

FREE TRADE AGREEMENT BETWEEN THE STATE OF ISRAEL AND THE REPUBLIC OF SLOVENIA

PREAMBLE

The Government of the Republic of Slovenia and the Government of the State of Israel (hereinafter "the Parties"),

Reaffirming their commitment to the principles of a market economy, which constitutes the basis for their economic relations and their compliance with the rights and obligations arising out of the agreements of the World Trade Organization and the General Agreement on Tariffs and Trade 1994 (hereinafter "WTO/GATT 1994");

Considering their common desire to participate actively in the process of international economic integration;

Resolved to this end to eliminate progressively the obstacles to substantially all their mutual trade, in accordance with the provisions of the General Agreement on Tariffs and Trade 1994;

Convinced that this Agreement will create a new climate for their economic relations and in particular for the development of trade, investment and economic and technological co-operation;

Have agreed as follows:

Article 1

Objectives

1. The Parties shall gradually establish a free trade area on substantially all their bilateral trade in a transitional period ending on 1 September 2000, in accordance with the provisions of this Agreement and in conformity with those of the WTO/GATT 1994, with particular regard to Article XXIV of the General Agreement on Tariffs and Trade 1994.
2. The objectives of this Agreement are:
 - (a) to promote, through the expansion of mutual trade, the harmonious development of economic relations between the Parties and thus to foster in the Parties the advance of economic activity;
 - (b) to provide fair conditions of competition for trade between the Parties;
 - (c) to contribute, by the removal of barriers, to trade to the harmonious development and expansion of world trade;
 - (d) to promote co-operation in areas which are of mutual interest to the Parties.

CHAPTER I

Industrial Products

Article 2

Scope

The provisions of this Chapter shall apply to industrial products originating in the Parties, where the term "industrial products" means, for the purpose of this Agreement, the products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System, with the exception of the products listed in Annex I to this Agreement (hereinafter "Annex I").

Customs Duties on Imports

1. No new customs duty on imports shall be introduced in trade between the Parties.
2. Customs duties on imports and charges having equivalent effect listed in Annex II to this Agreement (hereinafter "Annex II") shall be abolished in accordance with the provisions of Protocol 1 to this Agreement (hereinafter "Protocol 1").

Article 4

Basic Duties

1. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied shall be the Most Favoured Nation rate of duty in force in each Party on 1 January 1996.
2. If, after entry into force of this Agreement, any tariff reduction is applied on an *erga omnes* basis, such reduced duties shall replace the basic duties referred to in paragraph 1 as from that date when such reductions are applied.
3. The reduced duties calculated in accordance with Protocol 1 shall be applied rounded off to the first decimal place, or, in case of specific duties, to the second decimal place.
4. The Parties shall notify each other their respective national basic rates of duties in accordance with the provisions of paragraph 2.

Article 5

Charges Equivalent to Customs Duties

1. No new charge having an effect equivalent to a customs duty on imports shall be introduced in the trade between the Parties.
2. All charges having an effect equivalent to customs duties on imports shall be abolished on the date of the entry into force of this Agreement, except as provided for in Annex II.

Article 6

Fiscal Duties

1. The provisions of Article 3 shall also apply to customs duties of a fiscal nature.
2. Each Party may replace a customs duty of a fiscal nature or the fiscal element of a custom duty by an internal tax, in accordance with the provisions of Article 14.

Article 7

Customs Duties on Exports and Charges Having Equivalent Effect

1. No new customs duty on exports or charge having equivalent effect shall be introduced in trade between the Parties.
2. The Parties shall abolish between them on the date of entry into force of this Agreement any customs duties on exports and any charges having equivalent effect.

Article 8

Quantitative Restrictions on Imports and Measures Having Equivalent Effect

1. No new quantitative restrictions on imports or measures having equivalent effect shall be introduced in trade between the Parties.
2. All quantitative restrictions and measures having equivalent effect on imports of products originating in the Parties shall be abolished on the date of entry into force of the Agreement, except as provided for in Annex III to this Agreement (hereinafter "Annex III").

Article 9

Quantitative Restrictions on Exports and Measures Having Equivalent Effect

1. No quantitative restrictions on exports or measures having equivalent effect shall be applied in trade between the Parties.
2. Notwithstanding paragraph 1, each Party reserves its right to apply quantitative restrictions or measures having equivalent effect on exports to the other Party for products listed in Annex IV to this Agreement (hereinafter "Annex IV").

CHAPTER II

Agricultural Products

Article 10

Scope

1. The provisions of this Chapter shall apply to agricultural products originating in the Parties.
2. For the purpose of this Agreement the term "agricultural products" means the products falling within Chapter 1 to 24 of the Harmonized Commodity Description and Coding System and all the products listed in Annex I.

Article 11

Trade in Agricultural Products

1. The Parties shall grant each other the concessions specified in the Annexes to Protocol 2 to this Agreement (hereinafter "Protocol 2") as laid down in that Protocol and in accordance with provisions of this Chapter.
2. The Parties shall apply their sanitary and phytosanitary measures in accordance with the provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Parties shall not apply their regulations in veterinary, plant health and health matters in an arbitrary, unjustifiable or discriminatory way or as a disguised restriction on trade between them.
3. Without prejudice to the concessions granted pursuant to this Article, the provisions of paragraph 1 shall not restrict in any way the pursuance of the respective agricultural policies of the Parties or the taking of any measures under such policies. The Parties shall immediately notify each other of the changes in their respective agricultural policies which may affect the conditions of trade in agricultural products between them. In such cases, prompt consultations shall be held, upon request of any Party, to examine the situation and find an appropriate and agreed solution.
4. The Parties shall examine periodically, within the framework of the Joint Committee (as referred to in Article 32), the possibilities of granting each other further concessions in trade in agricultural products.
5. Agricultural products not listed in Protocol 2 shall be traded in accordance with the provisions of the WTO/GATT 1994 and with the respective commitments of each Party within the framework of the WTO Agreement on Agriculture.

CHAPTER III

General Provisions

Article 12

Rules of Origin

Protocol 3 to this Agreement (hereinafter "Protocol 3") lays down the rules of origin and the proof of origin requirements.

Article 13

Customs Co-operation

1. The customs authorities of the Parties shall co-operate and co-ordinate in order to ensure that the provisions of Protocol 3 and the relevant Articles of this Agreement are effectively and harmoniously applied, in accordance with the laws of each Party, to reduce, as far as possible, the formalities imposed on trade, and to achieve mutually satisfactory solutions to any difficulties arising from the operation of those provisions.

2. Co-operation between the customs authorities of the Parties will focus, in particular, on the simplification and computerization of customs procedures, on the confirmation of the origin of goods and on the prevention of smuggling, evasion of taxes relating to the movement of goods between the Parties and illicit trade in drugs.

Article 14

Internal Taxation

1. The Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in the Parties.

2. Products exported to the territory of one of the Parties may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on these products.

Article 15

General Exceptions

In accordance with Article XX of the GATT 1994, this Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; of the protection of health and life of humans, animals or plants, including environmental measures necessary to protect human, animal or plant life or health; of the protection of national treasures possessing artistic, historic or archaeological value; of the protection of intellectual property, or of the rules relating to gold or silver or to the conservation of exhaustible natural resources. Such prohibitions or restrictions shall not, however, constitute means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 16

Security Exceptions

In accordance with Article XXI of the GATT 1994, nothing in this Agreement shall prevent a Party from taking any appropriate measure which it considers necessary:

(a) to prevent the disclosure of information contrary to its essential security interests;

(b) for the protection of its essential security interests or for the implementation of international obligations or national policies.

Article 17

State Monopolies

1. The Parties shall ensure that any State monopoly of a commercial character be adjusted so that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Parties.
2. The provisions of this Article shall apply to any body through which the competent authorities of the Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the Parties or sales on the domestic markets. These provisions shall likewise apply to monopolies delegated by the State to other bodies.

Article 18 Payments

1. Payments in freely convertible currencies relating to commercial transactions between the Parties within framework of this Agreement, and the transfer of such payments to the territory of the Party where the creditor resides, shall be free from any restrictions.
2. The Parties shall refrain from any exchange or administrative restrictions on the grant, repayment or acceptance of short and medium term credits covering commercial transactions within the framework of this Agreement in which their residents participate.
3. Notwithstanding the provisions of paragraph 2, any measures concerning current payments connected with the movement of goods shall be in conformity with the conditions laid down under Article VIII of the Articles of Agreement of the International Monetary Fund.

Article 19 Rules of Competition Concerning Undertakings

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Parties:
 - (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
 - (b) abuse by one or more undertakings of a dominant position in the territories of the Parties as a whole or in a substantial part thereof.
2. The provisions of paragraph 1 shall apply to the activities of all undertakings including public undertakings and undertakings to which the Parties grant special or exclusive rights.

Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly, shall be subject to the provisions of paragraph 1 in so far as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.
3. With regard to products referred to in Chapter II the provisions in paragraph 1 (a) shall not apply to such agreements, decisions and practices which form an integral part of a national market organization.
4. If a Party considers that a given practice is incompatible with this Article, and if such practice causes or threatens to cause serious prejudice to the interest of that Party or material injury to its domestic industry, it may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 29.
5. Subject to its laws, regulations and policies, each Party will accord fair and equitable treatment to the individuals, companies, government agencies and other entities of the other Party engaged in the pursuit of activities under this Agreement.

Article 20 State Aid

1. Any aid granted by a Party or through State resources in any form which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it may affect trade between the Parties, be incompatible with the proper functioning of this Agreement.
2. The provisions of paragraph 1 shall not apply to products covered by Chapter II.
3. The Parties shall ensure transparency in the area of state aid, in accordance with the provisions of the Agreement on Subsidies and Countervailing Measures and under the WTO/GATT 1994 and each Party, upon request of the other Party, will provide information on aid schemes and on particular individual cases of state aid.
4. If a Party considers that a particular practice, including that in agriculture:
 - (a) is incompatible with the terms of paragraph 1; or
 - (b) if such practice causes or threatens to cause serious prejudice to the interest of that Party or material injury to its domestic industry or agriculture,it may take appropriate measures under the conditions of and in accordance with the provisions laid down in Article 29. Such appropriate measures may only be taken in conformity with the procedures and under the conditions laid down by the Agreement on Subsidies and Countervailing Measures and under the WTO/GATT 1994.

Article 21

Public Procurement

1. The Parties consider the liberalization of their respective public procurement markets as an objective of this Agreement.
2. The Parties shall progressively develop their respective regulations for public procurement with a view to grant suppliers of the other Party access to contract award procedures on their respective public procurement markets.
3. The Joint Committee shall examine developments related to the achievement of the objectives of this Article so as to ensure free access, transparency and mutual opening of their respective public procurement markets.
4. During the examination referred to in paragraph 3, the Joint Committee may consider, especially in the light of development in this area in international relations, the possibility of expanding the coverage of the market opening.

Article 22

Elimination of Technical Barriers to Trade

1. The rights and obligations of the Parties relating to standards or technical regulations and related measures shall be governed by the WTO Agreement on Technical Barriers to Trade.
2. The Parties shall co-operate and exchange information in the field of standardization, metrology, conformity assessment and accreditation with the aim of reducing technical barriers to trade.
3. Each Party, upon request of the other Party, shall provide information on particular individual cases of standards-related measures.
4. To eliminate technical barriers and effectively implement this Agreement, the Parties will enter, where appropriate, into negotiations for the conclusion of agreements for mutual recognition of test reports, certificates of conformity and other documents directly or indirectly related to conformity assessment of products which are the subject of the goods exchange between the Parties, on the basis of regulations in force in the importing state.

Article 23

Dumping

1. If a Party finds that dumping within the meaning of Article VI of the GATT 1994 is taking place in trade relations governed by this Agreement, it may take appropriate measures against that practice in accordance with the WTO Agreement on Implementation of Article VI of the GATT 1994.

Article 24

Protection of Intellectual Property

1. The Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights including measures for the grant and enforcement of such rights. The protection, where necessary shall be extended, before the end of 1998, to a level corresponding to the substantive standards of the multilateral agreements which are specified in Annex V to this Agreement (hereinafter "Annex V").

2. For the purpose of this Agreement "intellectual property protection" includes in particular protection of copyright and neighbouring rights in original literary, scientific and artistic works, including musical works, computer programs, data databases, audio and visual recordings, patents, industrial designs, trade and service marks, geographical indicators including appellation of origin, topographies of integrated circuits, undisclosed information including know-how, as well as protection of new varieties of plants.

3. The Parties shall co-operate in matters of intellectual property. They shall hold, upon request of any Party, expert consultations on these matters, in particular on activities relating to the existing or to future international conventions on harmonization, administration and enforcement of intellectual property and on activities in this field in international organizations, such as the World Trade Organization, WIPO, as well as relations of Parties with other countries on matters concerning intellectual property.

Article 25

General Safeguards

1. Where any product is being imported in such increased quantities and under such conditions as to cause or threaten to cause:

(a) serious injury to domestic producers of like or directly competitive products in the territory of the importing Party, or

(b) serious disturbances in any related sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 29.

2. When in view of the importing Party, the importation of a product from the other Party is not a substantial cause of serious injury or threat thereof, the product of the other Party shall be exempt from any safeguard measure that may be imposed with respect to imports of that product from other countries.

Article 26

Structural Adjustment

1. Exceptional measures of limited duration which derogate from the provisions of Article 3 may be taken by any of the Parties in the form of increased customs duties.

2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.

3. Customs duties on imports applicable in the Party concerned to products originating in the other Party, introduced by these measures may not exceed 25 per cent ad valorem

Parties. The total value of imports of the products which are subject to these measures may not exceed 15 per cent of total imports of industrial products from the other Party as defined in Chapter I, during the last year for which statistics are available.

4. These measures shall be applied for a period not exceeding three years. They shall cease to apply at the latest on 1 January 2001.

5. No such measures may be introduced in respect of a product if more than three years elapsed since the elimination of all customs duties and quantitative restrictions or charges or measures having an equivalent effect concerning that product.

6. The Party concerned shall inform the other Party of any exceptional measures it intends to take under this article and, at the request of the other Party, consultations shall be held within the Joint Committee on such measures and the sectors to which they apply prior to their introduction. When taking such measures the Party concerned shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for a phasing out of these duties starting at the latest two years after their introduction, at equal annual rates. The Joint Committee may decide on a different schedule.

Article 27

Re-export and Serious Shortage

1. Where compliance with the provisions of Articles 7 and 9 leads to:

- (a) re-export towards a third country against which the exporting Party maintains, for the product concerned, quantitative export restrictions, export duties or measures or charges having equivalent effect; or
- (b) a serious shortage, or threat thereof, of a product essential to the exporting

Party;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 29.

2. The measures shall be non-discriminatory and be eliminated when conditions no longer justify their maintenance.

Article 28

Fulfilment of Obligations

1. The Parties shall take any general or specific measures required to fulfill their obligations under this Agreement. They shall ensure that the objectives set out in this Agreement are attained.

2. If a Party considers that the other Party has failed to fulfill an obligation under this Agreement, the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 29.

Article 29

Procedure for the Application of Safeguard Measures

1. Before initiating the procedure for the application of safeguard measures set out in the following paragraphs of this Article, the Parties shall endeavour to solve any differences between them through direct consultations.

2. In the event of a Party subjecting imports of products liable to give rise to the situation referred to in Article 25 to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows, it shall inform the other Party.

3. Without prejudice to paragraph 7 of this Article, a Party which considers resorting to safeguard measures shall promptly notify the other Party thereof and supply all relevant

information. Consultations between the Parties shall take place without delay in the Joint Committee with a view to finding a solution acceptable to the Parties.

4. (a) With regard to Articles 25 and 27, the Joint Committee shall examine the case or the situation and may take any decision needed to put an end to the difficulties notified by the Party concerned. In the absence of such a decision within forty five days of the matter being referred to the Joint Committee, or if no other satisfactory solution is reached within forty five days from the day of notification to the other Party, the Party concerned may adopt the measures necessary in order to remedy the situation.
 - (b) With regard to Article 28, the Party concerned may take appropriate measures after the consultations have been concluded or a period of three months has elapsed from the date of the notification to the other Party.
 - (c) With regard to Article 19 and 20, the Party concerned shall give the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee or if the Joint Committee fails to reach an agreement within forty five days of the matter being referred to it, the Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.
5. The safeguard measures taken shall be immediately notified to the other Party. They shall be restricted with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the injury caused by the practice or the difficulty in question. Priority shall be given to such measures which will least disturb the functioning of this Agreement. The measures taken by a Party against an action or an omission of the other Party may only affect the trade with that Party.
6. The safeguard measures taken shall be the object of periodic consultations within the Joint Committee with a view to their relaxation as soon as possible, or abolition when conditions no longer justify their maintenance.
7. Where exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the cases of Articles 19, 20, 25 and 27, apply forthwith the provisional measures strictly necessary to remedy the situation. The measures shall be notified without delay and consultations between the Parties shall take place as soon as possible within the Joint Committee.

Article 30

Balance of Payments Difficulties

1. The Parties shall endeavour to avoid the imposition of restrictive measures including such measures relating to imports for balance of payments purposes.
2. Where one of the Parties is in serious balance of payments difficulties, or under imminent threat thereof, the Party concerned may, in accordance with the conditions established under the WTO/GATT 1994, adopt restrictive measures, including measures related to imports, which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The measures shall be progressively relaxed as balance of payments conditions improve and they shall be eliminated when conditions no longer justify their maintenance. The Party concerned shall inform the other Party forthwith of their introduction and, whenever practicable, of a time schedule for their removal.
3. In applying such temporary trade measures, the Party in question will accord treatment no less favourable to imports originating in the other Party than to imports

originating in any other country, and will not impair the relative benefits accorded to the other Party under this Agreement.

4. Significant intensification of trade measures may be a cause for consultations between the Parties.

Article 31 Evolutionary Clause

Where a Party considers that it would be useful in the interests of the economies of the Parties to develop and deepen the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Party. The Joint Committee shall examine such request and, where appropriate, may make recommendations, particularly with a view to opening negotiations.

CHAPTER IV Institutional and Final Provisions

Article 32 The Joint Committee

1. A Joint Committee is hereby established and shall be composed of the representatives of the Governments of the Parties.
2. The Joint Committee shall be responsible for the administration of this Agreement and shall ensure its proper implementation. It shall examine any major issues arising within the framework of this Agreement and any other trade or economic issues of mutual interest. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the Parties.
3. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and, at the request of any Party, shall hold consultations within the Joint Committee.
4. The Joint Committee may take decisions in the cases provided for in this Agreement. These decisions shall be implemented by the Parties in accordance with their legislation. The Joint Committee may also make recommendations on any other trade and economic matter of mutual interest to the Parties.

Article 33 Procedures of the Joint Committee

1. For the proper implementation of this Agreement the Joint Committee shall meet whenever necessary but at least once a year. Each Party may request that a meeting be held.
2. The Joint Committee shall act by common agreement.
3. If the representative of a Party in the Joint Committee has accepted, under reservation, a decision subject to the fulfilment of internal legal requirements, the decision shall enter into force, if no later date is contained therein, on the date of the receipt of a written notification as to the fulfilment of such requirements.
4. For the purpose of this Agreement the Joint Committee shall adopt its rules of procedure.
5. The Joint Committee may decide to set up such subcommittees and working groups as it considers necessary to assist it in accomplishing its tasks.

Article 34 Dispute Settlement

1. Each Party may refer to the Joint Committee any dispute relating to the application or the interpretation of this Agreement.
2. The Joint Committee may settle the dispute by means of a decision.
3. Each Party shall be bound to take measures involved in carrying out the decision referred to in paragraph 2.
4. If a dispute referred to the Joint Committee has not been resolved in accordance with paragraph 2 of this Article, each Party may notify the other of the appointment of an arbitrator; the other Party must then appoint a second arbitrator within two months.
5. The Joint Committee shall then choose, within sixty days, among experts proposed by the two arbitrators, a third arbitrator who shall not be a national of either Party and who will serve as the chairman.
6. The arbitrators' decision shall be taken by majority vote within ninety days or within such longer period as may be agreed by the Joint Committee.
7. Each Party must take the steps required to implement the decision of the arbitrators.

Article 35

Trade Relations Governed by this and Other Agreements

9. This Agreement shall not prevent the maintenance or establishment of customs unions, free-trade areas or arrangements for frontier trade which are in accordance with the provisions of Article XXIV of the GATT 1994 and with the Understanding on the Interpretation of Article XXIV of the GATT 1994.

Article 36

Annexes, Protocols

1. The Annexes and the Protocols to this Agreement are an integral part of it.
2. The Joint Committee may decide to amend the Annexes and Protocols. In this case the modifications or amendments shall enter into force on the date of receipt of the latter diplomatic note confirming the approval of the respective Party in accordance with its internal regulation.

Article 37

Territorial Application

This Agreement shall apply to the customs territories and free zones of the Republic of Slovenia and of the State of Israel.

Article 38

Amendments

Amendments to this Agreement other than those referred to in paragraph 2 of Article 36 shall enter into force on the date of a receipt of the latter diplomatic note confirming that all internal legal procedures required by each Party for their entry into force have been completed.

Article 39

Entry into Force

1. This Agreement shall enter into force on the first day of the month following the date when the Parties have notified each other that respective internal requirements for the entry into force of this Agreement have been fulfilled.

2. This Agreement shall be applied provisionally from the first day of the second month following the date of notification by the State of Israel that its respective internal requirements for the entry into force of this Agreement have been fulfilled.

Article 40

Validity and Termination

1. This Agreement is concluded for an unlimited period.
2. Each Party may terminate this Agreement by a written notification to the other Party. The termination shall take effect on the first day of the seventh month following the date on which the notification was received by the other Party.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed this Agreement.

Done at ..., this ... day of ... 1998 which corresponds to the ... 5758, in two originals in the Slovenian, Hebrew and English languages, all texts being equally authentic. In case of difference of interpretation, the English text shall prevail.

For the Government of
the Republic of Slovenia

For the Government of
the State of Israel