ISRAEL

TRADE SUMMARY

The U.S. goods trade deficit with Israel was $7.8 billion in 2007, a decrease of $409 million from $8.2 billion in 2006. U.S. goods exports in 2007 were $13.0 billion, up 18.7 percent from the previous year. Corresponding U.S. imports from Israel were $20.8 billion, up 8.6 percent. Israel is currently the 19th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Israel were $3 billion in 2006 (latest data available), and U.S. imports were $2.3 billion. Sales of services in Israel by majority U.S.-owned affiliates were $1 billion in 2005 (latest data available), while sales of services in the United States by majority Israel-owned firms were $474 million.

The stock of U.S. foreign direct investment (FDI) in Israel was $10.0 billion in 2006 (latest data available), up from $8.4 billion in 2005. U.S. FDI in Israel is concentrated largely in the manufacturing, information, and the professional, scientific, and technical 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 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 temporarily and partially address 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 is effective through December 31, 2008, and grants improved access for select U.S. agricultural products. 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 provides for annual increases in TRQs. Negotiations for a successor ATAP commenced in early 2008.

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 2004 ATAP. However, remaining U.S. agricultural exports, consisting largely of consumer oriented goods, face restrictions such as a complicated tariff-rate quota (TRQ) system and high tariffs. In addition, the ability of U.S. exporters to utilize available TRQ volumes 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 noncommercially viable quota quantities and administrative difficulties in obtaining licenses for within quota imports. Under the 2004 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 important to 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 could result in increased sales by U.S. companies, with appropriate market development efforts, 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. It is estimated that free trade in agriculture could result in U.S. almond exports growing by as much as $10 million.

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 encompass only registration requirements. However, U.S. companies have had difficulty in getting products approved and receiving information on the regulation and specific requirements in a timely manner. They have also been confronted with 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 granting kosher certificates is expensive and complex. In 2002, the U.S. meat industry and the two governments attempted to develop steps to facilitate U.S. compliance with Israel's kosher requirements. Unfortunately, these efforts were unsuccessful. Industry estimates that kosher certification for U.S. 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, but the ban remains in effect for all other beef imports, including pet food. 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 as 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 Imports: The 2004 ATAP for the first time granted U.S. wine exporters an annual Israeli TRQ of 200,000 liters 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 “nonsensitive" 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.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Certain technical standards continue to pose nontariff barriers which limit U.S. exporter access to the Israeli market. However, there have been several key improvements in 2007. Israel’s law mandates that the Standards Institution of Israel (SII) adopt international technical standards whenever feasible. In the past, the SII frequently opted for restrictive standards in Israeli regulations that tended to hinder or exclude U.S. products. In May 2007, senior officials of the U.S. National Institute of Standards and Technology (NIST) met with their SII counterparts and agreed to fund formal training on U.S. standards for Israeli officials. Furthermore NIST established that it would serve as the point-of-contact for U.S. private sector standards bodies with Israeli. U.S. and Israeli officials will meet again in early 2008.

However, individual Israeli government ministries may still adopt additional technical regulations that could prevent the importation of U.S. made products and services to Israel. This procedure could create difficulties for U.S. exporters who contend that transparency is frequently lacking, particularly for food imports.

U.S. industry has said that requirements for technical standards are often not uniformly enforced. In some instances, domestic products appear to have an advantage over imports because enforcement of labeling requirements and other regulations on domestic producers has been inconsistent, while technical regulations are more strictly enforced with respect to imported goods. U.S. companies that have been doing business in Israel for many years are increasingly confronted with new standards, often based on

standards of the European Union, that have been integrated into Israeli regulations and which discriminate against U.S. products in such areas as electrical products and automobiles. In addition, the SII will not recognize U.S. testing of electrical components and products unless the product undergoes additional and often costly testing in Israel.

SII recently became a member of two European standards development organizations, specifically the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC). The United States has expressed concern that SII membership in these organizations may further disadvantage U.S. exporters, particularly small and medium-sized firms.

GOVERNMENT PROCUREMENT

Israel is a signatory to the GPA, which covers most Israeli government entities and government owned corporations. Most of the country's open international public tenders are published in the local press.

Nonetheless, U.S. firms do encounter difficulty in accessing the Israeli 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 4 million shekels 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 their earnings from sales to the government of Israel 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 industries covered by Israel's WTO 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 has committed to reduce the offset level on procurement covered by the WTO 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 a court decision that prohibits the use of offset proposals in determining the award of a contract. 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 and therefore 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 each government to allow sources from the other country to compete on defense requirements 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 the Ministry of Defense (MOD) makes 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 a sufficiently open market for U.S. suppliers interested in competing for MOD procurements funded by Israel.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The United States remains concerned about Israel's weak data exclusivity legislation that provides a shorter term of protection from unfair commercial use of the confidential test data of pharmaceutical firms than is expected for an OECD level economy. Furthermore, the U.S. Government and U.S. industry remain concerned that even during these truncated periods of protection, generic companies may be allowed to rely on the undisclosed test data of U.S. companies to manufacture generic copies for export.

The United States remains concerned that Israel's patent term extension legislation provides inadequate pharmaceutical patent term adjustments granted to compensate for delays in obtaining regulatory approval of a drug. In addition, the legislation creates numerous bureaucratic obstacles for patent holders who wish to apply for a patent term extension. The legislation also applies retroactively to all pending applications for patent term extensions and already granted patent term extensions.

Israel remained on the 2007 Special 301 Priority Watch List due to U.S. concerns over pharmaceutical and copyright issues. The U.S. Government continues to urge Israel to take steps that will provide longer periods of data protection and patent term extension.

In 2007, the Knesset passed copyright legislation. The United States still has some concerns regarding this legislation and will continue to monitor its implementation and will work 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 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 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 channels, both public and private, from advertising. The government funds the country's public channels, whereas the remaining private channels generate revenues via subscription fees. In 2002, the Israeli government developed regulations that allow foreign channels aired through the country's cable and satellite networks to broadcast 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. The regulations allow a foreign channel to apply for more than 25 percent advertising time if the channel can prove that it has a sizable viewing audience outside of Israel.

INVESTMENT BARRIERS

The Israeli government actively solicits foreign private investment, including joint ventures, especially in industries involving exports, tourism, telecommunications, and high technology. There are generally no foreign ownership restrictions, but a foreign entity must be registered in Israel. 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.