

# Union Calendar No. 237

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3074

**[Report No. 104-495]**

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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## IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 1996

Mr. CRANE (for himself, Mr. SHAW, and Mr. RANGEL) introduced the following bill; which was referred to the Committee on Ways and Means

MARCH 25, 1996

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## A BILL

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,*

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

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

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

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

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

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

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

19           “(3) the sum of—

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

23                   “(B) the direct costs of processing oper-  
24 ations performed in the West Bank, the Gaza  
25 Strip, Israel, or a qualifying industrial zone,

1 is not less than 35 percent of the appraised value of  
2 the product at the time it is entered into the United  
3 States.

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

11 “(b) APPLICABILITY OF CERTAIN PROVISIONS OF  
12 THE AGREEMENT.—

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

19 “(A) simple combining or packaging oper-  
20 ations, or

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

24 “(2) REQUIREMENTS FOR NEW OR DIFFERENT  
25 ARTICLE OF COMMERCE.—For purposes of sub-

1 section (a)(1), an article is a ‘new or different article  
2 of commerce’ if it is substantially transformed into  
3 an article having a new name, character, or use.

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

8 “(i) the manufacturer’s actual cost for the  
9 materials;

10 “(ii) when not included in the manufactur-  
11 er’s actual cost for the materials, the freight,  
12 insurance, packing, and all other costs incurred  
13 in transporting the materials to the manufac-  
14 turer’s plant;

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

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

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

1           “(i) all expenses incurred in the growth,  
2           production, or manufacture of the material, in-  
3           cluding general expenses;

4           “(ii) an amount for profit; and

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

8           If the information necessary to compute the cost or  
9           value of a material is not available, the Customs  
10          Service may ascertain or estimate the value thereof  
11          using all reasonable methods.

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

23               “(i) All actual labor costs involved in the  
24               growth, production, manufacture, or assembly  
25               of the article, including fringe benefits, on-the-

1           job training, and costs of engineering, super-  
2           visory, quality control, and similar personnel.

3           “(ii) Dies, molds, tooling, and depreciation  
4           on machinery and equipment which are alloca-  
5           ble to the article.

6           “(iii) Research, development, design, engi-  
7           neering, and blueprint costs insofar as they are  
8           allocable to the article.

9           “(iv) Costs of inspecting and testing the  
10          article.

11          “(B) Those items that are not included as di-  
12          rect costs of processing operations with respect to an  
13          article are those which are not directly attributable  
14          to the article or are not costs of manufacturing the  
15          article. Such items include, but are not limited to—

16               “(i) profit; and

17               “(ii) general expenses of doing business  
18               which are either not allocable to the article or  
19               are not related to the growth, production, man-  
20               ufacture, or assembly of the article, such as ad-  
21               ministrative salaries, casualty and liability in-  
22               surance, advertising, and salesmen’s salaries,  
23               commissions, or expenses.

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

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

2 “(i) the articles are shipped directly  
3 from the West Bank, the Gaza Strip, a  
4 qualifying industrial zone, or Israel into  
5 the United States without passing through  
6 the territory of any intermediate country;  
7 or

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

15 “(B) if articles are shipped through an in-  
16 termediate country and the invoices and other  
17 documents do not specify the United States as  
18 the final destination, then the articles in the  
19 shipment, upon arrival in the United States, are  
20 imported directly only if they—

21 “(i) remain under the control of the  
22 customs authority in an intermediate coun-  
23 try;

24 “(ii) do not enter into the commerce  
25 of an intermediate country except for the

1 purpose of a sale other than at retail, but  
2 only if the articles are imported as a result  
3 of the original commercial transactions be-  
4 tween the importer and the producer or  
5 the producer's sales agent; and

6 “(iii) have not been subjected to oper-  
7 ations other than loading, unloading, or  
8 other activities necessary to preserve the  
9 article in good condition.

10 “(6) DOCUMENTATION REQUIRED.—An article  
11 is eligible for the duty exemption under this section  
12 only if—

13 “(A) the importer certifies that the article  
14 meets the conditions for the duty exemption;  
15 and

16 “(B) when requested by the Customs Serv-  
17 ice, the importer, manufacturer, or exporter  
18 submits a declaration setting forth all pertinent  
19 information with respect to the article, includ-  
20 ing the following:

21 “(i) A description of the article, quan-  
22 tity, numbers, and marks of packages, in-  
23 voice numbers, and bills of lading.

24 “(ii) A description of the operations  
25 performed in the production of the article



1 in the West Bank, the Gaza Strip, a quali-  
2 fying industrial zone, or Israel and identi-  
3 fication of the direct costs of processing  
4 operations.

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

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

22 “(v) A description of the origin and  
23 cost or value of any foreign materials used  
24 in the article which have not been substan-

1                   tially transformed in the West Bank, the  
2                   Gaza Strip, or a qualifying industrial zone.

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

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

22          “(e) QUALIFYING INDUSTRIAL ZONE DEFINED.—  
23 For purposes of this section, a ‘qualifying industrial zone’  
24 means any area that—

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

3           “(3) has been designated by local authorities as  
4       an enclave where merchandise may enter without  
5       payment of duty or excise taxes; and

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

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