ISRAEL

TRADE SUMMARY

The U.S. trade deficit with Israel was $5.4 billion in 2002, an increase of $919 million from $4.5 billion in 2001. U.S. goods exports in 2002 were $7.0 billion, down 5.8 percent from the previous year. Corresponding U.S. imports from Israel were $12.4 billion, up 4.0 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 $2.2 billion in 2001 (latest data available), and U.S. imports were $1.4 billion.

The stock of U.S. foreign direct investment (FDI) in Israel in 2001 was $4.1 billion, up from $3.4 billion in 2000. U.S. FDI in Israel is concentrated largely in manufacturing, services and finance sectors.

The United States-Israel Free Trade Area Agreement

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

In 1996, the United States and Israel signed a five-year 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. The agreement was negotiated 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. The ATAP provided 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 ATAP also provided for annual increases in TRQs and in the discount from MFN tariff levels for many U.S. goods. To allow for continued negotiations on removing remaining barriers to bilateral agricultural trade, the ATAP was extended through 2002 with its TRQs and preferential discounts from MFN tariffs being maintained at 2001 levels. In late 2002 bilateral negotiations continued with the goal of completing a new agreement. However, no new agreement was reached by the end of 2002.

IMPORT POLICIES

Tariffs

The 1985 FTA eliminated duties on all products by January 1, 1995, the end of the implementation period. Israel removed most duties on U.S. non-agricultural products according to the FTA schedule. Substantial tariffs remain on some U.S. agricultural products.

Agriculture

Approximately 88 percent of U.S. agricultural exports (by value) enter Israel duty and quota free as a result of Israel's commitments under the WTO, the FTA and the ATAP. However, remaining U.S. agricultural exports consisting largely of consumer-oriented goods face extensive restrictions such as a complicated tariff-rate quota system and prohibitive tariffs. In addition, the ability of U.S. exporters to utilize available quota volumes is hampered by problems with the administration and transparency of Israel's TRQs. TRQ-related problems include lack of data on quota fill rates and an array of license allocation issues such as small non-commercially viable quota quantities and difficulties in obtaining licenses for within-quota imports. The Israeli Government has committed itself to taking steps to improve the administration of TRQs, including the establishment of a regular bilateral review mechanism.

U.S. agricultural exports without free access to Israel primarily consist of high value goods 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 in the range of $25 million to $50 million (with appropriate market development efforts). 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, lamb, and chicken. However, the process for granting kosher certificates is expensive and complex. In 2002 the U.S. meat industry and the two Governments attempted to identify steps to facilitate U.S. compliance with Israel's kosher requirements. Industry estimates that kosher certification for U.S. meat could result in an annual increase in U.S. meat exports of $10 million in the medium term and more than $25 million in the longer term.

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 less than $10 million.

Wine Imports

U.S. wine exporters report facing numerous tariff and non-tariff barriers in supplying products to Israel. In addition, wine importers note that the Government of Israel 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 the wine industry. 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 are about $1 million per year. The industry estimates that the elimination of trade barriers could result in increased exports worth up to $10 million per year.

Purchase Taxes

Purchase taxes of 5 percent to 95 percent are applied to imported and locally produced products ranging from imported automobiles and motorcycles to refrigerators, alcoholic beverages, and cigarettes, as well as several types of small electronic appliances. Although Israel reduced or abolished these taxes on more than 600 items in 2000, high purchase taxes continue to exist on automobiles, alcohol, tobacco, color televisions, stereo systems, and other items. Further cuts in purchase taxes could lead to increases in U.S. exports in the $10 million to $25 million range.

Textiles

There are no Israeli government barriers on imports of new clothing and textile products from the U.S., but there are restrictions on imports of used clothing, and Israel bans the importation of seconds fabrics.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Domestic products sometimes have an advantage over imports because enforcement of mandatory standards on domestic producers can be inconsistent, while standards are strictly applied to imported goods. Since 1999, Israeli law has provided that Israel can adopt more than one international or major national standard as the Israeli standard for a product. Thus far, however, the Standards Institution of Israel (SII) has declined to implement this directive.

GOVERNMENT PROCUREMENT

Israel is a signatory to the WTO Agreement on Government Procurement (GPA), which covers most Israeli government entities and government-owned corporations. Open international public tenders are published in the local press. However, government-owned corporations make extensive use of selective tendering procedures.

In accordance with the Israel public tendering law, all international public tenders with a value of at least $500,000 contain requirements for "industrial cooperation" (IC) with Israeli entities. Under the IC agreements, foreign companies offset their income from Israel by agreeing to invest in local industry, co-develop or co-produce, subcontract to local companies, or purchase from Israeli industry. The current IC offset percentage for industries covered under the WTO GPA is 30 percent of the value of the contract; for industries excluded from the GPA, including most military procurements and El Al, it is 35 percent. Under the GPA, Israel has negotiated a gradual reduction in the IC requirement to a level of 20 percent. U.S. suppliers have found the size and nature of their IC proposals to be a decisive factor in tight tender competitions, despite a court decision that prohibits the use of offset proposals in determining award of a bid.

For civilian local currency procurement by the Ministry of Defense (MOD), a U.S.-Israeli Memorandum of Understanding (MOU), extended in 1997, gives U.S. competitors equal status with domestic suppliers. 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 MOD tendering opportunities. Efforts by U.S. manufacturers or their agents to win tenders for food have invariably met with failure.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Israel is a member of the World Trade Organization (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 fully obligated to implement the WTO Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement in 2000. The United States would like to see Israel accede to the WIPO Internet Treaties, particularly in view of the importance of Israel's high technology software and telecommuniation industries.

Israel's legal system provides for protection of intellectual property rights (IPR). However, the U.S. Trade Representative (USTR) again placed Israel on the Special 301 Priority Watch List in 2002 due to continuing illegal copying and sale of pirated videocassettes, music and software CDs and concerns about Israel’s compliance with the TRIPS requirement to provide protection for confidential test data submitted by innovator pharmaceutical firms.

In 2002 the Special 301 report noted significantly improved protection by Israel of copyrighted works and trademarked goods and services. It created a special police unit dedicated to the enforcement of intellectual property rights. As a result, the police, acting with the support of rightsholders’ representatives in Israel, have increased action against copyright and trademark infringement. Israeli Customs has increased seizures of counterfeit products at ports of entry, most of which involve clothing and textiles bearing counterfeit trademarks. The Ministry of Justice has hired and trained additional prosecutors to focus on IPR, and Israel has undertaken a number of public awareness efforts. In October 2002, the Israeli Knesset passed amendments to the country’s copyright laws that increase criminal penalties and are intended to simplify prosecution of intellectual property crimes. Industry reports decreased dollar losses due to piracy for 2002 compared to 2003, with only slight decreases in overall percentage losses.

To date, Israel has focused its improved IPR protection efforts on copyrighted material, and on goods protected by trademarks. As yet, however, Israel does not appear to adequately protect confidential pharmaceutical test data from unfair commercial use as required by the WTO TRIPS agreement. While there is no indication that Israeli authorities share confidential data submitted by U.S. pharmaceutical firms in support of marketing applications with local domestic competitors, nonetheless Israel does not deny that it relies, or allows a third party without authorization to rely, on this data when approving marketing applications from domestic generic competitors of U.S. innovator firms.

The Government of Israel has given mixed signals about the status of U.S. music rightsholders' ability to collect fees for public broadcasts of their recordings. Although some government officials insist that U.S. right-holders are protected in accordance with Israel's bilateral obligations with the United States, other government officials, including lawyers, have disputed such protection in domestic court cases.

SERVICES BARRIERS

Telecommunications

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, DBS satellite broadcasts, cable television, and Internet service. Israel officially opened domestic telephone service to domestic and foreign competition in 2000. The GOI released a tender for the privatization of Bezeq, the telephone parastatal, in November 2001.

In 2001, Bezeq received a license to provide high speed Internet service with the condition that it permit 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 fast Internet and other telecommunications services. In March 2002 one satellite and three cable Internet providers were granted licenses to provide access to high-speed internet services.

To address concerns of foreign cable companies, the Israeli government has developed regulations on cable television advertising that distinguish between channels that broadcast to an international audience that includes Israel and those that target a primarily Israeli audience.

Professional Services

U.S. attorneys and accountants seeking to practice in Israel face strict testing requirements. Israel's financial services sector generally is open to foreign participation, subject to standard regulatory requirements.

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 ownership restrictions, but the foreign entity must be registered in Israel. Profits, dividends, and rents generally can be repatriated without difficulty through a licensed bank. In order to boost direct investment, foreign investors in Israeli venture capital firms are currently exempt from capital gains taxes. This is a temporary measure scheduled to be reviewed in 2004.

Over 750 U.S. companies have subsidiaries in Israel. Estimates of the number of Israeli companies with subsidiaries in the United States range from 300 to 500. Investment in regulated sectors, including electronic commerce, banking, insurance, and defense industries, requires prior government approval. Israel is a member of the International Center for the Settlement Of Investment Disputes (ICSID) and a party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

ELECTRONIC COMMERCE

Israel generally supports U.S. efforts to ensure that electronic transmissions will not be subject to tariffs. U.S. industry has not reported any barriers to electronic commerce in Israel.