ISRAEL

TRADE SUMMARY

The U.S. goods trade deficit with Israel was $7.8 billion in 2008, an increase of $72 million from 2007. U.S. goods exports in 2008 were $14.5 billion, up 11.3 percent from the previous year. Corresponding U.S. imports from Israel were $22.3 billion, up 7.4 percent. Israel is currently the 20th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Israel were $3.4 billion in 2007 (latest data available), and U.S. imports were $3.1 billion. Sales of services in Israel by majority U.S.-owned affiliates were $1.1 billion in 2005 (latest data available), while sales of services in the United States by majority Israel-owned firms were $1.5 billion.

The stock of U.S. foreign direct investment (FDI) in Israel was $10.1 billion in 2007 (latest data available), up from $9.4 billion in 2005. U.S. FDI in Israel is concentrated largely in the manufacturing and information sectors.

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 implement phased tariff reductions culminating in the complete elimination of duties on all products by January 1, 1995. Most tariffs between the United States and Israel have been eliminated as agreed, although tariff and nontariff barriers continue to affect a certain portion of U.S. agricultural exports.

To address temporarily the differing views between the two countries over how the United States-Israel FTA applies to trade in agricultural products, in 1996 the United States and Israel signed an Agreement on Trade in Agricultural Products (ATAP), 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 successor ATAP was successfully completed in 2004. This agreement was effective through December 31, 2008, and grants improved access for select U.S. agricultural products. This agreement was extended through December 31, 2009. 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 provided for annual increases in the in-quota quantity under the TRQs.

IMPORT POLICIES

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 current ATAP. However, remaining U.S. agricultural exports, which consist of consumer-oriented goods, face restrictions such as a complicated TRQ system and high tariffs. In addition, the ability of U.S. exporters to utilize available TRQ in-quota quantities 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 in-quota imports. Under the current ATAP, Israel committed to taking steps to improve the administration of TRQs, including engaging in regular bilateral consultations. However, the mid-year reallocation of unused quotas by the Israeli Quota Administration failed to solve the problems. The negotiations for a successor ATAP seek to address these issues.

Restrictions remain on other U.S. agricultural exports, including high-value goods that are sensitive for 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, including a broad range of dairy products, could result in increased sales by U.S. companies 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. Free trade in agriculture could result in U.S. almond exports growing by as much as $10 million. Removing these levies on food products inputs used in U.S.-based restaurant chains operating in Israel could save these chains $20 million annually and allow for their expansion, creating new job opportunities locally.

The Israeli New Food Committee of the Ministry of Health published regulations for new food registrations in February 2006. The registration of foods containing bioengineered ingredients began in early 2007. The new procedure was supposed to facilitate registration requirements. However, U.S. companies have found that obtaining needed information and securing product approvals for food, food supplements and dietetic products in a timely manner, is difficult. The system usually requires 6 to 12 months to review product dossiers and the committee has, in several cases, invalidated previous approvals without regulatory justification. The Committee has imposed stringent new standards that are of concern to the United States.

Meat Imports and Kosher Certification: Israel prohibits the importation of any meat or meat products that are 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 obtaining *Kosher* certificates is expensive and complex. Industry estimates that U.S. *Kosher* certification for 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 case of Bovine Spongiform Encephalopathy (BSE) in the United States involving an imported animal. The Israeli government has engaged in regular consultations with the U.S. Department of Agriculture to alleviate remaining concerns. In fall 2007, the Israeli Ministry of Agriculture agreed to allow imports from the United States of cattle aged less than 12 months. The age limit was increased to 24 months in 2008, but the ban remains in effect for all other beef imports. The United States has requested that Israel rely on guidelines on BSE developed by the World Organization for Animal Health (OIE). OIE guidelines currently provide that no age limits should apply for a controlled-risk country like the United States, provided that specific risk material is removed from the animal at slaughter.

Israel permits the domestic production and marketing of non-*Kosher* meat, but bans its importation. U.S. firms estimate that elimination of the prohibition on non-*Kosher* imports could result in increased sales of up to $10 million.

Wine and Spirits Imports: Under the current ATAP, for the first time Israel granted U.S. wine exporters an annual TRQ of 200,000 liters of duty-free imports of wine. In addition, U.S. exports in excess of the quota limit are charged a tariff lower than Israel's MFN rate. However, the current method of quota allocation for wine creates a significant challenge for wine imports. Equal quotas are allocated to each applicant for an import license, qualified or otherwise. Further compounding the problem, the reallocation of quotas at the end of a period often occurs too late to make it commercially viable for another importer to utilize the remaining quota. Wine importers note that the Israeli government 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. 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. 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, Israeli labeling requirements are far more cumbersome than U.S. requirements. The cost of additional labeling has been a deterrent for many U.S. companies that have considered marketing their products in Israel. The loss of sales of U.S. products is difficult to estimate due to the variety of products affected by these regulations.

The Israeli government has adopted licensing requirements for "sensitive" and "non-sensitive" products, classifications ostensibly based on a product's potential impact on public health. Importers have experienced difficulty and incurred significant costs in obtaining these licenses. The list of sensitive foods includes: milk products and milk product substitutes, meat and poultry products and their substitutes, fish products and their substitutes; food supplements: vitamins, minerals and herbs; baby food, egg products, canned food (under pH 4.5), food that contains food coloring, gelatin products, including products that contain gelatin; honey products, other food products stored at low temperature, mineral water, mushroom products, and food that was exported, but then returned to Israel.

Customs Procedures

Some U.S. exporters have reported difficulty in claiming preferences under the FTA. Israel has cited concerns about the U.S. method for issuing certificates of origin as the basis for sometimes delaying entry of, or delaying preferential tariff treatment for, U.S. goods entering Israel.

In summer 2008, a number of food shipments imported from the U.S. were held up at the ports due to a slowdown by Israeli workers over a government labor issue. Israeli health workers were processing shipments very slowly, and batch-testing every product. The United States Government has requested that the Israeli government issue updated transparent guidance for food imports and rescind any measures that are outside of normal testing procedures.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

U.S. industry has alleged that certain technical standards have posed nontariff barriers to U.S. exports to Israel. In response, the United States has intensified its engagement and cooperation with Israel on technical barriers to trade and standards issues. In May 2007, senior officials of the U.S. National Institute of Standards and Technology (NIST) met with their Standards Institution of Israel (SII) counterparts and agreed to fund formal training on U.S. standards for Israeli officials. Furthermore, the NIST established that it would serve as the point-of-contact for U.S. private sector standards bodies with SII. Since the summer of 2007, U.S. and Israeli officials have held several face-to-face meetings and videoconferences to exchange information on the Israeli and U.S. standards and regulatory systems, discuss technical barriers to trade/standards issues of common concern, and try to resolve bilateral trade irritants. The next such meeting will likely take place in spring 2009.

Industry has said that the requirements set out in technical standards are often non-transparent and/or not uniformly or consistently enforced which, in some instances, has appeared to provide domestic products with an advantage over imports. A primary example is Israel's treatment of imported infant formula. Israel's government has not yet published its measures, nor have these measures been provided to the WTO. U.S. industry continues to have concerns that these requirements, discriminate against imports and are unduly costly, burdensome, and unpredictable. The United States will attempt to resolve the infant formula issue in 2009.

In addition, U.S. companies that have been doing business in Israel for many years are increasingly confronted with new standards, often based on EU standards, that have been integrated into Israeli regulations in such areas as electrical products and automobiles.

SII recently became a member in 2007 of two European standards development organizations, specifically the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC). The Israelis have not participated actively in these organizations. The United States has expressed concern that additional reliance on EU regional standards in Israeli regulations may further disadvantage U.S. exporters, particularly small and medium-sized 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 international public tenders are published in the local press.

U.S. firms encounter difficulties in accessing the Israeli government procurement market. 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. A proposed regulation not yet passed in the Knesset could impede transparency further by allowing an internal committee within each Israeli government ministry to exempt up to four million shekels of procurement from public tenders. Enforcement of public procurement laws and regulations in Israel is not consistent.

Israel also has offset requirements that it implements through international cooperation (IC) agreements. Under IC agreements, foreign companies are required to offset government contracts by agreeing to invest in local industry, co-develop or co-produce with local companies, subcontract to local companies, or purchase from Israeli industry. As of January 1, 2006, the IC offset percentage for procurements covered by Israel's GPA obligations is 28 percent of the value of the contract; for procurements excluded from GPA coverage, including most military procurements, the offset is 35 percent. Israel reduced the offset level on procurement covered by the GPA to 20 percent on January 1, 2009.

U.S. suppliers have found the size and nature of their IC proposals to be a decisive factor in close tender competitions, despite an Israeli court decision that prohibits the use of offset proposals in determining the award of a contract. Because 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, they refrain from participation in Israeli tenders.

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

The United States-Israel Reciprocal Defense Procurement Memorandum of Understanding (MOU), extended in 1997, is intended to facilitate defense cooperation in part by allowing companies from both countries to compete on defense procurements in both countries on as equal a basis as possible, consistent with national laws and regulations. This MOU applies to procurements of conventional defense supplies and services by either government, including procurements by the Ministry of Defense (MOD) using Israeli government funding in Israeli currency. U.S. suppliers have expressed concern about the lack of transparency and apparent lack of justification for excluding U.S. suppliers from various MOD tendering opportunities. The MOU, which has benefited Israeli defense industries by opening up the U.S. procurement market to their products, has not resulted in significantly opening the market for U.S. suppliers interested in competing for MOD procurements funded by Israel.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

While Israel has made some improvements to its IPR regime by strengthening copyright protection and clarifying that its health authorities do not allow reliance on undisclosed test or other data for pharmaceuticals manufactured for export, areas of concern remain.

The United States continued in 2008 to encourage Israel to take steps to improve data protection for pharmaceuticals and patent term extension. Specifically, the United States is urging Israel to provide at least five years of protection against unfair commercial use for undisclosed test and other data submitted to Israel's authorities for marketing approval of pharmaceutical products. Additionally, the United States remains concerned that Israel's patent term extension system provides inadequate pharmaceutical patent term adjustments granted to compensate for delays in obtaining regulatory approval of a drug. Concerns include numerous bureaucratic obstacles that exist for patent holders who wish to apply for a patent term extension. The United States therefore is urging Israel to improve its patent term extension system.

The United States and Israel have been working closely through the 2008 Special 301 Out-of-Cycle Review to address these issues, particularly in light of Israel's aspirations to join the OECD.

With respect to the 2007 copyright legislation enacted by Israel, the United States will continue to monitor its implementation to ensure that Israel fulfills its commitment to accord national treatment to U.S. music rights holders consistent with a 1953 United States-Israel bilateral treaty and Israel's repeated assurances. The United States also continues to encourage Israel to accede to the World International Property Organization (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.

SERVICES BARRIERS

Audiovisual and Communications Services

Only selected private Israeli broadcast television channels are allowed to advertise. These channels received broadcast licenses and the advertising privilege in exchange for certain local investment commitments. Israeli law largely prohibits other broadcast channels, both public and private, from advertising. Foreign channels that air through the country's cable and satellite networks are permitted 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.

INVESTMENT BARRIERS

The Israeli government actively solicits foreign private investment, including joint ventures, especially in industries involving exports, tourism, telecommunications, and high technology. Registration requirements are not barriers. Investments in regulated sectors, including electronic commerce, banking, insurance, and defense industries, require prior government approval in Israel.

ELECTRONIC COMMERCE

Israel still lacks a clear regulatory body and tax laws that cover electronic commerce transactions. The Electronic Signature Bill regulates signatures on electronic media. Loopholes in the law allow the consumer to decline to pay for any merchandise for which he or she did not physically sign, which serves as a disincentive to the establishment of online businesses. The Ministry of Justice maintains a register of entities authorized to issue electronic certificates attesting to the signature of the sender of an electronic message. The Ministry also has the Registrar of Databases within its jurisdiction, which by law must issue licenses to any firm or individual holding a client database.