FBC&Co | 60 SINCE 1958

“一带一路”沿线国家法律环境国别报告

（中英文对照）

第一卷

VOLUME I

LEGAL ENVIRONMENT REPORT OF THE “BELT AND ROAD” COUNTRIES

中华全国律师协会 编

ALL CHINA LAWYERS ASSOCIATION

北京大学出版社

PEKING UNIVERSITY PRESS

图书在版编目(CIP)数据

"一带一路"沿线国家法律环境国别报告. 第一卷/中华全国律师协会编. —北京：北京大学出版社，2017.5

ISBN 978-7-301-28304-2

Ⅰ. ①一… Ⅱ. ①中… Ⅲ. ①国际投资法学—指南 Ⅳ. ①D996.4-62

中国版本图书馆 CIP 数据核字(2017)第 090463 号

书　　名	"一带一路"沿线国家法律环境国别报告（第一卷） "Yi Dai Yi Lu" Yanxian Guojia Falü Huanjing Guobie Baogao (Di-yi Juan)
著作责任者	中华全国律师协会　编
责任编辑	陈晓洁
标准书号	ISBN 978-7-301-28304-2
出版发行	北京大学出版社
地　　址	北京市海淀区成府路 205 号　100871
网　　址	http://www.pup.cn　http://www.yandayuanzhao.com
电子信箱	yandayuanzhao@163.com
新浪微博	@北京大学出版社　@北大出版社燕大元照法律图书
电　　话	邮购部 62752015　发行部 62750672　编辑部 62117788
印 刷 者	南京爱德印刷有限公司
经 销 者	新华书店
	730 毫米×1020 毫米　16 开本　81.5 印张　2632 千字
	2017 年 5 月第 1 版　2017 年 5 月第 1 次印刷
定　　价	398.00 元

Israel

Authors: Fischer Behar Chen Well Orion & Co., Omer Ben-Zvi, Michelle Tzhori
Translators: Xu Jiali, Chen Yiping

I. Overview

Established in 1948. Israel has a diverse open market economy. Being a relatively young state, Israel is recognized as a developed market by many major indices. Israel has been a member of the high-income sector of the OECD since 2010.

Israel's population is about 8 million people, 75% of which are Jews; its GDP is approximately US$ 305 billion and the GDP per capita is about US$ 37,200 (2014).

The formal languages are Hebrew and Arabic. Hebrew is the main language throughout Israel. English is commonly used.

The monetary unit used throughout Israel is the New Israeli Shekel ("NIS"), divided into 100 Agorot. The average exchange rate in 2015 was USD 1 = NIS 3.89.

The rate of inflation has been in the range of 1% to 3% for the last few years. In 2015 the inflation rate was -0.1%.

Israel is a secular parliamentary democracy, where General Elections are held every four years to elect 120 "Knesset" (the Israeli Parliament) members. The elections are based on a system of proportional representation of party lists. The Prime Minister serves as head of government and the Knesset serves as Israel's legislative body. The President is elected by the Knesset for a seven-year term for one Term of service. The function of the President is primarily representative and includes the power to accredit diplomatic senior staff, pardon criminals, appoint Judges, and sign and approve laws.

The Israeli judicial system is independent and completely separated from the legislative and executive branches. The court system composed of three tiers:

The Magistrate Courts is the lowest tier court, which has jurisdiction over civil cases of up to NIS 2.5 million (approx. $US 675,000) and criminal cases where the accused faces up to seven years imprisonment.

The District Court is the intermediate tier, which has jurisdiction over civil cases of above NIS 2.5 million in dispute, and criminal cases where the accused faces more than seven years imprisonment. In addition, The District Court has jurisdiction over cases involving companies and partnerships, appeals over arbitration awards, prisoners' petitions, appeals over tax rulings, petitions against government agencies and maritime cases. The District Courts serve as the appellate instance for judgments of the Magistrate Courts. There are six District Courts in Israel.

The Israeli Supreme Court is the highest judicial instance and its decisions and verdicts are binding and constitute precedents for lower instances. Its judges use broad discretion and interpretive approach and its decisions and verdicts often function as de-facto laws, filling legal frames with contents, thus playing a significant role in Israel's politics. The Supreme Court is located in Jerusalem and acts in two types of tribunals: (1) as a further appellate instance for decisions and verdicts issued by the District Courts, and (2) as the High Court of Justice, in matters concerning the legality of decisions of state authorities as a court of first instance.

Besides the above three layers of courts, Israel's judicial system also includes Labor Courts with jurisdiction over labor dispute, Military Courts with jurisdiction over military related disputes and Religious Courts as well as Family Courts, both with jurisdiction over matrimonial and familial cases.

Israel's current economy is diversified, with technology-based industries (such as software and manufacturing of technology based products, TMT, life science, and agriculture technologies) at the frontline, followed by medium and lower tech industries, such as chemicals, plastics and agriculture.

Israel has one of the most resilient and technologically advanced market economies in the world, and is home to many international high-tech companies. Its skilled workforce and concentration of venture capital make the country more competitive in innovative industries such as high-tech and life sciences. The Israeli economy also showed great resilience during the latest global economic crisis.

The development of the Israeli economy over the country's short history was accompanied by dramatic events and evolutionary changes. But as breakthroughs were witnessed and crises were overcome, the features of stability, resilience and solvency were always present, as well as the values encouraged by the Israeli government

of entrepreneurship, innovation and liberalization. Over the years the Israeli economy has established itself as stable and yielding, providing a solid investing environment for both local and international investors.

An essential alteration that accompanied the Israeli economy in the past few decades is the processes of privatization. The Israeli government had privatized its properties since the 1960's, but 1986 marked a year in which those processes were highlighted. Since then and up to these days the Israeli government has been privatizing its possessions and decreasing it's involvement in the markets. As a result of those privatizations, the Israeli economy is considered more competitive and enjoys an increase in growth, freedom of occupation and property rights, as well as a decrease in the prices of goods and services and an improvement in their quality and suitability to the requirements of consumers.

Israel has entered into several trade agreements in order to strengthen its position in the international markets. The most significant agreements are the Free Trade Area, with the European Union, Free Trade Area with the United States and Free Trade Area with the European Free Trade Association States (EFTA). The agreements with the European Union, the United States and the EFTA countries place Israel in the unique position of being a Free Trade Area partner with the world's main economic regions.

In 2015, Israeli exports totalled $53.4 billion, an increase compared to $47.9 billion in 2014. Hi-tech exports accounted for $22.5 billion, compared to $19.9 billion in 2014. Imports totalled $61.3 billion in 2015, compared to $62.5 billion in 2014. Exports to Asia peaked in 2015, reaching $11.6 billion, compared to $9.8 billion in 2014. Import levels from Asia remained stable, with $13.3 billion in 2015, compared to $13.8 billion in 2014.

Being a social country with welfare system, all employees are entitled to labor protection under the Israeli labor laws, and mandatory labor protection stipulations are implied into each employment agreement, even if not written in the agreement. The main sources of employment laws are protective Labor legislation and precedents. In most cases, these sources are cumulative in nature, and can be expanded but not reduced even upon the explicit consent of the employee. Thus, Israeli employees are not permitted to forfeit their statutory rights, collective agreements or other mandatory arrangements.

Galia Lavi, Jingjie He, and Oded Eran (China and Israel: On the Same Belt and Road?; Strategic Assessment | Volume 18 | No. 3 | October 2015) note that the Israeli government encourages cooperation with China in a wide range of fields and has established a Special Economic Task Force to promote economic ties with China. The Silk Road Economic Belt and the 21st-Century Maritime Silk Road (The Belt and Road, B&R) project creates a good opportunity for Israel to achieve this goal and advance its economy. Israel has the potential to be one stop on the Chinese marine Silk Road connecting the Indian Ocean and the Mediterranean Sea through the Gulf of Suez, provided that the construction of a railway line from Eilat to Ashdod port is approved by the Israeli government. Though Israel seems to be a small and dispensable stop on the B&R routes, its significance should not be underestimated. Statistics show Israel's rating in the investment index is 22 out of the 63 countries located along the silk routes, and the operational risk to investment in Israel is considered to be lower than average among countries along the road. These statistics are further validated by an intensification of Chinese investment in Israel. In the past two years, Chinese companies have completed more than $5 billion in acquisitions in various domains, including food (Tnuva), agriculture (Makhteshim Agan), healthcare (Shahal), hi-tech (Nextec), and infrastructure (construction of the new port in Ashdod).

Although China abounds in manpower and is the second largest economy in the world, it sorely needs innovation and technological enhancement for further economic development. Science and technology are precisely the areas in which Israel, as a "start-up nation," can contribute to China's development. Israeli hi-tech companies have much to offer to China's "Internet+" program, which is designed to improve and develop the traditional industrial sector through computers and communications, as well as to expand its electronics infrastructure, from fiber optic networks to satellite communications, in order to improve the flow of information, especially in rural and remote areas. Israeli companies can help the development of the industrial sector in China by streamlining work procedures and improving performance in areas such as industrial robotics.

In addition to developing local industry and agriculture in China, the B&R Initiative aims to expand trade and transportation between countries. Along its routes, it will be necessary to establish sea ports and airports, construct railways, build warehouses, and develop a transport system. Israeli companies will be able to contribute to this complex project through cooperation in developing and integrating advanced technologies and related systems for trains, aircraft, and marine engineering. Other areas that suit the B&R Initiative are the medical services sector and the finance and insurance fields. The insurance sector is also very interesting to the Chinese, who are acquiring the controlling stake in Phoenix and are currently negotiating to purchase Clal Insurance.

II. Investment

A. Market Access

The state of Israel supports its investment initiatives by developing and granting a wide range of incentives and benefits in order to achieve a favourable balance of trade, improve revenues, maximize productivity in designated industrial sectors, ensure healthy competition in the relevant markets and facilitate overall growth.

To attain these goals, Israel offers substantial benefits and concessions through a number of laws and regulations. Special emphasis is laid on high-tech companies and R&D activities, as considerable importance is attached to these fields.

In order to promote weak economic regions within Israel, differential benefits are granted - being substantially higher in the designated priority regions than in the center of the country. Enterprises are however eligible for benefits anywhere they are erected, provided they comply with the relevant criteria.

Additionally, Israel grants foreign investors and major investments increased tax benefits.

The State of Israel welcomes foreign investments particularly in projects related to technology and R&D. Most benefits available to Israelis are also available for foreign investors, and in some cases foreign investors enjoy even a broader support comparing to domestic investors. Investment incentives are outlined in the different laws and regulations, and are managed by the Israel Investment Center (IIC). Two main laws governing these benefits are as follows:

The Law on the Encouragement of Capital Investment: The law was originally introduced in 1959, in order to boost the Israeli economy by attracting local and foreign investors to contribute capital investments to the Israeli industry. The law's main goal is to amplify the attractiveness of the Israeli economy in the international competition over local and foreign capital for investment and development. Likewise, through the set of incentives prescribed by it, the law promotes a more geographically balanced distribution of the population across the country and strengthening of the peripheral regions. The law grants various incentives for foreign and domestic investors. Companies that meet the criteria are entitled to preferential tax treatments and various grants related to land development, constructions and capital equipment. Increased grants and benefits are offered to investors who invest in certain priority areas determined by governmental policies from time to time. As Israel is a small country, a priority area may be located just one to two hours away from Israel's international airport and Metro Tel Aviv.

The Law on the Encouragement of Industrial Research and Development: The main objective of the law is the development of science-intensive industry. The law provides grants, loans, exemptions and reduction in taxes.

The Israel Innovation Authority (formerly known as the Office of the Chief Scientist [OCS]) of the Ministry of the Economy is responsible for implementing government policy regarding the support and encouragement of industrial research and development in Israel. The variety of support programs provided by the Israel Innovation Authority, have played a major role in enabling Israel to become one of the most important global centers for high-tech entrepreneurship.

On the international level, the executive agency of the Israel Innovation Authority, MATIMOP, offers international programs carried out in cooperation with foreign governments and institutions. The international support programs provide support through bi-national funds, and enable joint R&D ventures with foreign counterparts. The government of The People's Republic of China (PRC) and the government of the State of Israel signed a bilateral agreement in 2010 to form the China-Israel Cooperation Program for Industrial R&D with the primary aim of supporting joint industrial R&D projects aimed at the development of products or processes leading to commercialization in the global market. The bilateral framework is jointly implemented by the Chinese Ministry of Science and Technology (MOST) on behalf of the Chinese Government, and MATIMOP on behalf of the Israel Innovation Authority , and pursuant to which the two countries have signed several cooperation agreements related to various provinces in China.

Israel is a party to many tax treaties with various countries including China, which are meant to avoid double taxation. According to the tax treaty between Israel and China, companies involved in trading between the two counties are entitled for a substantial tax reduction related to dividends and royalties.

China and Israel have been constantly developing their relations, including by (i) bilateral R&D cooperation programs, (ii) financial protocols and agreements between the governments of Israel and China for the establishment of special credit lines for financing trade and investments between the two countries, and (iii) establishing special task forces (headed by the Israeli Ministry of Economy and the National Development and Reform Commission of the PRC [NDRC]) aimed at deepening economic cooperation and boosting trade between the countries.

In recent years, the Chinese government expressed interest in the Israeli industry as evident by the increase of acquisitions and investments by Chinese companies of Israeli companies. Recent examples include the

acquisitions of Makhteshim Agan by China National Chemical Corporation, and the acquisition of the Israeli Tnuva Food Industries Ltd. by the Chinese state-owned Bright Food Group.

B. Foreign Exchange Regulation

The Bank of Israel's Market Operations Department monitors and analyzes current developments in the foreign exchange market, and carries out the Bank's exchange rate policy. The functions of the Market Operations Department include, among other things, holding and managing the country's foreign exchange reserves, supporting the orderly activity of the foreign exchange market, and publishing representative exchange rates.

The country's foreign exchange reserves are the main reserves of foreign currency available to the economy. The Bank of Israel holds the foreign exchange reserves to provide liquidity in foreign currency when it is needed, such as to finance the repayments of the country's debt, to pay for exceptional government expenditure on imports at times of emergency, to provide liquidity in a financial crisis, or to be sold as necessary in the course of conducting monetary policy.

Every foreign exchange trading day the Bank of Israel publishes representative exchange rates of the shekel against other currencies, based on the market rates around the time of they are set. It should be noted that the representative exchange rate is an indicator of the rate prevailing in the market, but it has no legally binding significance. The parties to a transaction indexed to foreign currency can therefore carry it out at any agreed upon exchange rate.

There are no exchange controls in Israel on inward or outward investment. Foreign currencies can be bought and sold freely and there are no restrictions on the maintenance of foreign currency bank accounts in Israel. Currency movement restrictions and controls apply to money laundering prevention only.

The movement of foreign currency to and from Israel is free. The New Israeli Shekel is a currency that is traded in many countries. There are no limitations on the repatriation of profits from Israel.

Israel's foreign exchange liberalization process was completed in 2003, when the last restrictions placed on the ability of institutional investors to invest abroad were removed. Foreign currency controls have been completely abolished and the New Israeli Shekel is a freely convertible currency. The Bank of Israel maintains the option to intervene in foreign currency trading in situations of extraordinary movements in the exchange rate which are not in line with fundamental economic conditions, or when the foreign exchange market is not functioning appropriately. Israeli individuals can invest without restriction in foreign markets. Foreign investors can open shekel accounts that allow them to invest freely in Israeli companies and securities. These shekel accounts are fully convertible into foreign exchange.

C. Financing

The financial sector in Israel includes a wide variety of participants, dominated by the Israeli banks. The Israeli banking sector is highly concentrated, comprising five banking groups controlling approximately 94% of the entire Israeli banking credit, with the two largest banking groups holding approximately 60% of the entire banking sector's assets.

Alongside the banks, the financial sector also includes "institutional investors," mainly, insurance groups, provident and pension funds and also – principally with respect to traded credit instruments – mutual funds. Over the last decade, the volume of credit provided by institutional investors has been constantly increasing, the result of major governmental led structural reforms in the financial sector.

The growing impact and larger market share of institutional investors led to a strengthened regulatory framework applicable to those entities. In the past few years, several committees have been appointed by the regulators, with laws and regulations enacted to create an extensive regulatory framework relating to institutional investors' investment in non-governmental bonds, tailor made credit facilities, actions in case of debt restructuring and providing credit to entities previously subject to such proceedings.

This regulatory framework addresses different aspects of the credit process – from limitations on the types of credit in which the institutional investors are entitled to engage, through to the content of the agreements between the parties in credit transactions, to structural matters relating to the day-to-day management of credit by the institutional investors.

However, the contribution of the institutional investors to the financial market is reflected in the growing competitiveness of the credit market for the large businesses sector, while in the small and medium-sized enterprises (SMEs) and consumer loans' sectors the banks remain dominant, with a market share of approximately 90%. Other participants in those markets are non-bank lending entities, specializing in certain types of credit (such as factoring and discount services, short terms loan facilities (provided also by credit card issuers and P2P platforms), some apply to SMEs and some (mostly those using virtual platforms) apply to consumers. During the

past year, regulatory efforts were invested mainly in setting the framework for entering the market and the activity of such credit providers.

Overdrafts (repayable on demand) with fluctuating interest rates are the most commonly used facility for financing working capital or for funding seasonally affected business. Banks also offer short, medium or long-term loans. The repayment terms are negotiable and the rate of interest may be fixed or variable. To obtain bank finance, the business will normally be required to provide adequate security, typically in the form of a fixed or floating charge over the business assets, as well as, in certain circumstances, personal guarantees from the owners. In addition, banks offer various other financing arrangements through subsidiaries or affiliates, such as instalment credit, leasing, factoring and invoice discounting, and mezzanine financing.

In recent years, several foreign banks have established representative offices in Israel, but none of them commenced material retail commercial activity in the country, and most of them work on recruiting customers for their investment banking and private banking activities.

Banks in Israel are regulated by Israel's central bank, the Bank of Israel. The Bank is independent, and its objectives and operating methods are specified in the Bank of Israel Law, 5770-2010. Its objectives are to maintain price stability, to support the Government's objectives – especially growth and employment, and to support the stability of the financial system.

D. Land Policy

The Israel Land Authority manages land owned by the State of Israel (and by the Jewish National Fund and the Development Authority) which constitutes approx. 93% of the entire territory of the State of Israel (which is approx. 22,000 square km). These land properties are leased to home and property owners for long periods of time, resulting in land being traded as if it were privately owned. The remaining 7% of land in the State of Israel is privately owned.

There is no explicit legal restriction concerning ownership of land in Israel by foreign residents. However, regarding acquisition of land that is controlled by the Israel Land Authority, a foreign resident must receive approval from the Chairman of the Board of the Israel Land Authority. In certain cases, lease contracts with the Israel Land Authority contain provisions whereby a transfer of shares in the lessee corporation to a foreign resident is subject to the Israel Land Authority's consent. There is no restriction concerning sale or transfer of privately owned land to a foreign resident.

E. The Establishment and Dissolution of Companies

Israeli business entities include companies, partnerships, cooperatives, and non-profit organizations. Individuals may conduct business without establishing any legal entity.

a. Company

The most common form of business entity in Israel is a limited liability company with capital stock (share capital). The Israeli Companies Ordinance defines a company as a corporation formed and registered in Israel, in accordance with the Israeli law.

Most companies limit the personal liability of their owners, usually in the form of shares. In this case, the term "Limited" (or the abbreviation "Ltd.") must appear as part of the full name of the company.

No requirements exist regarding the nationality or residency of stock holders and company directors. There are no restrictions regarding non-residents holding shares in Israeli companies. However, there are certain restrictions on the ownership by non-Israeli entities or persons of interests in Israeli companies in certain sensitive industries (e.g., banks or a bank holding companies, insurance companies, telecommunications companies, companies managing pension funds, and companies controlling natural resources or essential services). In addition, nationals of some countries that are, or have been, in a state of war with Israel, may not own securities in Israeli companies.

A company may be registered as a "Private Company" or a "Public Company", with securities registered on a Stock Exchange. Both types of companies must present annual reports, including audited financial statements to their shareholders. A private company may not offer or sell debentures or shares to the public and its articles of incorporation must contain restriction on transferability of its shares. A public company may offer stock or debentures to the public, but only after issuing a prospectus in accordance with the requirements of applicable laws, and is obliged to publish an annual report that includes the audited financial statements and directors' report.

b. Partnership

The Partnership ordinance defines a partnership as an entity that consists of persons who contracted to form a partnership. Personal liability of the partners is not limited unless they are limited partners of limited partnerships.

A foreign partnership is also permitted to do business in Israel.

c. Cooperative

This type of business entity is found mainly in agriculture, (cooperatives such as a kibbutz or moshav), transportation and in certain types of marketing operations associated with agricultural products.

d. Non-Profit Organizations

These entities operate mainly as academic institutions, hospitals, charitable organizations and municipalities. Non-profit organizations are subject to a special law dealing mainly with the formation of such organizations and the way they may operate as such.

e. Subsidiary vs Branch

Foreign (i.e., non-Israeli) companies ("Foreign Company") operating in Israel generally do so in one of two ways – by incorporating an Israeli corporate subsidiary of the Foreign Company ("Subsidiary"), or by the Foreign Company registering a branch in Israel ("Branch").

An Israeli company is similar to a US corporation or an English company. The liability of its shareholders is limited, it has one or more class of shares, it is owned by its shareholders, it has a board of directors, and may have, if active, a chief executive officer. The company's capital structure and the authority and rights of the shareholders, the board and the chief executive officer are set by the company's Articles of Association, except for those matters that are regulated by the main law governing Israeli companies, the Israeli Companies Law, 5759-1999 ("Companies Law").

A Subsidiary is a separate legal entity whose shareholder is the Foreign Company. The liability of the Foreign Company is limited to the amount of its investment in the Subsidiary, subject to piercing the corporate veil considerations. As a separate legal entity, a Subsidiary may take any legal action in its own name, including all of the following: (i) hold all appropriate local licenses, (ii) enter into agreements (including with local vendors, suppliers and services providers), (iii) hold local bank accounts and (iv) hold a subcontract or service level agreement with its parent company to perform services under various customer contracts.

Under Israeli law, a Foreign Company may maintain a place of business in Israel only if it is registered as a 'foreign company' under the Companies Law. A Branch (a registered Foreign Company) is not a separate legal entity from the Foreign Company, even if their commercial and financial activities are separate. There is no corporate veil separating the Foreign Company from the Branch and, as a result, the Foreign Company is deemed to have legal presence in Israel, generally making the Foreign Company directly responsible for liabilities of the Branch (to creditors, tax authorities, etc.). As a Branch is not a separate legal entity, the following would need be done by and in the name of the Foreign Company: (i) hold all appropriate local licenses, (ii) enter into agreements (including with local vendors, suppliers and services providers), (iii) hold local bank accounts; the Branch's authorized representative in Israel may act on behalf of the Foreign Company in connection with such matters. Further, as a Branch is not a separate legal entity from the Foreign Company, there will be no subcontract or service level agreement with the Foreign Company to perform services under various customer contracts.

From a pure corporate structure and liability protection perspective, foreign companies tend to prefer to operate in Israel through an Israeli corporate subsidiary rather than by way of a local branch. Please note the tax considerations outlined below.

a) Subsidiary vs Branch – Tax Considerations

Under the assumption that the Foreign Company's activities in Israel will constitute a taxable presence in Israel, set forth below are the main Israeli tax considerations to be taken into account in determining whether to operate through a Subsidiary or a Branch.

(i) Subsidiary

Income Tax Considerations – the Subsidiary will be considered, for legal and tax purposes, as an Israeli resident. The Subsidiary would be subject to corporate tax in Israel (currently at the rate of 25%) on the profit (income less expenses) it will generate from its activities and operations in Israel. A company that has net profits (profit less tax) generally will able to distribute its net profits as a dividend to the Foreign Company. As a matter of Israeli domestic law, the withholding rate on dividends to a non-Israeli resident is 25%. Depending on the home jurisdiction of the Foreign Company, an applicable bi-lateral income tax treaty may reduce the withholding rate.

VAT Considerations – on the services that it provides to its Israeli clients, the Subsidiary would have to charge the clients with Israeli VAT (currently 17%), which the Subsidiary could offset against the Israeli "output VAT" (i.e., VAT that it pays). The Israeli VAT would be added to the sum charged by the Subsidiary to its clients and would be payable by the Subsidiary to the Israeli Tax Authorities ("ITA").

Filings – the Subsidiary would be required to register for income tax purposes (i.e., to open tax and deduction

files) and VAT purposes. It would be required to file annual income tax returns and monthly withholding and VAT reports.

(ii) Branch

Income Tax Considerations – the profit allocated to the Branch would be taxed in Israel at the Israeli corporate tax rate. In the Branch context it would appear to be desirable for the foreign entity to seek a ruling from the ITA to establish an agreed profit calculation, possibly on a cost-plus basis. The foreign entity would be taxed annually in Israel on its income generated by the Branch, and in most cases would not be able to defer the taxation of this income in its home jurisdiction until its distribution to the home jurisdiction. Under this structure, no withholding tax would apply to a distribution of profits from the Branch to the Foreign Company. As Israel does not have a branch tax, all of the net profit generated by the Branch would be allocated to the Foreign Company. It may be that the Foreign Company would be able to receive a direct credit in its home jurisdiction for the Israeli corporate tax paid by the Branch (provided it does not incur losses).

VAT Considerations – on the services it provides to its Israeli client, the Branch would have to charge the clients with Israeli VAT, which the Branch could offset against its Israeli "output VAT" (i.e., VAT that it pays).

Filings - filing and reporting obligations would be the same as with respect to a Subsidiary in regard to the activities of the Branch in Israel.

Registering an Israeli Branch (registering the Foreign Company)

To register a Branch (as a registered Foreign Company), the Foreign Company should file with the Israeli Companies Registrar the following documents:

• Certificate of Incorporation – an authenticated copy of the company's certificate of incorporation, and an authenticated Hebrew translation of the same.

• Memorandum and Articles of Association – an authenticated copy of the company's Memorandum and Articles of Association (By-Laws), and an authenticated Hebrew translation of the same.

• Good Standing Certificate – an original good standing certificate for the company issued by the applicable authority in its jurisdiction of incorporation.

• List of Directors - an original letter stating the full names of all its directors, their addresses (may be the offices of the company), citizenship, passport numbers (or Israeli ID numbers for Israeli persons).

• Local Agent – an original letter stating the full name and address (attaching a copy of his/her Israeli ID card) of a person situated in Israel who shall be authorized to accept service of process, judicial documents, court summonses, or any other notice upon the company.

• Powers of Attorney – (i) a PoA authorizing the local agent to act on the company's behalf in Israel, and (ii) a PoA authorizing a local representative (commonly, a local law firm) to register the company as a 'foreign entity' in Israel.

The current fee charged by the Companies Registrar in connection with the registration of a foreign company is approx. EURO 600. There is an annual fee for registered foreign companies (currently approx. EURO 350).

Once the Companies Registrar receives the complete application, the registration procedure usually takes no more than 14 business days. Once the company is registered, a certificate of registration will be issued with a nine digit company number which is required to be used for company affairs. Once the company is registered, it will be necessary to apply for an income tax file number and a VAT number with the relevant tax authorities. Pursuant to the Companies Law, a foreign company registered in Israel is required to notify the Companies Registrar of any change with respect to information included in the filed documents.

b) Incorporating an Israeli Corporate Subsidiary

The documents required to register a new Israeli company include: (1) Company Form 1 which contains the essential details required to establish a company, (2) the company's articles of association, (3) a declaration of the initial director(s) and (4) a declaration of the initial shareholder. The forms and the company's articles of association must be submitted to the Companies Registrar in Hebrew and must be signed by the initial director(s) and/or the initial shareholder(s), as applicable, in the presence of an Israeli lawyer in Israel (or authenticated).

In order to incorporate a new Israeli company, at least one individual or entity must serve as the initial shareholder and at least one individual or entity must serve as an initial director (if an entity serves as a director a specific individual must be designated to act for the entity on the board), who may be the same person. Where a corporation is registered as a shareholder of the new company, it is necessary to obtain copies of that company's incorporation documents as well as a certificate evidencing good standing and such copies must either be certified in Israel by an Israeli attorney (or authenticated).

Certain activities in a company, including, for example, the issuance of shares, the appointment and resignation of directors and changes to the company's capital structure, require reports to the Companies Registrar, which must be signed by a director or senior officer (the CEO or an officer reporting to the CEO) of the

company in the presence of an Israeli lawyer in Israel (or authenticated) and submitted within 14 days. In light of these requirements, it is advisable that at least one director or senior officer of an Israeli company be an Israeli resident. In addition, a company is usually required to hold an annual general meeting once per calendar year; however this is subject to exceptions. Israeli companies are also required to submit an annual information form once per calendar year.

To incorporate a corporate Subsidiary, the following documents are required to be completed by the initial director(s) and/or shareholder(s) and the following information is needed in order to complete the incorporation:

• Company Name – it is necessary to provide a desired name of the company in English (the Hebrew name will be a translation or transliteration of the English one).

• Shareholder Details – it is necessary to provide the name, Israeli ID number, and full address of residence of each shareholder. In the event that the shareholder is a non-Israeli citizen, the following documents are required: (i) for a shareholder that is a legal entity – a copy of the Certificate of Incorporation of the shareholder and proof of the current existence of the legal entity (e.g., a current Good Standing Certificate) and (ii) for a shareholder that is an individual, a copy of the photo page of the shareholder's passport. The shareholder must sign a declaration stating that it is fit to act as shareholder. Copies of such documents must be certified as true copies in Israel by an Israeli attorney (or authenticated).

• Director Details – it is necessary to provide the name, telephone number, full address of residence and Israeli ID number (if applicable) of the directors. In the event that any of the directors is a non-Israeli citizen, it will be necessary to submit a copy of the first page of such director's passport certified by an Israeli attorney in Israel (or authenticated). In the event that the director is a non-Israeli citizen, the following documents are required: (i) for a director that is a legal entity – a copy of the Certificate of Incorporation of the director, and proof of the current existence of the legal entity (e.g., a current Good Standing Certificate) and (ii) for a director who is an individual - a copy of the first page of his/her passport. The director(s) must sign a declaration stating that the director(s) is/are fit to serve as director(s) (an Israeli attorney must witness the signature of this form). Copies of such documents must be certified as true copies in Israel by an Israeli attorney (or authenticated).

• Registered Office – it is necessary to provide an address in Israel to serve as its registered office.

• Initial Capital Structure and Issuance – it is necessary to specify how many shares (and whether there will be separate classes of shares) to authorize and issue as well as their par value (at least NIS 0.01) or advise if it is desired for such shares to be issued without par value. The capital structure (the number of authorized shares and their par value) can be amended at any time with the consent of the shareholders.

• Initial Articles of Association – articles of association need to be filed. It is necessary to indicate the purpose of the new company; however, it is acceptable simply to state that the company will engage in lawful activities. The Companies Registrar currently accepts only Hebrew-language articles.

The current fee charged by the Companies Registrar in connection with the incorporation of a new company is approx. EURO 600. There is an annual fee for Israeli companies (currently approx. EURO 350). Once the Companies Registrar receives the complete application, the procedure usually takes no more than 5 business days. Once the company is registered, a certificate of registration will be issued with a nine digit company number which is required to be used for company affairs. Once the company is registered, it will be necessary to apply for an income tax file number and a VAT number with the relevant tax authorities.

A company may be liquidated voluntarily, or at the request of creditors under court supervision.

F. Merger and Acquisition

Recent years proved to be remarkably prosperous years for merger and acquisition activity in Israel. A notable trend which increased substantially in the last few years is the interest of Chinese and other Asian companies in Israeli companies. Large transactions involving Asian acquirers which took place in recent years include the acquisition of controlling stakes in some of Israel's largest corporations, such as food conglomerate Tnuva by China's Bright Food Group, and insurance provided Phoenix Holdings by China's Fujian Yango. Other notable transactions are the acquisition of Viber (communication application) by Japan's Rakuten, of Tambour (paint company) by Singapore's Kusto group, and of Lumenis (minimally-invasive clinical solutions) by China's Xio Group.

The purchase of an Israeli company may be achieved through acquisition of its shares or by a purchase of its assets. In addition, the Israeli Companies Law, 5759-1999 ("Companies Law") allows for a merger or consolidation of two or more companies, subject to certain conditions.

The Companies Law does not impose restrictions on the transfer of shares in a private company, but such restrictions may be included in a company charter documents. An Israeli company cannot merger with or into a foreign (non-Israeli) company and, therefore, acquisitions by foreign companies are commonly done by way of stock acquisitions or reverse triangular mergers (whereby the foreign entity incorporates an Israeli subsidiary that

mergers into the Israeli target).

The tax aspects of each of such transactions differ and each has certain advantages and disadvantages. In some cases the transaction requires also the approval of Israeli regulatory agencies, such as the antitrust authority. Moreover, if the Israeli target company benefits from certain governmental funding (such as grants from the Israel Innovation Authority or tax benefits [under Approved Enterprise or Benefitted Enterprise programs]), then approval of the relevant government agency may be required for the acquisition of the Israeli company by a non-Israeli resident.

The rules of the Companies Law generally apply equally to private and public companies, although the internal approval processes in public companies are subject to special rules. Where a public company is involved in the transaction, certain disclosure requirements are triggered. For the most part, the acquisition of an Israeli public company will be structured and implemented in the same manner regardless of whether the company is listed solely on the TASE, listed on an exchange outside of Israel, or dual listed.

There are three primary procedures to gain 100% of the shares of a public company: (1) a reverse triangular merger, (2) a tender offer, and (3) court approved mergers (pursuant to Sections 350 and 351 of the Companies Law). There are no rules that dictate minimum offer price or other deal terms. With respect to tender offers and reverse triangular mergers, the offer must be on equal terms for all target shareholders holding the same type of security. Even where a tender is approved by the requisite majority of shareholders, in the case of a "full" tender offer, shareholder who did not positively accept the offer may still appeal to the court to determine that the terms of the offer are less than fair value.

In tender offers and mergers, where the target company is public and listed solely on the TASE, the disclosure requirements are clearly set out by the regulations promulgated under the Israeli Securities Law. Valuations and other material financial information considered by the board of directors of the target in connection with the acquisition must be disclosed to the target's shareholders, including copies or descriptions of any fairness opinions that have been obtained.

Although not legally required, it is often desirable to obtain pre-rulings from the Israel Tax Authority with respect to two matters: (1) clarifying the withholding obligation imposed on the acquirer in connection with payments made to the target shareholders, and (2) providing that the assumption of employees' options by the acquirer would not result in an immediate tax event for target option holders.

For companies belonging to specific industrial sectors, the acquisition of a certain ownership percentage or of control requires special regulatory approvals. For example: (1) the acquisition of 5% or more of the shares of a bank or a bank holding company requires a permit issued by the Governor of the Bank of Israel after consultation with the Bank of Israel's Licensing Committee, (2) the acquisition of 5% or more of the shares of an insurance company requires a permit from the Superintendent of Insurance Businesses, (3) the acquisition of certain percentages in companies providing telecommunications services may require a license from the Ministry of Communications, and (4) in certain cases regarding the acquisition (primarily by means of privatization of government companies) of companies controlling natural resources or essential services, the State of Israel will retain certain veto rights and other powers.

The Israeli economy is a vibrant place for transactions. The local culture in Israel plays a significant role in the thriving marketplace and the soaring number of record deals. Israelis tend to be straight to the point and determined. Transactions and interpersonal relations during the span of a transaction in Israel are less formal than in other parts of the world, providing ease to the deals. Nonetheless, carrying out deals in Israel resembles the basics of deals in the United States, whether it is in the style of drafting transaction documents, in the standard terms and conditions which are applied, or the common way of doing business.

G. Competition Regulation

The Restrictive Trade Practices Law, 5748-1988 (the "Law") is the primary law dealing with antitrust issues in Israel and its objective is to prevent harm to competition or the public. The Law defines and regulates the substantive rules that apply to the various restrictive trade practices (restrictive arrangements; mergers; monopolies; concerted groups).

In addition, the Law determines rules concerning the structure and the powers of the Israeli Antitrust Authority ("IAA"), the general director of the IAA (the "General Director") and the Antitrust Tribunal (the "Tribunal"), as well as procedural rules that apply to cases brought before each of them.

a. Restrictive Arrangements Control Regime

Section 2(a) of the Law defines a restrictive arrangement as an arrangement, between persons (including

legal entities) conducting business, according to which at least one of the parties restricts itself in such manner that might prevent or reduce competition between the person and the other parties to the arrangement, or any of them, or between the person and a third party. Section 2(b) of the Law also provides conclusive presumptions that an arrangement involving a restraint will be deemed to be a restrictive arrangement if it relates to: the price to be demanded offered or paid; the profit to be obtained; market allocation; and the quantity, quality or type of assets or services in the business.

With regard to extraterritorial application of the restrictive arrangement control regime – the IAA applies the effect doctrine in order to acquire extraterritorial jurisdiction over restrictive arrangements, including cartels, performed outside of Israel which harm competition in Israel.

In general, a restrictive arrangement is prohibited unless it is permitted in accordance with the Law. Section 4 of the Law establishes that the parties to a restrictive arrangement can receive an approval from the Antitrust Tribunal in the case where the Tribunal finds that the arrangement is in the public interest; or it can be exempted by the General Director upon the request of a party to a restrictive arrangement and following consultation of the General Director with the Exemptions and Mergers Committee. The General Director considers whether the restrictive arrangement considerably reduce competition or cause substantial harm to competition, whether the objective of the arrangement is to reduce or eliminate competition and whether the restraints in the arrangement are necessary to fulfil the objectives of the arrangement.

A statutory exemption may also apply to certain arrangement, detailed within section 3 of the Law, inter alia: (1) arrangements involving restraints, all of which are established by law; (2) arrangements relating to specific business sectors (eg, agricultural, international air or sea transformation); (3) arrangements involving restraints relating to intellectual property rights; (4) arrangements entered into by a company and its subsidiary; (5) certain arrangements relating to real property rights assignment; (6) certain arrangements relating to transfer of property rights (non-compete following a purchase of a business); and (7) arrangements involving trade unions or an employer's association involving restraints which relate to employment and labor conditions.

Section 15a of the Law grants the General Director the power to set block exemptions that will be published as regulation, following a notification process which includes receipt of comments from the general public on the proposed said regulation. When publishing block exemptions, the General Director basically exempts parties to a restrictive arrangement from seeking a specific exemption from the General Director or the approval of the Antitrust Tribunal, subject to the terms of the various block exemptions.

During the past years the IAA published various block exemptions, including the Block Exemption for Restrictive Arrangements Causing De Minimis Harm to Competition, the Block Exemption for Joint Ventures, the Block Exemption for Research and Development Agreements, the Block Exemption for Exclusive Dealing, the Block Exemption for Exclusive Distribution, the Block Exemption for Franchise, and the Block Exemption for Non-horizontal Arrangements without Price Restrictions.

b. Merger Control Regime

The Law defines the term 'merger of companies' broadly by providing a non-exhaustive list that includes: the acquisition of a company's main assets by another company or the acquisition of shares in a company by another company by which the acquiring company is accorded more than a quarter of the nominal value of the issued share capital, or of the voting power, or the power to appoint more than a quarter of the directors, or participation in more than a quarter of the profits of such company; the acquisition may be direct or indirect or by way of rights accorded by contract.

Nevertheless, since the Law does not provide a conclusive set of characteristics that will constitute a merger, even the acquisition of less than a quarter of any of the above-mentioned rights may constitute a merger if further affinity exists between the parties (such as loans or involvement in the management of a firm).

The Law will apply to a merger involving a foreign party if each of the merging parties meets the conditions of the 'nexus test' set forth in the IAA's Merger Guidelines (the "Guidelines"):

- If a foreign company is registered in Israel – in such circumstances the Law applies explicitly.
- If a foreign company has a 'merger affiliation' with an Israeli company. According to the Guidelines, a merger transaction between a foreign company (affiliated with an Israeli company) and an Israeli company creates an indirect merger between the two Israeli companies. The Guidelines provide that when a foreign company holds more than one-quarter of any of the abovementioned rights (ie, more than a quarter of the nominal value of the issued share capital; or the voting power; or the power to appoint more than a quarter of the directors; or participation in more than a quarter of the profits) in an Israeli company, it will be viewed as a party to any merger transaction involving the foreign company.
- If a foreign company maintains a place of business in Israel (ie, if it holds a significant influence over the conduct of a local representative).

The Law requires all merging companies to file a merger notification with the IAA when (at least) one of the following thresholds set under the Law is met:

• The combined sales turnover of the merging companies in Israel in the fiscal year preceding the merger exceeds 150 million shekels and each of the merging companies' sales turnover exceeds 10 million shekels. The sales turnover threshold takes into consideration the sales turnover of all the entities controlling or controlled by or through the merging company, and the turnover of any entity controlled by or controlling any of them, either directly or indirectly;

• As a result of the merger, the combined market share (in any market) of the merging companies in the total production, sales, marketing or acquisition of particular goods or similar goods, or the provision of a particular service or a similar service, exceeds 50 per cent of the market; or

• One of the parties has a 'monopoly' (ie, holds more than 50 per cent of the total supply or purchase in a certain market in Israel, which may be either a product or a service market, including markets not relevant to the transaction).

The market share thresholds take into account all of the entities controlling or controlled by each party. In the case of a transaction involving a company that conducts business both in Israel and abroad, the requirements set forth above apply solely with respect to the company's turnover and market share in Israel.

The Law provides that the General Director is required to notify the merging companies of his decision with respect to the merger within 30 days from the date in which the completed notification forms were received by the IAA from all the merging parties. Nonetheless, the General Director may approach the parties or the Antitrust Tribunal with a request to extend the deadline. If the General Director does not render a decision within the 30-day notification period and no extension was granted, the merger is deemed approved.

As a practical matter, when cross-border merger transactions require approval in multiple jurisdictions, the IAA will sometimes take into account the decisions made by other authorities in different jurisdictions (primarily the US Federal Trade Commission, Department of Justice and the European Commission), where there are no unique circumstances concerning the Israeli market. It is also possible that parties in such circumstances waive their right to confidentiality with respect to information provided to competition authorities, in order to enable the IAA to seek information from those authorities with respect to the merger.

The General Director is mandated to object to a merger of companies, or to stipulate conditions for the merger, if he finds that there is reasonable likelihood that, as a result of the merger, competition in the relevant sector would be significantly harmed or that the public would be harmed by: the high price level of an asset or of a service, the low quality of an asset or of a service, or the available quantity of the asset, of the scope of the service supplied, or the constancy and conditions of supply.

c. Monopoly Control Regime

According to section 26(a) of the Law, the concentration of more than half of the total supply or acquisition of an asset, or more than half of the total provision or acquisition of a service, in the hands of one person shall be deemed a monopoly.

Under the current regime, the declaration of a monopoly by the General Director is of declaratory validity only, meaning that a monopoly is a matter of "status". Therefore, the obligations and limitations applied to a monopoly owner exist regardless of the general director's declaration or lack thereof.

In addition, section 26(c) of the Law permits the application of the monopoly laws also to those with a market share of less than 50 per cent, pursuant to a ruling by the Minister of Economy and with the recommendation of the General Director, where an entity has a "decisive impact" on the market. However, in practice, this section has hardly been used.

In general, a status of monopoly is not prohibited. Nonetheless, monopolists must abide by several strict standards of conduct:

a) IA monopoly owner may not unreasonably refuse to deal (supply or purchase) goods or services in a market in which it holds a monopolistic market share; and

b) IA monopoly owner may not act in a manner that constitutes abuse of its dominant position in the market, in a manner likely to reduce competition in business or to harm the public. An abuse of a dominant position by a monopoly owner includes, inter alia:

• Icharging unfair prices for products or services;

• Ireducing or increasing quantity of products or services that the monopoly owner offers, not in the framework of a fair competitive action;

• Iapplying dissimilar contractual conditions to similar transactions, which might grant certain customers and suppliers an unfair advantage over their competitors; and

• Isubjecting a transaction with regard to an asset or service of the monopoly to conditions which are

unrelated to the subject matter of the transaction (tying).

The Law also states that any harm relating to one of the following shall be deemed to be harmful to competition or to the public: price of asset or service; quality of asset or service, quantity of asset or service; terms of supply and the regularity and conditions of such supply; and a barrier to entry to the market or to a switching barrier within the market.

In this regard, the General Director has the authority to supervise and instruct the monopolist in its business activities, to ensure that its behavior, or that the mere existence of a monopoly, does not harm competition in the market or the public.

d. Concerted Group Control Regime

According to the Law, the General Director may determine that a limited group of persons conducting business and possessing a concentration of more than half of the total supply or acquisition of an asset or provision or acquisition of a service constitutes a concerted group, and that every such person is a member of the concerted group, if the General Director determines that the following conditions are met:

- there is limited competition or there are conditions for limited competition between the group's members or within the market in which they operate; and
- instructions imposed by the General Director are expected to prevent a significant harm or concern for harm to competition in the market or to the public, or may significantly strengthen competition or may create conditions for significant improvement of market competition.

In addition, the Law lists several barriers to entry to a market; a combination of two or more of such barriers shall be regarded as conditions for limited competition.

The General Director may order a concerted group to take steps that would prevent harm or concern for harm to competition or to the public or steps that are expected to significantly increase the competition between the members of the concerted group, or to create conditions for such increase.

In addition, the Antitrust Tribunal, upon the request of the General Director, may order the sale of holdings (entirely or partly) of members of the concerted group under certain circumstances, if the sale would prevent significant harm or concern for harm to competition or to the public, or if it would significantly strengthen competition between the members of the concerted group.

e. Enforcement

Any violation of the Law has criminal, administrative and civil consequences.

In general, all of the provisions of the Law are criminal offences; however, criminal sanctions are not often used and are reserved, mostly, for the most significant violations of the Law.

The Law includes several administrative enforcement tolls: administrative fines and administrative determinations (decisions). The General Director may issue an administrative determination declaring that a certain violation has occurred; the General Director's determination serves as prima facie evidence in court. The Law authorizes the General Director and third parties to agree to a consent decree that provides, inter alia, for an amount of money to be paid to the State Treasury in lieu of other enforcement measures.

Any violation of the Law is deemed a tort under the Torts Ordinance [New Version], 5728-1968. The Israeli Class Action Law enables the submission of motion to certify class actions in antitrust cases. Often, the trigger for private enforcement in the past was based on criminal or an administrative enforcement action taken by the IAA. However, the new trend expands the said trigger to enforcement actions taken by foreign competition authorities worldwide. Other motions to certify class actions are based on claims against monopolists regarding excessive pricing.

H. Tax

a. Corporate Tax

Israeli Companies are taxable at a rate of 25% of their revenues, in Israel and worldwide. Credit is given for tax that is paid by the Israeli corporation overseas. In certain circumstances, reduced corporate tax at rates of 5%-16% will apply to income originating from a "preferred establishment" or a "special preferred establishment" (according to the Capital Investment Encouragement Law).

b. Income Tax

According to Israeli Tax Ordinance, Israeli residents, either individuals or corporations, are subject to income tax on their worldwide "taxable income". Israeli residents are liable for tax on a personal basis, on income that they have generated inside or outside of Israel, including income from employment, business, interest, dividends, royalties and capital gains. The income taxation method in Israel is progressive; the initial tax rate is 10% and it gradually increases to a maximum of 50%. A person will be considered resident of Israel, for tax purposes, if his

tax domicile is in Israel. The law states that a person's tax domicile is presumed to be in Israel when: (i) he has been in Israel during the tax year 183 days or longer, or (ii) he has been in Israel during the tax year 30 days or longer, and his total stay in Israel in the tax year and in the two preceding years is 425 days or longer.

Non-residents are subject to tax on any income derived from an Israeli source. Where there is a double tax convention between Israel and the other countries, its terms may modify the taxable income.

c. Value Added Tax (VAT) and Indirect Taxes

The Value Added Tax Law requires the payment of VAT of 17% (2016) on goods sold and services rendered and is collected from the buyer by the seller at the time of sale. VAT is imposed at a uniform rate of the price of a 'transaction' in Israel or on the import price of goods into Israel. Israeli law prescribes types of transactions that will either be exempt from payment of VAT, or charged at a zero rate. In the first case, this will lead to prohibition of deduction of VAT that was paid by the supplier at the time of generation of the tax exempt revenue, whereas charging the transaction VAT at a zero rate (for example, transaction of export from Israel) will allow for reclaiming of the tax that was paid when generated.

In addition to VAT that is imposed on imported goods, the transaction may be liable for customs and/or purchase tax payable by the importer, in accordance with the regulations on the subject.

d. Taxation of Foreign Companies

As a rule, a foreign company controlled and managed outside of Israel, with no permanent establishment in Israel, is not required to pay tax in Israel, except for special income such as gains from real-estate investments or generating profit from a natural resource of the State of Israel. In accordance with a number of double taxation treaties, passive income, such as royalties' income, dividends and interest, will be subject to tax at a limited rate that may be withheld at source, and against which credit will be credited in the country of domicile. In case of revenue of a foreign entity that operates overseas, through a permanent establishment, and the dividends are related to that permanent establishment's operations, the country of origin will be given a full taxation right.

e. Withholding Taxes

To a large extent, the tax collection system is based of withholding of tax deducted at source from payments. All employers are obligated to withhold tax on employee's salary (employees usually are not required to file tax returns). Payment for non-resident which constitute taxable income of the recipient requires withholding tax of 25% from the payment, unless the scope of a valid treaty is being enforced.

f. Transfer Pricing

The Income Tax Ordinance provides that every international transaction between related parties must reflect its fair value, according to the arms-length principal. The Transfer Pricing Regulations introduced in 2006, determines the scope of the inspected transactions and the necessary means for achieving the fair market. The regulations are based on both the OECD 1995 transfer pricing guidelines and the U.S main principals.

g. Double Taxation Treaties

The State of Israel has engaged heretofore in 54 double taxation treaties. The Israel-China treaty became effective in January 1996. These treaties lay down the manner of distribution of income between the member states. The taxation treaties include, inter alia, relief in the form of reduced tax payment in Israel for income of a foreign resident in Israel including profits of business, capital gains, royalties, dividends and interest. Further information regarding taxation treaties to which Israel is a signatory may be found on the State Revenue Division website www.financeisrael.mof.gov.il.

h. Subsidiary vs Branch–Tax Considerations

See discussion in Chapter E above (The establishment and dissolution of companies).

I. Securities

In Israel there exists a highly developed system of capital markets, which relies on local activity through the Tel Aviv Stock Exchange (TASE), a well-developed venture capital industry and vast international activity of institutional and technological investors in the form of significant capital transactions between Israel and overseas countries. Many Israeli companies, particularly in the technology and biomedical fields, have raised capital through overseas exchanges, particularly US exchanges: the number of Israeli companies whose shares are traded on US exchanges is one of the highest (second to China).

In Israel there is a single stock exchange located in Tel Aviv – the Tel-Aviv Stock Exchange (TASE) – which is jointly owned by commercial banks in Israel and leading investment houses both in the country and overseas. The trade on the TASE is conducted by fully computerized systems, and the reporting and control standards practiced by it are high. In late 2014, 473 corporations were traded on the TASE, and the market value of all traded

securities, including bonds and diversified financial instruments, reached NIS 1.9 trillion (approx. US$ 500 billion), including NIS 791 billion (approx. US$ 200 billion) market value of traded shares and securities convertible into shares.

The Israeli capital market has extensive regulation under the Companies Law, the Partnerships Ordinance and the Securities Law and strict supervision by the Israel Securities Authority (ISA), as well as other supervisors who oversee the banks and insurance companies. This supervision is usually effected by the issue of instructions, the imposition of any financial sanctions, and administrative and criminal enforcement. In recent years, there has also been significant enforcement by the market itself, through class and derivative actions. This was also supported by the Economic Court, as well as by the public's increased involvement at general shareholders meetings.

The Securities Authority, an independent governmental authority that operates under the Securities Law, is the one in charge of regulation and control of capital market activity in Israel.

The Israeli Companies Law imposes significant corporate governance requirements, some of which also apply to companies incorporated abroad if these companies issue securities in Israel. These requirements include, inter alia, a duty to appoint external directors, a right to submit class actions and derivative actions, and complex mechanisms for the approval of remuneration for officers and functionaries of the company and the performance of transactions involving controlling shareholders.

The Israeli Securities Law imposes duties regarding annual, quarterly and immediate disclosure, on companies which have issued securities to the public. The scope of the disclosure required in Israel is rather significant and the requirements under such disclosure are routinely enforced by the ISA. Public companies in Israel must submit to the public and regulatory authorities a full, audited financial statement once a year, and a condensed quarterly report, reviewed by their CPA. The reports are drafted according to International Financial Reporting Standards (IFRS).

Several years ago, an Economic Court was established in Israel to hear corporate and securities cases. The Court also adopts into Israeli case law many norms from the Court in Delaware, such as the Business Judgment Rule - the requirement to set-up independent committees of the board of directors to approve transactions involving controlling shareholders.

Recent Development in the Israeli Capital Market:

Offerings on Foreign Stock Exchanges: Many Israeli companies choose to effect initial capital offerings on foreign stock exchanges, mainly in the U.S. In 2014, 14 Israeli companies made an initial capital offering to the public in the U.S., as opposed to only 6 companies on the TASE.

Privatization of Government Companies: The Government of Israel approved a long-term plan for the privatization of government companies in 2015-2017. In some of these companies, a full privatization is planned. In other government-owned companies, mainly companies with strategic importance in the fields of infrastructure, natural resources and security companies, the Government of Israel wishes to retain possession of the controlling shares and to sell up to 49% of the shares by way of an offering to the public.

Public Offering of Foreign Mutual Fund Units in Israel: New regulations prescribe conditions which a foreign fund must meet in order to obtain approval from the ISA to publically offer its units in Israel, while enjoying an exemption from most provisions of the Israeli mutual funds regulatory regime. The main criteria set out in the regulations relate to, among other, minimum value of assets under management, volume and minimal trading period of the managed funds, appointment of a representative in Israel, collateral, and equal rights for local unitholders.

Entry of Chinese Investors into Israel: In recent years, there has been a dramatic increase in investments by Chinese commercial entities in Israel. Since the acquisition of 60% of the shares of Adama in consideration for US$ 1.44 billion in 2011, Chinese companies have been very involved in all areas of the Israeli economy - ranging from technology and medicine through industry and food to supervised and sensitive fields, such as finances and national infrastructure. 2014-2016 were peak years in terms of investments and acquisitions of Israeli companies by Chinese investors, including the acquisition of 77% of the shares of Tnuva by Chinese company Bright Food, and the acquisition of the Phoenix Insurance Company by the Chinese Fujian Yango.

III. Trade

A. Department Supervising Trade

The Ministry of Economy and Industry (MOITAL), through its Foreign Trade Administration (FTA), is the main body in charge of the formulation and administration of trade policy. Its responsibility includes conducting and coordinating international trade negotiations, proposing tariff changes, establishing trade controls and rules of origin, administering quotas on products, and conducting anti-dumping, countervailing, and safeguard investigations. Depending on the subject, other relevant ministries may be involved (such as the Ministry of

Agriculture or the Ministry of Finance), as well as specialized agencies.

The FTA is divided into three main divisions, each promoting the Israeli economy in distinct and significant ways. The Trade Policy and International Agreements Division facilitates Israel's free trade Agreements, maintains and develops inter-governmental trade relations and addresses regulatory barriers that affect the Israeli industry. The Export Promotion Division works to ensure the continued advancement of Israel's exports. The International Projects and Financing Division, the newest Division, offers different programs that support Israeli companies in their business operations abroad.

The FTA operates as the headquarters of over 40 economic and trade missions around the world. These missions are located in the main trade and commercial centers as well as in multilateral organizations, such as the WTO and the OECD. In the past few years, Israel has increased its presence in the Far East and South America by opening additional missions in these regions.

The Government consults regularly on trade-related issues with private-sector organizations such as the Israeli Chamber of Commerce and the Manufacturers' Association of Israel. For consultative purposes, the MOITAL has established the Foreign Trade Forum, which meets on a bi-monthly basis; it is composed of representatives of the Manufacturers' Association, the Chamber of Commerce, the Israeli Export and International Cooperation Institute, the Ministry of Finance, and the Ministry of Foreign Affairs. The Israeli Export and International Cooperation Institute also works closely with the Government on export promotion. Regarding consumer protection, the Ministry has established a bi-monthly Consumer Forum comprising representatives of consumer organizations, the Ministry of Justice, the Manufacturers' Association, the Chamber of Commerce, and the Advertisers' Association. Consultations with representatives of consumer organizations, manufacturers, and importers are carried out by the Standards Commissioner before any change in compulsory standards.

B. Brief Introduction of Trade Laws and Regulations

Israel is a Dualist country, which means that international agreements carry the force of law in Israel only if domestic laws have been amended to reflect Israel's international commitments. In the case of conflict between an international agreement and domestic law, the provisions of the domestic law prevail. However, according to the President of the Israeli Supreme Court, "The State of Israel is a member of the Law of Nations. Therefore it is imperative that Israel not be in breach of its international obligations; so that where two possible explanations exist in the interpretation of a law, it is desirable to choose the interpretation which will bring about fulfilment of Israel's international obligation and not one which will result in a breach of it." The foregoing statement has been quoted in Supreme Court decisions, by lower courts and the advisory committee in the context of anti-dumping proceedings.

Israel's first economic court began operating in December 2010 as a department in the Tel Aviv District Court, to bring amongst other things, greater professional expertise to the enforcement of the Israeli economic legislation. Israel's judicial branch consists of magistrate and district courts, and the Supreme Court, as well as tribunal.

C. Trade Management

a. Imports/Custom Management

a) Customs Procedures and Trade Facilitation

Israel has no importer registration requirements for customs-related purposes (Free Import Order, 2012). However, importers must be registered with the Israel Tax Authority for purposes of VAT and, in certain cases, purchase tax. Food importers must register with the Food Control Service of the Ministry of Health and carry an official importer certificate.

For customs clearance, the requisite documentation includes the import declaration (single administrative document); commercial invoice; bill of lading (or airway bill); certificate of origin; packing list; import license (if required); SPS-related import permit and/or certificate (if required).

Israel has a fully computerized customs system to which all customs agents are linked. The services of a customs broker/agent are not mandatory for commercial imports. A company may request special authorization from Israel Customs to have a direct link to the customs systems if it employs a licensed customs clerk with at least five years of experience. Since 2008, Israel Customs operates a single window with electronic processing of import permits through the competent authorities (Ministry of Economy, Israel Standards Institute, and the Ministries of Health, Transport, and Energy and Water). There are seven customs houses.

Customs valuation is based on the transaction value, adjusted to reflect costs and services that are not already included in the purchase price (Customs Ordinance Amendment Law of 1997). The Customs Authority of Israel provides an electronic facility for advance rulings regarding the classification of goods.

About 85% of import consignments are released within one hour. About 3% of shipments are subject to non-security-related inspection. Inspection is based mainly on risk assessment (risk profiling), otherwise random

selection. Selection criteria include the origin of the goods (country, supplier), complaints regarding violation of intellectual property rights, and the past record of importers. The Customs Authority has broad powers to seize and destroy counterfeit goods. Israel has no laws or regulations regarding pre-shipment inspection.

In September 2010, Israel Customs began implementing an authorized economic operator (AEO) scheme and is now in the process of negotiating AEO mutual recognition agreements with other countries. Since 2010, Customs offers pre-clearance for couriers (air shipments only). Israel has been implementing the Container Secure Initiative (CSI) with the United States since 2007.

Israel's customs appeals procedures are set out in the Customs Ordinance of 1957. In cases of disagreement with the customs authorities, the importer must stipulate on the import declaration form that the disputed customs duties were paid under protest. Appeals must first be made to the High Customs Authority and then to the courts; they may be lodged against any customs decision.

b) Tariffs and Tariff Quotas

About 75% of Israel's tariff lines are bound. Bound rates are high for agricultural products, averaging 73.3% with a maximum rate of 560% (dates). Other duties and charges (ODCs) have been bound at zero on all products covered by tariffs bindings. Over 90% of Israel's tariff bindings are in ad valorem terms; non-ad valorem tariff bindings exist mainly for certain agricultural products, textiles and clothing, and fish and fishery products.

Other taxes and charges Involve incernal Taxes Israel applies value-added tax (VAT) on imported and domestic goods and services. The current standard VAT rate is 16% (May 2012). A number of items, including fruit and vegetables, are zero-rated Cigarettes and fuel are subject to excise tax. All stamp duties were eliminated in January 2006.

In general, internal taxes are levied on the duty-inclusive c.i.f. value of imports, or on the wholesale price of locally produced goods. However, for the imposition of purchase taxes on imported products, Israel uses an assessment called TAMA (the Hebrew acronym for additional rate of increase).7 The TAMA approximates local wholesale prices by adding estimated profits, insurance, and inland freight to the declared value of imports (coefficients for calculating the TAMA vary from product to product). The effect of the TAMA is similar to an import surcharge.

c) Import Prohibitions and Licensing

(i) Import Prohibitions

Israel maintains import prohibitions for reasons of protecting human health, public morals, security, and the environment, or in accordance with its international commitments under the Basel Convention on Hazardous Wastes, the Montreal Protocol, and CITES. The import prohibitions are provided for in the 2005 Customs Order and the Free Import Order, 2012. Israel maintains a ban on imports of non-kosher meat and meat products (Kosher Meat Import Law of 1994). Import prohibitions were added during the review period, notably on tobacco and manufactured tobacco substitutes with packaging containing prohibited advertisement. A general import ban remains in place for Iran, Lebanon, and Syria.

(ii) Import Licensing

Israel applies non-automatic licensing procedures under the Free Import Order of 2012, mainly for reasons of safety, health, protection of the environment, and security, or to comply with international (non-WTO) commitments, or for purposes of tariff quota administration.

Annex 1 to the Free Import Order, 2012 contains a list of 203 items (from HS four to eight-digit level) subject to import licensing principally for (food) safety and security reasons. The procedures involve the licensing of import consignments and importers. Importer licenses are granted at the discretion of the competent authority. For example, for importing certain types of goods the criminal record of the importer may be relevant.

Annex 2 to the Free Import Order, 2012 lists goods that are subject to specific standards and technical requirements in order to ensure safety, security, and environmental objectives. Approvals (permits) are granted prior to importation, if the imported goods comply with technical requirements. Annual approvals may be granted, subject to a declaration by the importer that subsequent consignments will be identical.

Depending on the product, licenses/approvals are issued free of charge by the Ministries of Industry, Trade and Labor, Agriculture, Health, Transportation, and Environment within 14-21 working days, but in most instances in less than seven days upon completion of all necessary documentation. Reasons for refusal of a license must be provided in writing, and the applicant has the right of appeal to the High Court of Justice. Exemptions are granted mainly by MOITAL in cases of imports used in manufacturing; goods intended for exhibitions or marketing samples; re-export; imports for own-use; spare parts; computers and peripheral equipment; and equipment for audio visual professional use (Article 2(c)2 of the Free Import Order, 2012).

Imports from 17 WTO Members and non-Members that do not have diplomatic relations with Israel or prohibit

imports from Israel are subject to a special import licensing regime administered by Ministry of Economy, which is subject to annual review.

d) Contingency Trade Remedies

(i) Anti-dumping and Countervailing Measures

The law that regulates Anti-dumping and countervailing measures is Trade Levies Law and it covers changes regarding Israel's obligations under the Agreements on Implementation of Article VI of the GATT 1994 (AD Agreement) and on Subsidies and Countervailing Measures of the WTO. The legislation envisions implementing provisions on, inter alia, calculation of production costs, comparison between export price and normal value, content of complaints, and the conduct of investigations.

Under Israeli law, a Commissioner for Anti-Dumping and Countervailing Measures within MOITAL accepts complaints and conducts investigations. Although the Commissioner makes preliminary determinations, imposes provisional measures, enters into undertakings, and terminates investigations without final measures, findings regarding the imposition of final measures are submitted to an Advisory Committee on Anti-Dumping and Countervailing Measures.

(ii) Safeguard Methods

In December 2008, Israel introduced safeguard legislation intended to implement the WTO Agreement on Safeguards, and the law was renamed Trade Levies and Safeguard Measures Law (5768-2008).The new legislation was reviewed by the Committee on Safeguard in May 2009. As in the case of anti-dumping and countervailing investigations, the Commissioner within the Ministry of Economy opens and conducts investigations. However, rather than making recommendations to an Advisory Committee, the Commissioner submits conclusions and recommendations to the Minister of Trade, Industry and Labor who will decide whether to levy safeguard measures, taking into account arguments relating to the economy as a whole and Israel's trade relations with other countries. This decision is subject to the approval of the Minister of Finance and the Finance Committee of the Knesset.

e) Standards, Technical regulations, and Conformity Assessment

Standards, conformity assessment, and their enforcement are governed by the Standards Law of 1953 and its eight amendments. Under the Standards Law, the Standards Institution of Israel (SII), a statutory non-governmental organization, is the sole authority for the development of standards and for permitting manufacturers the use of the Standard Mark, indicating that a product conforms to an Israeli standard. The SII is largely a self-financing institution, but receives support (5% of its budget) from the Government for work on standardization. The Commissioner of Standardization (in the Ministry of Economy) is in charge of enforcement of mandatory standards and approval of testing laboratories. Depending on the type of standard, other agencies, such as the Ministries of Health, Communications, Agriculture and Rural Development, and Energy and Water are involved in developing or enforcing binding regulations based on standards pertinent to their fields of activity. Enforcement of food standards is mainly under the Ministry of Health; fuel and gas standards are under the authority of the Ministry of Energy and Water; and regulations governing key features of automobiles are under the Ministry of Transport. Israel is in the process of implementing regulatory impact analysis (RIA) within the Prime Minister's office.

IV. Labour

A. Brief Introduction of Labour Laws and Regulations

Israeli employment law is very dynamic and circumstance-specific, and derived from and is based upon various normative sources, including for example, in addition to particular specific legislations, also case law, rules, regulations, applicable collective agreements and/or arrangements, extension orders, customs and practices at the work place, individual agreements and arrangements, etc, many of which sources are highly dynamic, changing, adapting and being renewed from time to time and on case-by-case circumstantial basis. Furthermore, particular statutory legislation includes, of course, general provisions and principles, but also specifies and details many exceptions and particular adaptations to specific circumstances, etc.

B. Requirements of Employing Foreign Employees

a. Work Permits

According to the applicable Israeli Law, a non-Israeli citizen may not enter Israel or stay in Israel unless such person holds a valid permit/visa to so enter and stay.

Citizens of certain countries are generally entitled to enter and visit Israel for up to three months, without obtaining visas in advance at the local consulates. They are either exempt from obtaining temporary visas or are automatically issued (at no charge) temporary visas for the purposes of such a visit, at the port of entry (subject, of course, to reasonable common sense discretion at ports of entry due to health, security and similar threats). Citizens of other countries may also be entitled to receive said temporary visas but this would require advanced application at the local Israeli mission (and in some cases the Israeli entity inviting the person can help facilitate through local application as well – this requires additional discussion).

The legitimate purposes of such exempt or automatic entries and visits, include for example tourism and "business trips and do not include working purposes, even if the work is for less than three months. While the distinction between business trips and working may at times be difficult, generally short visits for specific meetings of non-productivity nature can be characterized as business trips, while engagement in actual working activity (even during short stays) runs the risk of being deemed working.

Any person who intends to stay in Israel for the purpose of actually working (even if such person will not be formally employed by a local entity, but rather, for example, may continue to be on the pay-roll of a foreign entity) is required to have a valid work permit in order to legally and legitimately enter, stay and work locally. Such a working permit/visa may be obtained as described below, but only when the potential foreign employee is out of Israel, and a tourist visa cannot be converted locally to a work permit.

The applicable law and regulations recognize the differences between "regular foreign workers (such as in the fields of house-care, agriculture, construction, etc.) and "experts.

The Ministry of Interior (MOI) is the authority responsible for issuing work permits/visas for foreign employees. The MOI recognizes two main different types of experts:

(i) Experts Receiving "Experts Wages" (Wage Experts)

Wage experts are generally persons with significant specialized experience, higher education, often in specialized, technical positions. It is helpful to establish that their presence will create more job opportunities for local employees, and it is required to prove that either real steps were taken in order to try and recruit local employees for said position (which attempts were unsuccessful) or that the nature of the position is such that a local employee could not perform said position. It is required to guarantee that such Wage Experts receive a base salary of at least twice the average wage in the Israeli market, currently approximately NIS 19,000 (US $4,870).

(ii) Managers, Senior Representatives or Employees in Fiduciary Positions of a Foreign or International Company (Managers)

A Manager is defined by the MOI as "a person who aims or sets the goals of an organization (or units therein) and is in a senior position and responsible of the provision of the organization's services throughout: supervision, control, authority to hire and terminate employees or recommend to do so and authority with respect to other human resources related acts". A Foreign or International Company may receive up to 2 work permits for Mangers or Senior Representatives.

b. Application Procedure

The process of obtaining work permits for Wage Expert workers involves two main bureaucratic stages, as follows:

(i) Recommendation Application

The first step is to obtain a recommendation from the MOI (the Recommendation). The process of applying for and obtaining the Recommendation involves completing and filing a form and affidavit which includes, inter alia, information about the requested Manager/Wage Expert as well as information about the employing/inviting entity and the requested position. It also includes undertakings and representations by the employing/inviting entity, primarily regarding the conditions of the employment of the requested Manager/Wage Expert, his/her capabilities, the entity's ability to comply with the payment and provision of the minimum payments and benefits to which the Manager/Wage Expert is entitled. Such form is to be signed by the authorized signatory of the employing/inviting entity (said signature is to be confirmed by an Israeli attorney), supported by additional documents. This process, being a bureaucratic one, and relating to the sensitive matter of foreign workers, is rather dynamic and subject to administrative changes in the forms and requirements from time to time, and therefore additional documentation and/or data may be required.

The application for the Recommendation for each Manager/Wage Expert entails fees which currently stand at approximately NIS 1,190 (US $300 at today's rate of exchange) per application.

As far as timetables are concerned – currently the MOI does not commit to a reaction time which is shorter than 45 working days.

The Recommendation, if issued, is generally issued per employing/inviting entity, per Manager/Wage Expert,

on a name and passport number basis, and per position.

Each Recommendation is generally issued for a maximum of one year. The employing/inviting entity may request to extend the Recommendation for additional one-year periods, by undergoing the procedure described above, each year, subject however to the fact that under applicable law the maximum stay of a foreign worker, except for very special and unusual circumstances, is 63 months.

(ii) Visa Entry Application

The second bureaucratic stage of obtaining the required work permit is applying to the MOI for the issuance of an entry visa.

Generally speaking, the employing/inviting entity is required to submit to the regional bureau of the MOI, in the region in which it conducts its business, an application to invite a foreign worker.

This application is a standard form including personal details of the relevant Manager/Wage Expert, which form is to be signed by both the inviting entity (locally) and the employee (who is abroad at this time). Such form shall be supported with additional documents.

Although this stage is generally more technical and less subject to substantive discretion (other than general non-economical considerations such as health and security issues), practically, the process time for this stage can take up to an additional month and involves a meeting with the regional bureau of the MOI. Once the application is approved it generally takes about a week until it is actually stamped in the employee's passport at the relevant consulate abroad.

According to the applicable law, a foreign worker suffering or from one of the following diseases may not work in Israel: Tuberculosis, Hepatitis, Syphilis, Gonorrhea and HIV.

Once an employee has been issued an initial visa, the extension of such visa granted is for a period of one year at a time, is done locally and does not require the Wage Expert/Manager to leave the country. However, the process still includes first obtaining the Recommendation and re-submitting all of the supporting documents.

Except in very unusual and special circumstances, the visa will not be extended if such extension will result in a total stay exceeding 63 months. Each extension will entail fees, as provided above.

c. Social Insurance

(i) Social Security (Including Health Insurance)

As of January 2015, the percentages paid by the employer and the percentages that are to be deducted from employees on account of social security (including health insurance) for foreign workers are as follows (the percentages refer to the employees gross monthly salary):

	Employers Payments	Employee Payments
Up to a salary of NIS 5,556	0.49%	0.04%
Up to a salary of NIS 43,240	2.34%	0.87%

(ii) Social Benefits for Foreign Employees

According to the Foreign Workers Law (Prohibition of unlawful employment and assurance of fair conditions) law 5751-1991 and regulations promulgated there under (the "Foreign Workers Law"), foreign employees are entitled to social contributions to a pension fund under Israeli law, while working in Israel under an Israeli employment agreement. Since, currently, and in the absence of regulations addressing the subject matter, there is no actual possibility to insure foreign workers in pension funds in Israel, the Ministry of Economy has issued guidelines addressing the method of payments instead of pension payments to foreign employees, until such time regulations will actually be promulgated.

According to said guidelines, employers are required to make the payments due to the pension fund to a special bank account (subject to gains) in the name of the foreign employee and release such payments in favor of the foreign employee upon termination of employment. These payments are subject to tax withholdings upon release to the employee.

The amounts required to be paid to said bank account are in accordance with the general extension order regarding comprehensive pension fund as detailed above.

(iii) Severance Payments

Pursuant to the Severance Pay Law, 5723-1963 (the "Severance Pay Law"), a person who has been employed continuously for one (1) year by the same employer or at the same place of employment and has been dismissed by the employer, retired or died is entitled to receive severance pay.

C. Exit and Entry

Was explained above.

D. Trade Union and Labour Organizations

Freedom of association has been recognized for many years as a fundamental right by Supreme Court and National Labour Court judgments.

Israel does not allow the "closed shop" or "union shop", since a National Labour Court judgment said that workers have the right not to join or not to join a union. However, in the organized sector of the workforce non-members are obligated by collective agreement to pay the union a service fee instead of union dues, thereby making lawful the "agency shop". Non-members are entitled to the all the benefits set in the collective agreement.

There is no special statute regulating trade unions. Therefore, unions become legal entities according to the laws regulating non-profit organizations, the first such law being the old Ottoman law and the current one the Non-profit Organization Law. These laws require registering the organization, filing its' by-laws, and filing an annual report and important decisions of the governing bodies. Labour Court judgments regard the union's registered by-laws as the guidelines for union activity.

The Wage Protection Law allows the union and employer to agree that union dues are deducted by the employer from the workers' salary and transferred to the union by the employer. This is also the case for union service fees which are paid to the union by non-members. Such agreements must be by a collective agreement.

E. Labour Disputes

In 1969 the Knesset passed the Labour Courts Law and thereby formed a separate judicial system dedicated to individual and collective labour disputes and issues.

The Labour Court System has a trial instance, consisting of five Regional Labour Courts, and an appeals instance, the National Labour Court, which sits in Jerusalem. The Regional Labour Court bench is composed of one professional judge and two lay members, one from labour and one from management. The National Labour Court sits with three professional judges and two lay members. In criminal cases there are no lay members and only the judges hear these cases. In national wide collective disputes the National Labour Court sits with three professional judges and four lay members.

Labour Courts jurisdiction is very broad and includes individual disputes between workers and employers, protective labour laws, collective disputes, disputes between a union and its members or an employer and his association, pension matters, workplace equality, administrative matters relating to workers, such as job tenders, occupational safety and health, employment agencies, protection for migrant workers, social security and the State medical insurance. With regard to tort actions, the Courts have jurisdiction over the following actions where they are related to a labour dispute: trespassing, breaching of statutory duty, and inducing the breach of a contract. Approximately 30% of the cases filed in the Labour Courts relate to social security. Labour Courts hear cases concerning workers' compensation, unemployment insurance, disability benefits, maternity benefits, death benefits, guaranteed annual income, senior citizens pensions, and children's benefits. The Labour Courts also hear matters concerning ratifying or canceling arbitration decisions.

The Labour Courts are developing alternate dispute resolution (ADR) programs. Lay members do mediation and settled about 4,500 cases in 2001. All lay members acting as mediators are required to take mediation courses. About 400 cases were settled in 2001 by private mediators, to whom the courts referred the parties. The courts also referred parties to arbitration. Mediation is not compulsory, but actively encouraged by the courts.

V. Intellectual Property

A. Brief Introduction of IT Laws and Regulations

Laws of the State of Israel governing intellectual property rights undergo continuous change with the aim of keeping up with technology and the industries demands. Ordinances (remnant of the British Mandate common law influence) were and are amended and new laws enacted (usually influenced by EU directives and regulations). In parallel the precedential Israeli Judicial branch fills the gaps with updated court rulings, on many occasions following the most recent U.S court rulings.

Currently, protection of rights in computer programs (software) in Israel is offered by The Copyright Act, 2007 as computer programs are considered by the applicable law and practice to be "work of Literature".

The Copyright Law is directed to protect the expression of an idea, but not the idea per se. Hence, it is mainly the source code and the design of the user interface that are effectively protected. Israeli courts are reluctant to

rule for infringement of software copyrights without proof that the source code was copied or that the user Interface of the software is materially similar (Tel Aviv District court 38918-12-09 Danel Software vs. Gil snapir, Jan 4th 2012).

Copyrights are deemed to be created the moment the work of literature is created (even without publication), as the State of Israel does not maintain organized copyrights registration procedures.

Similar to the common "works made for hire" principal, the Copyright Act grants the employer first ownership over copyrightable work made by an employee in the course of and during his/her employment, unless otherwise agreed to be the parties.

With respect to contracted work (i.e. non-employee services providers) first ownership of the copyrightable work is granted to the creator, unless expressly or impliedly agreed to otherwise by the parties.

In general, the term of copyrights subsists during the life of its author and for 70 years after his death.

Copying of a computer program for purposes of back up, maintenance, correction of errors, examination of the data security in the program, correction of security breaches and protection from such breaches may be regarded under certain circumstances as "Fair Use" and hence not be deemed copyrights infringement.

B. IT, Patents and Designs

Currently, in order to obtain patent protection for software under The Patents Law of 1967 the applicant must show that the use or that the consequences of the use of software has results in the physical world, meaning the software must interact with hardware as well as meet the applicable tests for patent eligibility (e.g. novelty, inventive step etc).

A patent granted in Israel covers a standard protection period of twenty years.

Patent applications may be filed in Israel through the Patent Cooperation Treaty (the "PCT") while the Israel Patent Office serves as a receiving office for PCT applications originating in Israel.

Patent protection will only be granted after the patent office has examined the patent application to confirm that the invention meets patentability criteria. Oppositions with respect to patent grants must be made within 3 months from the date of publication in the Reshumot (Government Official Gazette).

Patents may be applied for by the owner of the invention or a person deriving title therefrom and may be assigned or licensed. If it is proved to the Registrar's satisfaction that an owners of a patent is misusing his/her/its monopoly, the Registrar may order a compulsory license to exploit such patent by others. Compulsory licenses may also be ordered if it is necessary to assure public access to a reasonable quantity of medical supplies.

The Patents and Designs Ordinance, 1924 and the Designs Regulations 1925 governs the rights of designs, though The Designs Act is in under legislation process and close to being finalized and enacted.

'Design' is the lines, shape, pattern or decoration that is visually noticeable on the final product. In order to file and register a design in Israel, the design should be a new and original design which was not previously published in Israel. A design may be registered with respect to any industrial product that has a shape, form or decoration which is dominantly visible in the final product.

Application for registration of a design is submitted to the Patent Office which examines the application for eligibility. Upon acceptance, a certificate of registration will be issued and from that date forward for as long as the design is valid, the holder will have exclusive right to prevent, in Israel, all others from offering for sale products bearing the design that are within the scope of the registration. Design protection under Israeli law is available for a term of up to 15 years from the date of application.

According to the Patents and Designs Ordinance 1924, there is no protection for unregistered design rights in the state of Israel. However, the Supreme Court has granted protection to unregistered designs based on the Unjust Enrichment Law 1979; (933/96, ASIR Import Export and Distribution Ltd v Accessories and Commodity Goods Forum Ltd, SIP 42(4) 289). Additional protection for an unregistered design may be based on the tort of 'passing off' if there is proof that the product's shape has gained goodwill in the market associated with the manufacturer and there is a likelihood of confusion as to the origin of the goods.

C. Trademark Registration

Under the Trade Marks Ordinance (New Version) 1972 and the Trademarks Regulations 1972 trademarks are registered with the Trade Marks Registrar.

Trade mark is defined as a mark which distinguish the goods of the proprietor of the mark from those of others (a mark so adapted being hereinafter referred to as a "Distinctive Mark"). A mark can be a design mark(logo) or a name mark (name of a product or a service).

A trade mark may be limited in whole or in part to one or more specified colours, and in such case the fact that it is so limited-shall be taken into consideration by the Registrar or Court having to decide on the distinctive

character of such trade mark. If a trade mark is registered without limitation of colour, it shall be deemed to be registered for all colours.

When an application of registration has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as possible after such acceptance and at the expense of the applicant, publish the application, as accepted, in the prescribed manner, specifying every condition and limitation subject to which it has been accepted.

Any person may within three months, or within such other time as may be prescribed, from the date of the advertisement, file with the Registrar a notice of opposition to the registration of the mark.

The date on which the application for registration of a trade mark was filed shall be entered as the date of registration thereof.

D. Privacy Law

a. Databases

Under the Protection of Privacy Act, 1981 ("PPA") an owner of a computerized database must apply for the registration of the database, if any of the following conditions is met: (1) the database contains data about more than 10,000 people (2) the database contains sensitive data (person's personality, private affairs, state of health, economic situation, opinions and faith, and other information deemed to be sensitive data by order of the Minister of Justice) (3) the database contains data about natural persons not provided by them, on their behalf or with their consent (4) the database is used for direct mail.

The application must be submitted to the Registrar of Databases in the Israeli Law, Information and Technology Authority ("ILITA").

If the information is not obtained directly from the data subjects, the applicant is required to provide extensive details about the sources of the information, including –

Means of collection, Frequency of collection, Source information, Types of information received from the source;

The applicant needs to indicate if any information is transferred from the database to third parties (other than database holders) and provide details about them, including, identification and contact details, third parties' registered database number, types of information transmitted, the frequency of data transfer, the purpose and legal authority for transferring the data.

If a database is used for direct mailing services – a copy of the consent form indicating the data subjects' consent to the transfer of information about them to third parties, and terms issued by the applicant for transferring the information to third parties.

b. Measures for IT Protection

The District Courts of the State of Israel are granted jurisdiction over appeals on decisions of the Registrar of Patents, Designs and Trademarks and all other intellectual property litigation arising out of patent and registered design cases. Infringement matters in all fields of intellectual property will either begin in the Magistrate's Courts or in the District Court depending on the value of the amounts in controversy. Criminal infringement actions will generally be heard by the District Courts.

c. Civil Remedies

Under the Copyright Law: Copyright infringement occurs when a protected work, has been reproduced, publicly performed or displayed without authorization, etc. The Courts may grant interim injunctions as a form of temporary relief which remains in force until a final verdict is given, or, until the court decides to cancel interim injunction due to change of circumstances.

The grant of injunction is discretionary with the Court. Temporary injunction against an alleged copyright infringer will be granted only the Court finds that the potential damage to the copyright owner significantly outweighs the potential damage the alleged copyright infringer will incur during the time it/s/he awaits trial or settlement of the matter. A permanent injunction may be obtained together with monetary remedies of damages, lost profits and costs as well as attorney's fees.

SPAM – In general and according to amendment no. 40 to the "Communications (Bezeq and Broadcasting) Act - 1982" an advertiser may not send commercial communications by Electronic Message means without obtaining the explicit, written, advance permission of the recipient. A recipient may revoke it/s/he permission at any time. The Court may award in respect of each violation compensation that does not depend on the damage actually incurred by the recipient in an amount of not more than NIS 1,000 per each message.

d. Criminal Proceedings

Criminal proceedings may be commenced either by a prosecutor on behalf of the state or, where applicable, by an individual.

Unauthorized access to a computer system, cyber attacks or any other computer espionage may constitute a 'computer crime' under the Israeli Computers Law, 5755-1995. Under said law, any change, distortion or disruption to a computer software, unlawful or unauthorized access, or presenting of false output information may constitute a criminal offence, with penalty of up to 5 years imprisonment. Privacy rights may also be enforced by The Eavesdropping Act – 1979 which prohibits the unlawful intrusion to computer material. Such intrusion to information stored in a computer may be deemed a criminal offence with penalty of up to 5 years imprisonment.

VI. Environmental Protection

A. Department Supervising Environment Protection

The supervising governmental body is the Israeli Ministry of Environmental Protection (hereinafter: "Ministry"), founded by a government resolution No. 5 in 1989. It drafts and develops general national policy, strategies, standards and priorities pertaining to the environmental protection. It consists of six main divisions which regulate administration, planning and policy, supervision, infrastructure, local government and natural resources. The Ministry further operates six distinct geographical offices (north, south, centre, Tel-Aviv, Jerusalem and Haifa) created to accommodate unique local environmental features and needs.

These municipal authorities work alongside the Ministry and provide another layer of environmental protection. They supervise, enforce, and to a certain limited extent regulate, matters involving environmental protection. They do so under specific municipal environmental legislation allowing them to take specific supervisory and enforcement measures (e.g. waste removal, environmental planning, business licensing), and also under general environmental legislation not limited to the local tier, which enables them to send out supervisors on their behalf (such as the Clean Air Law 5768-2008, Maintenance of Cleanliness Law 5744-1984 and the Collection and Disposal of Waste for Recycling Law, 1993). Under these municipal authorities there exist 52 urban environmental units forming yet another extension of the Ministry. They are in charge of implementing environmental policies on a local level, as well as serve as an advisory body to the municipal authorities.

Lastly, another governmental regulator is the Water Authority, which supervises and enforces legislation pertaining to water pollution. It also publishes the relevant rules of water and sewage corporations. Other relevant bodies are the Nature and Park Authority which works under the Ministry, and the Mining Authority and the Israel Land Authority, both which work under specific legislation.

B. Brief Introduction of Laws and Regulations of Environment Protection

Environmental protection laws in Israel have been developing by way of legislation, regulation and case-law from the early 1960s, with legislation relatively quickly advancing in the past 25 years.

The first wave of legislation included laws setting a rather broad base for environmental protection. They are still in force and include, among others: Abatement of Nuisances Law, 5721-1961 legislated to prevent air, water and noise pollution; Licensing of Business Law, 5728-1968 to supervise and enforce environmental standards in relation to polluting plants; 1971 amendment to the Water Law, 5719-1959; Streams and Springs Authorities Law 5725-1965, which protects natural resources around rivers, and the Public Health Ordinance 1940, which was amended in 1969 and regulates the quality of drinking water.

Unlike the first generation, the second wave of legislation starting from the mid 1980s is specifically targeted and addresses issues such as pollution prevention, maintenance of natural resources, regulation of emission and encouragement of reporting. This wave includes Maintenance of Cleanliness Law 5744-1984 which addresses littering in public; Hazardous Substances Law 5753-1993 that regulates safe management of hazardous substances; Deposit on Beverage Containers Law, 1999 aimed at reducing landfill waste and encourage recycling; Non-Ionizing Radiation Law, 2006; Clean Air Law 5768-2008; Packaging Management Law 5771-2011; Electrical and Electronic Equipment and Batteries Law and Environment Protection Law (Pollutant Release and Transfer Register) 2012.

Furthermore, alongside the primary legislation, the Ministry and other bodies (such as the Water Authority or municipal authorities) have enacted secondary legislation in the form of regulations. These specifically implement existing legislation and focus on specific issues such as prevention of water pollution, treatment of wastewater, air quality and automobile and factories emission standards, and work under a licensing framework and under the Business Licensing Law.

Another aspect of environmental protection is achieved through planning law, due to the fact that the former stands at the basis of the latter, and must thus form an integral part of any potential plan. Thus, specific obligations pertaining to environmental protection are inserted into development plans pending approval. This is mainly done under the Israel Land Authority. Another important tool in this regard are the Environmental Impact Assessments

Regulations, 2003, which mandate the examination of future plans based on their environmental impact.

On top of the primary and secondary legislation already reviewed, numerous other mechanisms of supervision and monitoring have also increased in the past two decades. Most notably:

a) Administrative Enforcement – used by the Ministry. It is swift and efficient due to the fact that it does not mandate any recourse to court but is based on hearing conducted in the Ministry. It may lead to a fine or injunctions imposed to prevent the nuisance or remedy it, the latter entailing shutdown of the factory.

b) Criminal Enforcement - specific environmental legislation criminalizes non-compliance based on strict liability (thus proof of existence of pollution, as opposed to mens rea, is sufficient). Directors, CEOs and other senior employees may also face such criminal responsibility, and some laws may even allow private citizens to initiate the criminal proceeding. Such procedures usually result in substantial fines and injunctions to prevent pollution or remedy it, with imprisonment rarely being imposed.

c) Civil Enforcement – the Prevention of Environmental Nuisances (Civil Action) Law enables plaintiffs to initiate a civil proceeding against any potential nuisance/pollution maker. The court fee to be submitted is quite low and these procedures are brief, with the remedy provided an injunction to restore the situation to the way it was. Some legislation further allows for representative action, which is used by environmental activists to claim millions worth of environmental damages.

C. Evaluation of Environmental Protection

In a relatively short period of time, Israel has put in place a vast regulatory framework to environment protection. It encompasses various governmental bodies, all which posses parallel powers, and mandates an array of supervisory schemes and remedies. It also allows for privately initiated proceedings to take place.

This current legislation attests places environment protection as an important factor in the industry. Indeed, most factories now consider their compliance with this legislation both daily and on special major such as M&A, increase in activity and venturing into new directions.

Nevertheless, environmental enforcement is not always consistent or equal. Enforcement is sometimes used in a patchwork sort of response, rather than based on an organized agenda. The Ministry has limited resources to conduct criminal or administrative investigations: out of a total of about 600 employees, only 30 are under its executive branch (the "Green Police"), although other enforcement bodies, whether municipal and governmental function, do exist in parallel. Fragmented legislation in this field also hints at the not-necessarily consistent basis of environmental protection. Regulation is divided by resources and topics while lacking a more systematic viewpoint. The system itself is well aware of this: in the past two years the Ministry of Justice has been advancing legislation to incorporate all existing environmental law under one roof, unlike current situation whereby for example a business may need many different permits from many different authorities.

On the other hand, environmental protection in Israel has a relatively significant civil public participation. Environmental NGOs and private activists take part in shaping environmental law, both by turning to the courts, but also by participating in the procedures of permit allowances and planning laws. A specific law was enacted to give the public a "sit" in committees established in order to put an emphasis on environmental considerations (the Representation of Environmental Public Bodies Law (Legislative Amendments), 2002). Furthermore, as part of the Freedom of Information Law, 5758-1998 special emphasis is put on disclosure of environmental information, which is a condition precedent in order to allow for civil participation in the environmental decision making-process. Citizens and civil groups therefore form an additional active player in the legal field once controlled solely by government and by holders of interest.

VII. Dispute Resolution

A. Methods and Bodies of Dispute Resolution

Israeli dispute resolution system consists of several dispute resolution mechanisms operating in addition to the Judiciary system of the state. These mechanisms can be activated as part of the governmental judicial process, as an alternative to the process or before the beginning of the process. The main mechanisms for alternative dispute resolution are: mediation and arbitration.

a. The Judicial System

According to the 'Basic Law: Judiciary' the judicial system of Israel consist of three courts – the Supreme Court, District Court and the Magistrates Court.

The Supreme Court is the highest court and it acts under two hats: one, as a further appellate court that re-evaluates decisions by the lower, district courts, and second, sitting as the High Court of Justice acting as a court

of first instance, in matters concerning the legality of decisions regarding state authorities, authorities, government bodies, courts and tribunals.

The District Court has jurisdiction in any matter not within the sole jurisdiction of another court. In criminal matters, the courts have jurisdiction over cases where the accused faces a penalty of at least seven years imprisonment. In civil cases, they have jurisdiction over cases in which more than two and a half million shekels are in dispute. It also functions as an appellate court for the Magistrates Court's decisions. In addition, it serves as the Administrative Court and the Court of Water Issues.

The Magistrate courts serve as basic trial courts. In criminal matters, they hear cases where the accused faces up to seven years imprisonment, and in civil cases, have jurisdiction over matters up to two and a half million shekels and claims related to the possession and use of property. The courts also act as traffic courts, municipal courts and family courts.

Alongside the regular court system, there are several courts authorized by law to deal with specific matters, including Labor Court, Religious courts (rabbinical court and courts of other religions), Military Court and the Court of Discipline.

b. Mediation

Mediation is an alternative dispute resolution process where a neutral third party assists disputing parties in resolving conflict through the use of specialized communication and negotiation techniques. Mediation is a voluntary process and entirely non-binding, as the parties may terminate the process at any stage. The process is confidential, and the mediator has no authority to make a decision – he simply guides the process in a constructive direction and help the parties find their optimal solution.

c. Arbitration

The arbitration procedure, similar to the judicial process, the sides present their arguments and the arbitrator decides you win. However, the arbitrator is not subject to the procedural and evidentiary rules applied in the judicial process. The arbitration ruling is a ruling in accordance with the Arbitration Act. In addition, the parties can establish in the Arbitration Agreement the possibility to appeal, under the court's permission, if there was a material error in the application of the law which, as a result, caused miscarriage of justice. The use of arbitration as an alternative dispute resolution requires the existence of an agreement between the parties regarding settlement of the dispute.

B. Enforcement of Foreign Rulings

The common practice in the Israeli law stipulates that a foreign ruling does not automatically become Israeli law. In order that a foreign ruling be valid and could be enforced in Israel, it should undergo a process of absorption into Israeli law. This issue is regulated in the Foreign Judgments Enforcement Law, 1958.

According to Israeli law, there are two types of procedures, both of which require judicial processes, for the absorption of foreign ruling in Israeli Law:

a) Enforcement – used for rulings that impose personal liability (monetary, injunction, etc.), designed to enable execution of the ruling in Israel.

b) Recognition – Declaring that the ruling is valid in Israeli law. This procedure is designed for a range of Israeli civil judgments that do not require an execution procedure (validation of probate or an adoption order made outside of Israel).

a. The Enforcement Procedure

Request for enforcement shall be submitted to an Israeli court, when accompanied by an affidavit in which the applicant must specify the facts supporting the conditions of enforcement, as follows:

a) The ruling was given by a country authorized to do so by its the country's law – examination of the international authority of that State, no questions about local jurisdiction.

b) Res Judicata: the ruling should be a final judgment. The applicant needs to prove that there is no possibility to appeal, if it was appealed the ruling was given, or the time to file an appeal has passed.

c) Ruling should be enforceable in the same country it was given – the applicant needs to prove that, legally, the ruling is enforceable in the foreign country where it was given.

Article 6 of the Foreign Judgments Enforcement Law lists a number of defenses against the enforcement of foreign rulings in Israel: (1) the ruling was obtained by fraud; (2) the opportunity given to the defendant to state his case and bring evidence before the ruling was given, was in the court's opinion, unreasonable; (3) The ruling was given by a not competent court according to the rules of international law applicable in Israel; (4) the ruling is contrary to another judgment given in the same matter between the same sides and is still valid; (5) When filing a claim in the court of the foreign country, a trial was pending in the courts of Israel related to the same matter and between the same sides.

b. Recognition

According to Article 11 of the Foreign Judgments Enforcement Law, there are two types of recognition of foreign rulings:

First, direct recognition: recognizing it entirely as a ruling of an Israeli court. According to Israeli precedents, recognition can be done only if the country of the ruling signed a treaty with Israel concerning this matter, and when the treaty applies to the relevant ruling. Israel has an enforcement of foreign rulings treaty with only four countries: Germany, Austria, Britain and Spain.

Second, indirect recognition: recognizing it during the hearing of another matter. Unlike the direct recognition, there is no need for a treaty between Israel and another country, but the applicant must prove that the ruling should be recognized for the purpose of justice.

VIII. Others

A. Summary of Commercial Bribery Law in Israel

The laws related to bribery in Israel are included in Chapter 9, Article 5 of the Israeli Penal Law 5737-1977 (the "Penal Law"). Chapter 9 deals in general with all issues of crime relating to public order and justice.

Article 5 deals with all types of bribery, including both commercial bribery and other forms of bribery, such as bribery in sports competitions and election bribery. For the sake of this overview we shall discuss only commercial bribery. Regarding commercial bribery the Penal Law includes both bribery of domestic and foreign public officials.

a. Taking of a Bribe

Section 290 of the Penal Law sets forth the offence of taking a bribe. This offence occurs when a "public official" accepts a bribe for an act connected to his position. The law does not include a specific definition of bribery but Section 293 of the law provides a broad definition as to:

- the monetary form of the bribe (cash, in kind, a service or any other benefit);
- the benefit received for the bribe (whether it was given for an act, an omission, for a delay, acceleration, impediment, for preference or for discrimination; and even if it was not for a specific act but only to obtain preferential treatment in general);
- the recipient of the benefit (whether it was for an act of the person who took it or for his influence on the act of another person; whether it was given by the person himself or through another person; whether it was given directly to the person who took it or to another for him; whether it is enjoyed by the person who took it or by another);
- the timing of the provision of the bribe (whether in advance or after the event); and
- the position of the public official that took it (whether the function of the person who took was one of authority or service, permanent or temporary, general or for a specific function, and whether its performance was with or without salary, as a volunteer or in the discharge of an obligation);

In addition Section 293(7) states that an act can be a bribe even if for provide in to caused the public official to act in a manner that he is required by virtue of his position without deviation from the performance of his obligation.

Section 294 also provides that an act of solicited or stipulated of a bribe, even if one is met with no response shall be considered a bribe.

b. Definition of Public Official

Section 34X of the Penal Law defines a Public Official as:

- a State employee, including a soldier;
- an employee of a local authority or of a local education authority;
- an employee of a religious council;
- an employee of various quasi governmental offices;
- an employee of an Employment Service office;
- an employee of an enterprise, institution, fund or other body in the management of which the Government participates, including a member of the board or management of those bodies;
- an arbitrator;
- the holder of an office or function under a law, whether by appointment, election or agreement, even if he is not one of the public officials enumerated;
- a director on behalf of the State in a Government company, Government subsidiary company or mixed company, and an employee of a Government company.

Section 290(b) adds that for the sake of bribery this definition includes the employee of an entity that provides services to the public.

Section 294(c) adds that this includes a candidate for a position that has not been appointed yet and an appointee who has yet to begin serving in his function.

c. Giving a Bribe

Section 291 defines that the provision of a bribe to a public official is also a crime. This crime is punishable by a shorter sentence than that of the public official that received the bribe.

Section 294(b) states that one who offers or promises a bribe even if he is refused is liable under this offense.

d. Bribing a Foreign Public Official

Section 291A sets forth the crime of bribing a foreign public official and states that provision of a bribe to foreign public official for an act connected to his position, to obtain, assure, promote business activity or other advantage in relation to business activity, shall be treated in the same manner as a person who commits an offence under Section 291.

A "foreign government" is defined to include national, local and district governments.

A "foreign public official" includes (1) employees of a foreign country and any person holding a public office or exercising a public function; including in the legislative, executive or judiciary branch of the foreign country, whether by appointment, by election or by agreement; (2) A person holding a public office or exercising a public function on behalf of a public body constituted by a law of a foreign country, or of a body over which the foreign country exercises, directly or indirectly, control; (3) An employee of a public international organization, and any person holding a public office or exercising a public function in such organization.

e. Bribery Through a Third Party

Section 295 of the Penal Law sets out that if a person received consideration in order to give a bribe, he shall be punishable like a person who took a bribe, and it shall be immaterial whether or not any consideration is given to him for his action as intermediary, or whether or not he intended to give a bribe.

If a person received consideration in order to induce a public official or foreign public official to give undue preference or to practice discrimination, then he shall be punishable like a person who gave a bribe.

One who provides the consideration in the two abovementioned situations shall also be punishable as one who took a bribe.

f. Private Bribery

Israeli law does not have a private bribery statute.

B. Introduction to Israeli Project Contracting

a. Permission System–Public Utility Authority–Electricity

The construction and operation of a power station requires, amongst others, an electricity production license from the Public Utility Authority – Electricity (hereinafter: "the IEA"), the regulatory authority that regulates the electricity production in Israel.

As of 1996, the Israeli Ministry of Energy has enabled independent power providers, (IPPs), to enter the field of electricity generation.

A person or corporation wishing to engage in electricity manufacturing has to submit an application to the IEA for a conditional license, and meet the following pre-requisites: (1) Proof of rights to the land on which the applicant intends to erect the plant (such as ownership, lease, right of use); (2) proof of the financial means available for the applicant to carry out the licensed activity as well as the equity investment; (3) the ability to connect the facility to the electricity grid; (4) commitment to provide the IEA with a bank guarantee upon receipt of the license. (5) compliance with all requirements under the Law for Construction.

An applicant who meets these criteria and other legal requirements set in the Electricity Sector Law (1996) and other related rules and regulations, receives a conditional license.

The conditional license is granted for 42 months, during which the licensee has to meet several milestones, such as the procurement of a construction permit, tariff approval and financial closure. In certain cases, a licensee, who meets all the milestones set in the conditional license, is granted a permanent license valid for 20 years.

b. Prohibited Areas

The Israeli legislation contains several regulations and limitations on investments by foreign companies in specific Israeli entities. Below are some examples from different fields:

a) Telecommunications

The telecommunications sector has been gradually opened to competition since 1996. However, the Communications Law (Telecommunications and Broadcasting) of 1982, still provides a number of restrictions on foreign investment. For example, the law sets forth several restrictions on direct foreign investment in this sector, in cases that raise concerns regarding essential interests, including, inter alia, national security interests and proper functioning of networks during times of crisis.

b) Railways

In accordance with The Port Authority Law of 1961, national train services in Israel are provided exclusively by a government-owned company (Israel Railways Ltd.). As of today, there is no possibility for a private corporation to provide national train services in Israel. This market access limitation applies both to foreign and domestic private investors.

According to Section 46A of the 1972 Railroad Ordinance (New Version) the Minister of Transportation is entitled, subject to the approval of the Government, to grant a franchise to a nongovernmental-owned corporation to build, operate and manage the local railroad, provided that the company is registered in Israel.

c) Defense

Under the Israeli Control of Commodities and Services Law – 1996 it is possible for the executive branch to issue an order limiting the sale of an essential company which could include a defense company. In addition, any sale of a defense company that has a security clearance could require the approval of the Director of Security of the Defense Establishment (DSDE). Any disclosure of defense technical data to a foreigner would be subject to the receipt of an Export License and prior to contemplating such disclosure there would need to receive a Marketing License.

d) Invitation to Bid and Bidding

In 1993, the Mandatory Tenders Law (hereinafter "The Law") was enacted in order to oblige governmental entities, statutory entities, governmental corporations, universities and health maintenance organizations to make procurements by way of public tenders.

Section 2 (a) of The Law, states general tender obligation:

"The State and any government corporation, religious council, health fund and institution of higher education may not enter into a contract for the execution of a transaction in goods or in land, or for the execution of work, or for the purchase of services, except pursuant to a public tender that allows every person an equal opportunity to participate in it."

At present, the Israeli government performs thousands of tenders yearly, in every aspect. Transactions estimated in billions are concluded through public tenders. In fact, most of the government's business communication is performed by the way of tenders.

The public tender aims to ensure egalitarianism in the public perspective by giving equal opportunities to all bidders. From the economic perspective, the Legal Tender Laws expresses the principle of dealing efficiently with the public funds. This happens by achieving maximum gain at minimal cost.

The Tender Law in Israel is a field of law with extensive, disproportionate litigation considering its actual scope. One possible reason for this is that the law is designed in a way that if a bidder claims there is a flaw in the authority's act, it can only be cleared up in court. Additionally, the Tender Law is a relatively new, developing branch in the legal field, and is still in its formative years.

Section 4 of the Law authorizes the Minister of Finance to establish regulations that set the way for exemption from tendering as well as holding "closed tenders" in various ways.

Section 3 of the Mandatory Tenders Regulations 1993 elaborates the subsections stipulating the exemptions from tendering. The noticeable exemptions are: low value transactions, homeland security, foreign affairs security and the need for rapid communication in order to prevent actual damage.

Entities at the sub-central level, are covered by the Municipalities Ordinance and its regulations. Section 197 of this Ordinance requires the municipalities to publish a public tender for the purchase of goods and execution of works. The Municipalities Regulations, which are the implementing regulations for Section 197, stipulate the procedures required for tendering and in addition make reference to the Accountant General's Finance and Business Regulations.

以色列

作者：Fischer Behar Chen Well Orion & Co., Omer Ben-Zvi、Michelle Tzhori
译者：徐家力、陈易平

一、概述

以色列建国于 1948 年。以色列市场经济以多样、开放为特征。作为一个年轻的国家，从多项主要指数来看，以色列被视为发达市场。自 2010 年以来，该国一直保持作为经济合作与发展组织高收入成员国的地位。

以色列约有 800 万人口，其中 75% 为犹太人。 2014 年，该国 GDP 大约为 3 050 亿美元，人均 GDP 约为 37 200 美元。

以色列官方语言为希伯来语和阿拉伯语。希伯来语是以色列的主要语言。以色列也普遍使用英语。

以色列货币单位为新以色列谢克尔（以下简称“谢克尔”），1 谢克尔等于 100 个阿根洛。根据 2015 年美元与谢克尔的平均汇率，1 美元 =3.89 谢克尔。

过去几年，该国通货膨胀率在 1% 至 3% 之间浮动。2015 年的通货膨胀率为 -0.1%。

以色列是一个世俗议会民主制度国家，每隔 4 年举行一次大选，选出 120 位“Knesset”（以色列国会）成员。选举采取比例代表制。总理为政府首脑，以色列国会为以色列的立法机构。以色列总统由以色列国会选举产生，每届任期 7 年。总统职责主要是作为国家代表，并赋有委任外交高级职员、赦免罪犯、任命法官、签署和批准法律等权力。

以色列司法系统独立，与立法和执法机构完全分离。法院系统由三层体系结构组成：

地方法院为基层法院，对涉案金额不超过 250 万谢克尔（约为 675 000 美元）的民事案件以及 7 年监禁以下的刑事案例具有司法管辖权。

地区法院为中级法院，对涉案价值超过 250 万谢克尔的民事案件和处以 7 年以上监禁的刑事案件具有司法管辖权。此外，地区法院对涉及公司和合伙企业的案件、仲裁裁决上诉、囚犯诉状、涉税上诉以及针对政府机构与海事案例的起诉。地区法院负责受理对地方法院裁决的上诉案件。以色列共有 6 家地区法院。

以色列高级法院是最高司法机构。高级法院的决议与裁决对下级法院具备约束力，并且构成下级法院的判例。高级法院有自由裁量权和法律解释权，其决议与裁决通常会具有实际法律职能，即提出含有内容的法律架构，因此在以色列政治体系中起着重要的作用。高级法院位于耶路撒冷，以两种法庭类型行使其职能：①作为地区法院所作决议与裁决的上诉机构；②作为高等法院，处理国家主管部门作为一审法院所作决议的合法性。

除了上述三级法院，以色列的司法系统还包括：劳动争议法庭，该法庭对劳动纠纷具有司法管辖权；军事法庭，对军事相关争议具有司法管辖权；宗教法庭和家事法庭，此两类法庭均对婚姻和家族性案件具有管辖权。

目前，以色列经济呈多样化形态，其中技术产业［如软件、科技产品制造、TMT（数字新媒体）、生命科学和农业技术］处于前沿，然后是媒体与低科技产业，如化学品、塑料与农业。

以色列是世界上市场经济具备最强复原能力且科技最为先进的国家之一，是众多国际高科技公司的总部所在地。该国劳动力人口技术娴熟、风险投资集中，这一切让这个国家在高科技和生命科学等创新产业领域具有一定的竞争力。此外，以色列的经济在最近一次的全球经济危机中显示出超强的复原能力。

在短暂的发展历史过程中，以色列的经济发展同时伴随着戏剧性事件的发生与渐近性变革。但是，在不断取得突破和克服危机的过程中，以色列始终保持着稳定、良好的恢复能力和偿债能力等特征。

并且以色列政府鼓励实现创业、创业和市场开放价值 。多年以来，以色列的经济已牢固地确立了自己的地位，为国内外投资者创造了一个稳定的投资环境。

过去几十年，以色列经济发生了重大变动，即出现私有化进程。以色列政府自 19 世纪 60 年代便对政府资产实施私有化，1986 年私有化进程进入高峰期。自此后直到现在，以色列政府一直致力于国有资产私有化进程，并逐渐减少了对市场的干预。实施私有化后，以色列经济具备了更强的竞争力，并在发展速度、职业自由度与产权方面得到增长，商品与服务价格下降的同时质量也获得提高，对客户要求的适用程度也大大增加。

为了加强以色列在国际市场中的地位，该国已签订多份贸易协定。最重要的协定是与欧盟、美国以及欧洲自由贸易联盟（EFTA）签订的自由贸易区协定。与欧盟、美国以及欧洲自由贸易联盟签订的自由贸易区协定将以色列推到了一个独特的地位，成为与世界上主要经济地区合作的自由贸易区合作伙伴。

2015 年，以色列出口总额达 534 亿美元，与 2014 年的 479 亿美元出口额相比，有所增长。其中高科技产品出口额达 225 亿美元，而 2014 年高科技产品出口额为 199 亿美元。2015 年，以色列进口总额达到 613 亿美元，而 2014 年的总进口额为 625 亿美元。2015 年，以色列向亚洲出口达到高峰期，出口额为 116 亿美元，而 2014 年对亚洲出口额仅为 98 亿美元。2015 年，从亚洲进口的水平保持平稳，进口额为 133 亿美元，2014 年进口额为 138 亿美元。

以色列作为具有福利保障制度的社会国家，所有雇员有权获得以色列劳动法规定的劳动保护权利。即使强制性劳动保护条款未以书面方式并入每份雇佣协议中，每份协议仍被视为暗含该等条款规定。雇佣法主要源自于保护性劳动立法和相关判例。在大多数案例中，上述法律和判例的来源从性质上可以累计，并且即使得到雇员的明确同意，也只能增加而不能减少。由此看出，以色列雇员不得放弃他们的法定权利、集体协议和其他法律强制性安排。

Galia Lavi, Jingjie He 和 Oded Eran（《中国与以色列：在相同的一带一路上？》，载《战略评估》第 18 卷第 3 号，2015 年 10 月）注意到：以色列政府提倡在各个领域与中国开展合作，并组建了特别经济工作组促进与中国的经济合作关系。丝绸之路经济带与 21 世纪海上丝绸之路（简称“一带一路”，B&R）项目为以色列实现该目标并促进该国经济创造了良好的机遇。以色列可以通过苏伊士湾成为连接印度洋与地中海的中国海上丝绸之路上重要的一站，但前提以色列政府需批准建设从埃拉特到阿什杜德港的铁路线。尽管以色列表面上看起来是“一带一路”上一个较小且无关紧要的一站，其意义却不容小觑。据统计显示，在丝绸之路线上的 63 个国家中，其投资指数为 22，并且以色列的投资运作风险低于丝绸之路沿线国家的平均值。这一点可从中国在以色列加紧投资可得到进一步证实。在过去两年，中国公司在以色列对各个领域的收购所涉价值已超过 50 亿美元，其中包括食物（Tnuva）、农业（Makhteshim Agan）、保健（Shahal）、高科技（Nextec）和基础设施（阿什杜德新港口建设）。

尽管中国人力资源富饶，是世界上第二大经济体，但是为了长远的经济发展，中国非常需要在创新与科技方面提升优势。 科学与技术正是以色列作为“创业国度”能够促进中国发展的领域。以色列高科技公司在中国的“互联网 +”项目中大有作为，该项目可通过计算机和通信技术改善和促进传统工业部门的发展，还能将其电子基础设施从光纤网络扩展为卫星通信从而促进信息流动，尤其是农村地区与偏远地区的信息流动。以色列公司可以通过精简工作程序以及提高在工业机器人等领域的表现，帮助中国在工业领域的快速发展。

除了帮助中国当地的工业与农业发展，“一带一路”项目旨在增强国家之间的贸易与运输。因此需要沿着这条线路建设海港、机场、修建铁路，建立仓库和运输系统。以色列公司可通过开发与整合铁路、飞机与海洋工程方面的先进技术与相关系统，为这一大型工程做出贡献。“一带一路”项目涉及的其他领域还包括医疗服务、金融与保险领域。中方对保险业也甚感兴趣，他们目前正在收购菲尼克斯公司（Phoenix）的控股权，并且还在商议收购卡尔保险公司（Clal Insurance）。

二、投资

（一）市场准入

以色列设立了各类鼓励措施，对本国投资提供支持，从而获得贸易顺差，增加收入，最大限度提

高指定工业领域的生产能力，确保在相关市场中形成良性竞争，以及促进该国的整体经济增长。

为了实现上述目标，以色列颁布了众多法律法规制度提供切实的利益与优惠条件。尤其注重高科技公司与研发活动，对该等领域极为重视。

为了促进以色列境内落后经济地区的经济发展，以色列对不同地区授予差别化利益，即指定优先地区的利益比以色列中部地区优惠多。但是，无论企业在何地组建，均有资格获得优惠，但前提是它们必须符合相关标准的要求。

此外，以色列给予国外投资者和重大投资项目赋税优惠。

以色列欢迎外国投资，尤其是对技术和研发相关项目的投资。以色列人可享受的大部分利益，外国投资者同样可以获得。甚至在部分情况下，外国投资人能获得比国内投资者更为有力的支持。投资鼓励措施在不同法律法规中均有罗列，主要由以色列投资中心（IIC）负责管理。此等利益相关的两部主要适用法律如下：

《鼓励资本投资法》：该法最初于1959年颁布，目的是通过吸引国内外投资者，加大对以色列工业的资本投资，从而促进以色列的经济。该法旨在增强以色列经济在国际竞争中对国内外投资与发展资本的吸引力。同样地，通过在该法中设立激励措施，整个国家的人口地理分布更为平衡，并且周边地区的发展得以加强。该法为国内外的投资者提供了各种奖励措施。符合相关标准的公司有权享受税收优惠政策，并可获得土地开发、建设和资本设备方面的各种政府资助。对于向政府政策不时确定的优先领域进行投资的投资者，他们可以获得更多的资助与利益。由于以色列国土面积较小，其优先领域所在地距以色列机场和特拉维夫市地铁仅一至两小时的车程。

《鼓励工业研究与开发法》：该法旨在发展科技密集型产业，在政府资助、贷款、税收豁免与降低方面作出了规定。

以色列经济部下属的创新局（正式名称为首席科学家办公室）负责执行以支持和鼓励以色列产业研究与发展为目的相关政府政策。以色列创新局提供了各种支持计划，这对以色列成为最重要的全球高科技企业中心之一发挥了重要的作用。

在国际层面上，以色列创新局的执行部门MATIMOP（以色列工业研发中心）提供了与国外政府机构合作完成的国际项目。国际支持项目通过提供两国共同基金给予支持，并与国外交易对手成立联合研发企业。2010年，中国政府与以色列政府签署了双边协议，建立了中以产业研发合作项目，其主要目的在于为两国的联合产业研发项目提供支持，从而实现产品与工艺在全球市场的商业化。中国科技部（代表中国政府）和MATIMOP（代表以色列创新局）联合实施双边框架协议。根据该框架协议，两国已签署了多份与中国各省相关的合作协议。

以色列与许多国家签订了税收协定，其中包括中国。这意味着可以避免双重征税。根据以色列与中国之间的税收协定，凡参与两国之间贸易的公司均有权在股利与专利特许权使用费方面获得极大的税收优惠。

中国与以色列一直不停地通过各种方式发展两国之间的关系，包括①建立双边研发合作项目；②以色列与中国政府就专项贷款签署各种金融协议，为两国之间的贸易与投资提供资金资助；和③成立特别经济工作组［由以色列经济部和中国国家发展改革委员会牵头］，旨在进一步深化两国之间的经济合作，促进贸易增长。

近年来，中国政府开始关注以色列工业，中国公司对以色列公司的收购和投资日益增加。最近的例子包括：中国化工集团公司收购马克西姆阿甘公司，中国光明食品集团有限公司收购以色列特鲁瓦食品产业有限公司。

（二）外汇监管

以色列银行市场运营部监管和分析当前外汇市场的发展，并执行银行的汇率政策。市场运营部的功能除其他事项外还包括持有和管理国家的外汇储备，支持外汇市场有序活动和发布代表性汇率。

以色列国家外汇储备主要为持有经济所需的外币。以色列银行持有外汇储备以便必要时提供流动外币，如资助本国债务的偿还，在紧急情况下支付特殊的政府进口货物费用，在金融危机期间提供流动资金，或者在实施货币政策的过程中根据需要进行销售。

每个外汇交易日以色列央行根据交易日近期的市场价格发布谢克尔对其他货币的汇率。需要注意的是，代表性汇率是市场上普遍存在的汇率指标，但它没有法律约束力。因此，兑换外币的交易双方可以自由商定汇率进行交易。

以色列没有在对内和对外投资上进行外汇管制。外汇可以自由买卖并且以色列对外币银行账户没有限制。对货币波动的限制和控制只适用于反洗钱。

外汇在以色列的流进和流出是自由的。可使用新以色列谢克尔在许多国家进行交易。从以色列分配利润是没有限制的。

以色列的外汇自由化进程完成于2003年，那一年对机构投资者进行海外投资的最后一个限制被取消。外汇管制已经完全被废除，新以色列谢克尔是可以自由兑换的货币。在汇率不符合基本经济条件的特殊情况下，或者当外汇市场不正常运作时，以色列央行选择继续干预外汇交易 。以色列人可以没有限制地投资国外市场。外国投资者可以开立允许他们在以色列公司和证券自由投资的谢克尔账户。这些谢克尔账户完全可兑换成外汇。

（三）融资

以色列的金融部门包括各种各样的参与者，由以色列银行主导。以色列银行业高度集中，包含控制大约94%的整个以色列银行信贷的五家银行集团，同时两家最大的银行集团持有大约60%的整个银行业的资产。

金融部门除了银行还包括“机构投资者”，主要是保险公司、住房公积金和养老基金以及其他主要以交易信贷工具——共同基金为主的机构。在过去的10年里，因受政府在金融领域主导的结构性改革影响，机构投资者所提供的信贷量不断增加。

由于机构投资者日益增长的影响和市场份额，适用于这些实体的强有力监管框架出台了。在过去的几年中，监管部门已经任命了几个委员会，颁布法律法规以建立一个广泛的监管框架，监管机构投资者在非政府债券投资、量身定制的信贷工具、债务重组以及对这些机构的授信。

这个监管框架涉及信贷过程的不同方面——从限制信贷机构投资者有权参与的信贷类型，到限制信用交易中当事人之间的协议的内容，再到限制机构投资者有关日常信用管理的结构性问题。

然而，机构投资者对金融市场的贡献体现在大型企业在信贷市场日益增强的竞争力中，而银行在小型企业和中型企业（中小企业）和消费贷款领域仍占统治地位，占据约90%市场份额。其他市场参与者是非银行放贷机构，这些机构专门从事某些类型的信贷［如保理和折扣服务，短期贷款服务（信用卡发行者和P2P平台也提供）］，一些适用于中小企业，另一些（大多是使用虚拟平台的人）适用于消费者。在过去的一年中，监管工作主要是设置进入市场的框架以及信贷提供者的活动框架。

随利率波动的透支卡（根据要求可随时偿还）是营运资本融资或分期付款业务中最常用的工具。银行也提供短期、中期或长期贷款。还款条款是可协商的，利率是固定的或可变的。要获得银行融资，业务通常需要有足够的安全性，一般是通过对商业资产进行固定或浮动收费的形式，并且，在某些情况下，需要业主的个人担保。此外，银行通过子公司或分支机构提供其他各种融资计划，如分期付款信贷、租赁、保理和发票贴现以及夹层融资。

近年来，一些外国银行在以色列建立了代表处，但他们不能在该国从事零售商业活动，大部分工作任务是为他们的投资银行和私人银行招募客户。

以色列的银行被以色列央行监管。以色列央行是独立的，其目标和运作方法由以色列银行法规定，即5770-2010法规。它的目标是保持物价稳定，支持政府的目标——特别是经济增长和就业，并维护金融系统的稳定性。

（四）土地政策

以色列土地管理局管理属于以色列国家和犹太国家基金和发展局的土地。这些土地大约占整个以色列领土的93%（大约22000平方公里）。这些土地长期被出租给家庭和业主，导致其像私有土地那样被交易。以色列剩余的7%的土地是私人所有。

在以色列没有明确的法律限制外国居民的土地所有权。然而，要申请由以色列土地管理局控制的

土地，外国居民则必须获得以色列土地管理局主席的批准。在某些情况下，与以色列土地管理局签订的租赁合同须包含条款“承租人向外国居民转让股份时须得到以色列土地管理局的同意”。有关向外国居民出售或转让私有土地方面没有限制。

（五）公司的设立与解散

以色列商业实体包括公司、合伙企业、合作社和非营利组织。个体不需要建立任何法律实体就可以进行生意。

1. 公司

以色列最常见的商业实体形式是有资本股（股本）的有限责任公司。以色列公司条例对公司的定义是：根据以色列法律，在以色列成立并注册的公司。

大多数公司通常以股份的形式限制他们的所有者的个人责任。在这种情况下，术语“有限”（或简称“有限公司”）必须作为公司全称的一部分出现。对股东和公司董事的国籍或居住权不存在任何要求。对于非居民持有以色列公司的股份没有限制。然而，在某些敏感行业确实对非以色列实体或个人在以色列公司中的利益有一定的所有权限制（例如，银行、银行控股公司、保险公司、电信公司、养老基金管理公司和控制自然资源和基础服务的公司）。此外，一些正在或已经与以色列处于战争状态国家的国民不可以在以色列公司拥有自己的证券。

一家公司可以注册为“私人公司”或“上市公司”，并有在证券交易所注册的证券。这两种类型的公司必须向他们的股东提交年度报告，包括经审计的财务报表。私人公司不得向公众发行和出售债券或股份，并且其公司章程必须包含对其股权转让的限制。上市公司只有在按照法律的要求发行招股说明书之后才能向公众发行股票或债券，并且必须公布年度报告，该年度报告包含经审计的财务报表及董事会报告。

2. 合伙企业

合伙条例把合伙企业定义为一个实体，这个实体由签订合伙协议的人组成。有限合伙企业的有限合伙人承担有限责任，普通合伙人承担无限责任。在以色列可经营外国合伙企业。

3. 合作社

这类商业实体主要以农业（如基布兹或莫沙夫之类的合作社），与农产品相关运输和某些类型的市场营销为基础产生的。

4. 非营利性组织

这些机构主要是由学术机构、医院、慈善机构和市政机构运作。非营利组织受特殊的法律约束，主要规定这些组织的成立以及运作方式。

5. 子公司与分公司

外国（即非以色列）公司（以下简称“外资企业”）在以色列一般采用以下两种运营方式之一：将以色列的公司作为外资企业的子公司（以下简称“附属公司”），或由外资企业在以色列注册分行（以下简称“分支”）。

以色列公司与美国公司或英国公司相似。其股东的责任是有限的，公司有一个或多个类型的股份，股份由股东持有，公司还设有董事会，并且运营的话，就有一个首席执行官。除了那些由以色列公司法 5759-1999（以下简称“公司法”）规定的事务以外，公司的资本结构以及股东的权利，董事会和首席执行官都是由公司的章程规定。

子公司是一个独立的法人实体，其股东为外资企业。鉴于刺穿公司面纱的考虑，外资企业的责任以其在子公司的投资金额为限。作为一个独立的法律实体，子公司可以以自己的名义采取任何法律行动，包括以下内容：①持有适当的地方牌照，②订立协议（包括与当地的投资者、供应商和服务提供商），③拥有当地银行账户及④持有与母公司之间的分包合同或服务水平协议，以便按照各种客户合同提供服务。

根据以色列法律，外资企业只有在其按照公司法注册为“外资企业”时才可以在以色列拥有营业场所。外资企业的分支机构不是一个独立的法律实体，即使他们的商业和财务金融活动是独立的。外

资企业与分公司之间并不因公司面纱理论而免责，外资企业在以色列被视为法律实体存在，直接对分公司负债（对债权人、税务机关等）承担责任。鉴于分公司不是独立的法律实体，进行下列活动时须以外资企业的名义：①持有适当的地方牌照，②订立协议（包括与当地的投资者、供应商和服务提供商），③拥有当地银行账户；在以色列分公司的授权代表可以代表外资企业处理相关事项。此外，由于外资企业的分支机构不是一个独立的法律实体，不能持有与母公司之间的分包合同或服务水平协议，也不能依据客户合同提供服务。

从一个纯粹的公司结构和责任保护的角度来看，外资企业更倾向于以色列的子公司的形式在以色列经营，而不是通过一个地方分支机构。请注意以下概述的税务考虑。

（1）子公司与分公司——税收考量

假设外资企业在以色列的活动将构成以色列的应纳税存在，下面主要是基于以色列税收因素考虑是否设立子公司或分公司。

① 子公司

所得税因素——从法律和税务的目的考虑子公司将常驻以色列。在以色列的外资企业子公司须按照利润（收入减去费用）缴纳企业所得税（目前税率是25%），利润将从其在以色列的活动和业务中产生。有净利润（利润减去税额）的公司一般将能够将其净利润分配给外资企业。根据以色列的法律，非以色列居民的所得税率是25%。根据外资企业的国内管辖权，适用双边所得税条约可能会减少所得税率。

增值税因素——子公司在给以色列客户提供服务时将向客户收取增值税（目前为税率17%），该子公司可以将上述增值税与以色列“输出增值税”（即支付的增值税）抵消。以色列增值税将包含在该子公司向客户收取的费用里，由子公司向以色列的税务机关（ITA）支付。

备案——因所得税（即征税和扣税文件）和增值税的需要，子公司必须注册。且必须提交年度所得税申报表和每月扣缴增值税报告。

② 分公司

所得税因素——在以色列分配给分公司的利润将按照以色列企业税率征税。从分公司角度，外资企业显然希望与以色列国税局达成统一的利润计算方式，利润计算方式可能采用成本计算法。以色列外资企业将每年按照基于以色列分支机构所得的收入被征税，并且在大多数情况下，在分支机构将利润汇回国内前，外资企业不能递延税负。在这种结构下，当分公司向外资企业分配利润时不存在预提所得税。在以色列，外企企业分公司无须缴税，分公司所产生的所有净利润将分配给外资企业。这可能是因为外资企业在其国内税区为以色列分公司缴纳的税款（只要它不产生损失）可直接抵扣。

增值税因素——分公司在给以色列客户提供服务时将向客户收取增值税，以色列分公司可以将其与以色列“输出增值税”（即支付的增值税）抵扣。

备案——就以色列分公司的事务而言，其申报和报告义务与子公司相同。

注册分公司（作为一个注册的外资企业），外资企业应向以色列公司注册登记处提交以下文件：

• 公司注册证书：经认证的公司注册证书副本和对应的经认证的希伯来语翻译件。

• 公司章程及备忘录：经认证的公司备忘录副本和章程副本（按法律规定）和对应的经认证的希伯来语翻译件。

• 良好信誉证：由其注册地管辖机关发给公司的原始的良好信誉证书。

• 董事名单：载有公司所有董事名单、地址（可能是公司的办事处）、国籍、护照号码（或以色列人的身份证号码）的原始凭证。

• 当地代理人：载明一名居住于以色列的代理人的全称和地址（附他的以色列身份证副本）的原始凭证 。该代理人被授权接收司法文书、法院传票或公司的任何其他通知。

• 授权委托书：一封授权以色列当地的代理人代表公司的授权委托书，和一个授权地方代表（通常为当地的律师事务所）办理公司作为“外国实体”在以色列注册事宜的授权委托书。

目前外资企业登记注册的费用大约为600欧元。已注册的外资企业要缴纳年费（目前约为350欧元）。

公司注册登记机关收到完整的申请后通常在14个工作日内完成注册程序。公司注册成功后领取一个附有9位数字公司号码的注册登记证书，该号码用于办理公司事务。公司注册后，须向有关税务机

关申请所得税和增值税号码。依据公司法，在以色列注册的外资企业必须向公司注册登记机关通知包括备案文件变更在内的任何变更。

（2）成立以色列子公司

在以色列注册一个新公司所需的文件包括：①一份包含公司建立所需基本细节的公司表格，②公司章程，③原始董事声明和④原始股东声明。向公司注册登记机关提交的表格和公司章程必须是希伯来语且必须由原始董事和/或原始股东在有以色列律师在场的情况下签署（或由律师出具证明）。

注册一个新的以色列公司，至少有一个原始股东（自然人或公司）和一个原始董事（自然人或公司，公司作为董事时必须指定一个特定的人代表董事会），原始股东和原始董事可以是同一个人。当一个公司注册为新公司的股东时，新公司必须取得股东公司的经律师验证的注册文件副本和良好信誉证副本。

公司事务包括股票的发行、董事的任命和辞职、公司的资本结构的变更，需要向公司注册登记处报告，报告必须由公司的董事或高级官员（首席执行官或向首席执行官汇报的官员）在有以色列律师在场的情况下签署（或由律师出具证明）并在14天内提交。相关规定建议以色列公司的董事或高级官员中至少有一位是以色列居民。此外，通常要求公司每个日历年度必须召开一次股东大会；当然也有例外。以色列公司必须每个日历年提交一份年度信息表格。

注册子公司，原始董事和或原始股东必须提交以下文件和信息：

① 公司名称：必须提交公司英文名称（希伯来名称必须是英语译文）。

② 股东基本信息：须提供每个股东的姓名、以色列居民身份证号和详细的居住地址。如果股东是非以色列公民，则需要提供以下文件：对于法人股东，需要提供股东的公司注册登记证书副本和法人当前存续的证明（如现有的声誉证书）和对于自然人股东，须提供股东护照的照片页副本。股东必须签署一份声明，说明其作为股东的适当性。这些文件的副本的真实性须经以色列律师证明。

③ 董事基本信息：有必要提供每个董事的姓名、电话、详细的居住地址和以色列居民身份证号（如适用）。如果董事是非以色列居民，有必要提交一份该董事的护照照片页副本，该副本的真实性须经以色列律师验证。如果董事是非以色列公民，则需要提供以下文件：对于法人董事，需要提供董事的注册证明书副本和法人当前存续的证明（如现有的良好声誉证书），和对于自然人董事，须提供董事护照的照片页副本。董事必须签署一份声明，说明其作为董事的适当性（以色列律师必须见证该声明的签署）。这些文件的副本的真实性须经以色列律师证明。

④ 注册办公室：须提供一个以色列地址作为注册办公室。

⑤ 原始资本结构和发行：须详细说明授权发行的股份数额（以及是否有不同种类的股份）以及其票面价值（至少0.01谢克尔）或发行无面值股份时的建议。经股东同意资本结构（授权发行的股票数量及其面值）可以随时变更。

⑥ 原始章程：需要提交章程。须明确新公司的宗旨；当然，如果简单表明该公司将从事合法活动也是可行的。公司注册登记处目前只接受希伯来语的章程。

目前新公司登记注册的费用大约为600欧元。以色列公司需要缴纳年费（目前约为350欧元）。公司注册登记机关收到完整的申请后通常在5个工作日内完成注册程序。公司注册成功后领取一个附有9位数字公司号码的注册登记证书，该号码将用于办理公司事务。公司注册后，须向有关税务机关申请所得税及增值税号码。

公司可以自愿清算，或在法院监督下按照债权人的要求清算。

（六）合并与收购

近年来，以色列境内的合并与收购活动显得尤其频繁。在过去几年，中国公司与其他亚洲公司在以色列公司中的利益呈现出急剧增长的势态。近年来发生的涉及亚洲收购者的大宗交易包括：收购大型以色列公司的控股权，其中包括中国光明食品集团有限公司收购食品企业集团特鲁瓦，中国福建阳光城集团收购保险提供商凤凰控股有限公司。其他重大交易包括：日本乐天收购Viber（通信应用行业）、新加坡Kusto集团收购Tambour（油漆公司）以及中国的Xio Group收购Lumenis（微创手术解决方案提供商）。

收购以色列公司的股份或其资产，即可完成对公司的收购。此外，根据 5759-1999《以色列公司法》（以下简称《公司法》），在符合特定条件的情况下，允许并购或合并两家及以上的公司。

公司法未对私人公司的股份转让施加限制条件，但是公司章程文件中可能对其进行限制。以色列公司不能与外国（非以色列）公司合并，因此，通常会采取股权收购或者逆向三角合并（通过该方式，外国实体可合并与以色列目标公司合并的以色列子公司）的方式完成外国公司的收购。

各宗交易的税务事宜各有不同，有利有弊。某些情况下，交易还要求获得以色列监管机构（如反垄断局）的批准。此外，如果以色列（被收购）目标公司为获得政府资助的公司（比如以色列发明局给予的政府资助，或获准企业与受益企业项目给予的赋税利益），则非以色列居民收购该以色列公司还将要求取得相关政府部门的批准。

通常，《公司法》的规章制度同等适用于私人公司和上市公司，上市公司的内部批准程序还须遵守特定的制度。上市公司参与交易的，需遵守部分披露要求。大多数情况下，无论公司仅在特拉维夫证券交易所或以色列境外的交易所上市，或者是双重上市，以色列上市公司的收购仍应采用同样的方式组织和实施。

若要取得上市公司 100% 的股份，须履行三个主要程序：①反三角合并；②投标报价；和③法院批准合并（依据《公司法》第 350、351 条）。没有制度规定最低售价和其他交易条款。对于投标报价和反三角合并而言，收购要约应对持有同类股票的目标公司股东给予同等条件。即使要求的大多数股东同意了该收购要约，在出现“全部”股权收购要约的情形下，未明确是否接受要约的股东仍有权向法庭起诉，要求裁定报价是否低于公允价值。

《以色列证券法》中详细阐明了在进行投标报价与并购时，若目标公司是只在特拉维夫证券交易所上市的公司应遵循的披露义务。目标公司董事会须将估价及其认为与并购相关其他重要财务信息向目标公司的股东披露，其中包括已取得的公平意见书的副本或说明书。

尽管法律上未做要求，但通常需要针对下述两方面事宜从以色列税务局取得提前裁定：①明确收购方对目标公司股东所得报酬相关的税款扣缴义务；和②规定收购方采取雇员意见的行为不得导致目标公司期权持有人产生直接税务事件。

对于特殊产业领域的公司，收购特定比例的所有权或控制权要求取得特别批准。例如：①收购银行或银行控股公司的 5% 及以上的股份，需要以色列银行行长与以色列银行牌照委员商议后签发许可；②收购保险公司 5% 及以上的股份，需要以色列保险业务总管的许可；③收购电信业务公司的特定比例股份，要求取得通信部颁发的执照；和④对于某些情况下的收购（主要指政府所有公司私有化），即收购控制自然资源和基础服务的公司，以色列将政府保有部分投票权和其他权力。

以色列是进行各类交易的蓬勃之地。以色列当地文化在繁荣的市场与数量不断飙升的交易中发挥着重大作用。以色列人喜欢直奔主题、个性果断。在以色列进行交易的过程中，交易与人际关系相对于世界上其他国家而言，更为随意，可轻松完成交易。但是，无论是起草交易文件的风格、适用的标准条款或者一般开展业务的方式，以色列进行交易均与美国的基础交易类似。

（七）竞争法规

《限制性贸易行为法》5748-1988（以下简称“贸易法”）为处理以色列境内反垄断问题的主要法律，其宗旨在于防止抑制竞争与损害人民大众利益的行为。贸易法确立和规定了适用于各类限制性贸易行为（限制性安排、合并、垄断、一致市场行为）的具体规则。

此外，贸易法确立了与以色列公平交易局（IAA）的组织机构与权力、IAA 总长（以下简称总长）、反垄断法庭相关的规章制度，以及上述机构适用判例的程序规则。

1. 限制性安排控制制度

依据贸易法第 2(a) 条的规定，限制性安排为开展业务的人（此处“人”包括法律实体）之间的安排，根据该安排，当事方中至少有一方须对本身予以限制，从而防止或削弱该人与该安排其他当事方或其中任意一方之间的竞争，或者防止或削弱该方与任意第三方之间的竞争。此外，贸易法第 2(b) 条也作出了结论性推定，即：如果涉及约束措施的安排与下述项目相关，则该安排应视为限制性安排：被要求提供或支付的价格；待获取的利润、市场分配、业务中资产或服务的数量、质量或类别。

就限制性安排控制制度域外应用方面，IAA 采用“效果原则”，从而取得对限制性安排，包括在以色列境外运作并且损害以色列境内的市场竞争的联合企业的域外管辖权。

一般而言，除非本法允许，否则禁止做出限制性安排。贸易法第 4 条规定：若反垄断法庭认为限制性安排符合公众利益，限制性安排的当事方便可获得法庭的批准；或者，经限制性安排的任一当事方请求，且在总长与豁免并购委员会商议后，该安排可得到总长的豁免。总长将考虑该限制性安排是否会大大削弱竞争或损害竞争，该安排的目标是否会削弱或消除竞争，以及安排中的约束措施对于实现该安排的目标是不是必要的。

此外，法定豁免适用于部分安排，具体规定见贸易法第 3 条。此处的安排包括但不限于：①涉及约束措施的安排，这些安排均由法律规定；②与特定业务部门（如农业、国际航空公司或海洋运输）相关的安排；③所涉及的约束措施与知识产权相关的安排；④公司与其子公司之间达成的安排；⑤与房地产权益转让相关的安排；⑥与知识产权转让相关的部分安排；⑦涉及工会或用人单位组织的安排，或其约束措施涉及聘用与劳动条件的安排。

依据贸易法第 15a 条的规定，总长在履行通知程序（其中包括就拟发布的条例征求大众意见）后，有权设定豁免条例，该等条例将作为法规制度予以颁布。豁免条例将主要免除限制性安排的当事方必须取得总长的特定豁免许可或反垄断法庭的批准这一义务，但前提是必须遵守各类豁免条例的要求。

过去几年，IAA 公布了各类豁免条例，其中包括：《导致轻微竞争损害的限制安排豁免》《合资企业豁免》《研发协议豁免》《独家交易豁免》《独家经销豁免》《特许经营权豁免》《无价格限制的非同行业安排豁免》。

2. 合并控制制度

贸易法以非详尽清单的形式从广义上界定了“公司合并”的含意，清单内容包括：一家公司收购另一家公司的主要资产，或者一家公司收购某一家公司的股份，收购后，收购公司占被收购公司已发行股本票面价值超过了 1/4，或者所占表决权、任命公司董事的权力超过 1/4，或者参股权超过公司利润的 1/4；收购可以是直接收购，间接收购或通过合同授予的权利进行的收购。

尽管如此，虽然贸易法并未规定构成合并所具备的明确特征，但如果双方之间存在进一步的密切关系（如贷款或介入公司的管理），即使收购上述权利不到 1/4 的比例也可构成合并。

如果各个合并方满足 IAA 合并指南（以下简称《指南》）中所述的“关系测试”的条件，则贸易法适用于涉及国外当事方的合并：

（1）国外公司在以色列境内注册——在该种情况下，贸易法明确适用。

（2）国外公司与以色列公司存在“合并附属”关系。根据《指南》的规定，国外公司（即与以色列公司存在附属关系的公司）与以色列公司之间的合并交易形成两家以色列公司之间的间接合并。贸易法规定：当国外公司持有以色列公司超过上述 1/4 的权利（即，超过 1/4 已发行股票的票面价值、表决权或超过任命 1/4 董事的权利，或者超过 1/4 利润的参与权），该公司将视作涉及外国公司的合并交易的当事方（即与以色列公司有附属关系）。

（3）外国公司在以色列设立了营业场所（导致比如国外公司对当地代表的行为具有极大的影响力）。

贸易法要求所有合并公司应在达到本法设定的下述任一阈值时，应向 IAA 提交合并通知：

（1）以色列境内合并公司在合并前的一个财政年度的合并营业额超过 1.5 亿谢克尔。销售额阈值应考虑直接或间接控制合并公司、被合并公司控制或通过合并公司进行控制的所有实体的销售额，以及直接或间接被任一上述实体控制或控制上述实体的实体的营业额。

（2）并购后，合并公司在指定货物或类似货物的生产、销售、营销或收购总量，或者提供的指定服务或类似服务的合并市场份额（在任何市场中）占市场总份额的 50%；

（3）任一当事方具有“垄断”性质（即，持有以色列某类产品服务市场中超过 50% 的总供应量或购买量，包括与合并交易无关的市场）。

市场份额阈值需考虑控制各方或被各方控制的所有实体。若交易涉及的公司同时在以色列境内和国外开展业务，则上述要求仅适用于该公司在以色列的销售额和市场份额。

贸易法规定，IAA 接收到所有合并当事方填写完成的通知表之日后 30 天内，总长应告知合并公司

其针对合并所作出的决议。尽管如此，总长可与当事方或反垄断法庭协商延长期限。若总长未在 30 天的通知期内作出决议且未获得延期批准，则视作 IAA 批准并购。

实际情况是，当跨境并购交易要求获得多个司法管辖区的批准，在没有涉及以色列市场的独特情况下，IAA 有时需考虑不同管辖区内其他不同实体（主要是美国联邦贸易委员会、司法部和欧盟委员会）所作的决议。此外，在该环境下，为了使 IAA 能够从相关各方获得与并购相关的信息，各方还可能会放弃对竞争主管部门所提供信息保密的权利。

如果总长发现合并后相关领域内的竞争极有可能受到严重损害或者公众可能受到下述因素的危害：高等价位资产或服务、低质量资产或服务或者资产的可用数量、提供的服务范围或者供应的不变性与条件，则总长有权反对公司并购或对并购规定条件。

3. 垄断控制制度

根据贸易法第 26(a) 条的规定，若一方持有超过一半的总资产供应量或并购量，或者持有超过一半的总服务提供量或并购量，则应视为垄断。

在当前的制度下，如总长宣告某企业垄断，该宣告仅具备宣告性效力，这意味着垄断是“状态”问题。因此，无论总长是否做出该声明，适用于垄断者的义务与约束条件将持续存在。

此外，贸易法第 26(c) 条规定，按照经济部长的裁定和总长的建议，若某一实体对市场具有“决定性影响”，则垄断法也适用于所持市场份额低于 50% 实体。但是在事实上，本节规定几乎未被使用过。

一般而言，垄断状态是不被禁止的。但是，垄断者必须遵守几项严苛的行为标准：

（1）垄断人不得在其持有垄断市场份额的市场中无正当理由拒绝任何货物或服务的交易（即供应或购买）；

（2）垄断者不得构成滥用其在市场中的主导地位，不得削弱业务竞争或损害公众利益。垄断者滥用主导地位的行为包括但不限于：

① 制定不合理的产品或服务价格；

② 减少或增加垄断者提供的产品或服务的数量，该减少量或增加量不在公平竞争的范围内；

③ 对同类交易使用不同的合同条件，让部分客户和供应商获得相对于他们的竞争者而言不公平的优势；

④ 使与垄断资产或服务相关的交易服从与该交易无关的条件（捆绑）。

此外，贸易法还规定，凡与下述任意一项内容相关的损害行为应视为损害竞争或公众利益的行为：资产或服务的价格、资产或服务的质量、资产或服务的数量、供应条件与该供应的规律及条件、市场进入壁垒、市场内部的壁垒转换。

在这方面，总长有权在业务活动中对垄断者给予监督与指导，确保垄断者的行为或者垄断的存在不会损害市场竞争或者损害公众利益。

4. 联合集团控制制度

根据贸易法规定，对于开展业务且处理超过 1/2 总资产供应量或并购量，或超过一半服务提供量与并购量的有限人士团体，若下述条件得以满足，则总长有权认定该有限人士团体为联合团体，且该团体的每个人均为联合团体的成员：

（1）团体成员之间或联合团体的经营业务所处的市场内部存在有限度的竞争，或者存在有限度竞争条件；

（2）总长做出的指示能够防止发生严重损害，或能够减少外界对市场竞争和公众利益被损害的担心，或者能够极大加强竞争或者形成明显改善市场竞争的条件。

此外，贸易法列出了多个市场准入壁垒，两个或以上的准入壁垒共同视为有限度竞争的条件。

总长可要求联合团体采取措施防止对市场竞争与公众产生损害，或者采取措施增加联合团体成员之间的竞争，或者创造加强竞争的条件。

此外，若在特定情况下出售联合团体成员所持股份（全部或部分出售）可防止对市场竞争或公众产生严重的损害，或者能够有效加强联合团体成员之间的竞争，则一经总长申请，反垄断法庭有权命令联合团体出售其所持股份。

5. 强制实施

违反贸易法将承担刑事、行政与民事处罚后果。

一般情况下，贸易法的所有条款为刑事犯罪条款。但是，刑事处罚通常适用情形较少，只有在严重违反贸易法时才适用。

贸易法规定了多项行政执法费用：行政罚款和行政决议（决议）。总长可发布行政决定，声明已发生违约法行为，总长的决定在法庭上可作为初步证据。法律授权总长和第三方同意做出和解协议，即向国库支付一笔款项，以此代替其他强制实施措施。

违反贸易法视作《侵权法令》（新版）5728-1968 所定义的侵权行为。根据以色列集体诉讼法规定，可提交议案核证反垄断案件中的集体诉讼。通常在过去引发私人执法的因素是以 IAA 实施的刑事或行政执法为基础。但是，新的趋势扩大了全世界国外竞争管理部门执法的引发因素。核证集体诉讼的其他议案以针对超高定价对垄断者提出的索赔为基础。

（八）税收

1. 公司税

以色列公司须按其在以色列境内外收入的 25% 缴纳税款。海外以色列公司应支付的税款可记账。某些情形下，“优先企业”或“特殊优先企业”的收入应按 5% ～ 16% 的比例缴纳公司税（依据《鼓励资本投资法》的规定）。

2. 所得税

依据《以色列税收条例》的规定，以色列居民（无论是个人或公司）均应按其在世界各地获得的“应纳税收入”支付税款。以色列居民应对他们在以色列境内外得到的收入支付税款，此处收入来源包括就业、业务、利息、红利、特许权使用费和资本收益。在以色列，所得税按递进法计算。初始税率为 10%，逐步递增，最高不超过 50%。若任何人的纳税住所在以色列境内，则就税收目的而言，该人被视为以色列居民。贸易法规定，出现下述情况时，一个人的纳税住所视为在以色列境内：①在纳税年度的 183 天或更长时间内，该人一直在以色列境内；或②在纳税年度的 30 天或更长时间内，该人一直在以色列境内，并且该人在当前纳税年度和前两年内的总停留时间为 425 天或更长时间。

非以色列居民需要对其来自于以色列的收入缴纳税款。以色列与其他国家之间订立了双重税收协定，应纳税收入可依据该协定的条款予以修改。

3. 增值税（VAT）和间接税

根据《增值税法》的规定，卖方在销售时可针对出售的货物和提供的服务从买方手中收取 17% 的增值税（2016 年规定）。增值税是按照以色列境内的“交易”价格或以色列进口货物价格的统一费率收取。以色列法律规定了免予征收增值税或按零费率征收增值税的交易类型。在第一种情况下，产生免税收入之时，禁止扣除供应商支付的增值税；然而，按零费率收取交易增值税（例如，从以色列出口的交易）允许在产生收入时重新要求纳税。

除了对进口货物征收的增值税外，进口商还应依照相关主体的条例规定，针对该类交易支付关税和（或）购买税。

4. 外国公司纳税

按照规定，除了特殊收入（如从不动产投资取得的收益以及从以色列自然资源获取的利润）外，在以色列境外受到控制和管理的外国公司，并且在以色列没有设立常设机构，无须在以色列缴付税款。依照众多双重税收协定的规定，特许权使用费、红利和利息等被动收入应按照限定的费率纳税，税款从收入中扣缴，该纳税记录会被录入居住国。对于通过常设机构在国外运营业务的外国实体的收入，以及与该常设机构运营相关的红利，应给予原产国完整的税收权利。

5. 预提税

在很大程度上，征税制度是以收入源从支付款中扣除的税款为基础。所有用人单位应从员工薪水中扣除税款（通常不会要求员工提交纳税申报表）。构成接收人应纳税人收入的非居民报酬需要从该报

酬中征收 25% 的预提税，但有效条约所规定范围生效的除外。

6. 转让定价

根据《所得税条例》的规定，关联方之间的每宗国际交易必须按照正常交易原则反映出公允价值。2006 年颁发的《转让定价规则》确定了受检验交易的范围以及取得公允市场价值的必要手段。该规定基于 OECD 1995《转让定价指南》和美国主要原则制定。

7. 双重税收协定

迄今为止，以色列已签订了 54 份双重税收协定。中以协定于 1996 年 1 月生效。该等税收协定规定了成员国之间的收入分配方式。税收协定包括但不限于以降低以色列境内外国居民的收入（包括业务利润、资本收益、特许权使用费、红利和利息）应纳税款项的形式进行税款减免。与以色列签订的税收协定相关的其他信息请访问国税局网站（www.financeisrael.mof.gov.il.）。

8. 子公司与分公司——税收考虑因素

见上文“公司的设立与解散”。

（九）证券

以色列有一个高度发达的资本市场体系，它依靠在特拉维夫证券交易所开展的本地业务活动，属于成熟的风投行业，机构投资人和技术投资人通过以色列与海外国家之间重大资本交易的形式，进行大量的国际投资活动。许多以色列公司，尤其是科技与生物医学领域的公司，已通过海外证券交易所（尤其是美国交易所）筹集资本。其股份在美国交易所进行交易的以色列公司数量位居前列（仅次于中国）。

以色列仅有一所证券交易所，位于特拉维夫市，即特拉维夫证券交易所。该交易所由以色列的商业银行和国内外的主要投资公司共同所有。在特拉维夫证券交易所完全通过计算机化系统进行交易，该交易所采用较高的报告与控制标准。2014 年末，有 473 家公司在特拉维夫证券交易所进行交易，所有交易证券（包括债券和各类金融票据）的市价达 19 000 亿谢克尔（约 5000 亿美元），其中包括市值为 7910 亿谢克尔（约 2000 亿美元）的交易股票和可转换股票证券。

以色列资本市场依据《公司法》《合伙企业法令》和《证券法》设立了广泛的监管程序，并受到以色列证券局（以下简称“证券局”）以及负责监督银行与保险公司的其他监管机构的严格监管。通常监管会受到法令颁布、金融制裁和行政与刑事执法的影响。近年来，市场本身也通过集体诉讼和派生诉讼采取了重大执法行动。该等行动得到了经济法庭的支持，越来越多的公众开始参与股东大会。

证券局是依据《证券法》运作的独立政府机构，也是负责监督与管理以色列资本的机构之一。

《以色列公司法》对重要的公司治理问题提出要求，若国外成立的公司在以色列境内发行证券，则部分要求也适用于此类公司。该等公司治理问题包括但不限于：任命外部董事的职责，提起集体诉讼和派生诉讼的权利，公司高管薪酬审批和涉及控制股东的交易实施的综合机制。

《以色列证券法》对向公众发行证券的公司提出了年度、季度和即时披露要求。以色列境内要求的披露范围意义重大，证券局定期执行该等披露的要求。以色列上市公司必须每年向公众和监管机构提交完整的、经审计的财务报表以及由该公司的注册会计师审计后的季度报告摘要。报告的编制需符合《国际财务报告准则》的要求。

以色列在很多年前就成立了经济法庭负责审理公司与证券案件。该法院也采用以色列判例法，许多规范来自于特拉华州法院，如经营判断法则。根据该法则，要求建立独立的董事会委员会负责审批涉及控制股东的交易。

以色列资本市场的近期发展：

在国外证券交易所发行股票：许多以色列公司选择在国外证券交易所完成首次公开发行股票（IPO），大部分在美国的证券交易所进行。2014 年，有 14 家以色列公司在美国完成首次公开募股，而仅有 6 家公司在特拉维夫证券交易所完成首次公开募股。

国有企业的私有化：以色列政府批准了一项长期计划，即在 2015—2017 年期间实施国有企业私有化。计划对其中部分企业进行全面私有化。对于其他国有企业（主要指在基础设施领域具有重要战略意义的公司）自然资源和证券公司，以色列政府通过公开募股的方式出售 49% 的股份，而保留其控股股份。

以色列境内国外共同基金单位的公开募股：新条例规定了国外基金公司为了在以色列公开出售其基金单位，同时免于遵守以色列共同基金公司监管制度中大部分条款而需要从以色列证券局获得相关批准所应满足的条件。该条例述及的主要标准与下述（但不限于）内容相关：受管理资产的最低价值、受管理资金的数量与最短交易期、驻以色列代表的任命、抵押，以及国内股票单位持有人的同等权利。

中国投资者进军以色列：近年来，出现在以色列的中国商业实体数量急剧上升。2011 年，中国公司以 14.4 亿美元的价格收购了 60% 的 Adama 公司股份，自此中国公司已深入渗透到以色列经济的各个领域——从科技、医药、工业、食品业到受监管的敏感领域，如金融和国家基础设施。2014—2016 年，中国投资者对以色列公司的投资与收购活动达到高峰期，其中包括中国光明食品集团有限公司收购特鲁瓦 77% 的股份、中国福建阳光城集团收购凤凰保险公司。

三、贸易

（一）贸易监管部门

经济与产业部，通过其对外贸易管理局，制定和管理贸易政策。它的职责包括进行贸易磋商、提议关税调整、建立贸易控制和原产地规则、管理产品配额，以及实施反倾销、反补贴和相关保障措施。根据相关政策所涉及的不同内容，其他相关部门（比如农业部或者财政部）和特殊机构也可以参与上述职责。

对外贸易管理局分成三个主要部分，每个部分均以独特和有效的方式促进以色列的经济。贸易政策与国家条约部促进以色列的自由贸易协定的实施，维持和发展政府间贸易关系以及解决影响以色列产业的监管壁垒。出口促进部旨在确保以色列出口的持续提升。国际项目与融资部，是最新的部门，提供不同的项目来支持以色列公司的海外运营。

对外贸易管理局是超过 40 个遍布全球的经济和贸易代表团的总部。这些代表团主要在贸易和商业中心，以及多边组织内（比如世界贸易组织、经济合作与发展组织）开展工作。在过去的几年里，以色列已经通过在远东和南美设立代表机构，提升了在这些地区的存在感。

政府定期对与贸易有关的争议向以色列商会和以色列制造商协会等私人部门组织咨询。出于咨询的目的，经济与产业部已经建立了对外贸易论坛，该论坛每两个月召开一次会议；它由制造商协会代表、商会代表、以色列出口与国际合作机构、财政部以及外国事务部的代表组成。以色列出口与国际合作机构也与政府在促进出口方面密切共事。针对消费者保护，部门设立了消费者论坛，该论坛由消费者组织代表、司法部代表、制造商协会代表、商会代表以及广告商协会代表组成。标准委员会委员在强制性标准发生任何变更之前，会向消费者组织代表、制造商代表与进口商代表进行咨询。

（二）贸易法律法规简介

以色列是一个在法律方面实行二元论的国家，这意味着只有在国内法经修正后能够反映以色列的国际承诺时，国际条约才在以色列具备法律效力。如果国际条约与国内法发生冲突，国内法条款的效力优先。不过，根据以色列最高法院院长的观点，“以色列是国际法的成员。因此，使以色列不违反其国际义务是必要的；所以，如果在释法上对一部法律存在两种解释，应当选择能够让以色列的国际义务得以实现的解释，而不是选择将导致违约的解释。”前述陈述已经由较低级别法院及顾问委员会在反倾销案件中作为最高法院的决定引述。

作为特拉维夫区域法院的一个部门，以色列的第一经济法院于 2010 年 12 月开始运行。除其他事项之外，它还聘用了在以色列经济立法的执行方面更为专业的专家。以色列司法机关由地方法院、区域法院、最高法院和特别法庭组成。

（三）贸易管理

1. 进口 / 海关管理

（1）海关相关程序和贸易便利化

以色列没有基于海关目的的进口商登记要求（《2012 年自由进口指令》）。但是，进口商必须基于

增值税以及（在某些情形下）购置税的目的在以色列税务机关登记。食品进口商必须在卫生部下辖的食品控制服务部门登记。

进口商需为清关准备以下文件：进口申报（单一管理单据）、商业发票、提货单（或者航运收据）、原产地证明、装箱单、进口许可（如要求）、SPS 相关进口许可及 / 或证明（如要求）。

以色列拥有完全通过计算机操作的海关系统，该系统链接了所有的报关代理人。报关经纪人 / 代理人的服务不是商业进口的强制性要求。如果一家公司雇佣了至少具有 5 年经验的经许可的海关办事员，该公司可以向以色列海关要求特别授权以直接链接到海关系统。自 2008 年以来，以色列海关通过适格机关（经济部、以色列标准机构，以及卫生、运输、能源和税务各部门）运作“一站式”进口许可电子流程。以色列共有 7 个海关。

海关估值是基于货物的交易价值，并经调整以反映成本和服务这些尚未包含到购买价中的项目（《1997 年海关条例修正法》）。以色列海关机关提供电子设备以完善货物分类的管理。

大约 85% 的进口托运物在一小时之内放行。大约 3% 受限于非安全检查。检查主要是基于风险评估（风险预测），或者是基于随机选择。选择标准包括原产地（国家、供货方）、针对知识产权侵害的投诉，以及进口商的过往记录。海关机关有宽泛的权力以没收和销毁假冒货物。以色列没有针对付运前检查的法律或者规章。

2010 年 9 月，以色列海关开始执行一项授权经营者计划，现在正在与其他国家就授权经营者计划双方认可协议进行磋商。自 2010 年以来，海关提供为快递提供预检措施（仅适用于空运）。自 2007 年以来，以色列与美国共同执行《集装箱安全倡议》。

以色列的海关上诉程序由《1957 年海关条例》设定。如果与海关产生分歧，进口商必须在进口申报表上保证，存在争议的海关义务已经根据抗议予以履行。上诉必须首先对高级海关机关提出，然后再向法院提起；任何海关决定都可以被提起上诉。

（2）关税与关税配额

大约 75% 的以色列关税细目是有拘束力的。农产品的约束税率高，平均为 73.3%，最高值为 560%（当前税率）。所有产品的其他义务和费用的税率为零，均为关税绑定所覆盖。超过 90% 的以色列关税绑定在从价条款中；非从价条款主要存在于特定农产品、纺织及制衣业制品，以及鱼类及水产品。

其他税收和费用主要包括各种国内税国内税。以色列对进口及国内货物及服务征收增值税。当前的增值税标准是 16%（2012 年 5 月）。很多产品，包括水果和蔬菜，都是零税率，香烟和燃料则受制于消费税。全部的印花税在 2006 年 1 月被取消。一般而言，国内税从含税的进口商品到岸价格中征收，或者从当地生产的货物的批发价格中征收。不过，就针对进口产品购置税的征收，以色列使用了一种名为 TAMA（希伯来语中关于增加的额外税率的首字母缩略词）的评估方法。TAMA 通过增加估计利润、保险和内陆运费到进口申报价中，以粗略估计当地批发价格（计算 TAMA 的系数则随产品的不同而变化）。TAMA 的效果类似于进口附加费。

（3）进口禁止和许可

① 进口禁止

出于很多原因，以色列维持了进口禁止制度，这些原因是：保护人类健康、公共道德、安全和环境，以及遵循其在《危险废弃物巴塞尔公约》《蒙特利尔议定书》和《濒临绝种野生动植物国际贸易公约》项下的国际承诺。进口禁止制度规定在《2005 年海关令》与《2012 年自由进口法令》中。以色列禁止进口违反犹太教教规的肉及肉制品（《1994 年符合犹太教教规的肉类进口法》）。在检查期，进口禁止广告被显著增加在烟草及烟草代替品包装上。对伊朗、黎巴嫩和叙利亚仍然存在一般性的进口禁令。

② 进口许可

基于很多原因，以色列根据《2012 年自由进口法令》适用非自动的许可程序，这些原因是：安全、健康、环境保护、安保，或者履行（非世界贸易组织的）国际承诺，又或者是出于关税配合管理的目的。

《2012 年自由进口法令》的附件 1 包含了一份共有 203 个项目的清单（从 HS 4 到 8 位水平），这些项目原则上受限于针对食品安全问题的进口许可制度。程序包括对进口托运物和进口商的许可。进

口商的许可由适格机关授予。

《2012年自由进口法令》的附件2列出了受限于具体标准和技术要求以确保安全和环保的货物。如果进口货物符合技术要求，许可会在进口前授予。受限于进口商做出的特定申报，即申明后续的托运物都是完全相同的，可被授予年度许可。

依产品而定，许可由产业、贸易与劳工、农业、卫生、运输以及环境部门在14～21个工作日内免费授予，但是在大多数情况下是在交齐所有必要文件之日起7日内。拒绝许可的原因必须书面作出，并且申请人有权向高等法院上诉。如果属于以下情形，则经济与产业部可作出许可豁免：进口用于制造业、参展、作为行销样品、再出口、进口自用、零部件、电脑及外部设备，以及用于视听专业用途的设备[《2012年自由进口法令》第2(c)2条)]。

从三类国家的进口受限于一项由经济部管理的特殊进口许可制度，该特殊进口获得许可后应每年检查。这三类国家是：17个世界贸易组织成员国、与以色列没有外交关系的非成员国，以及禁止自以色列进口货物的非成员国。

（4）偶然性贸易补救

① 反倾销与反补贴措施

规制反倾销与反补贴措施的法律是《贸易征税法》，它涵盖了以色列在《关于执行1994年关贸总协定第六条的协议》项下的义务的变更，以及在《世界贸易组织补贴与反补贴措施协议》项下义务的变更。该项立法规定了以下事项的执行条款，即：生产成本的计算、出口价格与正常价值的比较、投诉的内容，以及调查的实施。

根据以色列法，由一名经济与产业部反倾销与反补贴措施委员会委员接受投诉和实施调查。该委员可以作出初步决定、采取措施、签署保证书，或终止调查且不采取最终措施，但针对强制采取最终措施的调查结果要提交给反倾销与反担保措施咨询委员会委员。

② 保障措施

2008年12月，以色列引入保护措施立法以执行世贸组织保障措施协议，该法律更名为《贸易征税与保障措施法》(5768-2008)。新的立法已由保障委员会于2009年5月审查。如果采取反倾销与反补贴调查，经济部中的该委员公开和实施调查。不过，委员不是向顾问委员提建议，而是向贸易、产业与劳动部部长提交结论和建议，这名部长将整体考虑有关经济的争论以及考虑以色列与其他国家的贸易关系，决定是否施加保障措施。这一决定受限于财政部部长与以色列国会财政委员会的核准。

（5）标准、技术规章，以及符合性评估

标准、符合性评估，以及对此的实施由《1953年标准法》及其8个修正案予以规范。根据标准法，以色列标准机构，一个法定的非政府组织，是标准发展和允许制造商使用标准标识的唯一机关，该标准标识的使用表明产品符合以色列的一项标准。以色列标准机构主要是一个自负盈亏的机构，但是接收政府就标准化工作提供的支持（其预算的5%）。标准化委员会（设立于经济部内）的委员负责强制标准的实施以及测试实验室的核准。根据标准的类型来决定，其他机构，比如卫生、通信、农业和农村发展，以及能源和水务各部门根据与它们的活动领域有关的标准来发展和实施有拘束力的规章。食品标准的实施主要归口到卫生部；燃料和天然气标准归口到能源和水务部；管制机动车关键特征的规章则归口到运输部。以色列正在由总理府执行管制影响分析。

四、劳动

（一）劳工法律法规简介

以色列的就业法律是针对具体情况动态变化的，来源于并基于不同的法律渊源，比如说包括，除了特定的具体立法，也包括判例法、规则、规章、可适用的集体协议及/或安排、延伸的秩序、在工作场所的习俗和惯例、个人合意和安排，等等。很多渊源都是频繁调整的，不时并基于具体情况变更、改编和更新。不仅如此，特殊的成文立法包括一般性的规定和原则，也包括具体和详细的例外情形以及针对具体情形的特别适用等。

（二）雇佣外国劳动者的要求

1. 工作许可证

根据以色列法律，非以色列公民不可以进入以色列或者在以色列境内逗留，除非该人士持有旨在进入以色列并在以色列逗留的有效的工作许可证 / 签证。

在没有于当地领事馆提前获得签证的情况下，通常某些国家的公民有权进入和访问以色列最长 3 个月。他们或者是豁免临时签证，或者是在入境口岸基于该访问之目的被自动发给（免费）的临时签证（当然，这受限于在入境口岸基于对健康、安全以及类似威胁的合理的常识性判断）。其他国家的公民也可能有权获得前述临时签证，但是他们被要求提前在当地的以色列代表机构申请（并且在一些实例中，邀请该人士的以色列主体也能协助通过当地申请来办理签证——这一点要另外讨论）。

这种豁免或者自动进入和访问的合理目的，包括比如说旅游业和“出差”，不包括为工作目的，即使该工作持续不到 3 个月。不过区别出差和工作这二者有时是困难的，通常为参加非生产力性质的具体会议的短暂访问被定性为出差，而投身于实际工作活动（即使是在短暂逗留期间）被视为工作的风险。

任何想要在以色列境内从事实际工作的人士（即使该人士将不被当地主体正式雇佣，而是，比如说，可能由外国主体继续支付薪水）被要求持有一项有效的工作许可证合法合理地进入当地、在当地逗留和工作。这种工作许可证 / 签证可以通过以下方式获得，但是仅在当潜在的外国雇员不在以色列境内，并且旅游签证在当地不能转化为工作签证时适用。

可适用的法律和规章认识到了“普通”外国劳动者（比如家庭护理、农业、建筑业，等等）与“专家”的差别。

内政部（MOI）是负责向外国雇员颁发工作许可证 / 签证的权力机构。内政部认识到了两种不同的专家：

① 获得“专家工资”的专家（以下简称“工资专家”）

工资专家通常是具有重要专业经验、较高教育水平，往往处在特殊技术职位。建立这样一种认知是有帮助的，即他们的出现将为本地雇员创造更多的就业机会，并且应当证明以下两项情形中的任何一种：已经采取了旨为前述职位尝试和招募当地雇员的实际措施，或者就其性质而言，该职位是本地雇员不能胜任的。还应当保证该工资专家获得两倍于以色列就业市场平均工资的基本薪资，目前以色列就业市场平均工资大约是 19 000 新谢克尔（约 4 870 美元）。

② 处在受托人职位的外国公司或者国际公司的经理、资深代表或者雇员（“经理”）

内政部将经理定义为“一名实现或者设置组织目标的人士，处于资深职位，并有责任通过监督、控制、授权雇佣或者解雇雇员或者推荐他人进行上述行为，以及关于与其他与行为相关的人力资源的授权”。一家外国公司或者国际公司可以获得最多 2 个提供给经理和资深代表的工作许可证。

2. 申请程序

工资专家劳动者获得工作许可证的流程包含如下两个与政府相关的阶段：

（1）推荐信申请

第一步是获得内政部的推荐（推荐信）。申请和获得推荐信的程序包括完成和提交包括特定信息的一份表格及宣誓书，这些信息尤其包括：关于经理 / 工资专家的信息，以及关于雇佣 / 邀请主体以及被要求职位的信息。它也包括雇佣 / 邀请主体的承诺与陈述，主要针对被雇佣或邀请的经理 / 工资专家的雇佣条件、他的能力、主体遵循支付规定以及提供经理 / 工资专家有权获得的最低工资和福利的能力。这份表格由雇佣 / 邀请主体的有权签字人签署（该签署要经一名以色列律师确认），其签字的权利需由其他文件证实。这一流程要与政府打交道并涉及外国劳动者的敏感事项，该信息是动态变化的，并且，受限于行政管理在表格和要求等方面的不时变化，因此可能会被要求提供额外的文件及 / 或数据。

就每一位经理 / 工资专家申请推荐信需要缴纳费用，目前这项费用的金额大约是 1 190 新谢克尔（约 300 美元）。

时间表受到关注——目前内政部不承诺反应时间会少于 45 个工作日。

发出的推荐信通常是向每个雇佣 / 邀请主体、每一名经理 / 工资专家（以其姓名和护照号码为基础）、每一个职位发出。

每一封推荐信通常有效期最多一年。受限于可适用法律对外国劳动者最长逗留期限的限定为 63 个月（除非基于非常特殊和不同寻常的情形）这一事实，雇佣 / 邀请主体每年可以通过上述程序要求将推荐信有效期延长一年。

（2）入境签证申请

获得工作许可证的第二个与政府相关的阶段是向内政部申请入境签证。

一般而言，雇佣 / 邀请主体应当向内政部在其商业行为发生地的地区局提交邀请外国劳动者的申请。

申请表是一项标准表格，包含了相关经理 / 工资专家的详细个人信息，这份表格由邀请主体（在当地）和雇员（此时尚在国外）共同签署。该表格应由其他文件予以支持。

尽管本阶段通常技术性更强，且更少受限于实质性自由裁量权（而不是一般的非商业考量，比如健康和安全问题），事实上，这一阶段的处理时间能比预定时间增加一个月，并且包括与内政部地区局的会面。一旦申请获得批准，通常需要一星期时间才能实际上由相关海外领事馆在雇员的护照上盖戳。

根据可适用的法律，患有以下疾病之一的外国劳动者不可以在以色列境内工作：肺结核、肝炎、梅毒、淋病以及艾滋病。

一旦雇员已经获得一项初步签证，该签证每次可以延期 1 年。延期手续可以在当地办理，工资专家 / 经理不必离境。不过，该程序仍然包括应当首先获得推荐信，以及再次提交所有的支持文件。

除非在非常特殊的情形下，如果签证的延期将导致逗留总期限超过 63 个月，该签证将不得延长期间。每次延长期限都需要交纳费用，如上文所述。

3. 社会保险

（1）社会保障（包括健康保险）

2015 年 1 月，外国劳动者社保（包括医疗保险）账户中雇主支付部分的比例和对雇员扣除的部分的比例如下（雇员每月薪资总额的百分比）：

	雇主支付	雇员支付
工资不超过 5 556 新谢克尔	0.49%	0.04%
工资不超过 43 240 新谢克尔	2.34%	0.87%

（2）外国雇员的社会福利

根据《外国劳动者法》（禁止非法雇佣和确保公平条件）法律 5751-1991 以及相关规章（《外国劳动者法》），根据以色列雇佣合同在以色列工作的外国雇员有权依据以色列法律对养老基金做出社会贡献。因为目前，并且在缺乏明确标的物的规章的情况下，以以色列的养老基金对外国劳动者提供保险保障没有实际的可能性，经济部发布了一些指引以提出养老金之外的其他的对外国雇员的支付方式，这些指引适用到相应的规章实际发布的时候。

根据上述指引，雇主被要求支付因养老金而产生的金额到外国雇员名下的一个特殊银行账户（受限于所得），并在雇佣关系解除时释放这些款项以使外国劳动者受益。雇员应对收到的养老金负有纳税义务。

就上文介绍的综合养老保险方面，雇主仍有名义在签证延期许可期间继续向前述银行账户里汇款。

（3）遣散费

根据《遣散费法》，5723-1963（《遣散费法》），被同一雇主持续雇佣一年或者被持续雇佣在相同工作场所工作 1 年，并且被该雇主解雇、退休或者死亡的，有权获得遣散费。

（三）出境和入境

见上文阐述之内容。

（四）贸易团体与劳动组织

结社自由已经作为一项基本权利被高等法院和国家劳工法院认可多年。

以色列不允许“只雇佣某一工会会员的工厂或商店”或者“工人限期加入工会的商店”，因为国家劳工法院裁决认定，劳动者有权不加入工会。不过，在有组织的劳动部门，非成员有义务根据集体合同向工会支付服务费，而不是会费，通过这种方式使“工会代理制企业”合法。非成员有权享有集体合同约定的全部利益。

没有具体的成文法规制工会。因此，根据规制非营利组织的法律，工会成为法律实体。第一部有此类规定的法律是旧鄂图曼法以及现行的非营利组织法。这些法律要求注册组织、提交组织的章程，并提交年报和管理机构的重要决定。劳工法院裁决将已登记的工会章程作为工会活动的指引。

《工资保护法》允许工会和雇主同意工会会费由雇主在劳动者工资中扣除并由雇主转给工会。非工会成员向工会支付的工会服务费也是这样。这样的合意应当通过集体合同达成。

（五）劳动纠纷

1969 年以色列国会通过了《劳动法院法》，从而形成了专门用于劳动者个体和集体的劳动纠纷和争议的独立的司法体系。

劳动法院系统分为一审和二审，一审法院由 5 个区域性劳工法院组成，二审法院是国家劳工法院，坐落在耶路撒冷。区域性劳动法院合议庭由一名职业法官和两名陪审员组成，其中一人来自劳动者，一人来自管理层。国家劳工法院由三名职业法官和两位陪审员组成。在刑事案件中则没有陪审员参与，仅有法官审理案件。在全国范围的集体纠纷中，国家劳工法院由三名职业法官和四名陪审员审理。

劳工法院司法管辖权非常宽泛，包括劳动者与雇主之间的纠纷、保护性劳工法律、集体纠纷、工会与其成员之间或者雇主与其协会之间的纠纷、养老金纠纷、工作场所的平等、与劳动者相关的行政事项（比如提供工作机会、职业安全与健康、就业机构、外出务工人员保护、社会保障以及国家医疗保险）。关于侵权行为，法院对与劳动纠纷相关的下列行为具有司法管辖权：非法侵入、违反成文法义务，以及诱使违约。在起诉到劳工法院的案件中，大约 30% 与社会保障有关。劳工法院审理关于劳动者补偿、失业保险、伤残抚恤金、产妇分娩津贴、死亡抚恤金、保障年最低收入、老年人养老金以及儿童福利。劳工法院也审理有关仲裁裁决的认可和撤销事宜。

劳工法院正在发展替代性争议解决机制。2001 年人民群众调解和结案大约 4500 件案件。所有人民调解员都被要求学习调解课程。2001 年有大约 400 个案件是由私人调解员结案的，法院把案件转给这些调解员。法院也把争议双方转给仲裁机构。调解不是强制性的，但是法院积极鼓励调解。

五、知识产权

（一）以色列信息技术法律规章简介

为与科技发展同步以及满足产业需求，以色列规制知识产权的法律经历着持续的变化。条例（受英属托管地普通法影响的残余）从过去到现在被不断修正，新法（通常受到欧盟指令和规章的影响）被颁布。与此相呼应，遵循先例的以色列司法部门填补了更新的法庭裁决之间的空白，在很多情况下遵循美国最近的法庭裁决。

近来，对以色列计算机程序（软件）权利的保护由《2007 年著作权法》提出，因为计算机程序受到可适用法律的关注，并且是“文学作品”的一种实践。

著作权法针对的是对想法的表达的保护，而不是保护想法本身。因此，主要是源代码和用户界面设计受到有效保护。在没有证据证明源代码被复制或者软件的用户界面存在重大相似的情况下，以色列法院不会裁定软件著作权侵权（参照案例：Tel Aviv District court 38918-12-09 Danel Software vs. Gil snapir, Jan 4th 2012）。

著作权法被视为于文学作品被创造出来之时（即使没有发表）即存在，因为以色列国没有维持组织化的著作权登记程序。

与常见的“职务作品”委托人类似，就雇员在其受雇过程中并在其受雇期间制作的可著作权化的作品，《著作权法》授予了雇主优先所有权，除非雇主与雇员双方另行商定该作品所有权的归属。

就合约作品（即非雇员性质的服务提供者），可著作权化作品的优先所有权被授予创造者，除非双方以明示或者默示方式另行约定该作品所有权的归属。

一般而言，著作权的保护期为作者终生及其死后 70 年。

为备份、维护、更正错误、程序中数据安全的测试、更正安全缺口，以及防范缺口之目的而复制计算机程序，在特定情形下可被认定为“合理使用”，并因此不被视为著作权侵权。

（二）信息技术、专利和设计

目前，为使软件获得以《1967 年专利法》为法律依据的专利保护，申请人必须展示出对软件的使用以及软件使用在物理世界中造成的后果，这意味着软件必须与硬件相互作用，并满足可使用的涉及专利适格性（比如，新颖性、独创性等）的测试。

在以色列被授予的专利，其标准保护期为 20 年。

专利申请可以在以色列通过《专利保护条约》（PCT）提出，而以色列专利办公室是在以色列发起的 PCT 申请的收件办公室。

只有在专利办公室对专利申请进行测验以确认发明符合专利性标准后，专利保护才会被授予。对专利授予的异议必须于该专利在 Reshumot（政府官方公报）上发布之日起 3 个月内提出。

专利可以由以下人士申请，这些人士是：发明的所有权人，或者从发明的所有权人获得所有权的人士以及受让人或者被许可人。如果证明符合注册处的要求，即专利的所有权人滥用其垄断地位，注册处可以命令或者强制许可第三人开发该专利。

《1924 年专利与设计条例》与《1925 年设计规章》规制设计权利，《“设计法案”》仍在立法程序中，将于近期定稿和颁布。

“设计”是最终产品上视觉效果明显的线条、形状、模式或者装饰。为了在以色列提出和注册一项设计，该设计应当是新颖的，并且初始设计此前未在以色列发表。一项与任何工业产品有关的设计可以被登记，只要这些工业产品是有形状、形式或者装饰，并且在其最终产品中这些形状、形式或者装饰以可见的为主。

设计注册的申请要提交给专利办公室，该机构审查申请是否合格。一旦接受申请，注明发证日期为申请日期的注册证书将会发出，在设计有效期内有效。该证书的持有者将获得一项独家权利，即阻却在以色列以任何其他形式的对使用了注册范围内的设计的产品的许诺销售。依据以色列法律实施的设计保护自申请之日起最长 15 年。

根据《1924 年专利和设计条例》，未经注册的设计权利不受保护。不过，最高法院已基于《1979 年不当得利法》为未经注册的设计提供保护［参照案例：933/96, ASIR Import Export and Distribution Ltd. v. Accessories and Commodity Goods Forum Ltd. , SIP 42(4) 289］。如果有证据证明产品的形状已经获得与产品制造商相关的市场的好评，以及如果存在对商品来源的混淆，那么可以基于“仿冒”侵权对未经注册的设计做出其他保护。

（三）商标注册

根据《1972 年商标条例（新版）》以及《1972 年商标规章》，商标向商标注册处注册。

商标被定义为将标识所有者的商品与其他商品区分开来的标识（以下简称“区别标识”）。标识可以是设计标识（logo）或者名字标识（产品或者服务的名字）。

一项商标的全部或者部分可以只由一种或者多种颜色构成，在此种情形下，如此有限的颜色构成可被注册处或法院认定为该商标的显著特征。如一个没有色彩限制的商标被注册，则被认定为对所有色彩进行了注册。

如果一项注册申请被接受，无论是无条件接受还是受限于一些条件或者限制，注册处应当在接受这项申请后尽快公布该申请，相应费用由申请人承担，该公布应当以规定的形式，对接受该申请所基于的条件或者限制逐项说明。

任何人士可以在该宣传做出之日起 3 个月内，或者其他规定的期间内，向注册处发出反对该标识

注册的通知。

提出商标注册申请的日期应当是商标的注册日期。

（四）隐私法

1. 数据库

根据《1981 年隐私保护法案》，如果符合以下条件中的任何一项，电脑化数据库的所有权人应当申请登记数据库，这些条件是：①该数据库包含超过 10 000 人的数据，②该数据库包含敏感数据（个人品格、私人事务、健康状况、经济状况、观念和信仰，以及其他被司法部长命令视为敏感信息的信息），③该数据库包括非本人或其代表提供，也未经本人同意的自然人信息，④该数据库被用于直接邮件。

申请必须提交给以色列法律规定的数据库登记处，即信息与技术机构。

如果信息并非直接获取自数据当事人，申请人应当提供有关信息来源的大量细节，包括：收集的手段、收集的频率、源信息、从来源处获得的信息的类型。

如果任何信息被从数据库转让给第三方（而不是数据库持有人），申请人需要对此作出说明，并提供相关细节，包括：身份信息与联系方式、第三方已登记的数据库号码、被传输的信息的类型、数据转让的频率、数据转让的目的以及法律机构。

如果信息被用于直接邮寄服务———一份表明特定信息的同意函的复印件，该特定信息是：数据当事人同意将与他们有关的信息转让给第三方，以及信息转让的申请人发出给第三方的条款。

2. 信息技术保护的措施

以色列地方法院被授予针对以下事项的管辖权，即：专利、设计和商标注册处的决定提起的上诉，以及产生于专利和已登记的设计的所有其他知识产权诉讼。知识产权所有领域中的侵权事项将由治安法庭或者区域法院开始管辖，根据争议金额的价值来确定。刑事侵权行为通常由地方法院审理。

3. 民事补救措施

根据著作权法：著作权侵权发生于当一项受保护作品未经授权被重制、公开表演或者展示等的时候。法院可以授予临时禁止令，该临时禁止令作为临时救济的一种形式，在最终裁决作出前有效，或者在法院基于情势变更而作出撤销临时禁止令之前有效。

禁止令的授予由法院自行决定。只有在法院发现著作权所有人的潜在损失显著大于被声称的著作权侵权人在其等待审讯和结案期间将要遭受的损失的情况下，才会授权对被声称的著作权侵权人发出临时禁止令。永久禁止令可能与针对所受损失、所失利益、成本以及律师费的货币补偿同时获得。

SPAM———一般而言，并且根据《1982 年通信（Bezeq* 与广播）法》修正案第 40 号，未经接收方明确、书面、提前允许，广告商不可以通过电子信息方式发送商业通信。接收方可以在任何时候撤回其允许。法院可以判定涉及每项侵害的赔偿，这些赔偿并不取决于接收方实际遭受的损失，且针对每个信息的赔偿金额不得超过 1 000 新谢克尔。

4. 刑事程序

刑事程序可以由代表国家的检察官发起，或者在情况符合时由个人发起。

未尽许可进入计算机系统、网络攻击或者其他计算机间谍活动可以构成《以色列计算机法》5755-1995 规定的“计算机犯罪”。根据上述法律，对计算机软件的任何变更、扭曲、破坏，非法的或者未经许可的进入，或者发布错误的输出信息，均可能构成刑事犯罪，处 5 年以下有期徒刑。隐私权也可以由《1979 年窃听法案》实施，该法案禁止非法闯入计算机资料。这种闯入电脑中存储的信息的行为可以被认定为刑事犯罪，处以 5 年以下有期徒刑。

六、环境保护

（一）环境保护监管部门

政府监管主体是以色列环境保护部（以下简称“环保部”），该主体根据 1989 年第 5 号政府决议成

* Bezeq 是一家以色列国有电话公司。——译者注

立。它草拟和规定了与环境保护有关的一般国家政策、策略、标准和优先权。它由6个主要部分组成，它们分别规制行政、计划和政策、监管、基础设施、当地政府以及自然资源。不仅如此，环保部还运作6个位于不同地域的办公室（北部、南部、中部、特拉维夫、耶路撒冷与海法），设立这些办公室是为了适应当地独特的环境特点和需求。

这些地方政府与环保部共事，并提供另一层面的环境保护。它们监管、执行，以及（在相当有限的程度上）规制包含环境保护的事项。它们根据具体的地方环境立法实施上述行为，这些地方环境立法允许它们采取具体的监管和执行措施（比如，垃圾处理、环境规划、商业许可），它们也根据不限于地方立法层级的一般性环境立法来实施上述行为，这些一般性环境立法使它们可以派遣代表它们的监察人（比如，《洁净空气法》5768-2008，《维护清洁法》5744-1984，以及《1993年收集和处置废物回收利用法》）。在地方政府下存在52个城市环境单元，它们形成部门的另一个延伸。它们负责执行当地层面的环境政策，并担任地方政府的顾问团。

最后，另一个监管部门是水务管理机关，该机关监管和执行与水污染有关的立法。它也发布针对水和污水处理企业的相关规则。其他相关主体是环保部辖下的自然和公园管理机关、矿业管理机关和以色列土地管理机关，后两者都是根据具体立法来工作。

（二）环境保护法律法规概况

自20世纪60年代初期以来，以色列的环境保护法便通过立法、规章和判例法的方式不断发展，在过去25年里，立法的发展相当迅速。

第一次立法浪潮包括了为环境保护设定了相当广阔的基础的法律。它们至今仍然有效，包括：5721-1961《消除滋扰法》，防止空气、水和噪音污染；5728-1968《商业许可法》，旨在监管和执行与污染严重的工厂有关的环境标准；5719-1959《水利法》（1971年修正）；5725-1965《溪流和泉水当局法》，该法保护河流周围的自然资源，以及《1940年公共安全条例》，该条例在1969年修正，规制饮用水的质量。

不同于第一代立法，开始于20世纪80年代中期的第二次立法浪潮有明确的目标，并解决了污染防止、自然资源保持、排放监管和鼓励报告等问题。这一波立法包括5744-1984《清洁维护法》，该法解决了在公共场合乱扔垃圾的问题；5753-1993《有害物质法》，该法规制有害物质的安全管理；《1999年饮料瓶押金法》，旨在减少垃圾填埋以及鼓励回收；《2006年非电力辐射法》；5768-2008《洁净空气法》；5771-2011《包装管理法》；《电气电子设备与电池法》以及《2012年环境保护法（污染物排放与转移登记）》。

不仅如此，在基本立法之外，环保部及其他主体（比如说，税务管理机关和地方政府）有权制定规章形式的二级立法。这些二级立法执行现行立法并聚焦具体问题，比如说防止水污染、废水治理、空气质量、汽车及工厂排放标准，以及在许可框架下并按照《商业许可法》工作。

环境保护的另一个方面则通过计划法实现，因为环境保护必须以计划法为基础，并且因此必须形成任何潜在计划的一个组成部分。因此，与环境保护有关的具体义务被注入尚待批准的发展计划中。在以色列地政监督机构的监管下，这项工作大体完成了。在这方面另一个重要的工具是《2003年环境影响评估规章》，该规章要求对远景规划基于其对环境产生的影响而进行审查。

在已经审视过的基本法与二级立法之上，许多其他监督和检查机制也在过去20年里有所增加。最引人注目的是：

（1）行政执法——由行政部门实施。它是快速有效的措施，因为它不要求任何法院资源，但是要基于部门的听证。它可能导致罚金或者禁令以阻止滋扰或者进行补救，后者会招致工厂的关闭。

（2）刑事执法——具体的环境立法基于严格责任，将不合规行为宣告为触犯刑法的行为（因此对污染的存在的证明，作为犯罪意图的对立面，就足够了）。董事、首席执行官以及其他资深雇员也可能面临这种刑事责任，并且一些法律甚至可能允许普通公民启动刑事程序。

（3）民事执法——《防止环境滋扰（民事诉讼）法》使原告可以启动一项针对任何潜在滋扰或者污染制造者的民事程序。需要缴纳的诉讼费相当低，这些程序简易，并以旨在恢复原状的禁令作为补救。一些立法还允许代表诉讼，它被环保人士用于就数百万元的环保损失提出权利主张。

（三）环境保护评估

在一段相当短的时期里，以色列在环境保护方面制定了大量的规章制度。它赋予多个拥有平行权力的政府主体，并制定了一批监督和补救措施。它也允许由私下发起的程序来替代。

这一当前的立法证明，环境保护被作为产业的一个重要因素。确实，大部分工厂现在考虑它们的日常经营合规性与特殊重大事件（例如，并购、增强活力以及拓展新领域）的合规性。

尽管如此，环境执法并不总是始终如一或者平等的。行政执法有时处于多部门处理的状况，而不是在有组织的安排下实施。行政部门用于刑事或行政调查的资源是有限的。在总数为 600 人的雇员中，仅仅 30 人在行政部门（“绿色警察”），尽管其他地方的或者政府的执法主体也同时存在。在这一领域的分散的立法，也在暗示着立法基础不一定一致。规章按照资源和主题分类，并缺乏更加系统的观点。这一系统自身认识到：在过去 20 年里，司法部已经推动立法发展到将所有既存的环境法律集中到一个屋顶下，而不像当前这样，比如说，一家企业可能需要向多个不同机构取得多项许可。

另一方面，以色列的环境保护有相当显著的民间公共参与性。环境保护方面的无政府组织与民间人士通过诉诸法律或者参与许可保障和计划法的程序的方式来参与制定环境法律。一项具体的法律被制定出来以提供给公众在多个为强调环境保护考量而设立的委员会中的席位［《2002 年环境公众主体代表法（立法修正案）》］。不仅如此，作为《信息自由法》5758-1998 的一部分，环境信息的披露被特别强调，这是考虑民众参与环保决策制定程序的先决条件。公民和民间组织因此在法律领域形成了一个额外的活跃角色，而这一领域此前完全由政府和利益持有者控制。

七、争议解决

（一）解决争议的方式与机构

以色列争议解决制度除国家司法系统以外还有其他几种争议解决机制。这些机制可作为政府司法进程的一部分而启动，作为该进程或该进程开始前的替代方案。替代争议解决的主要机制有：调解和仲裁。

1. 司法系统

根据《基本法》：以色列司法机构的司法系统包括三级法院——最高法院、地区法院和地方法院。

最高法院为最高级别法院，兼有两种职能：①作为更高级别法院重新对较低级别、地区法院作出的裁决进行重新评估；②作为初审法庭的高等法院对涉及国家政府、当局、政府机构、法院和法庭作出的裁决的合法性进行合议。

地方法院对任何不属于另一法院管辖权的事项拥有管辖权。在刑事案件中，此类法院对被告人面临至少 7 年监禁的刑事案件拥有管辖权。在民事案件中，此类法院对超过 250 万谢克尔的争议案件拥有管辖权。它也可作为地方法院裁决的上诉法院。此外，它还可担当行政法院和水问题法院。

地方法院担当基层初审法庭。在刑事事项中，地方法院审理被告人面临达 7 年监禁的案件，对达 250 万谢克尔以及有关财产占有与使用的索赔案件拥有管辖权。此类法院还可充当交通法庭、市政法庭和家庭法庭。

除了常规法院系统外，还有几个经法律授权处理特定事务的法院，包括劳资争议法庭、宗教法庭（犹太教法庭和其他宗教法庭）、军事法庭和纪律法庭。

2. 调解

调解是在一个中立第三方通过运用专门沟通与协商技术协助争议双方解决争议的一种替代性争议解决程序。调解是一项自愿性程序，完全不具约束力，涉及各方可在任何阶段中止该程序。该程序是保密的，调解人无权作出裁决——他只是沿建设性的方向引导这一程序，并帮助各方找到最佳解决方案。

3. 仲裁

仲裁程序，类似于司法程序，双方提出各自的论点，由仲裁员进行裁判。但是，仲裁员不受应用于司法程序中的程序和证据规则的约束。仲裁依据《仲裁法》作出裁决。此外，如果在适用法律上有

重大失误并因此造成司法上的不公正，各方可在法院的允许下在《仲裁协议》中写入该可能性以便进行上诉。利用仲裁作为替代性解决争议方案需要各方签署关于解决争议的协议。

（二）外国裁决的执行力

依照以色列的律惯例规定外国裁决不能自动成为以色列法律。为使一项外国裁决在以色列有效并能得到执行，应通过一项程序以纳入以色列法律。这个问题在1958年的《外国判决执行法》进行了规范。

根据以色列法律，有两种类型的程序，两者均需要司法程序以将外国裁决纳入色列的法律：

（1）执行：用于施加个人法律责任（金钱、禁令等）的裁定，旨在使该裁定在以色列能够得到执行。

（2）认可：宣布这项裁定在以色列有法律效力。该程序适用于无需执行程序的一系列以色列民事判决（对在以色列以外作出遗嘱或收养令进行的验证）。

1. 执行程序

执行请求应提交给以色列法院，并附一份宣誓书，其中申请人必须说明支持执行条件的事实，内容如下：

（1）该裁定是由经授权的他国根据该国法律而作出的——经该国国际部门的检验，对当地的裁决无任何疑问。

（2）既判力：该裁定应为终审判决。如果经上诉后作出该裁定后，或已过提出上诉的时间，申请人需要证明无上述的可能性。

（3）裁定应在作出裁定的同一个国家具有执行力——申请人需要从法律上证明该裁定在其作出的外国是可执行的。

《外国判决执行法》第6条列举了在以色列执行外国裁定的一些防范措施：①该项裁定是通过欺诈而获得的；②给予被告人陈述其案件的机会以及在裁定之前所提交的证明依据法院的意见是不合理的；③该裁定是一个无管辖权的法院根据适用于以色列的国际法规则而作出的；④该裁定与相同双方就同一事项所作出的另外一项仍然有效的判决相悖；⑤当在外国法院提出索赔时，相同双方之间就同一事项在以色列尚有未结审判。

2. 认可

根据《外国判决执行法》第11条，对于外国裁定有两种类型：

（1）直接认可：认定该裁定完全等同于以色列法院作出的裁定。根据以色列判例，只有当裁定国与以色列签署有关该事项的条约并且该条约适用于相关裁定时，才可被认可。以色列只与4个国家签署可执行外国裁定的条约：德国、奥地利、英国和西班牙。

（2）间接认可：在聆讯另一事项时予以认可。与直接认可不同，不需要以色列和其他国家签署条约，但是申请人必须证明该裁定应为司法之目的而得到认可。

八、其 他

（一）以色列商业贿赂法概述

《以色列刑罚法》5737-1977（以下简称《刑罚法》）第9章第5条是关于在以色列行贿的法律。第9章总体涉及所有与公共秩序和司法有关的所有犯罪问题。

第5条关于各种贿赂行为，包括商业贿赂和其他形式的贿赂（诸如体育比赛中行贿或选举行贿等）。为此概述，我们仅讨论商业贿赂。关于商业贿赂，《刑罚法》包括了对国内外公职官员行贿。

1. 受贿

《刑罚法》第290节规定了受贿罪。当“公职官员”接受贿赂来实施与其职位有关的行为称为受贿罪。该法没有对贿赂进行详细定义，但是该法第293节提供了宽泛的定义如下：

- 金钱形式的贿赂（现金、实物、服务或任何其他利益）；
- 因贿赂获取的利益（利益可是某种行为、忽视、延迟、加速、阻碍、优惠或歧视；甚至可不是

具体行为，仅仅是整体获得优待）；

• 利益接收方（无论是为了受贿人的某个行为还是其对他人行为的影响力；无论是由受贿人还是其他人给予利益；无论利益是直接给予受贿人还是给予其代表；无论是由受贿人还是其他人获得利益）；

• 提供贿赂的时间（无论是事前还是事后）；

• 受贿公职官员的职位（无论该受贿人是供职于政府或服务机构，是作为志愿者还是履行义务，其职能是永久的或临时的，总体的还是具体的，是领薪的还是不领薪的）；

此外，第 293(7) 节说明即使提供贿赂是让公职官员按照其职位的性质所要求的方式行事而不偏离其履行的义务，也是贿赂行为。

第 294 节也规定因索取或约定而贿赂的行为，即使没有得到回应，也应视为贿赂。

2. 公职官员的定义

《刑罚法》第 34X 节对公职官员定义如下：

①国家雇员，包括士兵；②地方政府部门或地方教育机构的雇员；③宗教委员会雇员；④各种半官方办事处雇员；⑤就业服务办事处雇员；⑥政府参与管理的企业、机构、基金或其他公共团体的雇员，包括这些公共团体的董事会或管理层一员；⑦仲裁员；⑧根据法律持有办事处或行使职能的人，无论是经任命、选举或协议就职，即使并未列为公职官员；以及⑨在国企、国企子公司或混合型企业中代表国家的董事以及国企雇员。

第 290(b) 节称为了用于贿赂在该定义包括了向公共提供服务的实体的雇员。

第 294(c) 节称公职人员包括了尚未任命的职位的候选人以及还未开始履行职能的被任命人。

3. 行贿

第 291 节定义了向公职官员提供贿赂也是犯罪。这项罪名需接受刑期短于收受贿赂的公职官员的刑期的惩罚。

第 294(b) 节称即使被拒绝，提供或承诺贿赂的人也应承担行贿罪的法律责任。

4. 贿赂外国公职官员

第 291A 节规定贿赂外国公职官员是犯罪，并且称向外国公职官员提供贿赂以让他执行与其职位有关的行为，以获得、确保、推广商业活动或其他与商业活动有关的利益，应与根据第 291 条犯罪的人以同样的方式对待。

“外国政府”定义为国家、地方和区域政府。

“外国公职官员”包括：①外国的雇员和任何持有公共办事处或行使公共职能的人士，包括外国的立法、行政或司法分支机构，无论该人士是通过任命、选举还是协议就职；②代表根据外国法律成立的公共机构或外国直接或间接控制的机构持有公共办事处或行使公共职能的人士；③公共国际组织的雇员以及在此类组织中任何持有公共办事处或行使公共职能的人士。

5. 通过第三方行贿

《刑罚法》第 295 节规定，如果某人为了行贿而收受对应的报酬，应像受贿人一样被惩罚，无论对应的报酬是否是给予其作为中间人的行为，也无论其是否有意行贿。

如果某人为了劝诱公职官员或外国公职官员给予不应有的优待或实行歧视而收受对应的报酬，其应像行贿人一样被惩罚。

在上述两种情况下给予对应的报酬的人士也应像受贿人一样被惩罚。

6. 私人贿赂

以色列法没有私人贿赂法律。

（二）项目承包介绍

1. 许可制度—公共事业管理局—电力

发电站的建设和运营需要以色列监管电力生产的机构公共事业管理局—电力（以下简称 IEA）颁发电力生产许可证。

自 1996 年起，以色列能源部开始允许独立电力供应商（IPP）进入发电领域。

希望涉足电力生产的个人或公司必须向 IEA 提交获得有条件许可证的申请，并满足以下前提条件：①申请人想要建厂的地块的土地权证明（例如所有权、租赁权、使用权等）；②申请人进行许可的活动以及股权投资的可用金融手段的证明；③设施接入电网的能力；④承诺在收到许可证后向 IEA 提供银行担保；⑤符合《建筑法》的所有要求。

满足以上标准、其他《电力行业法》（1996 年）规定的法律要求以及其他相关法律法规的申请人将收到附条件的许可证。

附条件的许可证有效期是 42 个月，在此期间，许可证所有人必须达到多个里程碑点，例如获取建筑许可证、电价获批以及财务结算。特定情况下，许可证所有人在达到有条件的许可证设置的所有里程碑点后被授予 20 年有效期的永久许可证。

2. 禁止领域

以色列立法对外国公司在特定以色列实体中投资有多项规定和限制。以下是不同领域的一些实例：

（1）电信

电信部门自从 1996 年起逐渐开放市场竞争。但是，1982 年的《通信法》（电信和广播）仍然对外国投资有大量限制。例如，法律规定当引发关于基本利益（包括国家安全利益和发生危机时网络正确发挥功能等）的担忧时，在该部门的直接外国投资有多条限制。

（2）铁路

根据 1961 年的《港务局法》，以色列的全国铁路服务专门由国有公司提供（以色列铁路有限公司）。如今，私营公司不能在以色列提供全国铁路服务。该市场准入限制也适用于国内外的私人投资者。

根据 1972 年的《铁路条例》（新版）第 46A 节，交通部长有权根据政府批准授予非国有公司建造、运营和管理地方铁路的专营权，只要该公司在以色列注册。

（3）防务

根据以色列 1996 年的《商品和服务控制法》，行政分支机构可以发布命令限制重要的公司出售（包括防务公司）。此外，任何有安全许可的防务公司的出售可能需要国防设施安全部主任（DSDE）的批准。对外国人披露任何防务技术数据应取决于是否收到出口许可，在考虑此类披露前，也需要获得市场营销许可证。

（4）招标和投标

1993 年，《强制招标法》实行，规定政府实体、法定实体、国有公司、大学和保健机构有义务通过公开招标来进行采购。

《强制招标法》第 2(a) 节陈述了一般招标义务：

“国家和任何国有公司、宗教委员会、健康基金以及高等教育机构未经给予所有人平等机会参与的公开招标不得签订合同以交易货物或土地或执行工作或购买。”

当前，以色列政府每年在各领域举行数千次招标。通过公开招标产生的交易额预计达数十亿美元。事实上大多数政府商务交流均通过招标进行。

公开招标旨在通过给所有投标人平等的机会而在公共事务上确保平等。从经济角度而言，法定招标的法律表达了高效处置公共基金的原则，通过最小花费达到最大收益。

实际上，以色列的招标法是一部引发大量诉讼的法律。可能原因之一是，该法的设计是，如果投标人宣称招标机构行为有问题，只能通过法庭途径解决。此外，招标法是法律领域相对新兴、发展中的分支，仍然处在形成期。

《强制招标法》第 4 节授权财政部长制定如何免招标以及以各种方式举办封闭式招标的规定。

1993 年的《强制招标规定》第 3 节用各小节详细阐述了免招标的规定。值得注意的免招标情况是：低价值交易、国土安全、外交事务安全和需要快速通信以防实际破坏的事务。

次中央级的实体遵守《市政当局条例》以及其规定。该条例第 197 节要求市政当局发布公开招标以采购货物和执行工作。《市政当局规定》是实施第 197 节的细则，规定招标所需的程序，并且提及了《总会计师财务和业务规则》。

Fischer Behar Chen Well Orion & Co
פישר בכר חן וול אוריון ושות'

www.fbclawyers.com
marketing@fbclawyers.com

3 Daniel Frisch St. Tel Aviv 6473104, Israel

פישר בכר חן וול אוריון ושות' - Fischer Behar Chen Well Orion & Co
Fischer Behar Chen Well Orion & Co - FBC