ISRAEL

In 1996, the U.S. trade deficit with Israel was $417 million, an increase of $287 million from the U.S. trade deficit of $130 million in 1995. U.S. merchandise exports to Israel were $6.0 billion, an increase of $416 million (7.4 percent) from the level of U.S. exports to Israel in 1995. Israel was the United States' twenty-second largest export market in 1996. U.S. imports from Israel were $6.4 billion in 1996, an increase of $703 million (12.3 percent) from the level of imports in 1995.

The stock of U.S. foreign direct investment (FDI) into Israel in 1995 was $1.6 billion, an increase of 16.0 percent from the level of U.S. FDI in 1994. U.S. FDI in Israel is concentrated largely in the manufacturing and services sectors.

The United States-Israel Free Trade Area Agreement

The United States-Israel Free Trade Area Agreement (FTAA), implemented on September 1, 1985, called for phased tariff reductions culminating in the complete elimination of duties on non-agricultural products effective January 1, 1995. The agreement eliminated most trade barriers between the United States and Israel, leaving the sensitive agricultural sector as the only one where substantial non-tariff barriers and levies remained. With these in mind, on November 4, 1996, the United States and Israel entered into agreement on a five-year program of gradual and steady improvement in agricultural market access.

The FTAA provides for a consultative mechanism between the Parties. The Joint Economic Committee (JEC), created to supervise implementation of the agreement, has proved itself a useful mechanism for addressing bilateral trade issues.

Overall, the FTAA has substantially liberalized trade between the United States and Israel. Problems which remain are pursued in the bilateral FTAA framework, particularly through the JEC.

IMPORT POLICIES

Agriculture

Israel maintained extensive restrictions on agricultural imports in 1996. These included tariff rate quotas, licensing restrictions, levies, and outright prohibitions on a range of agricultural goods. Agricultural non-tariff measures (such as tariff-rate quotas (TRQs) and bans) are permitted under the FTAA, although the World Trade Organization (WTO), of which Israel is a member, prohibits the maintenance of non-tariff barriers to agriculture. The official Israeli standards on weights and measures, which, inter alia, exclude packages of sizes in multiples of half pounds, also remain a major barrier to expansion of U.S. food exports. The United States consulted with Israel in 1996 on implementation of the WTO Agreement consistent with the FTAA requirement that all tariffs between the United States and Israel be reduced to zero. As a result of these consultations, Israel and the United States on November 4 executed a five-year agreement on agriculture which covers all agricultural products and provides for increased access during each year of the agreement via TRQs and reductions in tariff levels for a significant number of U.S. goods.

Israel has agreed to improve transparency in the calculation of levies, but progress has been uneven to date. The principal transparency problem lies in the calculation of domestic costs of production in Israel as the basis for high import levies imposed on U.S. goods. Lack of consistency in the treatment of imports remains a serious impediment to expansion of agricultural trade. For example, Israel imposes levies on products such as almonds, pasta, pastry, baked goods, and salt water fish.

U.S. meat exports face an especially difficult environment due to legislation passed in December 1994 that bans imports of all non-kosher meat and meat products. The ban is administered in violation of Israel's international obligation to accord national treatment to foreign producers. In addition, the ban undermines a previous commitment by the Israeli Government to allow limited imports of U.S. non-kosher beef. Israeli importers challenged the ban in a petition to the Israeli High Court of Justice, but in December 1996 the court found against the importers.

Exports of kosher, high quality U.S. beef have also been restricted due to the lack of national treatment with respect to kosher certification. Price controls on frozen beef, an important barrier to U.S. kosher beef imports, were abolished by the Government of Israel, effective March 1, 1996. The lifting of price controls should open an important market for U.S. kosher beef once the kosher certification problem is solved.

TAMA

In 1991, at United States urging, the Government of Israel amended its practice of using a system known as "TAMA" to approximate the local wholesale price of a good by adding estimated profits, insurance, and inland freight to the declared value of an import for purposes of calculating purchase taxes. Coefficients for calculation of the TAMA vary from industry to industry and from product to product, but the effect is to establish higher taxes on imports than are applied to domestic products. Most registered importers now have the option of declaring the actual wholesale value of their products. Although the new arrangement has been in force for over four years, to date not a single importer has opted for the new system. Israeli officials attribute this reluctance to estimation by importers that the former TAMA rates are more advantageous to them, while importers cite a variety of problems with the optional system, including the inability to modify prices once they have been declared. As the new optional TAMA has not operated as anticipated, the United States will continue to seek to eliminate the discriminatory effect of TAMA on U.S. exports.

Harama

In addition to the TAMA system, Israel maintains a customs practice known as "harama," meaning "uplift." Harama is applied at the pre-duty stage to the c.i.f. value of goods to bring the value of the products to an acceptable level for customs valuation. Israel calculates import value according to the Brussels definition of value (BDV), a method which tolerates uplifts of invoice prices. For purposes of calculating duty and other taxes, the Israeli Customs Service arbitrarily “uplifts” the value of most products which exclusive agents import by 2 to 5 percent (and by 10 percent or more of value of certain products). This has the effect of increasing the rate of indirect taxes which must be paid by U.S. importers, thereby making U.S. products more expensive in the Israeli market. Since 1995, Israel has used only the actual wholesale price for large importers. Israel is not a signatory to the GATT Valuation Code.

Purchase Taxes

Purchase taxes of 25 to 95 percent are applied on goods ranging from automobiles to some alcoholic beverages and cigarettes. On many other products, including consumer electronics, building inputs, and office equipment, Israel has reduced or eliminated purchase taxes. Where remaining, purchase taxes apply to both local and foreign products. However, where there is no local production of the imported good, the purchase tax becomes a duty-equivalent charge.

Wharfage and Port Fees

Until 1995, Israel's customs authorities charged importers 1.5 percent of the c.i.f. cost of imports into Israel for use of the ports and stevedores, whereas exporters faced no charges. In effect, imports were subsidizing exports. After several years of pressing Israel to eliminate this GATT-inconsistent discrimination, in 1995 the United States received a commitment from the Government of Israel to equalize port fees for exporters and importers at 0.6 percent, with effect in 1996. As a first step, Israel reduced the import fee to 1.3 percent and imposed an export fee of 0.2 percent. No further progress occurred and 1996 ended without fulfillment of the commitment. Although Israel has indicated it will narrow the gap between the two fees, the United States will continue to pursue full equalization of these fees in 1997.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Israel has reduced the burden of some discriminatory measures against importers. In 1990, Israel agreed to harmonize standards treatment, either dropping health and safety standards applied only to imports or making them mandatory for all products. Implementation of this promise has been slow. Enforcement of mandatory standards on domestic producers can be spotty. In some cases (e.g., refrigerators, auto headlights, plywood, carpets, and packaging/labeling for food items), standards are written so that domestic goods meet requirements more easily than imports. Israel is in the process of amending its law on standards which should facilitate entry of some standard U.S. units. Israel has agreed to notify the United States of proposed new, mandatory standards. However, packaging and labeling standards continue to prevent the importation of a broad range of U.S. foods.

The Standards Institution of Israel is proposing a bilateral mutual recognition agreement of laboratory accreditation with the United States that could result in the acceptance of U.S.-developed test data in Israel. The proposed program would eliminate the need for redundant testing of U.S. products in Israel to ensure compliance with mandatory product requirements.

The United States-Israel FTAA permits measures relating to prohibitions on religious grounds, "provided that they are applied in accordance with the principle of national treatment." In certain cases, U.S. businesses have complained that the process for granting kosher certificates in Israel is discriminatory, and serves to protect domestic products. While a few U.S. wine and beef exporters have received kosher certification, others have not. Significant problems remain in these sensitive sectors. The United States is pursuing these complaints directly with the Government of Israel.

GOVERNMENT PROCUREMENT

Israel is a signatory to the WTO Government Procurement Agreement, which provides wide coverage of Israeli Government entities to enable more open and transparent international tendering procedures. While the Israeli Government provides information to the U.S. Government on existing and proposed tenders issued by government entities valued at over $50,000, some U.S. companies report problems in receiving timely notice of Israeli Government tenders. U.S. suppliers are totally excluded from Ministry of Defense food tenders for the army and other security forces. Complex technical specifications and kashrut requirements discourage foreign participation.

The Government of Israel frequently seeks offsets (subcontracts to Israeli firms) of up to 35 percent of total contract value for purchases by ministries, state-owned enterprises, and municipal authorities. Failure to enter or fulfill such industrial cooperation agreements (investment, co-development, co-production, subcontracting, purchase from Israeli industry) may disadvantage a foreign company in government awards. Although Israel pledged in the FTAA to relax offset requests on civilian purchases, U.S. firms still encounter requests to enter into offset arrangements. Israeli Government agencies and state-owned corporations not covered by the WTO Government Procurement Agreement follow a "buy national" policy to promote national manufacturers.

Recent legislation codified and strengthened a 15-percent cost preference given domestic suppliers in many Israeli public procurement purchases, although the legislation also recognized the primacy of Israel's bilateral and multilateral procurement commitments. For domestic suppliers located in priority development areas, this preference can reach as high as 30 percent.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Cable television, video, and software piracy is common in Israel. Israel currently has an antiquated copyright law which, combined with weak enforcement, has led to piracy in these industries. A new draft copyright law with updated requirements is under review. The proposed legislation includes enhanced rights of distribution in connection with rental rights and imports of copyrighted materials. Rental rights would cover all protected works, including sound recordings, cinematographic works, and computer programs. Protection for software has been improved, and the two major movie distribution chains generally comply with copyright requirements. A cable broadcast law is also under consideration. Israel is a member of the International Center for the Settlement of Investment Disputes (ICSID) and the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

Current Israeli patent law contains overly broad licensing provisions for dependent patents and for patents that have not been “worked” in Israel. A draft revision of Israel's patent law, now under review, would upgrade patent protection and eliminate compulsory licensing. In addition, revised laws are under consideration for the protection of industrial designs, trademarks, and integrated circuits.

The Government of Israel is also considering an amendment to the patent law which would allow non-patent holders to manufacture patented pharmaceutical products prior to the expiration of patent rights in order to submit data to foreign and Israeli health authorities to gain marketing approval. The U.S. Government has been engaged in discussions with the Israeli Government to ensure that whatever system is adopted is consistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs).

Israel is a member of the Paris Convention for the Protection of Industrial Property, the Universal Copyright Convention, and the Berne Convention for the Protection of Literary and Artistic Works. In addition, as a signatory of the WTO Agreements, including the TRIPs Agreement, Israel is in the process of making all revisions necessary to meet TRIPs requirements.

SERVICES BARRIERS

The Government of Israel is reviewing plans for the sale of its interests in the country's major banks. To limit the dominant role of the banks in the economy, the Knesset approved legislation in early 1996 mandating that banks reduce their ownership of nonfinancial companies to a maximum 20 percent by 1999. The collective value of such nonfinancial holdings will be limited to 15 percent of the banks' capital.

Other structural reforms in progress will increase competition in services now provided by the public sector. Other measures to increase competition in domestic telecommunications have been approved for implementation by 1998. In 1996, a U.S.-based company was awarded the first contract for the construction of a privately-operated independent electric power generating plant. In the future, up to 10 percent of Israel's electricity will be generated by such independent producers; another 10 percent may be imported. Israel is also designing its first natural gas importation and distribution system and is considering a variety of mechanisms to ensure competition in this sector.

Basic Telecommunication Services

In the recently concluded WTO negotiations on basic telecommunications services, Israel made commitments on all basic telecom services, with phase-in of most commitments as of January 1, 2002. It adopted the reference paper on regulatory commitments.

In the past year, two telecommunications consortia, each including a U.S. firm, have won bids to provide international telephone service in competition with the existing public company, and a third cellular phone service will be licensed in 1997.

INVESTMENT BARRIERS

The Israeli Government actively solicits foreign private investment, including joint ventures, especially in industries involving exports, tourism, 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 can generally be repatriated without difficulty through a licensed bank. About 700 U.S. companies have subsidiaries or offices in Israel and some 170 Israeli companies have subsidiaries in the United States. Investment in regulated sectors, including banking, insurance, and defense industries, requires prior government approval.