ISRAEL

TRADE SUMMARY

The U.S. goods trade deficit with Israel was $9.7 billion in 2010, up $518 million from 2009. U.S. goods exports in 2010 were $11.3 billion, up 17.9 percent from the previous year. Corresponding U.S. imports from Israel were $21.0 billion, up 11.9 percent. Israel is currently the 23rd largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Israel were $3.6 billion in 2009 (latest data available), and U.S. imports were $3.9 billion. Sales of services in Israel by majority U.S.-owned affiliates were $2.3 billion in 2008 (latest data available), while sales of services in the United States by majority Israel-owned firms were $2.4 billion.

The stock of U.S. foreign direct investment (FDI) in Israel was $10.0 billion in 2009 (latest data available), up from $9.7 billion in 2008. U.S. FDI in Israel is primarily concentrated 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 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 significant number of key U.S. agricultural product exports.

To address the differing views between the two countries over how the 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 granted improved access for select U.S. agricultural products. The ATAP agreement has been extended three times, most recently through December 31, 2011, to allow time for the negotiation of a successor agreement. The ATAP 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.

IMPORT POLICIES

Agriculture

U.S agricultural exports that do not enter duty-free under WTO, FTA, and ATAP provisions face restrictions such as a complicated TRQ system and high tariffs. These products include 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. Industry estimates that free trade in agriculture could result in U.S. almond exports growing by as much as $10 million. Removing these levies on food product inputs used in U.S.-based restaurant chains operating in Israel could save these chains millions annually and allow for their expansion.

Further, the ability of U.S. exporters to utilize available TRQ in-quota quantities can be hampered by problems with transparency and other issues with the administration of Israel's TRQs. These issues include a lack of data on quota fill-rates and license allocation issues, such as allocation of small non-commercially viable quota quantities, and administrative difficulties in obtaining licenses for in-quota imports. Under the current ATAP, Israel committed to take steps to improve the administration of TRQs, including engaging in regular bilateral consultations. Israel did not, however, address problems related to TRQ administration during a mid-year reallocation of unused quotas. The negotiations for a successor ATAP will seek to address the outstanding issues with respect to Israel's administration of the TRQs.

Wine and Spirits Imports: Under the current ATAP, Israel granted U.S. wine exports 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 importers of U.S. wine. Quotas are issued arbitrarily; sometimes through a lottery system to groups that do not make use of the licenses they are allocated. 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 standard for wine, while these rules are strictly enforced on imported wines. Sales of U.S. wines to Israel are about $700,000 per year.

Whiskey and other imported spirits to Israel face a tax known as the *tama*. The Knesset passed legislation in 2010 that will end the collection of the tama by 2014.

Customs Procedures

Some U.S. exporters have reported difficulty in claiming preferences for U.S. goods entering Israel under the FTA, specifically related to the presentation of certificates of origin to Israeli customs authorities. In 2010, the United States Government engaged in discussions with Israel to clarify and resolve the situation surrounding the difficulty in claiming preferences under the FTA.

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 (approximately $1 million) 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, 2009, the IC offset percentage for procurements covered by Israel's GPA obligations is 20 percent of the value of the contract; for procurements excluded from GPA coverage, including most military procurements, the offset is 35 percent.

U.S. suppliers suspect that the size and nature of their IC proposals can 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, their participation in Israeli tenders is limited.

In addition, the inclusion of unlimited liability clauses in many government tenders discourages U.S. firms from competing. When faced with the possibility of significant 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. U.S. suppliers have expressed concern about the lack of transparency and apparent lack of justification for excluding U.S. suppliers from various Ministry of Defense (MOD) tendering opportunities. The MOU, which has benefited Israeli defense industries by opening up the U.S. procurement market to their products, has not significantly opened the market for U.S. suppliers interested in competing for MOD procurements funded by Israel.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The United States and Israel reached an understanding on February 18, 2010 on several longstanding issues with Israel's intellectual property rights (IPR) regime for pharmaceutical products. These issues include improving data protection, the terms of patents on pharmaceuticals, and provisions on the publication of patent applications in Israel. The United States is currently working with the Israeli government to implement the agreement.

Separately from the understanding, Israel has signaled a new willingness to make progress on other IPR issues of concern, such as implementing the core requirements of World Intellectual Property Organization (WIPO) "Internet Treaties," (*i.e.*, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty). The United States welcomes this step, and encourages Israel to proceed with full accession to, and implementation of, the WIPO Internet Treaties.

SERVICES BARRIERS

Audiovisual and Communications Services

Only selected private Israeli broadcast television channels are allowed to carry advertising. 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 carrying advertisements. Foreign channels that air through the country's cable and satellite networks are permitted to carry a limited amount of advertising aimed at a domestic Israeli audience. Currently, the regulations allow foreign channels no more than 25 percent of their total advertising time to target the Israeli market.

INVESTMENT BARRIERS

Investments in regulated sectors, including electronic commerce, banking, insurance, and defense industries, require prior government approval in Israel.

ELECTRONIC COMMERCE

Israel’s 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 Registrar of Databases, which falls under the authority of the Ministry, requires that any firm or individual holding a client database secure a license to do so.