassy.

***Finding: After AIPAC was ordered to return the classified, stolen ITC report, AIPAC employees made an illegal duplicate copy for AIPAC's further use. It then returned the original classified document by courier. This retention of classified information for use against the corporations that provided confidential business information was illegal and incompatible with tax exempt status.***

After receiving a clearance from the U.S. State Department, the FBI interviewed Dan Halpern, the economics minister at the Israeli Embassy in Washington, DC on March 7, 1986. Halpern admitted "having a report which was prepared by the U.S. Trade Representatives in early 1984 and subsequently turning it over to representatives of the American Israel Public Affairs Committee."

***Finding: Israeli economics minister Dan Halpern admitted to the FBI that he illegally obtained and passed the classified US trade report to AIPAC.***

In his opinion, the report contained "little, if any sensitive or confidential information" and it was of "little or no interest to his government."<sup>105</sup> But Halpern then claimed diplomatic immunity from prosecution.

When the FBI pressed him for information about who gave him the classified ITC report, Halpern stated it would be "impossible within the professional ethics of his diplomatic position" to identify the individual who gave it to him. But Halpern then assured the FBI it was not a U.S. government official or employee. Halpern said he was given the report because "somebody on the U.S. side had an interest in Israel knowing [that the] U.S. [was] falling short on [its] commitments."<sup>106</sup> Halpern assured the FBI investigators that "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."<sup>107</sup>

***Finding: Israeli economics minister Dan Halpern claimed to the FBI that his illegal activity would cause no harm to the US and that the classified data was not sensitive or confidential. However as of the year 2010 the report is still classified and the US government refuses to declassify it.***

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<sup>103</sup> FD-302 Federal Bureau of Investigation interview transcript, Douglas Bloomfield, AIPAC deputy legislative director, February 13, 1986; dictated February 14, 1985, transcribed March 21, 1986; declassified April 20, 2009 and released July 31, 2009

<sup>104</sup> FD-302 Federal Bureau of Investigation interview transcript, Douglas Bloomfield, AIPAC deputy legislative director, February 13, 1986; dictated February 14, 1985, transcribed March 21, 1986; declassified April 20, 2009 and released July 31, 2009

<sup>105</sup> FBI Washington Field Office Report to FBI Director on Theft and Unauthorized Disclosure of Documents from the US International Trade Commission, March 7, 1986, Interview with Embassy of Israel Official, Washington, DC; declassified on April 20, 2009, released July 31, 2009

<sup>106</sup> FBI Washington Field Office original handwritten notes, Theft and Unauthorized Disclosure of Documents from the US International Trade Commission, March 7, 1986, Interview with Embassy of Israel Official, Washington, DC; declassified on April 20, 2009, released July 31, 2009

<sup>107</sup> FBI Washington Field Office Report to FBI Director on Theft and Unauthorized Disclosure of Documents from the US International Trade Commission, March 7, 1986, Interview with Embassy of Israel Official, Washington, DC; declassified on April 20, 2009, released July 31, 2009

The director of the FBI closed<sup>108</sup> the AIPAC investigation on January 14, 1987 by order of the US Justice Department.<sup>109</sup> The DOJ report to the Washington Field Office was unequivocal: "Due to the fact that Dan Halpern has claimed diplomatic immunity in this matter, active investigation in this matter will be discontinued..."<sup>110</sup>

***Finding: The Department of Justice did not prosecute theft of government property because Israel's minister of economics claimed diplomatic immunity. But AIPAC's receipt, duplication and use of the classified ITC report was well documented, illegal and therefore incompatible with tax exempt status.***

The report *Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel*, Investigation No. 332-180 is still classified by the ITC and USTR. It is considered so highly sensitive that almost three decades later, neither agency will release it under the Freedom of Information Act, or Mandatory Declassification Review.<sup>111</sup> (see appendix ITC final denial of FOIA/Mandatory Declassification Review Requests for Report "Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel, Investigation No. 332-180")

A quarter century later, the economic impact of the USIFTA-generated bilateral trade deficit can be precisely calculated in terms of job creation.<sup>112</sup> According to the U.S. Census Bureau's last survey of export manufacturing establishments published in 2006, total direct U.S. export-related jobs numbered 5,070,900.<sup>113</sup> U.S.-manufactured merchandise exports during that year totaled \$818 billion. Dividing export revenue by jobs yields one direct export-related job supported by every \$161,300 in export revenue in 2003. International Commercial Diplomacy Inc., a consultancy, estimates that two additional indirect jobs<sup>114</sup> are supported by each direct export manufacturing job. By factoring in yearly worker productivity gains from the Bureau of Labor Statistics (each worker produces more export revenue as manufacturing productivity rises), by 2008, the estimated revenue required to sustain one direct export related manufacturing job and two indirect jobs grew to \$187,000. We can use this input-output data to see how the deficit impacts the U.S. in terms of jobs.

AIPAC originally argued job loss avoidance as a factor for promoting USIFTA. The widely quoted 1984 AIPAC report "US-Israel Free Trade Area: How Both Sides Gain" by Peggy Blair predicted that a 10 percent decline in U.S. exports to Israel would generate 20,000 export-related jobs. She predicted that bringing the U.S. market share up to 40 percent via USIFTA would generate 40,000 U.S. jobs.<sup>115</sup>

***However, shortly after its inception, USIFTA reversed the formerly balanced trading relationship, producing an ever-widening United States trade deficit.*** Translating this into American jobs by the input-output method, the USIFTA has been highly negative for American workers. Using the formerly balanced trade as the relevant benchmark, the \$7.8 billion U.S. deficit with Israel in the year 2008 was equivalent to 125,663 lost American jobs.

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<sup>108</sup> Acting FBI Director John Otto asked for an update in October of 1987, after former Director William Webster left the FBI to lead the Central Intelligence Agency.

<sup>109</sup> Memo to Washington DC Field Office, "Theft and Unauthorized Disclosure of Documents from the United States Trade Commission; Theft of Government Property," January 14, 1987; declassified on April 20, 2009, released July 31, 2009

<sup>110</sup> FBI Washington Field Office Report on Theft and Unauthorized Disclosure of Documents from the US International Trade Commission, March 31, 1986; declassified on April 20, 2009, released July 31, 2009

<sup>111</sup> Abbot, Marilyn, "ITC Letter to the Institute for Research: Middle Eastern Policy denying FOIA Request for Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports from Israel, Investigation No. 332-180 (redesignated TA-131(b)-10)" from ITC, December 29, 2009; Caldwell, Jacqueline B., "Letter from United States Trade Representative Denying FOIA," March 9, 2009

<sup>112</sup> Job creation calculations have most frequently been used by lobbies pushing trade agreements before they are signed, but are rarely used to measure actual performance after several years under managed trade treaties.

<sup>113</sup> Baseline derived from "Exports from Manufacturing Establishments," US Census Bureau, 2006

<sup>114</sup> "Using Data in Commercial Diplomacy," International Commercial Diplomacy, Inc.

<sup>115</sup> Farnsworth, Clyde H., "Washington Watch; U.S.-Israeli Trade Issue," *New York Times*, September 10, 1984

Year	Nominal U.S. Trade Deficit with Israel (\$Billion)	Revenue per Direct Manufacturing Job	Manufacturing Labor Productivity Gain	Direct Jobs	Indirect Jobs	Total American Jobs Loss
1999	-\$2.2	\$132,500	6.40%	-16,604	-33,208	-49,811
2000	-\$5.2	\$141,500	7.10%	-36,749	-73,498	-110,247
2001	-\$4.5	\$152,400	1.10%	-29,547	-59,094	-88,641
2002	-\$5.4	\$154,000	4.50%	-35,065	-70,130	-105,195
2003	-\$5.9	\$161,300		-36,578	-73,156	-109,733
2004	-\$5.3	\$169,700	5.20%	-31,232	-62,463	-93,695
2005	-\$7.2	\$178,200	5.00%	-40,404	-80,808	-121,212
2006	-\$8.2	\$185,300	4.00%	-44,253	-88,505	-132,758
2007	-\$7.8	\$192,200	3.70%	-40,583	-81,165	-121,748
2008	-\$8.0	\$187,000	-2.70%	-41,888	-83,775	-125,663

Figure 7 1999-2008 American Jobs Lost to USIFTA

**Finding:** US industry groups were negatively impacted by AIPAC and the Israeli government's theft of their confidential business data. The USIFTA reversed a balance trading relationship by using purloined business data against the industries that provided it. AIPAC's documented role in this outcome was not compatible with its tax exempt status.

The fact that USIFTA mainly benefits Israel is also revealed in market share numbers. Even discounting that U.S. military sales are taxpayer-subsidized, the U.S. share of the total Israeli import market declined from 27.1 percent in 1985 to 12 percent in 2007, as Israeli trade barriers kept U.S. agricultural products out while Israel's intellectual-property-fueled exports grew.<sup>116</sup> The *CIA World Factbook* lists the U.S. as the number one destination for Israel's exports (receiving 35 percent of the total). The U.S. is Israel's number one import partner, followed by Belgium,<sup>117</sup> Germany, China, Switzerland, the UK, and Italy.<sup>118</sup>

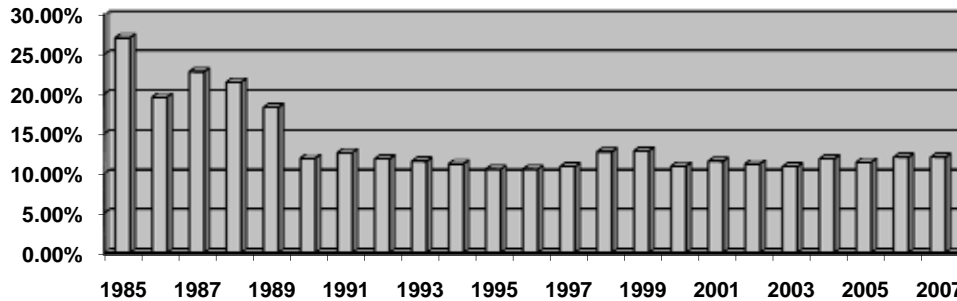


Figure 8 1985-2007 U.S. Share of Israel's Import Market

The stated purpose of the 1984

U.S.-Israel

<sup>116</sup> "U.S. Trade in Goods - Balance of Payments (BOP) Basis vs. Census Basis Value in Millions of Dollars 1960 Thru 2008," US Census Bureau, June 10, 2009, <http://www.census.gov/foreign-trade/statistics/historical/goods.txt>

<sup>117</sup> Selling uncut diamonds to Israel's polishing industry.

<sup>118</sup> "Israel," *CIA World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/IS.html>

Free Trade Area, like those of most other trade agreements, is "mutual benefit" derived through cooperation.<sup>119</sup> But the U.S. clearly never achieved the potential share of Israel's market outlined by AIPAC. **From 1985 to 2007, the U.S. share dropped from 27.1 percent to 12 percent of the Israeli import market.** If the deficit generated by the USIFTA (-\$7.8 billion) were eliminated, the surplus from all bilateral FTAs signed by the United States would have been \$29.4 billion, sustaining the equivalent of 471,850 direct and indirect jobs in the American economy. **Because USIFTA delivers most**

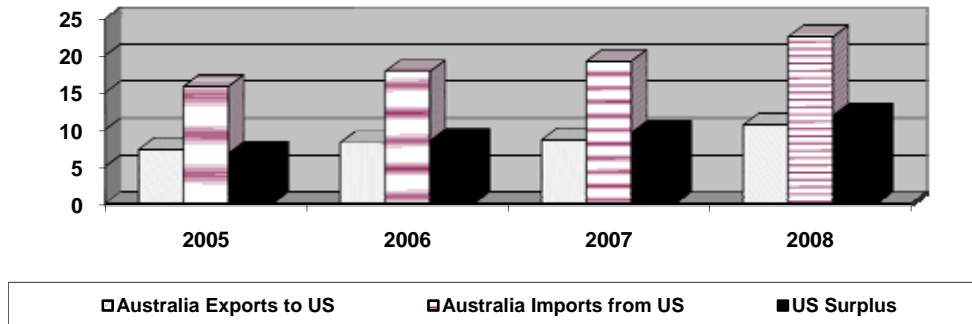


Figure 9 2005-2008 U.S.-Australia FTA

**benefits only to Israel, it differs substantially from subsequent intergovernmental bilateral managed trade deals.** In the year 2008, all ratified<sup>120</sup> bilateral FTAs produced a cumulative \$21.6 billion surplus, and none of the other countries had histories of interacting with US front groups handling classified information. This extreme deficit anomaly is quantitatively revealed in a comparison of the other subsequent U.S. bilateral agreements.<sup>121</sup>

The U.S.-Australia FTA substantially improved U.S. access to the Australian market while rectifying conflicts over Australia's complex drug listing system. U.S. exports of industrial machinery and passenger vehicles expanded under the FTA, while Australian food and beverage exports blossomed. The formerly stagnant bilateral trade relationship experienced double-digit growth averaging 12 percent since 2005, and reached \$33 billion in 2008.

<sup>119</sup> US Trade Representative, US-Israel Free Trade Agreement. The Preamble Agreement on the Establishment of a Free Trade Area between the Government of Israel and the Government of the United States of America states, "Determined to strengthen and develop the economic relations between them for their mutual benefit; The Government of the United States of America and the Government of Israel, Desiring to promote mutual relations and further the historic friendship between them; Determined to strengthen and develop the economic relations between them for their mutual benefit; Recognizing that Israel's economy is still in a process of development, wishing to contribute to the harmonious development and expansion of world trade; Wishing to establish bilateral free trade between the two nations through the removal of trade barriers; Wishing to promote cooperation in areas which are of mutual interest; Have decided to conclude this Agreement."

<sup>120</sup> As indicated on the USTR website on 12/31/2008.

<sup>121</sup> Data is from the U.S. Census Bureau TradeStats Express database.

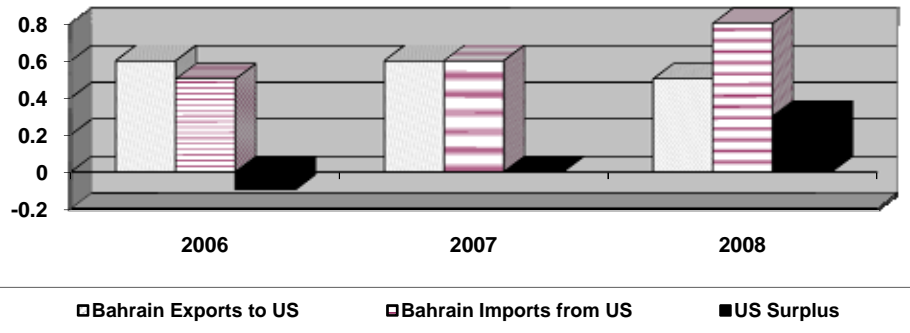


Figure 10 2006-2008 U.S.-Bahrain FTA

Though it is a small economy, Bahrain enjoys strong competitive advantages in aluminum and fertilizer production. Exports of both grew under the FTA, while diversified U.S. exports to Bahrain of aircraft, vehicles, and machinery boosted a minor trading relationship. Bilateral trade in 2008 amounted to \$1.37 billion.

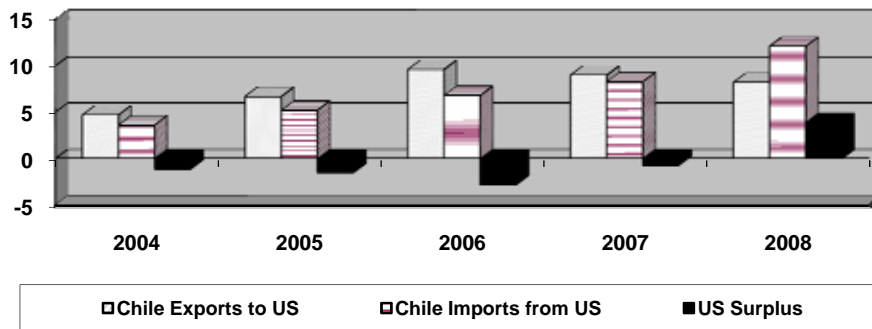
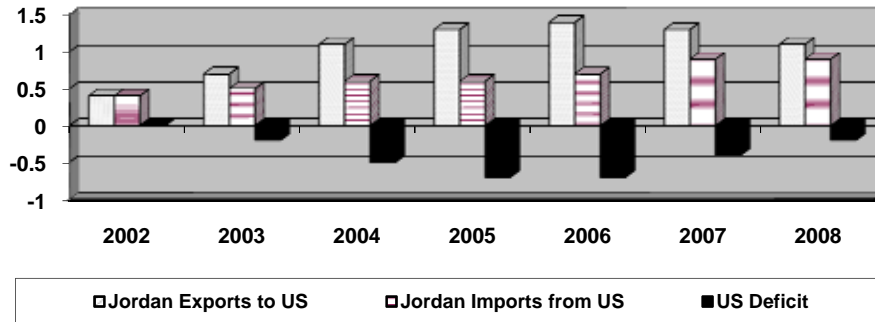


Figure 11 2004-2008 U.S.-Chile FTA

U.S.-Chile bilateral trade reached \$16 billion in 2008. Copper, fruit, and seafood dominate Chilean exports to the United States. U.S. exports are concentrated in heavy machinery, fuel, passenger vehicles, and aircraft. Over the past 15 years, Chile and the U.S. have held thin but temporary "surplus" positions in the relationship during alternating five- to six-year periods.



Bilateral trade between the depressed Jordanian economy and the U.S. reached only \$2 billion in 2008. Implementation of the FTA failed to deliver the robust job opportunities sought by Jordanian government for its workers or resolve

Figure 12 2006 U.S.-Jordan FTA

longstanding disputes between Jordan and Israel over Palestinian refugees. Jordan's new sweatshop apparel industry instead employs many temporary Bangladeshi contract workers brought in to manufacture for export, drawing condemnation from international human rights organizations. The U.S. deficit with Jordan has narrowed from \$0.7 billion to \$0.2 billion since the pact was implemented in 2006.



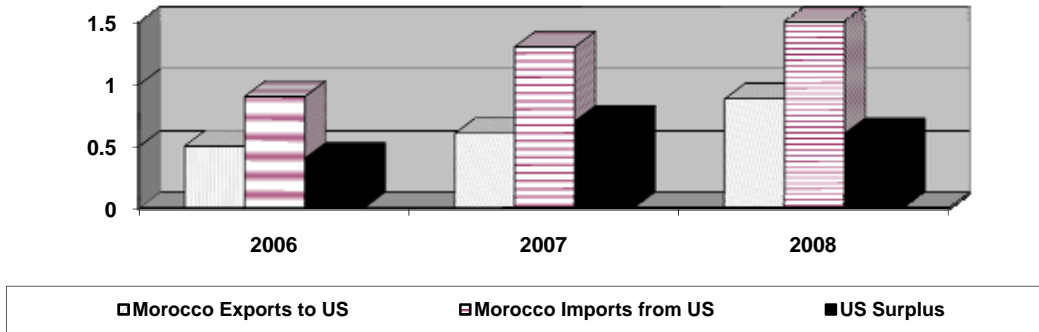


Figure 13 2006 U.S.-Morocco FTA

Trade relations have been on a sound footing since Morocco became the first country to recognize the newly independent United States in 1777. Morocco exports raw materials for cement, as well as machinery, apparel, and fuel, to the U.S. The U.S. exports cereals, aircraft, and other agricultural commodities in exchange. Bilateral trade reached \$2.38 billion in 2008. The U.S. has enjoyed a trade surplus with Morocco in all but one year since 1989.

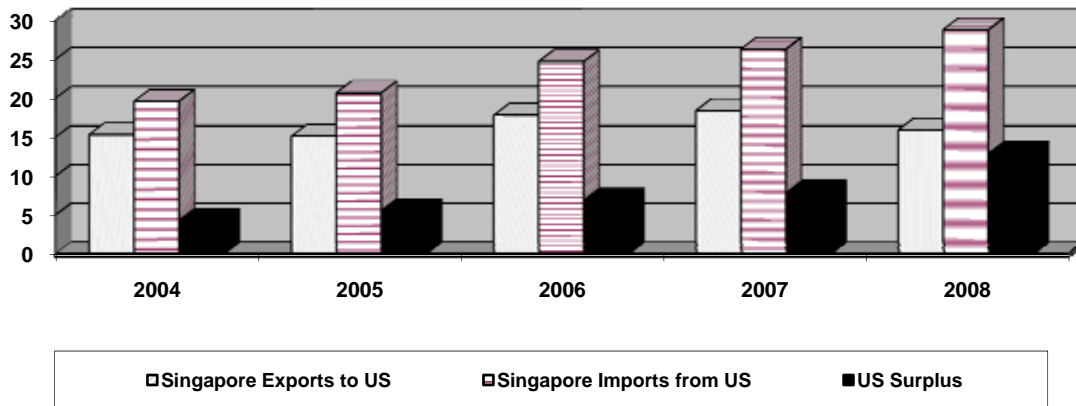


Figure 14 2004-2008 U.S.-Singapore FTA

Bilateral U.S.-Singapore trade reached \$44.7 billion in 2008. Major U.S. exports to Singapore include electronics, heavy machinery, aircraft components, and optical and surgical instruments. Singapore exports include heavy machinery, electronics, and pharmaceutical products. After a long period of deficits with Singapore, the U.S. has won a growing surplus since the year 2001, but neither holds artificial systemic advantages.

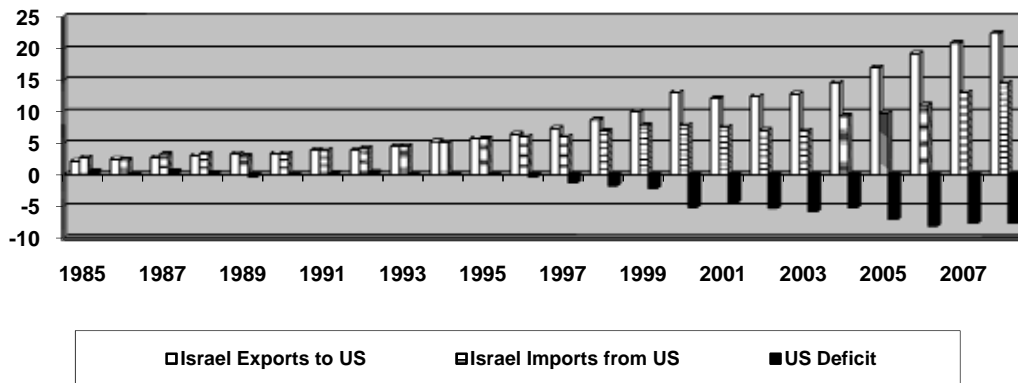


Figure 15 1985-2008 U.S.-Israel FTA

Only with carefully chosen numbers and qualifiers can a positive case for USIFTA be made. Mitchell Bard<sup>122</sup> wrote in the *Los Angeles Times* that "the financial benefits to the states from bilateral agreements can also be substantial, considering that seventeen states exported at least \$100 million worth of goods to Israel in 2006, and three exported more than \$500 million, with New York leading the way with \$4.6 billion."<sup>123</sup> While U.S.-Israel bilateral trade totaled \$36.8 billion in 2008, the U.S. trade deficit with Israel reached \$7.8 billion. Precious stones, metals, and coins account for almost half of Israeli exports to the U.S., followed by pharmaceutical products, which grew from less than \$57.1 million in 1995 to \$2.6 billion (12.4 percent of total exports) in the year 2007. A U.S. trade deficit with Israel has occurred every year since 1994. **Since 1985 when USIFTA was signed, the cumulative U.S. trade deficit with Israel has grown to \$63 billion.**<sup>124</sup> When inflation is factored in, the value of the cumulative deficit through 2008 totals U.S. \$71 billion. The unprecedented agreement may also have touched off global market segmentation and contributed to less successful trade rounds under the WTO.

In 1985, Sidney Weintraub, one of the most prominent American members of the post-Keynesian school of economics, foresaw that the USIFTA would halt general lowering of trade barriers by kicking off a global segmentation into isolated trading blocks.

*This free-trade area (FTA) agreement raises 2 types of issues: 1. whether the principle of nondiscrimination will be abandoned for bilateralism, thus undermining most-favored-nation (MFN) agreements, and 2. whether this particular FTA is more likely to be trade-diverting than trade-creating. It is uncertain whether the inherent discrimination of an FTA would lead to an improvement or deterioration in world welfare. Actually, the struggle against bilateralism has long been lost. The trade-policy issue is essentially the question of compatibility between FTAs and the General Agreement on Tariffs and Trade (GATT). The Israel-U.S. FTA is merely an episode in the evolution of international commercial policy. It is, however, another step in the segmentation of the world into preferential trading areas, and the long-term consequences of this discrimination are hard to predict.*<sup>125</sup>

<sup>122</sup> Director of the America Israel Cooperative Enterprise and former editor of AIPAC's *Near East Report*.

<sup>123</sup> Bard, Mitchell, "Israel's Ties that Bind," *Los Angeles Times*, January 10, 2008

<sup>124</sup> Francis, David R., "Economic Scene: Sanctions on Iran and Israel Could Defuse Middle East," *Christian Science Monitor*, August 5, 2009, <http://features.csmonitor.com/economyrebuild/2009/08/05/economic-scene-sanctions-on-iran-and-israel-could-defuse-middle-east/>

<sup>125</sup> Weintraub, Sidney, "A U.S.-Israel Free-Trade Area," *Challenge*, Armonk, 28(3), July/August 1985, p. 47

An earlier *New York Times* editorial hypothesized that the deal would actually lower tariff barriers worldwide:

*A U.S.-Israel zone won't threaten the world's trade patterns. Their trade last year totaled only \$3 billion. Full realization of any agreement will take years. But the deal is important in three respects:*

*First, it aims to be a bold stroke, a formal commitment to open all trade. That will surely increase the two nations' commerce and assist Israel in significant ways.*

*Second, it will signal America's interest in widening trade in services as well as goods - things like engineering, insurance and banking. Even as tariffs and quotas against products have been progressively slashed, there's been no broad relaxation of licensing and regulations that discriminate against service industries. Such balance is long overdue.*

*Finally, this initiative puts the United States on the side of liberalization at a time when contrary pressures are rising everywhere. Washington has been trying for two years to get another multilateral negotiation started. Western Europe and Japan have persistently balked.<sup>126</sup>*

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USIFTA did pave the way for a major multilateral intergovernmental managed trade area (the North American Free Trade Agreement with Canada and Mexico) in 1994 and subsequent bilateral agreements. Weintraub's prediction of "segmentation" and "discrimination" seems to have come true, in contrast to the *New York Times* editorial stocked with AIPAC's USIFTA talking points.

***Finding: The US-Israel Free Trade Area is an anomaly among all US Trade Agreements in that it mainly benefits Israel. The only key difference with other trade negotiations is Israel's and AIPAC's acquisition and use of classified US government and industry data against the US industries and interest groups that provided it. This type of illegal activity is not compatible with tax exempt status.***

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<sup>126</sup> Editorial, "The Trade Deal with Israel," *New York Times*, October 22, 1984

## AIPAC Obtains and Distributes Classified US National Intelligence Information in 2005

The FBI filed criminal charges against Colonel Lawrence Franklin On May 3, 2005. The complaint alleged that during a June 26, 2003 lunch meeting, Franklin disclosed classified national defense information to two unnamed individuals. The two individuals were AIPAC employees Steve J. Rosen and Keith Weissman. The complaint also alleged that Franklin disclosed classified information to "a foreign official and members of the media", and that a search of Franklin's home found approximately 83 classified documents.

On December 1, 2004 FBI agents raided AIPAC's offices and seized Executive Director Howard Kohr's, computer equipment and files of Managing Director, Richard Fishman, , Communication Director Renee Rothstein, and Research Director Raphael Danziger. According to an article published in the *Washington Post* on December 9, all were suspected of being cut-outs, (agents who picked up information from Franklin and passed it on to Israel), but the FBI did not file complaints against any of them.

On August 4, 2005 a federal grand jury indicted Franklin on five charges of violating the Espionage Act of 1917 (see appendix Superseding Indictment USA. Lawrence A. Franklin, Steven J. Rosen and Keith Weissman):

- One count of conspiracy to communicate national defense information to people not entitled to receive it. (18 USC 793 (d), (e) and (g))
- Three counts of communicating national defense information to people not entitled to receive it. (18 USC 793)
- One count of conspiring to communicate national defense information to an agent of a foreign government. (50 US 783, 18 USC 731)

AIPAC employee Steven J. Rosen was further charged with one count each of the first two counts, while Keith Weissman received one count of the first charge. Their indictments revealed that the FBI's investigation had been going on since 1999, and suggested that (like the 1985 incident) a wider ring of spies involving the Israeli embassy, other individuals at AIPAC, and the Defense Department were active well. Colonel Lawrence Franklin pled guilty on October 5, 2005. During the pre-trial proceedings, AIPAC employees Steven J. Rosen and Keith Weisman never disputed that AIPAC had obtained and circulated classified US National Defense Information (NDI). Their defense hinged on having a witness J. William Leonard , an expert on government document classification, testify that the government routinely "over classifies" information and that the NDI they obtained and circulated should not have been classified in the first place. Presiding Judge T.S. Ellis ruled that Leonard could be qualified to render an opinion on whether the defendants could have been in a "state of mind" in which they believed their conduct was lawful. The 1917 Espionage Act is silent on such issues. (see appendix Memorandum Opinion, US v Rosen and Weissman, 2/17/2009),

*"Leonard has examined the alleged NDI and classified and unclassified documents in this case and is prepared to offer testimony... whether, in the circumstances of this case, the defendants reasonably could have believed that their conduct was lawful."*

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The prosecutors, citing this and other “higher evidentiary thresholds,” sought dismissal of the indictments. A formal legal judgment on the specific espionage charges in the case never occurred, and neither defendant has been formally acquitted by jury. (see appendix USA v Rosen and Weissman, Motion to Dismiss Superseding Indictment 05/01/2009).

***Finding: AIPAC employees were well documented obtaining and circulating NDI in furtherance of AIPAC policy objectives though their criminal case was not allowed to proceed due to extraordinary evidentiary thresholds. Obtaining and circulating classified NDI is an illegal activity that tax exempt organizations are not allowed to engage in, whether or not they believe information should not have been classified by the government.***

On March 2, 2009, former AIPAC employee Steven J. Rosen filed a civil lawsuit against his former employer, directors, and an outside public relations firm for libel and slander. This lawsuit now provides an insider view into the institutionalization of classified information trafficking at AIPAC.<sup>127</sup> (see appendix Steven J. Rosen v. AIPAC et al)

Rosen, AIPAC’s former foreign policy chief, sought \$5 million in damages from AIPAC, and punitive damages of \$500,000 from each former board member, for a total claim of \$21 million. AIPAC made statements to the news media Rosen believes were “knowingly false and defamatory and issued in reckless disregard.” AIPAC had fired Rosen and fellow employee Keith Weissman after they were criminally indicted under the 1917 Espionage Act in 2005.

Rosen’s civil lawsuit, like the canceled government prosecution, hinges on proving that circulating classified information is common practice inside AIPAC. Rosen’s lawsuit asserts that by nature of its work, AIPAC needs continual access to tightly held government information.

*To be effective, organizations engaged in advocacy in the field of foreign policy need to have earlier and more detailed information about policy developments inside the government and diplomatic issues with other countries than is normally available to or needed by the wider public. ... Agencies of the government sometimes choose to provide such additional information about policy and diplomatic issues to these outside interest groups in order to win support for what they are doing among important domestic constituencies and to send messages to select target audiences.<sup>128</sup>*

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*Rosen asserted that AIPAC operated a classified information gathering network to obtain sensitive information from US government officials. This was circulated inside AIPAC which maintains an internal unit of declassification agents.*

*To control the flow of such information, government agencies in the field of foreign policy have designated individuals with the authority to determine and differentiate which information disclosures would be harmful to the United States, and which disclosures would benefit the United States through the work of their agencies and would not be harmful to the United States. To maintain liaison with the authorized agency officials who at times are willing to provide such information, organizations like AIPAC have designated officials of their own who have the requisite expertise and relationships to deal with government foreign policy agencies. At AIPAC, Steve Rosen was one of the principal officials who, along with Executive Director Howard Kohr*

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<sup>127</sup> <http://www.irmep.org/ILA/rosen/2009CA001256B/default.asp>

<sup>128</sup> Civil Action 00015256-09 Superior Court of the District of Columbia Civil Division, page 8 filed 3/2/2009

*and a few other individuals, were expected to maintain relationships with such agencies, receive such information, and share it with AIPAC Board of Directors and its Senior Staff for possible further distribution. AIPAC, and those defendants who were AIPAC officials and/or members of its Board of Directors, knew that Mr. Rosen and others at AIPAC were receiving such information and expected that they would share it with them.”<sup>129</sup>*

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Rosen states unequivocally that other top AIPAC officials not only knew what he was doing, but also received classified information for which they both praised and financially rewarded Rosen and others handling and channeling classified information:

*“Mr. Rosen was highly successful in his job, and was regularly praised and generously rewarded by AIPAC’s Executive Director, its President, and its Board of Directors, including by those named as defendants herein who are and/or who were in those positions, for obtaining and sharing such information as described in paragraph no. 18 above. Indeed at the time it was shared with them, AIPAC’s Executive Director, its President, and its Board of Directors including those named as defendants herein who are and/or were in those positions, were well aware of the nature of the information obtained by Mr. Rosen as described in paragraph no. 18 above. Being so aware, they would often share that same information with others outside of AIPAC, particularly valuing Mr. Rosen for his ability to provide them with such information. In fact, AIPAC’s Executive Director, its President, and its Board of Directors, including by those named as defendants herein who are and/or who were in those positions as well as others of AIPAC’s staff, also obtained and shared with each other, and with others outside of AIPAC, such information as described in paragraph no. 18 above, and did so on a regular basis quite apart from the information obtained and shared with them by Mr. Rosen.”<sup>130</sup>*

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***Finding: AIPAC employees are not cleared to obtain or circulate NDI in furtherance of AIPAC policy objectives. However, AIPAC has an internal created unit for this activity which is incompatible with the law and AIPAC’s status as a tax exempt organization.***

Douglas Bloomfield, another former AIPAC employee who (like Rosen) was involved in the 1984-1987 FBI investigation over classified information, defended Rosen’s assertions about AIPAC in the print media:

*“In cutting loose the pair [Rosen and Weissman], 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.*

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<sup>129</sup> Civil Action 00015256-09 Superior Court of the District of Columbia Civil Division, page 8 filed 3/2/2009

<sup>130</sup> Civil Action 00015256-09 Superior Court of the District of Columbia Civil Division, page 9 filed 3/2/2009

*"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.*"<sup>131</sup>

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**Finding: AIPAC's thwarting of US government sponsored peace initiatives is incompatible with its charitable purpose and significantly increased government burden.**

AIPAC's counsel originally filed an immediate motion to dismiss on May 13, 2009, asserting that Rosen failed to show "factual allegations" that could be considered in any way defamatory. AIPAC's lawyer also took Rosen to task for filing outside the one-year statute of limitations for defamation and suing AIPAC board members who have various immunities under District of Columbia statutes. In a July 8, 2009, rebuttal, Rosen documents his clear understanding that the most relevant issue was AIPAC firing two employees in order to save itself from being criminally indicted as a corporation.

*"On February 17, 2005, only two weeks after awarding Mr. Rosen the \$7,000 special bonus for excellence in job performance, the AIPAC Board of Directors placed him on involuntary leave. This was done immediately after AIPAC was threatened by the Justice Department in a meeting between AIPAC's counsel and its Executive Director Howard Khor and federal prosecutors on February 15, 2005. There the lead federal prosecutor stated that, 'We could make real progress and get AIPAC out from under all of this,' if AIPAC showed more cooperation with the government. On February 16, 2005, AIPAC's counsel said that the lead federal prosecutor 'is fighting with the FBI to limit the investigation to Steve Rosen and Keith Weissman and to avoid expanding it.' This warning implied that AIPAC's Executive Director and the AIPAC organization as a whole could become targets."*<sup>132</sup>

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Rosen's lengthy rebuttal argued "no expressed standards existed at AIPAC" regarding the receipt and sharing of information from government officials. Rosen insists that in spite of AIPAC denials the information he provided from "intelligence" sources were passed to AIPAC's president with full disclosure of their origins.<sup>133</sup>

On Sept. 7, 2010 the FBI released 400 pages of its media monitoring/news clippings files in response to a 2009 Freedom of Information Act (FOIA) request for files about its 1999-2005 AIPAC espionage investigation (see Appendix FBI 1999-2005 AIPAC Espionage Investigation News Clipping Files). The news sources clipped by the FBI are broad, ranging from "Chalabi-gate: None Dare Call It Treason" by Justin Raimondo (May 28, 2004) to "Still Dreaming of Tehran" by Robert Dreyfuss and Laura Rozen (April 12, 2004). Rozen's analysis seems to be an FBI favorite, appearing in multiple instances and highlighted with markings etched by anonymous analysts. The FBI boxed in a cryptic reference in her article "The Big Chill" from The Nation on July 14, 2005:

*"The Nation has learned that among the documents the FBI has in its possession is a memo written by [Steven J.] Rosen in 1983, soon after he joined AIPAC, to his then-boss describing his*

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<sup>131</sup> <http://www.njjewishnews.com/njfn.com/030509/opedAIPActwo.html>

<sup>132</sup> <sup>132</sup> <http://www.irmep.org/ILA/rosen/2009CA001256B/default.asp>

<sup>133</sup> <sup>133</sup> <http://www.irmep.org/ILA/rosen/2009CA001256B/default.asp>



*having been informed about the contents of a classified draft of a White House position paper concerning the Middle East and telling his boss that their inside knowledge of this draft might enable the group to influence the final document. The significance would seem to be an effort by the FBI to establish a pattern of Rosen's accessing classified information to which he was not authorized, not just from Franklin but over many years. Rosen's attorneys declined to comment on the allegation."*

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***Finding: AIPAC's illegal efforts to obtain classified US government information has been going on for so many decades that insiders claim it is now institutionalized. AIPAC's major, repeat violations have harmed US industry and workers as well as jeopardizing US national security. AIPAC's activities to secure classified information demonstrate an undeclared purpose which is inconsistent with charitable ends though present since it emerged from the Israeli Ministry of Foreign Affairs Israel Office of Information, Jewish Agency, AZC "boutique".***

***Finding: AIPAC's criminal acts increase the burdens of government by requiring years of investigation, documentation, court action and other efforts to secure US classified information and property, thus frustrating a well recognized charitable goal, i.e. relief of the burdens of government. Accordingly, AIPAC is not operated exclusively for charitable purposes and does not qualify for exemption from Federal income tax under section 501(c)(3) of the code.***

On November 8, 2010 AIPAC filed a motion seeking dismissal of the Rosen vs AIPAC defamation lawsuit (see appendix Motion for Summary Judgment, Rosen v AIPAC, 11/08/2010). Although designed to extricate AIPAC from any liability for defaming Rosen, the filing instead reveals:

*AIPAC claims that Rosen, who was director of foreign policy issues at the lobby and one of its most senior and well-known employees, had engaged in viewing pornography on AIPAC computers at the lobby's Washington offices. Partial transcripts of the lengthy videotaped deposition of Rosen, which were made public as part of AIPAC's motion, show Rosen admitted to surfing pornographic websites from work. But AIPAC's lawyers insisted on more details.*

*"Q: What type of pornography?*

*A: Sexual pornography.*

*Q: What type? Man on man, man on woman?*

*A: Anything. Anything that occurred to me."*

*Rosen also added more details than, perhaps, the attorney for AIPAC had bargained for.*

*"I witnessed [AIPAC executive director] Howard Kohr viewing pornographic material, [Kohr's secretary] Annette Franzen viewing pornographic material, probably a dozen other members of the staff," Rosen said in his deposition. He added that, according to a Nielsen survey, more than a quarter of Americans regularly view pornographic websites at their workplace.*

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*Later in his deposition, the former lobbyist also said he had heard from directors at AIPAC about their visits to prostitutes and he claimed executive director Kohr had routinely used “locker room language” at the AIPAC offices.<sup>134</sup>*

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***Finding: AIPAC’s work environment is vastly less professional than other large to medium sized nonprofit organizations in terms of activities and language.***

According to former AIPAC employee MJ Rosenberg, the AIPAC court filing (particularly details of Rosen warning Israeli officials of potential law enforcement accountability when ordered to return to the office) means that “AIPAC is not a domestic lobbying organization at all, but something very, very different”:

*AIPAC On The Brink: And Not One Word In MSM*

*By M.J. Rosenberg - November 16, 2010, 9:46AM*

*AIPAC is in big trouble and the media is ignoring it. If this was, say, the National Rifle Association or NARAL, this story would be on page one.*

*But it's AIPAC, and few want to mess with it. ( Clay Swisher's does here. ). And here is Nathan Guttman at the Forward.*

*The story was broken in a Antiwar.com piece but is carried in the court filings by AIPAC and its ex-employee Steve Rosen who was fired by the lobby after being indicted under the Espionage Act (the case never went to trial).*

*So now Rosen is suing AIPAC for "unlawful dismissal" and defamation of character. If he wins, AIPAC could have trouble meeting the mortgage payments on its brand new eight story headquarters a few blocks from the Capitol.*

*So, on November 10th, it fired back at Rosen.*

*I am not going into the details except to say that with all the illicit goings on at AIPAC (this is a X rated document), it is hard to believe it had the time to intimidate the entire US Congress into permanent submission.*

*Beyond the smut, the most shocking revelation in the court documents is when Rosen reveals that immediately upon being told by the FBI that he was in serious trouble, and being warned by AIPAC's counsel to come immediately to his office and talk to no one in advance, he immediately ran to meet with the #2 at the Israeli embassy!*

*Now it's war. AIPAC is putting out everything it has on Rosen and Rosen is about to put out everything he has on AIPAC. If he does -- he won't, it appears, if AIPAC pays him off -- it is probably the end of the organization. Why? Because Rosen's claim, which he will back up with*

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<sup>134</sup> Guttman, Nathan, “AIPAC Gets Down and Dirty in Pushback Against Rosen Defamation Suit”, The Forward, November 18, 2010, <http://www.forward.com/articles/133172/>

*documents in his possession, is that his operations -- which AIPAC claims was more like those of "a secret agent than a lobbyist" -- were standard operating procedure for the lobbying powerhouse. And that would mean that AIPAC is not a domestic lobbying organization at all, but something very, very different.*

*AIPAC is on the brink.*

*Soon we may hear Congress singing, "Free at last..."*

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***Finding: Numerous former AIPAC insiders freely admit that, despite the pretenses, AIPAC's conduct does not merit the label "domestic lobbying organization." By extension, it also cannot merit IRS exempt status.***

According to Ron Kampeas, in an article in The Jewish Week, AIPAC did not implement policies encouraging employees to avoid acquiring classified information until 2008.

*In the deposition, a lawyer for Rosen pressed Lewin if he knew of relevant AIPAC standards.*

*"I didn't," he acknowledged. "It wasn't a question of knowing what the standards were. I just knew, in terms of my general experience and my feeling in terms of a Washington lawyer, that if it become public that AIPAC's employees were trying to peddle a story based on classified information, AIPAC would not be able to withstand the criticism that would follow the fact that those employees were retained."*

*In the same filing, Richard Fishman, AIPAC's managing director, also acknowledged in a deposition the lack of a stated policy. He noted that AIPAC has within the last two years made explicit a policy against receiving classified information. When Rosen was employed, Fishman said, it was a "common sense understanding," although he did not elaborate how such an understanding was conveyed.<sup>135</sup>*

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***Finding: If AIPAC were a legitimate tax exempt nonprofit organization engaged in legitimate activities, it would have implemented strong policies against soliciting or circulating classified US government information in the 1980s after it was investigated by the FBI for espionage and theft of government property.***

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<sup>135</sup> Kampeas, Ron "In Deposition, Porn Claims Made, AIPAC Officials Acknowledge No Policy on Classified Info", The Jewish Week, 11/17/2010, [http://www.thejewishweek.com/news/national/deposition\\_porn\\_claims\\_made\\_aipac\\_officials\\_acknowledge\\_no\\_policy\\_classified\\_info](http://www.thejewishweek.com/news/national/deposition_porn_claims_made_aipac_officials_acknowledge_no_policy_classified_info)

## Appendix