ISRAEL

TRADE SUMMARY

The U.S. goods trade deficit with Israel was $7.1 billion in 2005, an increase of $1.8 billion from $5.4 billion in 2004. U.S. goods exports in 2005 were $9.7 billion, up 6.1 percent from the previous year. Corresponding U.S. imports from Israel were $16.9 billion, up 16.0 percent. Israel is currently the 19th largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Israel were $2.6 billion in 2004 (latest data available), and U.S. imports were $2.2 billion. Sales of services in Israel by majority U.S.-owned affiliates were not available in 2003 ($604 million in 2002), while sales of services in the United States by majority Israel-owned firms were $234 million in 2003 (latest data available).

The stock of U.S. foreign direct investment (FDI) in Israel in 2004 was $6.8 billion, down from $7.0 billion in 2003. U.S. FDI in Israel is concentrated largely in the manufacturing sector.

The United States-Israel Free Trade Area Agreement

Under the United States-Israel Free Trade Area Agreement (FTA), signed in 1985, the United States and Israel agreed to phased tariff reductions culminating in the complete elimination of duties on all products by 1995. Most tariffs between the United States and Israel have been eliminated as agreed, although tariff and non-tariff barriers continue to affect a certain portion of U.S. agricultural exports.

To temporarily and partially address the differing views between the two countries over how the U.S.-Israel FTA applies to trade in agricultural products, in 1996 the United States and Israel signed an Agreement on Trade in Agricultural Products, establishing a program of gradual and steady market access liberalization for food and agricultural products effective through December 31, 2001. Negotiation and implementation of a new agricultural agreement was successfully completed in 2004. The new agreement is effective through December 31, 2008, and provides improved access for select U.S. agricultural products. The agreement provides U.S. food and agricultural products access to the Israeli market under one of three different categories: unlimited duty-free access; duty-free tariff-rate quotas (TRQs); or preferential tariffs, which are set at least 10 percent below Israel's most-favored nation (MFN) rates. The agreement also provides for annual increases in TRQs.

IMPORT POLICIES

Tariffs

Under the 1985 FTA, the United States and Israel agreed to eliminate duties on all products by January 1, 1995, the end of the implementation period. Israel removed duties on U.S. non-agricultural products according to the FTA schedule, but substantial tariffs remain on some U.S. agricultural products.

Agriculture

Market Access: Approximately 90 percent of U.S. agricultural exports (by value) enter Israel duty- and quota-free as a result of Israel's implementation of commitments under the WTO, the FTA, and the 2004 Agricultural Agreement. However, remaining U.S. agricultural exports, consisting largely of consumer-oriented goods, face restrictions such as a complicated tariff-rate quota system and high tariffs. In addition, the ability of U.S. exporters to utilize available quota volumes can be hampered by problems with the administration and transparency of Israel's TRQs. TRQ-related problems include a lack of data on quota fill rates and license allocation issues such as small non-commercially viable quota quantities and administrative difficulties in obtaining licenses for within quota imports. Under the 2004 Agricultural Agreement, the Israeli government committed to taking steps to improve the administration of TRQs, including engaging in regular bilateral consultations.

Restrictions remain on other U.S. agricultural exports, including high value goods that are important to the Israeli agricultural sector such as dairy products, fresh fruits, fresh vegetables, almonds, wine, and some processed foods. According to industry estimates, elimination of levies on processed foods could result in increased sales by U.S. companies, with appropriate market development efforts, in the range of $25 million to $50 million. Removal of quotas and levies on dried fruits could result in increases in sales by U.S. exporters of up to $10 million. U.S. growers of apples, pears, cherries and stone fruits estimate that elimination of Israeli trade barriers would lead to an increase of $5 million to $25 million in export sales of these products. It is estimated that free trade in agriculture could result in U.S. almond exports growing by as much as $10 million.

Meat Imports and Kosher Certification: Israel prohibits the importation of any meat or meat product that is not certified as kosher by Israel's chief rabbinate, a policy that presents significant challenges for U.S. meat exporters. There is strong demand in Israel for quality kosher beef. However, the process for granting kosher certificates is expensive and complex. In 2002, the U.S. meat industry and the two governments attempted to develop steps to facilitate U.S. compliance with Israel's kosher requirements. Unfortunately, these efforts were unsuccessful. Industry estimates that kosher certification for U.S. meat could result in an annual increase in U.S. meat exports of $15 million in the medium term and more than $25 million in the long-term. In addition, work on an agreement on veterinary certificates of health for live animal imports was suspended after the announcement of the discovery of a single U.S. case of Bovine Spongiform Encephalopathy (BSE) involving an imported animal. The Israeli government has engaged in regular consultations with the U.S. Department of Agriculture to alleviate any remaining concerns, but the ban remains in effect.

Israel permits the domestic production and marketing of non-kosher meat, but bans its importation. The ban on the import of non-kosher meat raises questions in terms of the 1985 FTA requirement that any religious-based restrictions be applied in accordance with the principle of national treatment. U.S. firms estimate that elimination of the prohibition on non-kosher imports could result in increased sales of up to $10 million.

Wine Imports: The 2004 Agricultural Agreement for the first time grants U.S. wine exporters an annual tariff-rate quota of 200,000 liters of wine. In addition, U.S. exports in excess of the quota limit are charged with a tariff lower than Israel's MFN rate. However, other impediments to U.S. wine exports remain. Wine importers note that the Government of Israel (GOI) does not require Israeli wine producers to follow the detailed labeling requirements of the official Israel Standard for Wine, while these rules are strictly enforced on imported wines.

Rabbinical regulations for kosher certification also pose challenges for U.S. and other foreign wine exporters. For example, rabbinical regulations do not permit use of the same company name on kosher and non-kosher wines. To keep their kosher certification, importers of kosher wines are not permitted to import non-kosher wines. Kosher wines cannot be stored in the same warehouse as non-kosher wines.

Sales of U.S. wines to Israel are about $700,000 per year. The industry estimates that the elimination of trade barriers could result in increased exports worth up to $10 million per year.

Agricultural Labeling Requirements: Imported food products face rigid labeling requirements. For many products, the labeling required by Israel is far more detailed than that required in the United States. The cost of additional labeling has acted as a deterrent for many U.S. companies that have considered marketing their products in Israel. The loss of sales of American products is difficult to estimate due to the variety of products affected by these regulations.

The Israeli government has adopted licensing requirements for products based on their classification as sensitive or non-sensitive. Importers of those products that are classified as sensitive due to their potential impact on public health, such as those containing bleached wheat flour and non-FDA regulated food supplements, have increasingly experienced difficulties and increased costs in obtaining these licenses.

Customs Procedures

Some U.S. exporters have reported difficulties in claiming preferences under the FTA. Israeli concerns about the U.S. methods for issuing certificates of origin have sometimes delayed entry of, or delayed preferential tariff treatment for, U.S. goods entering Israel.

Purchase Taxes

The GOI reduced the value added tax (VAT) rate from 17 percent to 16.5 percent in the fall of 2005. It also announced its intention to lower the VAT to 16 percent by the end of 2006. The import tax on new automobiles will be lowered from the current rate of 95 percent to 72 percent by 2010.

Textiles

Israel restricts imports of used clothing and bans the importation of seconds fabrics. There has been an increased enforcement effort by the Israeli Customs Authority regarding its inspection of textile products entering Israel for which FTA preferential treatment is claimed.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Technical standards pose a prominent non-tariff barrier limiting U.S. exporters' access to the Israeli market. Since 1999, Israeli law has mandated that the Standards Institution of Israel (SII) adopt multiple international technical standards whenever possible. However, the SII has not implemented this requirement. In addition, SII's formal process for adopting or developing technical standards appears to be a significant market access obstacle to U.S. exporters, despite concerted U.S. Government efforts to address issues of access and transparency. Moreover, each government ministry may adopt additional mandatory regulations that can prevent the importation of U.S.-made products and services to Israel. This procedure has created difficulties for U.S. exporters who contend that transparency and due process are frequently lacking, most notably for food imports. In addition, U.S. industry has said that requirements for technical standards are often not uniformly enforced. In some instances, domestic products appear to have an advantage over imports because enforcement of standards on domestic producers has been inconsistent, while standards requirements are more strictly enforced with respect to imported goods. U.S. companies that have been doing business in Israel for many years are increasingly confronted with new, often EU-based, standards that arbitrarily discriminate against U.S. products. In addition, the SII will not recognize U.S. testing or accreditation of electrical components and products unless the product undergoes additional and often costly tests in Israel.

The U.S. Embassy has established a four party committee to address standards issues that prevent American companies from exporting to Israel. The Committee includes representatives of the U.S. Embassy, the Israel-American Chamber of Commerce, the Commissioner of Standards, and the SII. American companies that face export problems may submit their cases for review. This system has been somewhat effective in obtaining individual waivers for companies. However, SII has not always provided the waivers that it said would be forthcoming. In one case, an American company that was promised such a waiver is still waiting for the official waiver eight months after it was expected. In addition, the SII has not implemented a "timeline" that the four party committee established in order to assure timely responses. The United States is pressing for a more systematic solution to prevent the loss of market access for American companies.

GOVERNMENT PROCUREMENT

Israel is a signatory to the WTO Agreement on Government Procurement (GPA), which covers most Israeli government entities and government-owned corporations. Most of the country's open international public tenders are published in the local press. However, government-owned corporations make extensive use of selective tendering procedures. In addition, the lack of transparency in the public procurement process discourages U.S. companies from participating in major projects and disadvantages those that choose to compete. Enforcement of the public procurement laws and regulations is not consistent. Poor design and unfair management of public tenders discourages U.S. bidders.

Israel also has offset requirements that it implements through international cooperation (IC) agreements. Under IC agreements, foreign companies offset their earnings from sales to the Government of Israel by agreeing to invest in local industry, co-develop or co-produce, subcontract to local companies, or purchase from Israeli industry. The IC offset percentage for industries covered by Israel's WTO GPA obligations through the end of 2005 was 30 percent of the value of the contract; for industries excluded from GPA coverage, including most military procurements, the offset is 35 percent. In late 2005, Israel agreed to reduce the level of its offsets to 28 percent on January 1, 2006, and to offer compensatory adjustments in the form of expanded coverage of services and to reduce its threshold for construction services from 8.5 million SDRs to 5 million SDRs, which is the threshold that most other GPA Parties apply. Israel also agreed to negotiate a schedule for the reduction of its offsets in the market access negotiations that will be conducted in 2006 under the GPA.

U.S. suppliers have found the size and nature of their IC proposals to be a decisive factor in close tender competitions, despite a court decision that prohibits the use of offset proposals in determining the award of a bid. Small and medium-sized U.S. exporters are often reluctant to commit to make purchases in Israel in order to comply with the IC requirements and refrain from participation in GOI tenders.

In addition, the inclusion of unlimited liability clauses in many government tenders discourages American firms from competing. When faced with the possibility of millions of dollars in legal costs for unforeseeable problems resulting from a government contract, most American firms are forced to insure against the risk, which raises their overall bid price, and reduces their competitiveness.

For civilian local currency procurement by the Ministry of Defense (MOD), a United States-Israeli Memorandum of Understanding (MOU), extended in 1997, gives U.S. competitors equal status with domestic suppliers. This MOU applies to procurements that are not connected with U.S. military assistance programs. Despite this MOU, U.S. suppliers have expressed concern about the lack of transparency and apparent lack of justification for excluding U.S. suppliers from many MOD tendering opportunities. The MOU, which has had a favorable effect on the Israeli defense industries by opening up the U.S. market to their products, has not resulted in an open market for U.S. suppliers competing on MOD's local currency procurements. Efforts by U.S. manufacturers or their agents to win military tenders to supply food continue to fail.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Israel is a member of the WTO and the World Intellectual Property Organization (WIPO). It is a signatory to the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the Paris Convention for the Protection of Industrial Property, and the Patent Cooperation Treaty. Israel was obligated to implement the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) by January 1, 2000. The United States continues to encourage Israel to accede to the WIPO Copyright Treaty and the WIPO Performance and Phonograms Treaty (commonly known as the WIPO Internet Treaties), particularly in view of the importance of Israel's high-technology software and telecommunication industries.

In April 2005, Israel adopted limited data exclusivity legislation that provided some new protection from unfair commercial use of the confidential test data of pharmaceutical firms. However, these data exclusivity provisions provide data protection periods that fall far short of the periods provided in OECD-level economies, as well as other countries in the Middle East. Furthermore, even during these truncated periods of protection, generic companies are permitted to rely on the undisclosed test data of U.S. companies to get approvals for the export of the generic product. Research and development, as well as clinical trial expenditures made by international pharmaceutical companies, have fallen in recent years as these companies have moved these activities to countries with more favorable data protection regimes.

In December 2005, the Israeli government passed legislation that curtailed existing pharmaceutical patent term adjustments granted to compensate for delays in obtaining regulatory approval of a drug. This legislation further weakened the protection for intellectual property of research-based pharmaceutical companies in Israel. The new legislation references a group of 31 countries (Australia, the United States, Iceland, Japan, Norway, Switzerland and the 25 countries of the EU) in determining the length of patent term extension. In addition, the legislation creates numerous bureaucratic obstacles for patent holders who wish to apply for a patent term extension. The legislation also applies retroactively to all pending applications for patent term extensions and already granted patent term extensions.

As a result of the deficiencies of the data exclusivity legislation and the prospect of passage of the patent term extension legislation, Israel was placed in April 2005 on the Special 301 “Priority Watch List”. The U.S. Government continues to urge the Israeli government and the Knesset to take steps that will provide a reasonable period of non-reliance on confidential data and periods of patent term extension similar to that granted in OECD countries.

Israel has increased its budgetary, educational, police, and judicial resources devoted to the enforcement of the country’s copyright and trademark laws. In addition, Israel passed amendments to its copyright laws that should make it easier for law enforcement officials, prosecutors, and judges to pursue, prosecute, and punish copyright crimes. In 2005, U.S. industry estimated the loss due to inadequate intellectual property protection for motion pictures, records and music, business software, entertainment software and books to be $154 million.

In 2005, the Government of Israel introduced in the Knesset new draft legislation to update and consolidate the country's copyright laws. This legislation may result in the exclusion of end-user piracy from criminal liability, a step that may lead to weaker protection for business software. In addition, a separate law concerning writable media threatens to legalize the downloading of protected content from the Internet, and to compensate rights holders through a tax on the media itself. In October 2004, the Government of Israel assured the United States that it would continue to provide U.S. music rights-holders' with national treatment protection. However, the language of the 2005 copyright legislation indicates that foreign right holders will not be compensated for the public performance of phonographic recordings. The United States is closely tracking these developments and working to assure that Israel fulfills its commitment to accord national treatment to U.S. music rights-holders consistent with a 1953 U.S.-Israel bilateral treaty and Israel's assurances of October 2004.

SERVICES BARRIERS

Audiovisual and Communications Services

Israel has made progress in liberalizing its telecommunications sector. Foreign companies are now able to participate in joint ventures providing cellular and international telephone service, direct home broadcasting satellite services, cable television, and Internet service. Israel officially opened domestic telephone service to domestic and foreign competition in 2000. Also, the Israeli government recently approved the use of wireless technologies, such as Bluetooth devices and WiFi (802.11) devices. In October 2005, the Israeli government sold its controlling interest in the Bezeq Group, the state-owned telecommunications company, to a group of private investors.

In 2001, Bezeq received a license to provide high speed Internet service with the condition that it permits other Internet service providers to have access to its infrastructure. The Knesset amended the telecommunications law to permit cable television providers (including firms with U.S. ownership) to provide high-speed Internet and other telecommunications services.

The international telephone market in Israel expanded in 2004, with two of the Internet companies -- Netvision and Internet Gold Lines -- receiving licenses to provide international telephone service.

In December 2004, the Ministry of Communication (MOC) announced a plan to crack down on the use of Voice-over Internet protocol (VoIP) services. The move was a response to the successful marketing of VoIP "talk cards" by unlicensed individual providers to foreign workers seeking less expensive phone calls to their home countries. However, the MOC has yet to formally announce their plans for preventing the circumvention of the licensing regime without interfering with the use of VoIP by legitimate Internet service providers.

Only selected private Israeli television channels are allowed to advertise. These channels received broadcast licenses and the advertising privilege in exchange for certain investment commitments. Israeli law largely prohibits other channels, both public and private, from advertising. The government funds the country's public channels, whereas the remaining private channels generate revenues via subscription fees. In 2002, the Israeli government developed regulations that allow foreign channels aired through the country's cable and satellite networks to broadcast a limited amount of advertising aimed at a domestic Israeli audience. Currently, the regulations allow foreign channels to use up to 25 percent of their total advertising time to target the Israeli market. The regulations allow a foreign channel to apply for more than 25 percent advertising time if the channel can prove that it has a sizable viewing audience outside of Israel. The U.S. Government is concerned that these restrictions on advertising will inhibit the economic viability of U.S. firms participating in the Israeli broadcasting sector.

INVESTMENT BARRIERS

The Israeli government actively solicits foreign private investment, including joint ventures, especially in industries involving exports, tourism, telecommunications, and high technology. Foreign firms are accorded national treatment in terms of taxation and labor relations, and are eligible for incentives for designated "approved" investments in priority development zones. There are generally no foreign ownership restrictions, but the foreign entity must be registered in Israel. Investments in regulated sectors, including electronic commerce, banking, insurance, and defense industries, require prior government approval in Israel. Profits, dividends, and rents generally can be repatriated from Israel without difficulty through a licensed bank.

Numerous U.S. companies have subsidiaries in Israel. Israel is a member of the International Centre for Settlement of Investment Disputes (ICSID) and a party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

The Bachar capital market reforms, which were adopted by the Knesset in July 2005, seek to increase competition and prevent conflicts of interest in the highly concentrated banking sector. The government must determine allowable charges for asset sales before the Bachar reforms can be implemented. Once implemented, the reforms should increase access and opportunities to the banking sector for U.S. and other foreign firms.

A key element of the Bachar reforms includes gradually removing from the banks' ownership and management of the Provident funds, which are private retirement funds and mutual funds. In return, banks will be able to enter the insurance market and sell life insurance.

ELECTRONIC COMMERCE

U.S. industry has not reported any barriers to electronic commerce in Israel. Israel still lacks a clear body of regulations and tax laws covering electronic commerce transactions. In August 2000, an Electronic Signature Bill was passed to regulate signatures on electronic media. Loopholes in the laws dictate that a consumer can decline to pay for any merchandise for which they did not physically sign, which serves as a disincentive to the establishment of online businesses. The Ministry of Justice maintains a register of authorizing entities to issue electronic certificates attesting to the signature of the sender of an electronic message. Also under their jurisdiction is the Registrar of Data Bases, which by law must issue licenses to any firm or individual holding a client database. This measure is designed to protect personal information from unwanted third-party intrusion.