

104TH CONGRESS
2^D SESSION

H. R. 3074

AN ACT

To amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone.

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To amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ADDITIONAL PROCLAMATION AUTHORITY.**

4 The United States-Israel Free Trade Area Implemen-
5 tation Act of 1985 (19 U.S.C. 2112 note) is amended by
6 adding at the end the following new section:

7 **“SEC. 9. ADDITIONAL PROCLAMATION AUTHORITY.**

8 “(a) **ELIMINATION OR MODIFICATIONS OF DUTIES.—**

9 The President is authorized to proclaim elimination or
10 modification of any existing duty as the President deter-
11 mines is necessary to exempt any article from duty if—

12 “(1) that article is wholly the growth, product,
13 or manufacture of the West Bank, the Gaza Strip,
14 or a qualifying industrial zone or is a new or dif-
15 ferent article of commerce that has been grown, pro-
16 duced, or manufactured in the West Bank, the Gaza
17 Strip, or a qualifying industrial zone;

18 “(2) that article is imported directly from the
19 West Bank, the Gaza Strip, Israel, or a qualifying
20 industrial zone; and

21 “(3) the sum of—

22 “(A) the cost or value of the materials pro-
23 duced in the West Bank, the Gaza Strip, Israel,
24 or a qualifying industrial zone, plus

1 “(B) the direct costs of processing oper-
2 ations performed in the West Bank, the Gaza
3 Strip, Israel, or a qualifying industrial zone,
4 is not less than 35 percent of the appraised value of
5 the product at the time it is entered into the United
6 States.

7 For purposes of determining the 35 percent content re-
8 quirement contained in paragraph (3), the cost or value
9 of materials which are used in the production of an article
10 in the West Bank, the Gaza Strip, or a qualifying indus-
11 trial zone, and are the products of the United States, may
12 be counted in an amount up to 15 percent of the appraised
13 value of the article.

14 “(b) APPLICABILITY OF CERTAIN PROVISIONS OF
15 THE AGREEMENT.—

16 “(1) NONQUALIFYING OPERATIONS.—No article
17 shall be considered a new or different article of com-
18 merce under this section, and no material shall be
19 included for purposes of determining the 35 percent
20 requirement of subsection (a)(3), by virtue of having
21 merely undergone—

22 “(A) simple combining or packaging oper-
23 ations, or

1 “(B) mere dilution with water or with an-
2 other substance that does not materially alter
3 the characteristics of the article or material.

4 “(2) REQUIREMENTS FOR NEW OR DIFFERENT
5 ARTICLE OF COMMERCE.—For purposes of sub-
6 section (a)(1), an article is a ‘new or different article
7 of commerce’ if it is substantially transformed into
8 an article having a new name, character, or use.

9 “(3) COST OR VALUE OF MATERIALS.—(A) For
10 purposes of this section, the cost or value of mate-
11 rials produced in the West Bank, the Gaza Strip, or
12 a qualifying industrial zone includes—

13 “(i) the manufacturer’s actual cost for the
14 materials;

15 “(ii) when not included in the manufactur-
16 er’s actual cost for the materials, the freight,
17 insurance, packing, and all other costs incurred
18 in transporting the materials to the manufac-
19 turer’s plant;

20 “(iii) the actual cost of waste or spoilage,
21 less the value of recoverable scrap; and

22 “(iv) taxes or duties imposed on the mate-
23 rials by the West Bank, the Gaza Strip, or a
24 qualifying industrial zone, if such taxes or du-
25 ties are not remitted on exportation.

1 “(B) If a material is provided to the manufac-
2 turer without charge, or at less than fair market
3 value, its cost or value shall be determined by com-
4 puting the sum of—

5 “(i) all expenses incurred in the growth,
6 production, or manufacture of the material, in-
7 cluding general expenses;

8 “(ii) an amount for profit; and

9 “(iii) freight, insurance, packing, and all
10 other costs incurred in transporting the mate-
11 rial to the manufacturer’s plant.

12 If the information necessary to compute the cost or
13 value of a material is not available, the Customs
14 Service may ascertain or estimate the value thereof
15 using all reasonable methods.

16 “(4) DIRECT COSTS OF PROCESSING OPER-
17 ATIONS.—(A) For purposes of this section, the ‘di-
18 rect costs of processing operations performed in the
19 West Bank, Gaza Strip, or a qualifying industrial
20 zone’ with respect to an article are those costs either
21 directly incurred in, or which can be reasonably allo-
22 cated to, the growth, production, manufacture, or
23 assembly, of that article. Such costs include, but are
24 not limited to, the following to the extent that they

1 are includible in the appraised value of articles im-
2 ported into the United States:

3 “(i) All actual labor costs involved in the
4 growth, production, manufacture, or assembly
5 of the article, including fringe benefits, on-the-
6 job training, and costs of engineering, super-
7 visory, quality control, and similar personnel.

8 “(ii) Dies, molds, tooling, and depreciation
9 on machinery and equipment which are alloca-
10 ble to the article.

11 “(iii) Research, development, design, engi-
12 neering, and blueprint costs insofar as they are
13 allocable to the article.

14 “(iv) Costs of inspecting and testing the
15 article.

16 “(B) Those items that are not included as di-
17 rect costs of processing operations with respect to an
18 article are those which are not directly attributable
19 to the article or are not costs of manufacturing the
20 article. Such items include, but are not limited to—

21 “(i) profit; and

22 “(ii) general expenses of doing business
23 which are either not allocable to the article or
24 are not related to the growth, production, man-
25 ufacture, or assembly of the article, such as ad-

1 ministrative salaries, casualty and liability in-
2 surance, advertising, and salesmen’s salaries,
3 commissions, or expenses.

4 “(5) IMPORTED DIRECTLY.—For purposes of
5 this section—

6 “(A) articles are ‘imported directly’ if—

7 “(i) the articles are shipped directly
8 from the West Bank, the Gaza Strip, a
9 qualifying industrial zone, or Israel into
10 the United States without passing through
11 the territory of any intermediate country;

12 or

13 “(ii) if shipment is through the terri-
14 tory of an intermediate country, the arti-
15 cles in the shipment do not enter into the
16 commerce of any intermediate country and
17 the invoices, bills of lading, and other ship-
18 ping documents specify the United States
19 as the final destination; or

20 “(B) if articles are shipped through an in-
21 termediate country and the invoices and other
22 documents do not specify the United States as
23 the final destination, then the articles in the
24 shipment, upon arrival in the United States, are
25 imported directly only if they—

1 “(i) remain under the control of the
2 customs authority in an intermediate coun-
3 try;

4 “(ii) do not enter into the commerce
5 of an intermediate country except for the
6 purpose of a sale other than at retail, but
7 only if the articles are imported as a result
8 of the original commercial transactions be-
9 tween the importer and the producer or
10 the producer’s sales agent; and

11 “(iii) have not been subjected to oper-
12 ations other than loading, unloading, or
13 other activities necessary to preserve the
14 article in good condition.

15 “(6) DOCUMENTATION REQUIRED.—An article
16 is eligible for the duty exemption under this section
17 only if—

18 “(A) the importer certifies that the article
19 meets the conditions for the duty exemption;
20 and

21 “(B) when requested by the Customs Serv-
22 ice, the importer, manufacturer, or exporter
23 submits a declaration setting forth all pertinent
24 information with respect to the article, includ-
25 ing the following:

1 “(i) A description of the article, quan-
2 tity, numbers, and marks of packages, in-
3 voice numbers, and bills of lading.

4 “(ii) A description of the operations
5 performed in the production of the article
6 in the West Bank, the Gaza Strip, a quali-
7 fying industrial zone, or Israel and identi-
8 fication of the direct costs of processing
9 operations.

10 “(iii) A description of any materials
11 used in production of the article which are
12 wholly the growth, product, or manufac-
13 ture of the West Bank, the Gaza Strip, a
14 qualifying industrial zone, Israel or United
15 States, and a statement as to the cost or
16 value of such materials.

17 “(iv) A description of the operations
18 performed on, and a statement as to the
19 origin and cost or value of, any foreign
20 materials used in the article which are
21 claimed to have been sufficiently processed
22 in the West Bank, the Gaza Strip, a quali-
23 fying industrial zone, or Israel so as to be
24 materials produced in the West Bank, the

1 Gaza Strip, a qualifying industrial zone, or
2 Israel.

3 “(v) A description of the origin and
4 cost or value of any foreign materials used
5 in the article which have not been substan-
6 tially transformed in the West Bank, the
7 Gaza Strip, or a qualifying industrial zone.

8 “(c) SHIPMENT OF ARTICLES OF ISRAEL THROUGH
9 WEST BANK OR GAZA STRIP.—The President is author-
10 ized to proclaim that articles of Israel may be treated as
11 though they were articles directly shipped from Israel for
12 the purposes of the Agreement even if shipped to the Unit-
13 ed States from the West Bank, the Gaza Strip, or a quali-
14 fying industrial zone, if the articles otherwise meet the re-
15 quirements of the Agreement.

16 “(d) TREATMENT OF COST OR VALUE OF MATE-
17 RIALS.—The President is authorized to proclaim that the
18 cost or value of materials produced in the West Bank, the
19 Gaza Strip, or a qualifying industrial zone may be in-
20 cluded in the cost or value of materials produced in Israel
21 under section 1(c)(i) of Annex 3 of the Agreement, and
22 the direct costs of processing operations performed in the
23 West Bank, the Gaza Strip, or a qualifying industrial zone
24 may be included in the direct costs of processing oper-

1 ations performed in Israel under section 1(c)(ii) of Annex
2 3 of the Agreement.

3 “(e) QUALIFYING INDUSTRIAL ZONE DEFINED.—

4 For purposes of this section, a ‘qualifying industrial zone’
5 means any area that—

6 “(1) encompasses portions of the territory of Is-
7 rael and Jordan or Israel and Egypt;

8 “(2) has been designated by local authorities as
9 an enclave where merchandise may enter without
10 payment of duty or excise taxes; and

11 “(3) has been specified by the President as a
12 qualifying industrial zone.”.

Passed the House of Representatives April 16, 1996.

Attest:

Clerk.