Agreement on the Establishment of a Free Trade Area between the Government of Israel and the Government of the United States of America

[PREAMBLE]

The Government of Israel and the Government of the United States of America,

Desiring to promote mutual relations and further the historic friendship between them;

Determined to strengthen and develop the economic relations between them for their mutual benefit;

Recognizing that Israel's economy is still in a process of development, wishing to contribute to the harmonious development and expansion of world trade;

Wishing to establish bilateral free trade between the two nations through the removal of trade barriers;

Wishing to promote cooperation in areas which are of mutual interest;

Have decided to conclude this Agreement:

ARTICLE 1

[ESTABLISHMENT OF A FREE TRADE AREA]

The governments of Israel and the United States of America (the Parties), consistent with Article XXIV (8) (b) of the General Agreement on Tariffs and Trade (GATT), establish hereby between them a Free Trade Area and will in accordance with the provisions of this Agreement eliminate the duties and other restrictive regulations of commerce on trade between the two nations in products originating therein.

ARTICLE 2

1. Products of Israel shall, when imported into the customs territory of the United States, be governed by the provisions of Annex 1.

2. Products of the United States shall, when imported into Israel, be governed by the provisions of Annex 2.

3. The rules of origin applicable to this Agreement are set forth in Annex 3.

4. The commitment with respect to export subsidies is contained in Annex 4.

5. The Annexes to this Agreement constitute an integral part thereof.

ARTICLE 3

[RELATIONSHIP TO OTHER AGREEMENTS]

The Parties affirm their respective rights and obligations with respect to each other under existing bilateral and multilateral agreements, including the Treaty of Friendship, Commerce and Navigation between the United States and Israel and the GATT. In the event of an inconsistency between provisions of this Agreement and such existing agreements, the provisions of this Agreement shall prevail.

ARTICLE 4

[NEW RESTRICTIONS ON TRADE]

New customs duties on imports or exports or any charge having equivalent effect and new quantitative restrictions on imports or exports or any measure having equivalent effect may be introduced in the trade between the Parties only if permitted by this Agreement or by the GATT as in effect on the date of entry into force of this Agreement and as interpreted by the CONTRACTING PARTIES to the GATT and insofar as not inconsistent with this Agreement.

ARTICLE 5

[RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION]

1. When a product is being imported in such increased quantities as to be a substantial cause of serious injury or the threat thereof to domestic producers of like or directly competitive products, the importing Party shall consult with the other Party in accordance with Article 18 before taking any action affecting the trade of the other Party.

2. Neither Party shall take an action which provides solely for a suspension of the reduction or elimination of any duty provided for by this Agreement unless the serious injury or threat thereof which is substantially caused by imports to the domestic producers of like or directly competitive products results from the reduction or elimination of a duty provided for by this Agreement.

3. 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 referred to in paragraph 1, the importing Party may except the product of the other Party from any import relief that may be imposed with respect to imports of that product from third countries, taking into account the objective of achieving bilateral free trade as embodied in this Agreement, the domestic laws and international obligations of the Parties.

ARTICLE 6

[IMPORT RESTRICTIONS ON AGRICULTURE]

Import restrictions, other than customs duties, including, but not limited to, quantitative restrictions and fees, based on agricultural policy considerations may be maintained by the Parties.

ARTICLE 7

[GENERAL AND SECURITY EXCEPTIONS]

Article XX and XXI of the GATT are hereby incorporated into and made a part of this Agreement.

ARTICLE 8

[SPECIAL EXCEPTION FOR KASHRUTH]

This Agreement shall not preclude the adoption or enforcement by either Party of measures relating to prohibitions on religious or ritual grounds provided that they are applied in accordance with the principle of national treatment.

ARTICLE 9

[HEALTH]

1. The Parties shall review their current and future rules on veterinary and plant health matters to insure that these rules are applied in a nondiscriminatory manner, and that these rules do not have the effect of unduly obstructing trade.

2. With reference to the matters in paragraph 1, the Parties shall consult on any difficulties that may arise in their trade in agricultural products and shall seek to provide solutions which will allow trade in agricultural products insofar as they do not endanger animal and plant health.

3. To insure harmonious development of trade in agricultural products, the Joint Committee shall establish a working group, in accordance with subparagraph 3 (b) of Article 17, which shall convene at the request of either Party to consider matters relating to paragraphs 1 and 2 of this Article.

ARTICLE 10

[INFANT INDUSTRY]

1. Insofar as its industrialization and development make protective measures necessary Israel may through December 31, 1990, after consultation within the Joint Committee, and after that date, upon agreement within the Joint Committee, introduce, increase or reintroduce ad valorem customs duties not exceeding 20 percentage points above the level that would otherwise be in effect. The total value of the products for which these measures can be applied may not exceed 10% of the total value of Israel's imports from the United States in 1984.

2. These measures may be taken only if they are necessary to protect and favor the development of a new processing industry not already existing in Israel on the date of the entry into force of the Agreement; they may be applied only with respect to the production of specific goods.

3. Twentyfour months after introducing, increasing or reintroducing customs duties, Israel shall reduce the tariffs by at least 5% per year in respect of imports of the products in question originating in the United States. The abolition of such duties must be completed by not later than January 1, 1995.

ARTICLE 11

[BALANCE OF PAYMENTS]

1.

a. A Party may apply temporary trade measures when it is threatened by, or suffers from, a serious balance of payments situation. A Party may impose temporary trade measures only to provide time for macroeconomic adjustment measures to correct its balance of payments problems to take effect. Temporary trade measures permitted by this paragraph may not be used to protect individual industries or sectors.

b. A serious balance of payments situation would be indicated by one or more of the following: a substantial deterioration in the trade and current account positions, significant pressure on the exchange rate, or a substantial fall in net reserves, as projected either in a decrease of reserves or in an increase of short term debt.

2. Temporary trade measures which may be applied under paragraph 1 are:

a. an import surcharge in the form of import duties;

b. an import deposit; or

c. quantitative restrictions.

3.

a. Whenever practicable the Parties will prefer the use of the temporary measures specified in subparagraphs 2 (a) and 2 (b). Quantitative restrictions will be imposed when measures 2(a) and 2(b) would be inadequate in terms of their balance of payments effects.

b. Whenever practicable, the Parties will avoid applying more than one of the measures specified in paragraph 2 to any single product at the same time.

4. A temporary trade measure applied under paragraph 1 may remain in force for a period not exceeding 150 days unless extended by the appropriate legislative body of the Party concerned for a subsequent period of 150 days. Quantitative restrictions may be extended only for one additional period of 150 days.

5. Temporary trade measures applied under paragraph 1 will be consistent in duration and effect with the severity of the balance of payments problem experienced by the Party imposing the measures and will be progressively relaxed consistent with improvements in that Party's balance of payments situation.

6. In the event that temporary trade measures are applied under paragraph 1, consultations will be held between the Parties on the balance of payments situation, to consider, inter alia, other economic measures which might be taken to deal with the balance of payments problems to permit early elimination of the temporary trade measures. Significant intensification of trade measures may be a cause for consultations between the Parties.

7. In applying temporary trade measures, the Parties will accord treatment no less favorable to imports originating in the other Party than to imports originating in third countries, and will not impair the relative benefits accorded to the other Party under this Agreement.

8. Temporary trade measures specified under subparagraphs 2 (a) and 2 (b) shall apply to all imports, except that certain imports may be excluded if their exclusion improves the effectiveness of the measures consistent with the purposes stated in paragraph 1.

Article 11 shall be subject to the procedures of Articles 18 and 19. It is understood that notification for balance of payments reasons will generally be provided under paragraph 3 of Article 18.

ARTICLE 12

[LICENSING]

1. Neither Party shall impose import licensing requirements on items exported by the other Party, unless licenses issued under such requirements are:

a. automatically approved;

b. necessary to administer a quantitative ceiling on imports justified under this Agreement or under the GATT insofar as it is not inconsistent with this Agreement; or

c. necessary to administer restrictions in conformity with this Agreement or under the GATT insofar as it is not inconsistent with this Agreement.

2. Each Party shall answer within thirty days all reasonable inquiries from the other Party with regard to criteria employed by its respective licensing authorities in granting or denying import licenses. In addition, the Parties recognize the desirability of publication of such criteria.

3. The Parties shall provide each other with a list of items subject to licensing requirements which shall specify whether each item is entitled to automatic or non-automatic import licensing. Notification of changes in this list shall be made on a timely basis and shall include a justification for each addition.

4. If an import license is denied for an item specified in the list prepared pursuant to paragraph 3 as being entitled to automatic licensing, then such item shall be considered to be subject to nonautomatic licensing. Notification and justification for the action shall be provided within sixty days by the Party which has made such denial.

5. In the administration of automatic and nonautomatic licensing requirements, the Parties shall adhere to the provisions of the Agreement on Import Licensing Procedures. For the purposes of this Agreement the reporting requirements provided in the Agreement on Import Licensing Procedures between the Contracting Parties of said agreement shall only apply to the United States and Israel.

ARTICLE 13

[TRADERELATED PERFORMANCE REQUIREMENTS]

Neither Party shall impose, as a condition of establishment, expansion or maintenance of investments by nationals or companies of the other Party, requirements to export any amount of production resulting from such investments or to purchase locally produced goods and services. Moreover, neither Party shall impose requirements on investors to purchase locallyproduced goods and services as a condition for receiving any type of governmental incentives.

ARTICLE 14

[INTELLECTUAL PROPERTY]

The Parties reaffirm their obligations under bilateral and multilateral agreements relating to intellectual property rights, including industrial property rights, in effect between the Parties. Accordingly, nationals and companies of each Party shall continue to be accorded national and most favored nation treatment with respect to obtaining, maintaining and enforcing patents of invention, with respect to obtaining and enforcing copyrights, and with respect to rights in trademarks, service marks, tradenames, trade labels, and industrial property of all kinds.

ARTICLE 15

[GOVERNMENT PROCUREMENT]

1. The Parties agree to endeavor to eliminate all restrictions relating to government procurement.

2. The United States shall waive all Buy National restrictions with respect to government agency purchases of a contract value of $50,000 or more which would be subject to the Agreement on Government Procurement at the time of entry into force of this Agreement but for the threshold provided for in Article I(l) (b) of the Agreement on Government Procurement.

3. Israel shall waive all Buy National restrictions with respect to government agency purchases of a contract value of $50,000 or more which would be subject to the Agreement on Government Procurement at the time of entry into force of this Agreement but for the threshold provided for in Article I (1)(b) of the Agreement on Government Procurement and by the Ministry of Defense subject to exceptions comparable in character and extent to those included in the United States' entity list of the Agreement on Government Procurement with regard to the Department of Defense.

4. In implementing paragraphs 2 and 3 of this Article the Parties shall apply the provisions of the Agreement on Government Procurement.

5. Israel shall relax offset requirements on purchases by government agencies other than the Ministry of Defense.

6. The provisions of this Article with respect to offset requirements and to purchases by government agencies other than Israel's Ministry of Defense and the United States Department of Defense shall be effective one year from the date of entry into force of this Agreement. The provisions of this Article with respect to purchases by Israel's Ministry of Defense and the United States Department of Defense shall be effective one year from the entry into force of this Agreement or one year from the completion by Israel of a list of the exceptions referred to in paragraph 3, whichever is later.

7. The Parties agree to consider promptly further trade liberalizing measures in regard to both government procurement and offset requirements in the context of the Joint Committee established by this Agreement. In particular it is agreed that should the entity coverage of the Agreement on Government Procurement be expanded,

priority consideration will be given to expanding this Agreement to apply to those purchases.

ARTICLE 16

[TRADE IN SERVICES]

The Parties recognize the importance of trade in services and the need to maintain an open system of services exports which would minimize restrictions on the flow of services between the two nations. To this end, the Parties agree to develop means for cooperation on trade in services pursuant to the provisions of a Declaration to be made by the Parties.

ARTICLE 17

[JOINT COMMITTEE]

1. A Joint Committee is hereby established to supervise the proper implementation of this Agreement and to review the trade relationship between the Parties.

2. The functions of the Joint Committee shall include, inter alia:

a. reviewing the general functioning of this Agreement;

b. holding consultations with respect to any matter affecting the operation and the interpretation of this Agreement, as provided in Article 18;

c. reviewing the results of this Agreement, the experience gained during its functioning, and the objectives defined therein, and considering ways of improving trade relations between the Parties, including possible improvements in this Agreement. The adoption of any amendments shall be subject to the domestic legal requirements of both Parties;

d. reviewing the Declaration on Trade in Services.

3.

a. The Joint Committee shall be composed of representatives of the Parties and shall be headed by the United States Trade Representative and Israel's Minister of Industry and Trade or their designees.

b. The Joint Committee may establish working groups and delegate its powers to them.

4. Each party shall preside in turn over the Joint Committee, which shall convene at least once a year in regular session in order to review the general functioning of the Agreement. Special meetings of the Joint Committee shall also be convened within 21 days at the request of either Party. Regular sessions of the Joint Committee shall be held alternately in the two countries. The Joint Committee shall establish its own rules of procedure.

ARTICLE 18

[NOTICE AND CONSULTATION]

1.

a. Before either Party takes any trade measure with respect to products traded between the Parties, it shall provide prior written notice to the other Party as far in advance as may be practicable. The notice shall include a description of the circum stances leading to the proposed action.

b. Before either Party commits itself to take any action, unilaterally or by agreement, which would reduce the barriers to trade applicable to third countries, including those with whom that Party intends to enter into a customs union, free trade area, arrangement for frontier trade or those to whom that Party int ends unilaterally to grant trade concessions, it shall provide prior written notice to the other Party as far in advance as may be practicable.

2. If the Party affected by the proposed measure referred to in paragraph 1 requests consultations with regard to such measures the Party proposing the measure shall afford adequate opportunity for consultations regarding the proposed measures.

3. In special circumstances, where delay or prior notice would cause damage which would be difficult to remedy, action may be taken without prior notice or consultation, provided that notice and an opportunity to consult in accordance with paragraphs 1 and 2 are provided as soon thereafter as practicable.

ARTICLE 19

[DISPUTE SETTLEMENTS]

1.

a. Whenever a dispute arises concerning the interpretation of this Agreement, or whenever a Party considers that the other Party has filed to carry out its obligations under this Agreement, the dispute settlement mechanism described in this Article may be invoked. In addition, the dispute settlement mechanism may also be invoked if one Party considers that measures taken by the other Party, including a violation of the Annex an subsidies, severely distort the balance of trade benefits accorded by this Agreement or substantially undermine fundamental objectives of this Agreement. This paragraph shall not apply to the imposition of antidumping or countervailing duties.

b. When a dispute arises, the Parties shall make every attempt to arrive at a mutually agreeable resolution through consultations.

c. If the Parties fail to resolve the dispute through consultations, either Party may refer the matter to the Joint Committee, which shall be convened and shall endeavor to resolve the dispute.

d. If a dispute referred to the Joint Committee has not been resolved within a period of sixty days after the dispute was referred to it, or within such longer period as the Joint Committee has agreed upon, either Party may refer the matter to a conciliation panel. The conciliation panel shall be composed of three members: each Party shall appoint, within fifteen days of the date of referral, one member, and the two appointees shall choose, within fortyfive days of the date of referral, a third who will serve as the chairman. The panel shall establish its own rules of procedure.

e. The panel shall endeavor to resolve the dispute through agreement of the Parties. If the panel fails to reach such a resolution, it shall, within three months after the first member is appointed, present to the Parties a report containing findings of fact, its determination as to whether either Party has failed to carry out its obligations under the Agreement or whether a measure taken by either Party severely distorts the balance of trade benefits accorded by this Agreement or substantially undermines the fundamental objectives of this Agreement, and a proposal on the settlement of the dispute. The report of the panel shall be nonbinding.

f. If the conciliation panel under this Agreement or any other applicable international dispute settlement mechanism has been invoked by either Party with respect to any matter, the mechanism invoked shall have exclusive jurisdiction over that matter.

2. After a dispute has been referred to a panel and the panel has presented its report the affected Party shall be entitled so to take any appropriate measure.

ARTICLE 20

[SPECIFIC DUTIES]

1. In the event that the value of the currency of the United States of America, measured in Special Drawing Rights of the International monetary Fund, decreases by more than twenty percent#, specific duties and charges imposed by the United States of America and expressed in the currency of the United States of America may be increased by no more than the amount needed to maintain the value of the specific duty in accordance with Annex 11 measured in Special Drawing Rights. The first such adjustment shall be calculated from the last adjustment prior to January 1, 1985. Subsequent adjustments shall be calculated from the date of the most recent increase in specific duties.

2. In the event that the value of the currency of Israel, measured against the currency of the United states of America, decreases by more than twenty percent, specific duties and charges imposed by Israel and expressed in the currency of Israel may be increased by no more than the amount needed to maintain the value of the specific duty in accordance with Annex 2, measured against the currency of the United States

of America. The first such adjustment shall be calculated from the last adjustment prior to January 11, 1985. Subsequent adjustments shall be calculated from the date of the most recent increase in specific duties.

ARTICLE 21

[NOMENCLATURE CHANGES]

In the event that either Party changes its tariff schedules, it shall so notify the other Party. In the case of a change other than a major revision that change shall not adversely affect the tariffs applicable to any product as set forth in Annexes 1 and 2 of this Agreement. In the case of a major revision the balance of tariff concessions set forth in Annexes 1 and 2 shall be preserved. The Joint Committee shall modify the tariff nomenclature of the relevant annexes to conform to such change.

ARTICLE 22

[ENTRY INTO FORCE]

1. The entry into force of this Agreement will be subject to the completion of necessary domestic legal procedures by each Party.

2. This Agreement shall enter into force on the date on which both parties have provided written notification to each other that such procedures have been completed with paragraph 2.

3. Either Party may terminate this Agreement by written notification to the other Party. This Agreement shall expire twelve months after the date of such notification.

* * *

In Witness Whereof, the respective representatives, having been duly authorized, have signed this Agreement.

Done in duplicate, in the Hebrew and English languages, both equally authentic, at Washington, D.C., this twenty second day of April 1985, which corresponds to this first day of Iyar, 5745.

Ariel Sharon

FOR THE GOVERNMENT OF ISRAEL

William E. Burk

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA