# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/TPR/S/272**
25 September 2012

(12-5070)

**Trade Policy Review Body**


# TRADE POLICY REVIEW

## Report by the Secretariat

## ISRAEL

This report, prepared for the fourth Trade Policy Review of Israel, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Israel on its trade policies and practices.


Any technical questions arising from this report may be addressed to Mr. Willy Alfaro (tel: 022 739 5372), Thomas Friedheim (tel: 022 739 5083), and Wolf Meier-Ewert (tel: 022 739 6344).


Document WT/TPR/G/272 contains the policy statement submitted by Israel.

**CONTENTS**

*Price controls*

91. Retail prices of a number of goods and services remain under the control of the Government (Table III.11). Prices are either fixed by the Government (e.g. certain utilities, and communication and transportation fees) or are subject to supervision, requiring approval before they may be increased (certain foodstuffs, school books, and medicines).

92. Price oversight is exercised under the Law on the Supervision of Prices of Goods and Services of 1996, rather than under the competition law. The Minister of Finance together with the ministers with jurisdiction over the product concerned, may order price controls if (i) the product is controlled by a monopoly; (ii) if the supply is controlled in a manner that substantially affects the market; (iii) the suppliers or purchasers of the product face no or slight competition (e.g. fuel); and (iv) the product is subsidized (e.g. medicines or public transportation). A price control order may also be issued if (i) the product is essential and the restriction is in the public's best interest; (ii) there is a shortage of the product due to special circumstances; and (iii) price regulation is needed to control inflation or to achieve the objectives of the Government's economic and social policy.

**Table III.11**
**Regulated prices**

| Controlled prices | Prices under supervision (Supervision of Prices of Goods and Services Law) |
|---|---|
| Railway transport | Margarine (products of Israel Food Industries only) |
| Municipal taxes | Milk (1% and 3% fat) |
| Electricity (for domestic use) | Basic bread |
| Water (for domestic use) | Hard cheese (2 types) |
| Mail services | Cream (15% fat) |
| Phone services (local calls) | Edible salt |
| Vehicle fees | Butter |
| Vehicle mandatory insurance | Table eggs |
| | Yoghurt (2 types) |
| | School books |
| | Medicines |
| | Day-care centres and kindergarten |
| | Fuel (reduced-lead benzene and 96-octane benzene) |
| | Domestic flights |
| | Public bus transportation |
| | Taxi rides |
| | Selected bank commissions |

*Source*: Information provided by the authorities.

## (iii) Government procurement

93. Israel is party to the plurilateral Agreement on Government Procurement (GPA) and has participated in the negotiations of the revised GPA. Under Israeli law, commitments under the GPA prevail over national procurement regulations.[45] Israeli government procurement, including for defence, totals about US$25 billion annually.[46]

94. Procurement by central government entities, government authorities, statutory corporations, and government companies is governed by the Mandatory Tenders Law of 1992. Procurement by

[45] Article 5(A)(b) of the Mandatory Tenders Law of 1992 states that "Regulations under this Law shall apply to the extent that they do not conflict with an undertaking of the State in an international agreement", such as the GPA.

[46] OECD (2011c).

local authorities is subject to the Municipalities Ordinance of 1967 (Sections 197 and 198) and the Municipalities Regulations (Tenders) of 1987, as amended.

95. The main changes of Israel's government procurement regime since its last TPR in 2006 are the reforms of the offset regime (Box III.1) and the Mandatory Tenders Regulations (1993). The objective of the revised regulations, which entered into force on 1 June 2009, is to streamline and decentralize the procedure for exempting procurements from public tender, while strengthening the basic principles of Israeli tenders legislation, including transparency and the use of public tender as the main form of public procurement (priority to public/open tender, then limited public tender, then selective tender, and exemption from a tender). The regulations are subject to further review. The main revisions are set out below.

*Decentralization of the exemption procedure*

96. An exemption committee has been established in each government office, comprising the Director General of the office, the office's legal advisor (representative of the Attorney General), and the accountant (representative of the Accountant General), whose function is to grant exemptions from tenders, falling under the categories specified in the regulations. This committee grants exemptions for transactions valued above NIS 150,000 and under NIS 4 million. Exemptions from tenders over NIS 4 million and in some cases over NIS 2.5 million are taken to the Central Exemption Committee for a decision. This committee is composed of representatives of the Ministry of Finance. Previously all exemptions from tenders over NIS 750,000 had to be approved by this central committee. The reason for the change was to expedite the exemption procedure. The provisions regarding the decentralization have been implemented on a provisional basis since 2009.

Israeli New Shekel (ILS)

*Transparency*

97. Each exemption from public tender musts be published on the website of the Government Publications Office within five days; this is a prerequisite for the entry into force of the exemption decision. The exemption committee may approve contracts of procurement from a single supplier only after verifying the availability of additional suppliers, by advertising, via the internet, five days before the intent to procure from a sole supplier, and allowing any person to notify the Tenders Committee that they believe that there is more than one supplier. The Tenders Committee is obliged to inform this person of its decision. A participant in a tender may be allowed access to the protocols of the Tenders Committee, the winner's bid, professional opinions submitted to the Tenders Committee, and the Committee's legal advisor's opinion.

98. Since Israel's last TPR, a central website for government procurement has been established and new electronic procedures have been introduced to improve competitive proceedings, including expeditious electronic auctions (a closed pool of tenderers that have to be registered and qualified in advance (Table III.12)). Public tenders are published in two daily Israeli newspapers, on the website of the Government Publications Office[47], and in one daily or weekly Arabic publication. The announcement must include: type of contract, general information on the contract, option to continue the contract, period of the contract, conditions to participate in the tender, where to obtain the tender information and forms, and the place and date for submitting bids. For a tender under the GPA, the information must also be published in an English newspaper (either the Jerusalem Post or the International Herald Tribune-Ha'aretz). The purchasing agency is required to notify all participants in the tender of its final decision.

[47] Viewed at: http://michrazim.lapam.gov.il.

99. Israel's tendering regulations allow for price preferences to local suppliers (Table III.12)). Preferences do not apply to contracts subject to the GPA provisions. Price preferences for certain regions and local subcontracting have been eliminated since the last TPR.

100. A party may challenge a tender at any stage of its process. Contract awards may be challenged in the District Court in the region where the tender was published. The Court may cancel the awarding of the tender on the basis of incorrect procedures or temporarily hold up the tender until the facts are checked.

**Table III.12**
**Key features of Israel's government procurement provisions**

| Method | Application |
|---|---|
| **Procurement procedures** | |
| No tender | Contracts up to:<br>- NIS 50,000 for ministries other than Defence and Public Security;<br>- NIS 200,000 for government companies or subsidiaries<br>Other instances: a contract that is urgently needed in order to prevent substantial harm; a contract pertaining to a transaction for which a tender is liable to cause substantial harm to national security; additional contracts within three years of the conclusion of the first contract; contracts concerning marketing of agricultural produce, advertising in the media, cultural, artistic, entertainment, or certain areas of medicine |
| Expeditious electronic auction | Contracts from: NIS 50,000 to NIS 400,000 for ministries, other than Defence and Public Security<br>Other instances: for the acquisition of goods with special properties and with "uncommon characteristics"; for the acquisition of medical equipment; insurance; R&D activities |
| Public tender | Contracts above:<br>- NIS 400,000 for ministries, other than Defence and Public Security;<br>- NIS 156,000 for government companies or subsidiaries |
| Extraordinary tender | Contracts:<br>- transaction with respect to R&D or scientific work;<br>- when no technical specification is available;<br>- for educational or vocational training; and<br>- when, for defence considerations, the Ministry will need to make investments in infrastructure |
| Shortened tender | Expeditious electronic auction for purposes of shortening procedures, applicable to tenders of up to NIS 30,000 |
| **Preferences for domestic industries** | |
| All international tenders (except for GPA tenders): price preference of up to 15% to domestic suppliers (at least 35% domestic content) | |
| **Offset requirement** | |
| International public tenders with a value above US$5 million; minimum "co-operation" of 35% of the contract value (20% for GPA members). The offset requirement can be satisfied in the form of subcontracting to local companies, investment in local industry, know-how transfer, or acquisition of goods made in Israel or of work or services in Israel (Mandatory Tenders Regulations (Mandatory Industrial Cooperation) of 2007). | |

*Source*: Information provided by the Israeli authorities.

**Box III.1: Israel's commitments under the revised Agreement on Government Procurement**

On 15 December 2011, the 15 parties (representing 42 WTO Members) to the plurilateral Agreement on Government Procurement of 1994 reached agreement on a revision of the Agreement, encompassing both the text and the coverage of the Agreement. The revised text of the GPA, while based on the same principles and main elements of the existing text, improves it in many ways. For example, it brings it up-to-date with developments in information technology and procurement methods. It expands access to government procurement contracts, and eliminates a number of discriminatory measures. Parties' total new market access commitments have been estimated by the WTO Secretariat to be worth about US$80-100 billion annually. The revised Agreement will enter into force once the parties (a minimum of two thirds) have deposited their instruments of acceptance.

Israel has made a number of market-access commitments that enhance the opportunities for foreign companies to compete in its government procurement market.

(a) Several central government entities and government enterprises have been added to Israel's lists of covered entities and government enterprises that procure in accordance with the GPA provisions:

- The number of covered central government entities (Annex 1) increases by 5 to a total of 26. The additions include the Small and Medium Business Agency, and the Central Bureau of Statistics. The threshold for construction contracts tendered by covered central government entities will be reduced from SDR 8.5 million to SDR 5 million starting from the 6th year after entry into force for Israel of the revised GPA. The thresholds for supplies and services remain unchanged at SDR 130,000.

- Nine government enterprises and other entities (Annex 3) have been added to Israel's list (e.g. Environmental Services Company Ltd., Arim Urban Development Ltd. and Marine Trust Ltd.)

(b) Israel's covered procurement includes a number of additional service sectors (including financial services, commercial courier services; education services; and sewage and refuse, sanitation, and similar services).

Israel has invoked developing-country status pursuant to the GPA 1994, allowing it to implement offset arrangements to ensure a certain domestic content in government procurement contracts. To satisfy the offset requirement, a foreign supplier may subcontract to local companies, invest in local industries or research and development, transfer know-how, purchase goods made in Israel, or in any other manner approved by the Industrial Co-operation Authority (ICA). The policy is aimed at protecting and promoting the participation of Israeli small and medium-sized enterprises in government procurement contracts.

In 2007, Israel reformed its offset policy. In addition to government agencies and state-owned companies, local authorities are required to follow an offset policy. All international public tenders exceeding US$ 5 million (up from $0.5 million) must include a clause on industrial cooperation with Israeli entities, with undertakings of at least 35% of the value of the contract. The higher threshold for offsets is intended to make the mechanism more efficient. Israel has notified the Committee on Government Procurement that from 1 January 2009 the offset level has been reduced from 28% to 20% for tenders covered by the GPA (WTO document GPA/97, 17 February 2009).

Israel has undertaken to phase out its offset regime with respect to procurement covered by the GPA. It will progressively reduce the current 20% offset level and eliminate offsets entirely after 15 years from the entry into force of the revised GPA for Israel. Additionally, a threshold of SDR 3 million will be set below which offsets will not be applied. After five years, Israel will also start reducing the number of entities that apply offsets.

Source: WTO Secretariat; Anderson, Robert D. (2012), "Government Procurement in the WTO: 2011 as a Watershed Year", Paper delivered at the 2012 West Government Contracts Year in Review Conference, Washington, D.C. (forthcoming); and WTO document GPA/113, 2 April 2012.