

**FREE TRADE AGREEMENT BETWEEN THE UNITED STATES AND ISRAEL\***

Biennial Report on the Operation of the Agreement

*Communication from the Parties*

The report below presents the information received from the Permanent Delegation of the United States, dated 22 July 2005. It is organized in accordance to the Standard Format for Information on Regional Trade Agreements (WT/REG/W/6).

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AGREEMENT ON THE ESTABLISHMENT OF  
A FREE TRADE AREA BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND  
THE GOVERNMENT OF ISRAEL

**I. BACKGROUND INFORMATION ON THE AGREEMENT**

**1. Membership and Dates of Signature, Ratification and Entry into Force**

The Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel (herein after the Free Trade Agreement or FTA) was signed on April 22, 1985. The agreement entered into force on August 19, 1985.<sup>1</sup> This Report covers the last two biennial periods - 1999-2001 and 2001-2003.

**2. Trade Data**

Statistical data on the evolution of trade between the United States of America and Israel is presented in Annex I.

**II. TRADE PROVISIONS**

The Free Trade Agreement fulfilled the aims of both parties to meet fully the requirements of GATT Article XXIV. The FTA:

- eliminated duties and other restrictive regulations of commerce (except as permitted under Article XXIV) on substantially all trade between the United States and Israel; and

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\* The full text of the Agreement is available at the following URL address:  
[http://www.ustr.gov/Trade\\_Agreements/Bilateral/Israel/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Bilateral/Israel/Section_Index.html)

<sup>1</sup> See Report of the GATT Working Party, Free Trade Area Agreement between Israel and the United States (adopted May 14, 1987), BISD 34S/58.

- maintained duties and other regulations of commerce on third party trade not higher or more restrictive than those which existed prior to the formation of the FTA and created no new barriers.

The FTA conforms with GATT Article XXIV. It provides for implementation of duty-free treatment for all trade between the United States and Israel, as provided for in four categories set out in the annexes to the FTA, by January 1, 1995. With respect to the United States, it is estimated that 97.9 per cent of chapter 1 through 97 tariff lines are now free of duty for Israeli imports. Furthermore, for the United States, over 99 per cent of trade from Israel, by value, enters duty free.

With respect to Israel - although customs duties are still applied with regard to a number of agricultural products imported from the United States to Israel - a large part of those dutiable items enjoys a TRQ regime. It is estimated that over 99 per cent of total trade from the United States by value, entered Israel free of duty in 2004 with the application of the new protocol on Agriculture.

Moreover, in certain areas, the FTA enhanced GATT obligations with specific provisions disciplining balance-of-payments, specific duties and trade-related performance requirements. It also addressed certain issues that were subject to GATT Codes, e.g., licensing, government procurement and export subsidies. Further, it contained provisions on transparency, consultations, dispute settlement and rules of origin, as well as reaffirming bilateral and multilateral trade commitments.

### **3. Rules of origin**

To receive FTA benefits, three tests must be met: (1) the article must be wholly produced in a Party OR undergo substantial transformation in a Party; (2) the article must be imported directly from the other Party; and (3) the sum of the costs of input produced in the exporting Party plus the direct processing costs performed in the exporting Party must comprise at least 35 per cent of the appraised value of the article when imported into the other Party. The FTA rules specifically exclude any article from eligibility by virtue of merely undergoing (a) simple combining or packaging operations or (b) mere dilution with water or mere dilution with other substances that do not materially alter the characteristics of the article. These rules do not create any extra barriers *vis-à-vis* third countries.

### **4. Standards**

#### **4.1 Technical barriers to trade and other barriers to trade**

With respect to the potential trade-inhibiting effects of standards, technical barriers to trade and non-tariff barriers, the two sides agreed to restrictions on the right of either nation to impose new restrictions on the trade of the other, unless permitted by the FTA or GATT (Article 3 of the FTA). The FTA decreased the restrictive effects of non-tariff barriers in such areas as licensing, subsidies and government procurement.

Article 8 of the FTA does not preclude the adoption or enforcement of measures relating to religious or ritual prohibitions, provided they are applied consistent with the principle of national treatment.

#### **4.2 Sanitary and Phytosanitary measures**

Article 9 provides a framework for the resolution of problems relating specifically to veterinary and plant health matters.

## **5. Safeguards**

Article 5 provides for the application of general safeguard measures by a Party if its imports led to serious injury or threat thereof. It also provides that when in the view of the importing Party, the importation of a product from the other Party is not a substantial cause of the serious injury or threat thereof, the product of the Party may be exempted from any import relief that may be imposed with respect to imports of that product from third countries. Under this provision, Israeli imports were excluded from five of the seven global safeguard measures the United States has imposed since 1996.

## **6. Subsidies and State Aid**

Under Annex 4 of the FTA, Israel committed not to institute any new export subsidy programs and not to increase the level of subsidization in existing programs above levels existing on July 11, 1984. Annex 4 also provides a schedule to eliminate or reduce subsidy elements for the four identified programs for financing exports or processing exports.

## **7. Sector-Specific Provision**

On November 4, 1996, the United States and Israel signed a five-year adjunct to the FTA concerning certain aspects of their trade in agricultural products. The 1996 agreement states: "Israel and the United States acknowledge that the ...[Israel U.S. FTA] applies in full to U.S. and Israeli agricultural products and to trade in these products between the two countries. However, both countries also acknowledge that they have differing interpretations as to the meaning of certain rights and obligations in Articles 2 and 6 of the ...[FTA] related to agricultural products. In the interest of achieving practical improvements in agricultural trade between the two countries, the United States and Israel therefore have agreed to set aside their differences and enter into this agreement through December 31, 2001, with regard to certain border measures of each party that relate to agricultural products of the other party." The 1996 agreement was extended twice, first through December 31, 2002, and then to December 31, 2003. In July 2004, the United States and Israel concluded a new, five-year agricultural adjunct applicable to certain agricultural products during the period January 1, 2004, through December 31, 2008.<sup>2</sup> The agencies responsible for the implementation and enforcement of the 2004 agreement are the Office of United States Trade Representative and the Ministry of Industry, Trade, Labor and Communications (Israel).

Israeli agricultural exports to the United States enter duty-free, except a few products that remain dutiable pending resolution of the parties' differing interpretation of some aspects of the agreement, as noted above. These dutiable lines are the results of tariffication of previously applicable quotas on certain agricultural products under Section 22 of the U.S. trade laws (7 U.S.C. § 624), and tariff rate quotas on unmanufactured tobacco established in October 1995. Under the 2004 agreement, the United States liberalized access to its market by granting zero in-quota tariff rates to a specified portion of Israeli imports of some of these products. For its part, Israel granted additional access to its market for certain U.S. agricultural products (e.g., wine, almonds and certain cheeses) under one of three different categories: duty-free access, tariff-rate quotas (TRQs) with duty-free within-quota amounts, or preferential tariffs which are set at least 10 per cent below Israel's most-favoured-nation (MFN) rates.

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<sup>2</sup> See Annex II.

### **III. GENERAL PROVISIONS OF THE AGREEMENT**

A Joint Committee is established pursuant to Article 17 to supervise the implementation of the FTA and to discuss bilateral trade issues. Article 18 provides for notice and consultation procedures, and Article 19 establishes a mechanism for the resolution of bilateral disputes.

The Joint Committee last met in July 2004. During this meeting the parties discussed measures to expand bilateral trade under the FTA through enhanced cooperation in such areas as customs administration, standards, and intellectual property rights protection.

**ANNEX I**  
**U.S. IMPORTS/EXPORTS/BALANCE/TOTAL TRADE WITH ISRAEL, 1999-2003**

NAIC CATEGORY	U.S. IMPORTS FOR CONSUMPTION					DOMESTIC EXPORTS					BALANCE					TOTAL TRADE				
	1999	2000	2001	2002	2003	1999	2000	2001	2002	2003	1999	2000	2001	2002	2003	1999	2000	2001	2002	2003
<b>TOTAL</b>	<b>9,863.4</b>	<b>12,948.8</b>	<b>11,968.8</b>	<b>12,436.7</b>	<b>12,766.6</b>	<b>6,337.6</b>	<b>6,190.6</b>	<b>6,147.8</b>	<b>5,304.3</b>	<b>4,569.2</b>	<b>-3,525.9</b>	<b>-6,758.2</b>	<b>-5,820.9</b>	<b>-7,132.4</b>	<b>-8,197.4</b>	<b>16,201.0</b>	<b>19,139.4</b>	<b>18,116.6</b>	<b>17,741.0</b>	<b>17,335.8</b>
111 Agricultural products	45.7	47.7	50.3	55.2	74.9	294.2	317.4	255.5	305.6	263.8										
112 Livestock and livestock products	0.2	0.3	0.6	0.9	1.3	2.3	1.6	2.0	2.5	3.2	248.5	269.6	205.2	250.3	188.9	339.9	365.1	305.9	360.8	338.7
113 Forestry products, nesoi	5.4	3.6	4.6	3.9	2.9	4.1	4.7	2.0	0.9	1.0	2.1	1.4	1.4	1.6	1.9	2.6	1.9	2.6	3.4	4.5
114 Fish and other marine products	0.1	0.0	0.1	0.3	0.8	4.6	4.0	3.4	2.1	3.0	-1.3	1.1	-2.6	-3.0	-2.0	9.6	8.3	6.7	4.9	3.9
211 Oil and gas	0.0	0.0	0.0	0.0	0.0	0.1	0.2	0.4	0.2	0.2	4.5	4.0	3.3	1.8	2.2	4.6	4.1	3.6	2.5	3.8
212 Minerals and ores	0.6	1.5	1.9	2.0	1.2	24.2	4.7	5.4	6.8	4.2	0.1	0.2	0.4	0.2	0.2	0.1	0.2	0.4	0.2	0.2
311 Food manufacturing	62.8	58.1	68.7	69.1	78.4	123.9	161.0	169.1	152.9	154.6	23.6	3.1	3.5	4.8	3.0	24.8	6.2	7.3	8.8	5.4
312 Beverages and tobacco products	3.8	3.7	3.8	5.6	7.9	102.0	103.5	77.0	52.7	59.8	61.1	102.8	100.4	83.8	76.2	186.7	219.1	237.8	222.1	232.9
313 Textiles and fabrics	84.7	98.8	103.2	115.4	134.5	38.0	28.1	18.2	16.1	22.6	98.2	99.8	73.1	47.1	51.9	105.8	107.2	80.8	58.3	67.7
314 Textile mill products	68.3	74.7	90.6	85.4	91.7	20.5	18.7	20.6	13.9	12.0	-46.6	-70.7	-85.1	-99.3	-111.9	122.7	126.9	121.4	131.6	157.1
315 Apparel and accessories	421.8	477.0	445.2	411.9	396.4	9.7	9.5	7.8	6.9	7.4	-47.9	-56.0	-70.0	-71.5	-79.7	88.8	93.4	111.2	99.3	103.7
316 Leather and allied products	19.8	19.1	17.6	21.7	21.8	5.6	4.9	3.6	2.4	2.5	-412.1	-467.5	-437.4	-405.0	-389.0	431.5	486.5	452.9	418.8	403.8
321 Wood products	1.3	1.0	1.4	1.1	1.2	13.9	14.8	10.2	10.9	10.3	-14.2	-14.2	-14.0	-19.3	-19.2	25.3	24.0	21.2	24.2	24.3
322 Paper	22.4	26.5	29.9	28.8	30.0	85.0	96.7	77.5	61.0	55.8	12.6	13.9	8.7	9.8	9.1	15.2	15.8	11.6	11.9	11.5
323 Printing, publishing products	17.2	17.4	21.0	21.6	25.8	19.1	16.5	19.2	12.9	11.9	62.7	70.1	47.6	32.2	25.8	107.4	123.2	107.5	89.7	85.8
324 Petroleum and coal products	3.0	47.7	14.7	64.9	17.5	81.1	78.5	99.7	117.5	130.2	1.9	-1.0	-1.8	-8.7	-13.9	36.3	33.9	40.2	34.5	37.7
325 Chemicals	596.5	717.3	975.5	1,007.6	1,221.2	321.8	373.8	422.7	352.0	412.8	78.0	30.8	85.0	52.6	112.7	84.1	126.2	114.3	182.4	147.7
326 Plastics and rubber products	164.4	200.7	222.0	234.1	236.7	67.0	59.4	56.9	48.7	65.5	-274.8	-343.6	-552.8	-655.6	-808.5	918.3	1,091.1	1,398.2	1,359.6	1,634.0
327 Nonmetallic mineral products	42.6	47.0	51.1	55.9	53.2	35.2	33.3	28.5	21.4	21.1	-97.4	-141.2	-165.1	-185.4	-171.2	231.4	260.1	278.9	282.8	302.2
331 Primary metal manufacturing	71.9	76.4	55.9	54.5	51.5	107.6	132.3	143.9	129.6	130.6	-7.4	-13.7	-22.5	-34.5	-32.1	77.9	80.3	79.6	77.3	74.3
332 Fabricated metal products, nesoi	120.5	156.5	151.3	157.3	110.5	206.2	191.1	262.0	177.5	199.5	35.7	55.9	88.1	75.1	79.1	179.6	208.7	199.8	184.1	182.1
333 Machinery, except electrical	462.8	640.6	551.5	522.1	470.6	683.5	676.6	567.0	596.6	441.6	85.7	34.6	110.6	20.1	88.9	326.7	347.6	413.3	334.8	310.0
334 Computer and electronic products	1,575.4	2,846.5	2,196.5	1,926.2	1,984.1	1,547.9	1,794.3	1,415.8	1,057.6	972.1	220.7	35.9	15.4	74.5	-29.0	1,146.3	1,317.2	1,118.5	1,118.7	912.2
335 Electrical equipment, appliances and components	104.3	367.7	138.7	111.9	106.3	212.6	255.5	226.6	186.8	181.6	-27.5	-1,052.3	-780.7	-868.6	-1,011.9	3,123.4	4,640.8	3,612.3	2,983.9	2,956.2
336 Transportation equipment	459.1	510.0	564.8	608.3	611.0	1,897.7	1,027.0	1,309.9	1,127.2	1,005.2	108.3	-112.1	87.9	74.9	75.3	316.9	623.2	365.2	298.8	287.9
337 Furniture and fixtures	61.9	64.8	57.0	42.8	52.8	15.1	16.3	15.7	26.2	10.6	1,438.6	517.0	745.1	518.9	394.2	2,356.9	1,536.9	1,874.7	1,735.5	1,616.2
339 Miscellaneous manufactures commodities	4,846.7	5,806.0	5,535.0	6,228.2	6,467.0	129.8	460.5	652.0	584.0	139.3	-46.8	-48.5	-41.3	-16.6	-42.2	76.9	81.1	72.7	69.0	63.4
Other	600.2	638.0	615.8	599.7	515.5	284.8	305.7	275.2	231.4	246.7	-4,717.0	-5,345.5	-4,883.0	-5,644.2	-6,327.7	4,976.5	6,266.5	6,187.0	6,812.2	6,606.3

Source: U.S. Department of Commerce (USITC Dataweb).

## ANNEX II

His Excellency Ehud Olmert  
Vice Prime Minister and  
Minister of Industry, Trade, Labor and Communications  
State of Israel

Dear Mr. Minister:

I have the honor to confirm the following agreement reached between the delegation of the Government of the United States of America ("United States") and the delegation of the Government of Israel ("Israel") concerning certain aspects of trade in agricultural products. Israel and the United States acknowledge that the Agreement on the Establishment of a Free Trade Area between the Government of Israel and the Government of the United States of America ("FTAA"), dated April 22, 1985 (which corresponds to the first day of Iyar, 5745), applies in full to U.S. and Israeli agricultural products and to trade in these products between the two countries. However, both countries also acknowledge that they have differing interpretations as to the meaning of certain rights and obligations in Articles 2 and 6 of the FTAA as they relate to agricultural products. In the interest of achieving practical improvement in agricultural trade between the two countries, the United States and Israel have therefore agreed to set aside their differences and enter into this agreement through December 31, 2008, with regard to certain border measures of each party that relate to agricultural products of the other party (as defined in Annex 3 of the FTAA entitled "Rules of Origin").

This agreement is without prejudice to the parties' rights and obligations under Articles 2.1, 2.2, and 6 of the FTAA with respect to agricultural products and is without prejudice to the parties' other rights and obligations under the FTAA or the Marrakesh Agreement Establishing the World Trade Organization.

During the period January 1, 2004, through December 31, 2008, Israel shall accord agricultural products of the United States treatment no less favorable than that specified in the attachment to this agreement, and the United States shall accord agricultural products of Israel treatment no less favorable than that specified in the attachment to this agreement. The attachment and annexes to this agreement are an integral part of this agreement. During the period January 1, 2004, through December 31, 2008, both governments shall refrain from adopting, applying or otherwise maintaining any measures pursuant to Article 6 of the FTAA, unless such measures are otherwise specifically permitted by this agreement.

Beginning February 2004, the two governments agree to consult quarterly on the administration and utilization of quantities provided under the agreement by Israel for free import into Israel from the United States and by the United States for free import into the United States from Israel. The lead offices for these discussions shall be the Office of the U.S. Trade Representative and the U.S. Department of Agriculture for the United States and the Ministry of Industry and Trade and the Ministry of Agriculture for Israel.

To facilitate a better understanding of each party's agricultural economy in the course of future discussions on improving agricultural market access, either party may present information on factors of importance to their respective agricultural sectors. Such factors may include, but are not limited to: annual overall trade in a product, the scope of U.S.-Israeli trade in that product and the interests which each party has in expanding access to the other's market; trends in domestic production, prices and profitability of a product and the capacity for further market access; economic circumstances of producers, such as changes in rural income; the benefits of liberalization of

agricultural trade, including benefits to consumers, trade and food processors; and additional agricultural policy considerations related to issues such as national and regional development priorities, government assistance, food security, special security conditions, and multilateral agricultural policy objectives. The aforementioned factors may be referenced by the parties and provide guidance in future discussions, including in the U.S.-Israel Joint Committee, on further improvements in agricultural market access.

No later than June 1, 2007, our two governments shall initiate a review of the operation of this agreement and seek ways to make further improvements. In the event it appears that negotiations will not be concluded by December 31, 2008, the parties mutually agree to address the issue of maintaining the treatment that each provides to the agricultural products of the other party under this agreement until such time as a new agreement is in force.

I have the honor to propose that this letter, the attachment to this letter, and annexes, which are authentic in English, and your letter of confirmation in reply constitute an agreement between our two governments, to enter into effect on this date.

Sincerely,

Robert B. Zoellick  
United States Trade Representative

**ATTACHMENT\***

1. The Government of Israel shall, with respect to products of the United States:
  - (A) Listed in Annex A, permit the importation into Israel free of any customs duty, fee, or other import charge;
  - (B) Listed in Annex B:
    - i. permit the importation into Israel free of any customs duty, fee, or other import charge of not less than the quantity specified in that Annex for the applicable year, other than for items 08.02.1100 and 08.02.1200; and
    - ii. for items 08.02.1100 and 08.02.1200, permit the importation into Israel of not less than the quantity specified in Annex B at a rate not greater than that specified in that Annex; and
    - iii. permit the importation of any quantity in excess of the quantity specified in Annex B, at a rate not greater than the lesser of:
      - a. the most-favored-nation rate of customs duty applied by the Government of Israel as specified in Annex C or
      - b. the most-favored-nation rate of customs duty applied by the Government of Israel at the time of importationeach reduced by the percentage specified in Annex C.
  - (C) Listed in Annex C provide treatment at a rate not greater than the lesser of:
    - i. the most-favored-nation rate of customs duty applied by the Government of Israel as specified in Annex C for the applicable year or
    - ii. the most-favored-nation rate of customs duty applied by the Government of Israel at the time of importationeach reduced by the percentage specified in Annex C.
2. With respect to any good within chapters 1 through 24 of the Harmonized System that is not listed in Annex A, B, or C, the Government of Israel shall permit its importation into Israel at a rate no greater than ninety per cent of the rate applied at the time of importation to imports of that good from other countries. With respect to any agricultural product listed in paragraph 1(ii) of Annex 1 of the *Agreement on Agriculture* annexed to the *Marrakesh Agreement Establishing the World Trade Organization* that is not listed in Annex A, B, or C of this agreement, the Government of Israel shall permit its importation free of any customs duty, fee, or other import charge.
3. The Government of the United States shall, with respect to products of Israel imported into the customs territory of the United States listed in Annex D, permit the importation free of any

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\* The full text of the 2004 agreement is available at the Secretariat (Office 1174) for consultation by interested Members. It is also available at the following URL address: [http://www.ustr.gov/assets/Trade\\_Agreements/Bilateral/Israel/asset\\_upload\\_file899\\_7902.pdf](http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Israel/asset_upload_file899_7902.pdf).



customs duty, fee or other import charge of not less than the quantity specified in that Annex for the applicable year. For products in Annex D, the U.S. treatment of quantities above the quantity specified in that Annex for the applicable year shall be no less favorable than what is specified in the U.S. WTO Schedule. The U.S. treatment of over-quota quantities for products of Israel imported into the customs territory of the United States of the type listed in WTO notifications G/AG/N/USA/2 dated March 8, 1995, and G/AG/N/USA/2 Add.1, dated April 21, 1995, ("WTO notifications") that are not listed in Annex D, shall be no less favorable than what is specified in the U.S. WTO Schedule, and, as specified in the U.S. WTO Schedule, the in-quota quantities for such products shall be imported free of any customs duty, fee, or other import charge. With respect to any agricultural product of Israel imported into the customs territory of the United States listed in paragraph 1 of Annex 1 of the Agreement on Agriculture annexed to *the Marrakesh Agreement Establishing the World Trade Organization* that is not listed in either Annex D of this agreement or of the type listed in the WTO notifications, the Government of the United States shall permit its importation free of any customs duty, fee, or other import charge.

4. The item numbers in Annexes A, B, and C refer to the item numbers in the 2004 Israeli Customs Tariff in effect on January 1, 2004. The item numbers in Annex D refer to the Harmonized Tariff Schedule of the United States 2004 in effect on January 1, 2004.

5. Each successive annual quantity in Annex B or Annex D shall be made effective on January 1 of the applicable year.

6. The Annexes to this attachment are an integral part of this Attachment.

7. The term "customs duty, fee, or other import charge" shall not include any such charge:

(A) imposed pursuant to Article 4, 5, 7, 11, or 20 of the FTAA; or

(B) to the extent not inconsistent with the FTAA, permitted by the agreements listed in Annex 1 to the *Marrakesh Agreement Establishing the World Trade Organization*, other than Article 5 of the *Agreement on Agriculture*.

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