ISRAEL

In 1997, the U.S. trade deficit with Israel was $1.3 billion, an increase of $917 million from 1996. U.S. exports to Israel during 1997 totaled $6.0 billion, a decrease of $17 million from the level of exports in 1996. U.S. imports were $7.3 billion, an increase of $900 million (14 percent) from the level of imports in 1996.

The stock of U.S. foreign direct investment in Israel was $1.9 billion in 1996, 13.5 percent more than in 1995. U.S. direct investment in Israel is largely concentrated in manufacturing and services.

The United States-Israel Free Trade Area Agreement

The United States-Israel 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 eliminates most trade barriers between the United States and Israel, leaving Israel's agricultural sector as the only area where substantial non-tariff barriers and levies remain. With this in mind, on November 4, 1996, the United States and Israel signed a five year agreement which provides for gradual and steady liberalization of Israel's market for food and agricultural products through reductions in tariff levels and expanding tariff rate quotas during each year of the agreement.

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

Although the 1996 agriculture agreement provides improved market access for a large number of U.S. food and agricultural products, significant restrictions still exist. Relatively high levies limit imports on some products. Official Israeli standards on weights and measures, which mandate metric packaging, place U.S. processed food products at a disadvantage to similar products from Europe. Problems with administration of TRQs have also limited imports of some products.

U.S. beef exports to Israel are severely restricted by religious certification requirements. In December 1994, Israel implemented a complete ban on imports of non-kosher meat and meat products. The ban is maintained in violation of WTO and FTAA national treatment provisions since the Israeli government permits domestic production, sale and consumption of non-kosher meat. U.S. exports of high quality kosher beef are also restricted because Israel’s Chief Rabbinate does not recognize U.S. standards for beef and veal. These restrictions effectively negate the concessions made by Israel for chilled and frozen beef in the 1996 agriculture agreement.

Israel

Elimination of the various restrictions on agricultural imports could result in a potential increase in U.S. exports of $25-100 million.

TAMA

Israel uses 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. In 1991, at U.S. urging, the Government of Israel amended the system, and most registered importers now have the option of declaring the actual wholesale value of their products. However, to date not a single importer has opted for that 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. Elimination of the impact of TAMA could result in an increase in U.S. exports of between $10 and 25 million.

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 by two to five percent the value of most products which exclusive agents import, and by 10 percent or more the value of other 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. Israel has initiated legislation which, if passed, will allow adherence to the WTO agreement on customs valuation and subsequent elimination of the "harama" practice. We are unable to quantify the impact of elimination of this barrier.

Purchase Taxes

In addition, purchase taxes of 25 to 95 percent are applied on goods ranging from automobiles to some agriculture and food items. 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. We are unable to quantify the impact of elimination of this barrier.

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 U.S. 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 1997 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 1998. We are unable to quantify the impact of elimination of this barrier.

Tariffs

As noted, all remaining duties on U.S. non-agricultural products were eliminated on January 1, 1995.

Kosher Certification

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. The process for obtaining kashrut certification is not transparent, as the party seeking certification must pay the "costs" of rabbinical inspection to determine that the ingredients and manufacturing of the product satisfy religious standards. Some businesses claim that the fee charged bears no relationship to the actual "costs" of inspection (in some cases, a percentage of sales has been charged, for example). Moreover, indirect supervision by a local rabbi is permitted in some cases but not in others. Significant problems remain in these sensitive sectors. The United States is pursuing these complaints directly with the government of Israel. Elimination of this barrier could result in an increase in U.S. exports of an estimated $10-25 million.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Israel has yet to fulfil its WTO obligations to eliminate discriminatory measures on imports. 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, and 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 in the WTO. 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. Elimination of this barrier could result in a potential increase in U.S. exports of $25-100 million.

GOVERNMENT PROCUREMENT

Israel is a signatory to the WTO Agreement on Government Procurement, which covers most Israeli government entities and government-owned corporations. The Agreement requires signatories to apply nondiscriminatory, transparent, and open government procurement procedures. Open international public tenders are published in the Israeli 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 $100,000 contain requirements for "industrial cooperation" (IC) with Israeli entities in the amount of 35 percent of the value of the total contract. U.S. companies may invest in local industry, co-develop or co-produce, subcontract to local companies, or purchase from Israeli industry to satisfy the IC offset requirement. U.S. suppliers have found the size and nature of their IC proposal to be a decisive factor in tight tender competitions, despite a recent court decision that prohibits the use of offset proposals in determining award of a bid. Strict adherence to the offset requirements is administered by the Ministry of Industry and Trade and is contrary to a GOI pledge in the FTAA to relax offset requirements on civilian purchases.

GOI agencies and state-owned companies not covered by the code follow a "buy Israel" policy designed to promote national manufacturers. The policy provides a 15-percent advantage and right of first refusal to Israeli contenders for a public tender. An additional 15-percent advantage is given to domestic suppliers located in priority development areas, a concession denied to U.S. companies in the same areas.

For civilian local currency procurement by the Ministry of Defense, a U.S.-Israeli MOU was extended in December 1997 which gives U.S. competitors equal status with domestic suppliers. Despite this MOU, few U.S. companies have been successful in supplying the MOD. Among the barriers U.S. exporters face in competing for Israeli defense contracts are: lack of transparency in the procurement process, "tailored specs," lack of timely notice of government tenders, inadequately detailed information in tender announcements caused by non-standardized procurement procedures, kashrut requirements (for food contracts), and sole sourcing. Elimination of all elements of these barriers could potentially increase U.S. exports by over $100 million.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Copyright

An inadequate copyright law and poor enforcement led to widespread and increased cable television, video, and software piracy in Israel in 1997, although some of the piracy occurred in territory controlled by the Palestinian Authority. A new draft copyright law intended to meet international standards has been under review. The proposed legislation includes enhanced rights of distribution in connection with rental rights and imports of copyrighted materials. Rental rights will 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.

Patents

Current Israeli patent law contains overly broad licensing provisions concerning compulsory issuance for dependent and non-working patents. 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.

In February 1998, the Israeli Knesset passed a separate amendment to the patent law which will allow non-patent holders to manufacture limited quantities of 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 amendment will also extend patent terms for pharmaceutical products. The U.S. unsuccessfully objected to the amendment and urged that Israel model its law on the comparable provisions of U.S. law.

Israel is a member of the Paris Convention for the Protection of Industrial Property, the Universal Copyright Convention, and the Berne Copyright Convention and is a signatory of the 1996 WIPO Copyright Treaty and the 1996 WIPO Performances and Phonograms Treaty. In addition, as a signatory of the WTO Agreements, Israel is obligated to implement the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) As has been noted**,** Israel is in the process of amending its IP laws necessary to meet TRIPS 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 can generally be repatriated without difficulty through a licensed bank. About 700 major U.S. companies have subsidiaries 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. 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.

SERVICES BARRIERS

Barriers to U.S. firms wishing to provide services in Israel are generally being removed, although some sectors remain monopolized or largely controlled by government-owned corporations. Other individual sectors still face regulatory barriers in some cases.

Israel's telecommunications sector is gradually being liberalized, and foreign companies participate in joint ventures providing cellular and international telephone service. Domestic phone service will be opened to competition, including competition involving foreign entities, in 1999. A third cellular licensee will be brought to market in 1998, cable and internet regulations will be revised to increase competition, and DBS satellite broadcast may be permitted soon. In other sectors, a U.S.-based company was awarded the first contract for the construction of a privately-operated independent electric power generating plant in 1996. In the future, up to 10 percent of Israel's electricity will be generated by such independent producers; another 10 percent may be imported.