United States International Trade Commission

U.S.-Bahrain Free Trade Agreement:

Potential Economywide and Selected Sectoral Effects

Investigation No. TA-2104-15
USITC Publication 3726
October 2004

U.S. International Trade Commission

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Publication 3726 **October 2004**

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PREFACE

On June 28, 2004, the United States International Trade Commission (the Commission), instituted Investigation No. TA-2104-15, U.S.-Bahrain Free Trade Agreement: Potential Economywide and Selected Sectoral Effects. The investigation, conducted pursuant to section 2104(f) of the Trade Act of 2002 (the Trade Act), was in response to a request from the United States Trade Representative (see appendix A).

The purpose of this investigation is to assess the likely impact of the U.S.-Bahrain Free Trade Agreement on the U.S. economy as a whole and on specific industry sectors and the interests of U.S. consumers. As provided for in section 2104(f)(2) of the Trade Act, the Commission must submit to the President and the Congress (not later than 90 calendar days after the President enters into the Agreement) a report assessing the likely impact of the Agreement on the United States economy as a whole and on specific industry sectors, including the impact the Agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

Section 2104(f)(3) of the Trade Act requires that the Commission, in preparing the assessment, review available economic assessments regarding the Agreement, including literature regarding any substantially equivalent proposed agreement, and provide in its assessment a description of the analyses used and conclusions drawn in such literature and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the Agreement.

The Commission solicited public comment for this investigation by publishing a notice in the *Federal Register* of July 28, 2004 (see appendix B). Interested party views are summarized in chapter 6 of this report.

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List of Frequently Used Abbreviations and Acronyms

ACTPN	Advisory Committee for Trade Policy and Negotiations
ATC	Agreement on Textiles and Clothing
BIT	Bilateral Investment Treaty
BLS	Bureau of Labor Statistics
CGE	computable general equilibrium
EU	European Union
FDI	foreign direct investment
FTA	free trade agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GDP	gross domestic product
GNP	gross national product
GSP	Generalized System of Preferences
GTAP	Global Trade Analysis Project
HS	Harmonized System
HTS	Harmonized Tariff Schedule of the United States
IMF	International Monetary Fund
IPR	intellectual property rights
ISAC	Industry Sectoral Advisory Committee
ITA	Information Technology Agreement
ITAC	Industry Trade Advisory Council
MFN	most-favored-nation
NAFTA	North American Free Trade Agreement
NAICS	North American Industrial Classification System
NTR	normal trade relations
OECD	Organization for Economic Cooperation and Development
SME	square meter equivalent
SPS	sanitary and phytosanitary
TBT	technical barriers to trade
TEPAC	Trade and Environment Policy Advisory Committee
TIFA	Trade and Investment Framework Agreement
TPL	tariff preference level
TRIPs	Trade-Related Aspects of Intellectual Property Rights
TRQ	tariff rate quota
UN	United Nations
USDOC	U.S. Department of Commerce
USITC	United States International Trade Commission
USTR	United States Trade Representative
WCT	WIPO Copyright Treaty
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

EXECUTIVE SUMMARY

On June 28, 2004, the U.S. International Trade Commission (Commission) received a letter from the Office of the United States Trade Representative (USTR) requesting that the Commission prepare a report in accordance with section 2104(f) of the Trade Act of 2002, to assess the likely impact of the U.S.-Bahrain Free Trade Agreement (FTA) on the U.S. economy as a whole and on specific industry sectors, and on the interests of U.S. consumers.[1] Section 2104(f)(3) requires that the Commission, in preparing its report, review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and provide a description of the analyses used and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the FTA.

Principal Findings

The economic benefits to the U.S. economy as a whole of the U.S.-Bahrain FTA consist of quantifiable and nonquantifiable effects. The quantifiable benefits of the FTA are related to the immediate reciprocal elimination of duties on virtually all current bilateral trade in consumer and industrial products. Under the agreement, Bahrain will provide immediate duty-free access for U.S. agricultural exports in 98 percent of its agricultural tariff lines. The United States and Bahrain will eliminate tariffs on any remaining products within 10 years.[2] This trade liberalization is likely to increase the competitiveness of U.S. manufacturers and farmers in the Bahraini market.

The FTA also establishes specific obligations in important areas that are more difficult to quantify but nevertheless are likely to benefit the U.S. economy—including rules of origin; trade in services; trade facilitation (including customs administration, technical barriers to trade, sanitary and phytosanitary regulations, electronic commerce, and transparency); and the regulatory environment (including safeguards and trade remedies, government procurement, the protection and enforcement of intellectual

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[1] On Aug. 4, 2003, President Bush authorized and directed USTR to notify Congress of the President's intention to initiate FTA negotiations with Bahrain. Negotiations were launched on Jan. 26, 2004. On May 27, 2004, USTR announced that the United States and Bahrain had successfully concluded negotiations for the FTA. President Bush signed a letter on June 15, 2004, notifying Congress of the intent to enter into the U.S.-Bahrain FTA, starting the countdown for when the agreement could be signed. The text of the U.S.-Bahrain FTA was made available to the general public on June 22, 2004. On July 19, 2004, USTR received reports from 27 trade advisory groups commenting on the U.S.-Bahrain FTA, and relevant reports were reviewed for this investigation. The U.S.-Bahrain FTA was signed by the two parties on Sept. 14, 2004. USTR, "USTR Resources: U.S.-Bahrain Free Trade Agreement," found at *http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/Section_Index.html*, retrieved Sept. 24, 2004.

[2] USTR, "Bahrain Free Trade Agreement Fact Sheet," May 27, 2004, found at *http://www.ustr.gov/Document_Library/Fact_Sheets/2004/Bahrain_Free_Trade_Agreement_Fact_Sheet.html*, retrieved Sept. 7, 2004.

property rights, labor, and the environment).[3] The Commission did not analyze investment in this report because investment relations are not covered in the FTA but rather in the 2002 Trade and Investment Framework Agreement (TIFA) between the United States and Bahrain.[4]

Scope and Approach of the Study

This analysis examines all 21 chapters of the U.S.-Bahrain FTA including its annexes and associated side letters. To assess the likely effects of the U.S.-Bahrain FTA on the U.S. economy as a whole and specific economic sectors, the Commission employs an approach that combines quantitative and qualitative analyses. In this report, the Commission quantifies the likely impact of the FTA to the extent that the necessary data are available. Thus, the quantitative assessment is limited to the liberalization of tariffs[5]—that is, provisions related to increased market access.[6] Remaining components of the FTA, for which the likely effects could not be quantified, are analyzed using qualitative analysis. Combining the quantitative and qualitative analyses provides a comprehensive assessment of the likely impact of the U.S.-Bahrain FTA on the U.S. economy.

U.S. Trade and Investment with Bahrain

Bahrain's economy (as measured by GDP) is less than 1 percent of the size of the U.S. economy, and its population is about 0.2 percent of the U.S. population. Bahrain is a member of the World Trade Organization (WTO), and has bound its tariffs at rates ranging from zero to 125 percent ad valorem. Bahrain has been liberalizing its trade and investment regime since the late 1990s, including the bilateral TIFA with the United States in 2002.

In 2003, U.S. domestic merchandise exports to Bahrain were valued at $497 million, while U.S. imports for consumption from Bahrain were $378 million. The United States recorded a $119 million trade surplus with Bahrain in 2003, as Bahrain ranked as the 64th largest market for U.S. exports and the 86th largest source of imports. The leading U.S. exports to Bahrain in 2003 were aircraft and aircraft parts, certain motor vehicles, and certain engines.[7] Leading U.S. imports from Bahrain in 2003 included

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[3] Ibid.

[4] USTR, "U.S. and Bahrain Conclude Free Trade Agreement," USTR press release, May 27, 2004, found at *http://www.ustr.gov/Document_Library/Press_Releases/2004/May/U.S._Bahrain_Conclude_Free_Trade_Agreement.html*, retrieved Sept. 8, 2004. Other recent FTAs have included investment provisions.

[5] For the products being assessed, there are no binding tariff-rate quotas. Nor are there data to support an assessment of any other non-tariff barriers on these products.

[6] The Commission did not explicitly quantify the impact of rules of origin, but the quantitative analysis is consistent with the existence of rules of origin. This analysis is discussed in more detail in ch. 3 of the report.

[7] There were no U.S. exports of aircraft to Bahrain in 2001 and 2002.

women's and girls' trousers and men's and boys' trousers, methanol, and aluminum alloy products. In 2003, apparel (HTS chapters 61 and 62) accounted for 43 percent of total imports from Bahrain, 84 percent of dutiable imports, and 93 percent of duties collected on imports from Bahrain.[8] Approximately 17 percent of shipments from Bahrain entered the United States free of duty in 2003 under the U.S. Generalized System of Preferences (GSP) program. In all, about 48 percent of shipments from Bahrain entered the United States free of duty in 2003 on a normal trade relations (NTR) basis or under GSP or other U.S. provisions.

Highlights of the U.S.-Bahrain Free Trade Agreement

Under the market access commitments of the U.S.-Bahrain FTA, there would be immediate elimination of duties on nearly all current bilateral trade in consumer and industrial products.[9] Bahrain would provide immediate duty-free access for U.S. agricultural exports in 98 percent of its agricultural tariff lines, with tariffs on the remaining products phased out within 10 years.[10] The United States would provide immediate duty-free access on all of Bahrain's current exports of agricultural products to the United States, with other tariffs phased out within 10 years.[11] For U.S. exports to Bahrain, five duty staging categories apply, eliminating the duty of 5 percent ad valorem applied to most products[12] over periods of up to 10 years. Bahrain's exports to the United States are covered by seven different duty staging categories, with duties phased out over periods of up to 10 years.

The FTA would apply tariff rate quotas (TRQs) to Bahrain's exports of originating beef, dairy products, sugar and sugar-containing products, peanuts, tobacco, and cotton fibers. Duty-free entry would apply to the under-TRQ shipments, while the over-TRQ shipments would be subject to declining duty rates. After 10 years, there would be no restrictions on duty-free entry of these products.[13] The FTA's rules of origin determine eligibility for FTA treatment and, in many respects, resemble the corresponding provisions of the U.S. FTAs with Israel, Jordan, and Morocco. The rules parallel the eligibility criteria in the U.S. GSP program for the majority of goods; origin would be accorded primarily on the basis of value content. Rules establishing specific changes in tariff classification would apply to third-country inputs in textiles and apparel and a small number of agricultural goods, where the shipments are not wholly attributable to the parties.

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[8] Imports of cotton trousers accounted for 95 percent of all three of these figures.

[9] USTR, "Bahrain Free Trade Agreement Fact Sheet," May 27, 2004, found at *http://www.ustr.gov/Document_Library/Fact_Sheets/2004/Bahrain_Free_Trade_Agreement_Fact_Sheet.html*, retrieved Sept. 7, 2004.

[10] Ibid.

[11] Ibid.

[12] With exceptions of 125 percent for alcoholic beverages, 100 percent for tobacco products (with a minimum specific duty per shipment) and 20 percent for some paper products and some aluminum products.

[13] There have been no U.S. imports of these products at least since 1996. In fact, imports of agricultural products from Bahrain have occurred under only four tariff categories during the period 1996-June 2004. These are dried coconut, two categories of pickled vegetables, and bottled water.

Imports of textiles and apparel made in Bahrain from third-country inputs would be subject to an annual tariff preference level (TPL) of 65 million square meter equivalents (SMEs), that is, such imports would be limited to 65 million SMEs. The TPL would expire after 10 years after which imports of textiles and apparel would need to satisfy the normal rules of origin of the FTA to receive duty-free treatment.

Many of the substantive commitments in the U.S.-Bahrain FTA reflect obligations of the parties under WTO agreements on the same subject matter, and the language in this FTA in many provisions closely parallels corresponding provisions in recent U.S. FTAs with Jordan, Singapore, Chile, and Morocco. Like other recent FTAs to which the United States is a party, the U.S.-Bahrain FTA includes bilateral safeguard provisions that allow a party to impose temporary relief measures during the agreement's transition period.[14]

Methodology

To provide a comprehensive assessment of the effects of the U.S.-Bahrain FTA on the U.S. economy and specific sectors, the Commission employs an approach that combines quantitative and qualitative analyses. The quantitative analysis focuses on tariff liberalization (corresponding to the market access provisions of chapters 2 through 4 of the FTA). The qualitative analysis focuses on the nonquantifiable effects associated with provisions of the FTA related to trade in goods (including the rules of origin) and services, trade facilitation, and the regulatory environment (corresponding to chapters 5 through 20 of the FTA).[15] These effects are not readily quantifiable due to the lack of necessary data and their intangible nature. The assessment of the liberalization of the nontariff barriers in these areas was based on government, industry, academic, and other public sources; international organizations, including the World Bank, and the WTO; and written submissions in response to the Commission's Federal Register notice of institution for this investigation.[16]

Since the apparel sector accounts for 91 percent of duties collected on U.S. imports from Bahrain, quantitative analysis of imports was applied only to apparel. The modeling,[17] however, did not consider the effects of the expiration of quotas under the WTO Agreement on Textiles and Clothing (ATC) at the end of 2004, the TPL quantitative limits on textiles and apparel made in Bahrain from third-country inputs,

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[14] The level of relief is limited to current NTR/MFN tariffs.

[15] Chs. 1, 20, and 21 of the Agreement address administrative and legal matters with respect to the FTA.

[16] The Commission scheduled a public hearing in connection with this investigation for Aug. 10, 2004. The hearing was canceled, as the scheduled witnesses elected to have their written submissions serve as substitutes for their oral statements. Copies of the *Federal Register* notices for this investigation are in app. B.

[17] Models are highly simplified descriptions of an economy, dependent on parameter estimates and also can be subject to potential biases due to product and regional aggregations. See app. C for additional information on the model used in this report.

and the expiration of the TPL after 10 years. Thus, taking these factors into consideration suggests that the actual effects are likely to be smaller than the reported model estimates.

Summary of Findings

The Commission's assessment of the U.S.-Bahrain FTA addresses three substantive areas: market access, trade facilitation, and the regulatory environment. A summary of the impact assessments is presented below for each of these three areas.

Market Access

Market access refers to the extent to which one country's goods and services can compete with local goods and services in another market. The term relates to the degree of openness or accessibility that one country's goods and services experience in another market. The entire array of trade policy measures that a country employs to administer, measure, and support its trade regime affect the ability of foreign produced products or services to enter another country under nondiscriminatory conditions.

Market access provisions provide the principal guarantee of national treatment under the U.S.-Bahrain FTA for originating goods in bilateral trade. Relying upon broader commitments both parties have made in the WTO, the specific obligations in these provisions commit the two parties to progressively eliminate duties on originating goods and to implement a wide array of customs procedures that would enhance this trade to ensure consistent customs treatment by both parties. Many of these measures already apply to U.S. imports, under HTS chapter 98 (in particular goods admitted temporarily under bond and goods imported after repairs or alterations abroad), but the FTA would make the treatment of U.S. exports transparent. The U.S.-Bahrain FTA also provides that no new duties or charges would be imposed, that the parties can not apply import and export restrictions other than in limited cases, that administrative fees relating to trade would be limited to the approximate cost of services rendered, and that merchandise processing fees must be eliminated. A Subcommittee on Trade in Goods is to provide institutional support in implementing and maintaining these measures.

Figure ES-1 presents an overview of the potential effects, both quantitative and qualitative, of the U.S.-Bahrain FTA in the market access area.

Effects of Tariff Liberalization Related To Apparel: Model Results

The removal of tariffs on U.S. apparel imports from Bahrain is estimated to result in a substantial increase in such imports from Bahrain and almost as large a decrease in imports from the rest of the world so that total U.S. imports of apparel would only

Figure ES–1
U.S. Bahrain FTA: Impact of Market Access Provisions—Quantitative Assessment

Subject negotiated and FTA chapter	Likely impact on U.S. economy
Market Access Provisions	**Complete implementation of tariff liberalization**
Textiles and apparel, ch. 2 • Immediate duty-free treatment for imports that meet the rules of origin. • Temporary provision (expires 10 years from implementation) for 65 million SMEs of qualifying apparel and textile articles to have 3rd country content. →	**Elimination of tariffs on U.S. imports of apparel: Model results** **Imports**—Removal of tariffs on U.S. apparel imports from Bahrain is estimated to lead to a substantial increase in such imports from Bahrain, but only a 0.2 percent increase in total U.S. apparel imports because imports from Bahrain would displace imports from the rest of the world, and because U.S. apparel imports from Bahrain account for only a very small share of total U.S. apparel imports. **Production and employment**—The tariff elimination is estimated to lead to a decrease in U.S. production and employment in the apparel industry of 0.2 percent or less. **Welfare**—Net welfare should increase at most by about $19 million. **Factors not explicitly addressed**—End of ATC in 2005, tariff preference level (TPL) for use of 3rd-country inputs of 65 million SMEs, and end of TPL after 10 years not accounted for in model estimates. All of these factors likely to reduce the impact of FTA on United States and U.S. apparel industry.
Consumer and industrial goods, ch. 2 • Immediate bilateral tariff elimination on nearly all originating consumer and industrial goods. →	**Elimination of tariffs on U.S. exports.** **Exports**—Given the low 5-percent Bahraini duty on most dutiable U.S. exports to Bahrain and that Bahrain is the destination for 0.1 percent of U.S. exports, the effect of the FTA on total U.S. exports is likely to be minimal. Major U.S. exports to Bahrain are aircraft and aircraft parts, and passenger motor vehicles.

Figure ES-1—*Continued*
U.S.-Bahrain FTA: Impact of Market Access Provisions-Qualitative Assessment

Subject negotiated and FTA chapter	Likely impact on U.S. economy
Market Access Provisions	**Complete implementation of tariff liberalization**
Textiles and apparel, ch. 2 • Immediate duty-free treatment for imports that meet the rules of origin. • Yarn-forward rule, with exceptions. • Temporary provision (expires 10 years from implementation) for 65 million SMEs of qualifying apparel and textile articles to have 3rd country content.	**Textiles and apparel**—Bahrain is a comparatively high-cost producer of apparel, based on relatively high wage rates. Therefore, the Bahraini industry will likely be vulnerable following elimination of ATC quotas in 2005. Substantial increase in U.S. imports of apparel from Bahrain is possible, but the net increase in total U.S. imports of apparel is likely to be small, as Bahrain is a small supplier to the United States, and most of the expected increase in shipments from Bahrain is likely to displace imports from other U.S. suppliers.
Consumer and industrial goods, ch. 2 • Immediate bilateral tariff elimination on nearly all originating consumer and industrial goods.	**Consumer and industrial goods other than textiles and apparel**–negligible because U.S. duties on other goods currently imported are negligible.
Agricultural goods, ch. 2 • Under the Agreement, which covers all agricultural products, Bahrain will provide immediate duty-free access for U.S. agricultural exports in 98 percent of agricultural tariff lines. Bahrain will phase out tariffs on the remaining products within 10 years. • The United States will provide immediate duty-free access on nearly all of Bahrain's current exports of consumer, industrial, and agricultural products to the United States. The United States will phase out remaining tariffs under the Agreement within 10 years. • TRQs would apply to Bahrain's exports of originating beef, dairy products, sugar and sugar-containing products, peanuts, tobacco, and cotton fibers, with duty-free entry for under-TRQ shipments and over-TRQ shipments subject to general duty rates. After 10 years, there would be no restrictions on duty-free entry of these products.	**Agricultural goods**–negligible because U.S. imports of agricultural products from Bahrain are negligible.

Figure ES-1—*Continued*
U.S.-Bahrain FTA: Impact of Market Access Provisions-Qualitative Assessment

Subject negotiated and FTA chapter	Likely impact on U.S. economy
Market Access Provisions	**Complete implementation**
Cross-border trade in services, chs. 10, 11, 12 • National treatment: guarantees U.S. non-discriminatory treatment in all service sectors except where there are specific exemptions. • Market access: guarantees U.S. access in all service sectors except where there are specific exemptions. • Enhances regulatory transparency in Bahrain. • Significantly improves upon Bahrain's commitments under the WTO General Agreement on Trade in Services (GATS), which are limited to financial services.	Services (ch. 10)—Modest increase in U.S. exports limited by the small size of the Bahrain market. No significant increase in U.S. imports expected. Other important benefits from the FTA are likely in terms of improved market access, national treatment, and greater regulatory transparency. Telecommunications (ch. 12)—The FTA marks Bahrain's first binding trade commitments related to telecommunications services. These commitments will increase market access, national treatment, and regulatory transparency. Insurance (ch. 11)—U.S. insurance providers will benefit from new commitments to allow U.S. companies access to Bahrain's non-life insurance market. U.S. insurance providers also will benefit from FTA provisions allowing the establishment of foreign insurance providers through branches or subsidiaries and new rules permitting the cross-border provision of marine, aviation, and transportation insurance. Bahrain may choose to export Islamic financial services to the United States in the future. Banking and securities (ch. 11)—The commitments in the FTA may encourage U.S. financial services firms to invest in Bahrain, as a hub for their regional activities. U.S. asset management firms will benefit from new commitments to permit cross-border provision of asset management services. Bahrain may choose to export Islamic financial services to the United States in the future.

Sources: Text of the U.S.Bahrain FTA, found at *http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/Draft_Texts/Section_Index.html*. Impact estimates obtained from USITC estimates and calculations and compiled from multiple sources cited elsewhere in this report, including written submissions in response to the *Federal Register* notice for this investigation, USITC staff interviews with industry officials, and reports filed by the various U.S. government trade policy advisory committees.

increase 0.2 percent.[18] The tariff elimination for apparel is estimated to lead to a decrease in U.S. production of 0.2 percent. However, factors not accounted for in the model (expiration of ATC quotas, the TPL quantitative limit, and the expiration of the TPL after 10 years) will likely produce an even smaller increase, as is discussed below.[19]

The most relevant and comprehensive measure of the impact of the U.S.-Bahrain FTA is likely to have on the U.S. economy is the change in net welfare (i.e., the value to consumers of lower prices and higher consumption, net of lost tariff revenue to the government). According to the Commission's simulation, after tariff liberalization has been fully implemented and all economic adjustments for apparel products have occurred, net U.S. welfare should increase at most by $19 million. That is, as long as there are no tariffs (and no restrictions on the use of third-country inputs), net welfare would be higher by at most $19 million than the case where tariffs are in place.

Effects of Tariff Liberalization Related to U.S. Exports: Non-model-based Assessment

Exports to Bahrain are not as concentrated in specific sectors as imports. They are, with a major exception of aircraft (which enter free of duty), subject to a uniform tariff of 5 percent. Given the extremely small Bahraini share of total U.S. exports (0.1 percent), any increase relative to total U.S. exports is likely to be very small and therefore the impact on U.S. output and employment is expected to be minimal.

Sectoral Effects: Qualitative Assessment

Overall, some sectors of the U.S. economy are likely to experience increased import competition from Bahrain, while other sectors are likely to experience increased export opportunities in Bahrain. However, given Bahrain's small economy and market size relative to the United States, any such increases would be from a small initial level and, thus, are likely to have a minimal impact on production, employment, or prices in corresponding U.S. sectors.

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[18] It is common in discussions of comparative static analysis to speak of "increases," "decreases," and "changes" as a result of tariff elimination (or some other hypothetical action). These terms should be understood to mean the difference between a base situation with the tariffs in place and a situation without the tariffs. For example, "an increase in imports from Bahrain caused by tariff elimination" should be understood to mean that imports would be higher than in the absence of the FTA (or higher than with tariffs in place).

[19] The quantity increase estimated by the model using 2003 base data would exceed the TPL quantity limit. As noted above, if it had been possible to simulate base data incorporating the end of quotas under the ATC, the base data quantities and values for imports from Bahrain would have been lower, possibly much lower. While the model estimate of the percentage change in import quantity from Bahrain would be similar in magnitude to the reported estimate, the absolute change would be smaller roughly in proportion to the smaller base quantity. The resulting estimate in apparel import quantity from Bahrain probably would be within the TPL quantity limit.

Textiles and Apparel

U.S. imports of apparel from Bahrain are likely to be substantially higher than they would be in the absence of the U.S.-Bahrain FTA. Because higher apparel imports from Bahrain would be largely offset by lower imports from the rest-of-the-world and because imports from Bahrain are such a small portion of total U.S. imports of apparel, total imports of apparel are likely to be higher by only a small amount. Consequently, the FTA is likely to have little or no adverse effect on the U.S. industry. Bahrain accounted for less than 0.5 percent of total U.S. imports of apparel in 2003. Higher apparel imports from Bahrain as a result of the FTA are likely to counteract the effects on Bahrain of increased global competition following quota elimination under the Uruguay Round Agreement on Textiles and Clothing in January 2005.

Services and Investment

The U.S.-Bahrain FTA is not expected to lead to measurable changes in U.S. exports or imports of services. However, U.S.-based service firms likely will benefit from improved market access conditions in some service industries and increased regulatory transparency.

U.S. industry representatives view the U.S.-Bahrain FTA as a strong agreement, which will set an important precedent for future trade agreements in the Gulf region. Particularly important is the negative list format of the agreement's services chapter, which promotes liberalization along with the preservation of the U.S.-Bahrain Bilateral Investment Treaty, which features strong protections for investors.

The U.S.-Bahrain FTA has liberalized aspects of the insurance and asset management markets, which may create new opportunities for U.S. services providers. The FTA's broad coverage of the audiovisual services market also may provide opportunities for U.S. services exports.

The strongest prospect for increased imports of services from Bahrain is in the area of Islamic financial services, although regulations permitting the provision of such services in the United States have not yet been implemented.

Trade Facilitation

The U.S.-Bahrain FTA contains a number of provisions that may facilitate the movement of goods and the provision of services between the two parties. The FTA offers specific improvements with respect to customs administration, technical barriers to trade, sanitary and phytosanitary regulations, electronic commerce, and transparency. Measures with respect to trade facilitation can directly affect the cost of doing business. This is particularly true with the gradual decline in the significance of NTR/MFN duties as a result of successful multilateral rounds of tariff and trade negotiations and the increased reliance on technology to aid in the international movement of goods and services. Figure ES-2 presents the likely effects of the U.S. Bahrain FTA in the area of trade facilitation.

Figure ES-2
U.S.-Bahrain FTA: Impact of Trade Facilitation Provisions-Qualitative Assessment

Subject negotiated and FTA chapter	Likely impact on U.S. economy
Customs administration, ch. 5 • Improved transparency, efficiency, and predictability of Customs regulations. • Parties adopt special measures for express shipments.	Benefits to U.S. exporters as a result of greater regulatory certainty and expedited processing of goods through Customs. However, relatively small overall impact on the U.S. economy is expected because of the relatively small size of Bahrain's economy.
Technical barriers to trade, ch. 7 • Bahrain to make its standards system more transparent and more open. • Agreement builds on the WTO Technical Barriers to Trade Agreement by allowing for greater transparency in the rule-making process. **Transparency, ch. 17** • Each government must publish its laws and regulations governing trade and investment. • Each government must publish proposed regulations in advance and provide an opportunity for public comment on them. **Sanitary and phytosanitary measures, ch. 6** • Each party will follow the existing WTO Agreement on the Application of Sanitary and Phytosanitary Measures. • Agreement to create a bilateral joint committee to address relevant sanitary and phytosanitary issues.	Benefits to U.S. exporters, but overall relatively small impact on U.S. economy is expected because of the relatively small size Bahrain's economy. The FTA's provisions on standards and technical trade barriers will reduce ambiguity for U.S. exporters, creating greater regulatory certainty.
Electronic commerce, ch. 13 • Nondiscriminatory treatment of digital products. • Agreement not to impose customs duties on digital products. • Agreement on method of valuation for physically delivered digital products.	Promotes growth in electronic commerce trade between the parties. Overall relatively small impact on the U.S. economy is expected because of the relatively small size of Bahrain's economy.

Sources: Text of the U.S.-Bahrain FTA, found at *http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/Draft_Texts/Section_Index.html*. Impact estimates obtained from USITC estimates and calculations and compiled from multiple sources cited elsewhere in this report, including written submissions in response to the *Federal Register* notice for this investigation (see app. B), USITC staff interviews with industry officials, and reports filed by the various U.S. government trade policy advisory committees.

The Commission's analysis suggests that the provisions with respect to trade facilitation under the U.S.-Bahrain FTA are likely to benefit U.S. producers, exports, service providers, and investors. However, the overall impact of the FTA on the U.S. economy with respect to trade facilitation is likely to be very small because of the small size of the Bahraini economy relative to that of the United States.

Regulatory Environment

The U.S.-Bahrain FTA contains a number of provisions that may improve the regulatory environment for bilateral trade and investment. The FTA provides dispute settlement procedures, enforcement mechanisms, and measures for trade remedies; includes government procurement disciplines; provides for improved protection and enforcement for copyrights and other intellectual property (IPR) that exceed the protection afforded in the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPs); and provides commitments that the parties enforce, and not weaken, their labor and environmental laws. U.S. labor representatives expressed concern about the FTA on sensitive U.S. sectors, such as textiles and apparel. Figure ES-3 presents likely effects of the U.S.-Bahrain FTA with respect to the regulatory environment.

U.S. firms are likely to benefit from the application of these provisions by Bahrain, primarily as a result of improvements in regulatory transparency. The FTA's provisions with respect to IPR are likely to increase revenues for U.S. industries dependent on copyrights, trademarks, patents, and trade secrets. These effects, however, are likely to be very small because of the small size of the Bahraini economy relative to that of the United States.

Literature Review

Studies of the economic impact of FTAs generally entail investigating static effects (such as trade creation and trade diversion), as well as terms of trade (the price of exports relative to the price of imports). In addition, related scale effects (the extent that FTAs integrate and, hence, enlarge markets) as well as nonquantifiable effects also are taken into account. The effects of an FTA that are attributable to the liberalization of trade in services and provisions regarding intellectual property rights usually remain unmeasured. The nonquantifiable effects of an FTA could be more significant than the effects of removing tariffs.

No studies were discovered that directly address the probable impact of a U.S.-Bahrain FTA. However, two studies were identified that were relevant to the U.S.-Bahrain FTA. Both are similar to the current study in that they employ partial equilibrium analysis of an FTA. The studies also found small effects.

Figure ES-3
U.S.-Bahrain FTA: Impact of Provisions With Respect to the Regulatory Environment-Qualitative Assessment

Subject negotiated and FTA chapter	Likely impact on U.S. economy
Safeguards, ch. 8 and Dispute Settlement, ch. 19 • Provides framework for procedures covering the application of safeguards. • Encourages the early identification and settlement of disputes through consultation. • Seeks to establish fair, transparent, timely, and effective procedures to settle disputes under the FTA.	Negotiated provisions help increase the effectiveness of trade remedies, as well as minimize the possibility of misuse of trade remedy measures. Benefits U.S. exporters and investors by ensuring the transparency and predictability of government-to-government dispute settlement, as a prerequisite for competitive business under fair conditions. Benefits are likely to have a small impact on the U.S. economy because of the relatively small size of the Bahraini market.
Government procurement, ch. 9 • Nondiscriminatory treatment for covered government purchases in excess of agreed monetary thresholds. • Transparent disciplines on procurement procedures. • Both parties to maintain criminal and other penalties for bribery in government procurement.	Benefits to U.S. exporters and service providers, but overall relatively small impact on the U.S. economy is expected because of Bahrain's small domestic market size.
Intellectual Property Rights, ch. 14 • New, higher IPR standards, including certain WTO TRIPs-plus provisions for IPR protection. • Strengthened copyright, patent, trademark, and data protection measures. • Provisions that address Internet and other digital piracy issues. • Strong civil and criminal penalties for piracy and counterfeiting. • Almost all provisions become effective upon entry into force of the agreement, without long transition periods.	Potential increase in revenues for U.S. industries dependent on copyrights, patents, trade secrets, trademarks, and for industries that could benefit from stronger Internet and digital piracy provisions, as well as enhanced enforcement. Overall relatively small impact on the U.S. economy because of Bahrain's small domestic market size.
Labor, ch. 15 • Both parties commit to effectively enforce their domestic labor laws. • Agreement includes cooperative mechanism for labor issues.	Overall, provisions are expected to ensure that existing labor laws are enforced. U.S. labor representatives concerned that deficiencies will continue and that the FTA may have an adverse impact on sensitive U.S. sectors, such as textiles and apparel.
Environment, ch. 16 • Both parties agree to effectively enforce their domestic environmental laws. • Agreement includes cooperative mechanism for environmental issues.	According to USTR's interim environmental review for the U.S.-Bahrain FTA, no likely adverse environmental effects on the U.S. economy under the FTA are expected because of the small Bahraini market size, the low levels of U.S. bilateral trade with Bahrain, and the small impact the FTA is expected to have on U.S. production of goods and services as a result of the FTA.

Sources: Text of the U.S.-Bahrain FTA, found at *http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/Draft_Texts/Section_Index.html*. Impact estimates obtained from USITC estimates and calculations and compiled from multiple sources cited elsewhere in this report, including written submissions in response to the *Federal Register* notice for this investigation (see app. B), USITC staff interviews with industry officials, and reports filed by the various U.S. government trade policy advisory committees.

One is a previous Commission study into the impact of the U.S.-Jordan FTA, which employed a partial equilibrium analysis and examined 16 sectors.[20] The study found a negligible effect on total U.S. imports. The potential welfare impact was not determined in the Jordan study. The second study was an evaluation of an FTA between the Gulf Cooperation Council (of which Bahrain is a member) and the European Union. The study also employed a partial equilibrium model, but found only modest impacts on both the EU and Bahrain.[21]

Interested Parties

Interested party views of the U.S.-Bahrain FTA, submitted in writing to the Commission, expressed a wide range of opinions. Three of the submissions (Government of the Kingdom of Bahrain, International Intellectual Property Alliance, and the U.S.-Bahrain Free Trade Agreement Coalition) expressed support for the FTA. One submission (American Dehydrated Onion and Garlic Association) expressed significant concerns about or opposition to the U.S.-Bahrain FTA based on the view that the FTA could harm U.S. domestic production based on potential Bahraini production and the possibility of transshipments. One submission (Consumers for World Trade) expressed concern that the FTA rules of origin for apparel, textiles, and footwear are restrictive, but did not oppose the FTA.

[20] USITC, *Economic Impact on the United States of a U.S.-Jordan Free Trade Agreement*, USITC Publication 3340, September 2000. The study was conducted prior to the enactment in 2002 of the legislation under which the current investigation is mandated.

[21] Dean A. DeRosa, *The GCC Customs Union and Proposed EU-GCC Free Trade Agreement in a Computable Partial Equilibrium Model of World Trade*, mimeo, Potomac Associates, November 2003. Further information on this study is included in ch. 3.

Chapter 1
Introduction

Purpose of the Report

This report analyzes the likely impact of the U.S.-Bahrain Free Trade Agreement (FTA) on the U.S. economy, specific industry sectors, and the interests of U.S. consumers. The U.S. International Trade Commission (USITC or Commission) instituted work on this fact-finding investigation to provide the assessment required by section 2104(f) of the Trade Act of 2002 following receipt of a letter of request from the United States Trade Representative (USTR) on June 28, 2004.[1]

Section 2104(f)(2) of the Trade Act Of 2002 requires the Commission to submit to the President and the Congress (not later than 90 calendar days after the President enters into the agreement) a report assessing the likely impact of the U.S.-Bahrain FTA on the U.S. economy as a whole and on specific industry sectors, including the impact the FTA will have on the gross domestic product; exports and imports; aggregate employment and employment opportunities; the production, employment, and competitive position of industries likely to be significantly affected by the FTA; and the interests of U.S. consumers.[2]

Section 2104(f)(3) provides that the Commission, in preparing its assessment, review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and provide in its assessment a description of the analyses used and conclusions drawn in such literature and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the FTA.

[1] A copy of the request letter from USTR is in app. A. The Commission's *Federal Register* notice of institution for this investigation is in app. B.

[2] On Aug. 4, 2003, President Bush authorized and directed USTR to notify Congress of the President's intention to initiate FTA negotiations with Bahrain. Negotiations were launched on Jan. 26, 2004. On May 27, 2004, USTR announced that the United States and Bahrain had successfully concluded negotiations for the FTA. President Bush signed a letter on June 15, 2004, notifying Congress of the intent to enter into the U.S.-Bahrain FTA, starting the countdown for when the agreement could be signed. The text of the U.S.-Bahrain FTA was made available to the general public on June 22, 2004. On July 19, 2004, USTR received reports from 27 trade advisory groups commenting on the U.S.-Bahrain FTA. The U.S.-Bahrain FTA was signed by the two parties on Sept. 14, 2004. See USTR, "USTR Resources: U.S.-Bahrain Free Trade Agreement," found at *http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/Section_Index.html*, retrieved Sept. 24, 2004.

Scope of the Report

This report provides an analysis of the likely impact of the U.S.-Bahrain FTA on the U.S. economy, on selected sectors, and on the interests of U.S. consumers. It includes a short profile of the Bahraini economy as well as a summary of the U.S.-Bahrain FTA.

In preparing its assessment, the Commission examined all 21 chapters of the final text of the U.S.-Bahrain FTA, including its annexes and associated side letters.[3] A quantitative assessment is conducted for chapters 2 through 4 of the FTA (i.e., liberalization of tariffs[4]). The resultant increased bilateral market access should impact both U.S. and Bahraini products. This computational analysis is supplemented with a qualitative analysis of the potential impact of increased market access on only two product sectors – textiles and apparel (FTA chapter 3) and three service sectors—banking and securities services, insurance, and telecommunications services (FTA chapters 11 and 12). A qualitative assessment also is conducted for negotiated objectives that facilitate trade (FTA chapters 5 through 7, 13, and 17) and improve the regulatory environment (FTA chapters 8, 9, 14 through 16, and 19).

Approach of the Report

Bahrain is a small country, with a gross domestic product (GDP) that is less than 1 percent of U.S. GDP, and a population that is about 0.2 percent of U.S. population. Bahrain's current trade with the United States is concentrated in very few products–U.S. imports of apparel, which represent 43 percent of total U.S. imports from Bahrain; and U.S. exports of airplanes and parts, which represent 49 percent of U.S. exports to Bahrain (2003 data). Apparel accounted for 84 percent of the dutiable value of U.S. merchandise imports from Bahrain in 2003, and 93 percent of duties collected on imports from Bahrain in 2003.

To assess the effects of the U.S.-Bahrain FTA on the U.S. economy as a whole and on specific economic sectors, the Commission employed an approach that combines quantitative and qualitative analyses. In this report, the Commission quantifies the impact of the FTA to the extent that data are available. The quantitative assessment is limited to the liberalization of tariffs only, while the remaining components of the FTA are analyzed using qualitative analysis. The use of both quantitative and qualitative analyses provides a comprehensive assessment of the impact of the FTA on the U.S. economy.

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[3] The preamble and chs. 1, 20, and 21 of the U.S.-Bahrain FTA address primarily administrative and legal matters with respect to the agreement and are not analyzed in this report.

[4] For the products being assessed, there are no binding tariff rate quotas. Nor are there data to suggest an assessment of any other nontariff barriers on these products.

The Commission conducted a qualitative analysis to assess the impact of the market access provisions of the U.S.-Bahrain FTA for U.S. product and service sectors that were selected based upon a comprehensive examination and consideration of the following: examination of the trade liberalization schedules of the U.S.-Bahrain FTA with respect to tariffs and nontariff measures; U.S.-Bahrain bilateral trade flows; assessments of the sensitivity of specific commodities and service sectors; and the expertise of Commission industry analysts.

Other nonquantifiable effects of the U.S.-Bahrain FTA are associated with provisions on trade in services, trade facilitation provisions (including customs administration, transparency, and technical barriers to trade), and the regulatory environment (including intellectual property rights, government procurement, trade remedies, labor, and the environment). These effects are more difficult to quantify due to the lack of necessary data and their intangible nature.

For the quantitative assessment of the economic effects of the U.S.-Bahrain FTA, the Commission employed a partial equilibrium (PE) model.[5] In several recent section 2104(f) assessments, the Commission has relied on computable general equilibrium modeling to show effects of FTAs on overall U.S. economic welfare and on trade in particular industry sectors. However, in the case of the FTA with Bahrain, a PE approach is appropriate because most of the dutiable trade occurs in one sector–apparel. (Two products account for 95 percent of apparel imports—HTS 6204.62.40–Women's or girls' woven cotton pants and HTS 6203.42.40–Men's or boys' woven cotton pants). The PE approach has the advantage of providing specific detail with respect to apparel. Therefore, the effects of the U.S.-Bahrain FTA on the U.S. economy, exports, imports, output, and employment are related to the elimination of tariffs on U.S apparel imports. Had Bahrain been accounted for separately in the database of any computable general equilibrium model, the impact of the FTA on the U.S. economy could have been estimated in a more comprehensive manner.

Most of the data and other information for the study were obtained from interviews with government and industry contacts, official reports of the USTR advisory committees, written submissions to the Commission,[6] and industry reports. Other data sources include the U.S. Department of Commerce, the U.S. Department of State, the World Trade Organization (WTO), and Bahrain's Ministry of Finance and National Economy.

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[5] This USITC model has been used in previous ITC analyses to estimate the impact of changes in the Generalized System of Preferences (GSP–a program of tariff preferences extended to developing countries) and of the Caribbean and Andean preference programs. It is described more fully in app. C of this report.

[6] The Commission scheduled a public hearing in connection with this investigation for Aug. 10, 2004. That hearing was canceled, as the scheduled witnesses elected to have their written submissions serve as substitutes for their oral statements. A copy of the Federal Register notice for this investigation is in appendix B, and a summary of submissions is provided in ch. 6 of this report.

Organization of the Report

The concluding section of chapter 1 presents the country profile for Bahrain. Chapter 2 of this report presents an overview of the U.S.-Bahrain FTA. Chapter 3 presents estimated economy and sectoral effects for the United States of increased market access due to the removal of tariffs in the United States and in Bahrain. The assessment of the U.S.-Bahrain FTA includes measures of U.S. economic activity, including exports, imports, production, and employment, as well as welfare effects associated with tariff liberalization related to apparel imports. Chapter 3 also presents the qualitative analysis of the likely impact of the U.S.-Bahrain FTA on the textile and apparel sector and generally covers the impact of improved market access on selected services sectors. It also includes a review of literature on the limited amount of research published in this region. Chapter 4 discusses the potential impact of trade facilitation provisions of the U.S.-Bahrain FTA on the United States. Chapter 5 provides a survey of the provisions of the U.S.-Bahrain FTA with respect to the regulatory environment—including intellectual property provisions and provisions with respect to trade remedies (safeguards and dispute settlement), labor, and the environment—and provides qualitative assessments of the potential impact of these provisions on the United States. The report concludes in chapter 6 with an overview of the positions and views of interested parties who responded to the Commission's Federal Register notice inviting public submissions on the impact of the U.S.-Bahrain FTA.

Bahrain: Country Profile

Figure 1-1 provides an economic profile of Bahrain, presenting data on recent macroeconomic indicators, important products in Bahraini world trade, Bahrain's leading trade partners, and the major products in bilateral trade with the United States. The overview highlights key features of Bahrain's economy relevant to the Commission's assessment of the U.S.-Bahrain FTA.

Figure 1-1
Economic Profile of Bahrain

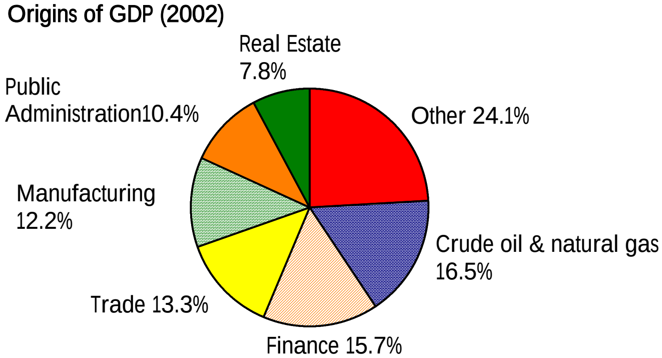
BAHRAIN

ECONOMIC PROFILE

Economic indicators

	2002	2003
Population (thousands)	709	724
GDP (US$ bn)	8.39	8.90
GDP per capita (US$)	12,490	13,480
Real GDP growth (%)	5.1	4.9
Goods exports (US$ mn)	5,887.3	6,689.8
Goods imports (US$ mn)	4,679.3	5,079.3
Trade balance (US$ mn)	1,190.0	1,610.5

Origins of GDP (2002)



Main trade commodities, US$ million, 2002

Exports		Imports	
Mineral products (incl oil)	4,152	Mineral products (incl oil)	1,859
Base metals	803	Machinery & appliances	739
Textiles/apparel . .	455	Transport equipment	438

Main trade partners, percent of total, 2002

Leading export markets		Leading suppliers	
United States	4.5	Saudi Arabia	30.2
India	3.2	United States	11.7
Saudi Arabia	2.3	Japan	7.1
South Korea	1.7	Germany	6.1
Japan	1.7	United Kingdom . . .	5.6

Note.—In 2002, unspecified markets accounted for nearly 70 percent of exports from Bahrain and over 30 percent of imports to Bahrain, according to data gathered from the UN Comtrade database.

Data source: Economist Intelligence Unit, EIU Viewswire, *Bahrain: Economic Structure,* June 2004.

Economic overview

- Bahrain's economy is very small relative to the United States. Bahrain's gross domestic product (GDP), is less than 1 percent of U.S. GDP. Bahrain's population is about 0.2 percent of US. population.
- Over the past two years, the Government of Bahrain has substantially liberalized Bahrain's economy and deepened commercial ties with the United States. It has liberalized foreign property ownership and tightened its anti-money-laundering laws. Oil revenues generate nearly two-thirds of government revenue (63 percent in 2002).
- As the first Persian Gulf state to discover oil, Bahrain has worked to diversify its economy over the past decade. Diversification efforts have focused on financial services, and Bahrain is now a regional financial and business center. Bahrain is working to develop other service industries, including information technology, healthcare, and education.
- Bahrain's geographic position has made it a trading hub throughout its history. Unlike other Persian Gulf states, Bahrain exports refined petroleum products rather than crude. Relative to these other states, Bahrain's oil production and reserves are small.
- Regional trade agreements:
  - The Gulf Cooperation Council (GCC) includes Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates. Founded in 1981, it plans to establish a monetary union in 2005, a common market in 2007, and a single currency by 2010. The GCC launched a customs union in 2003. Within the union, 417 commodities, mostly food and medical products, are duty exempt. All other commodities have a 5 percent import duty, except for tobacco (100 percent) and alcoholic beverages (125 percent). The GCC seeks to conclude a free trade agreement with the European Union in 2004. The GCC has also engaged in discussions with China to establish a free trade pact.
  - The Arab free trade area has been in force since 1998 and includes Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, the United Arab Emirates, and Yemen.
- Bahrain has signed bilateral trade treaties with over 20 countries.

  Countries that have signed bilateral agreements with Bahrain include: the United States, Egypt, Tunisia, Yemen, Bangladesh, China, Singapore, France, Greece, the Philippines, Thailand, Malaysia, Syria, Jordan, Morocco, Turkey, South Korea, India, United Kingdom, Australia, Russia, and Algeria.

ECONOMIC OVERVIEW-Continued

U.S. exports to Bahrain

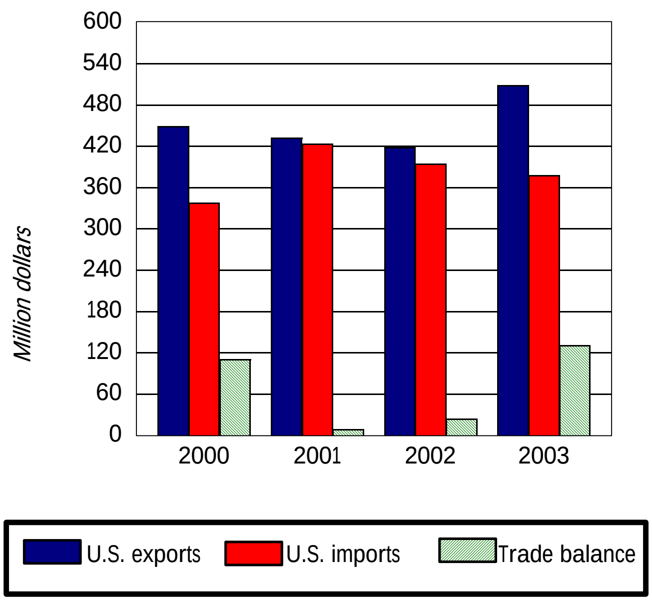
- Exports valued at $489 million in 2003.
- Bahrain ranked as the 64th largest market for U.S. exports in 2003.
- In 2002 Bahrain accounted for less than 0.1 percent of total U.S. merchandise exports.

Leading U.S. exports to Bahrain, US$ million, 2003

U.S. exports, US$ million, 2003	
Aircraft and parts	242.9
Certain motor vehicles	26.1
Reaction engines	7.0
Armaments	6.8
Cigarettes containing tobacco	4.7
Total	287.5

U.S. trade balance with Bahrain

- The lower trade balance in 2001 reflects increased U.S. imports of women's trousers and kerosene and other middle oils..
- In 2003, U.S. exports increased because of the lease of three new aircraft from U.S. manufacturer Boeing to the national carrier Gulf Air.



U.S. imports, from Bahrain

- Imports valued at $378 million in 2003.
- Bahrain ranked as the 86st largest U.S. supplier in 2003.
- Approximately 17 percent of U.S. imports from Bahrain ($65 million), entered duty-free under the U.S. Generalized System of Preferences program in 2003.
- In 2002, Bahrain accounted for less than 0.1 percent of total U.S. merchandise imports.

Leading U.S. imports from Bahrain, US$ million, 2003

Women's & girls' trousers	105.7
Men's & boys' trousers	51.9
Acyclic alcohols	32.4
Aluminum alloys	32.2
Mineral or chemical fertilizers, nitrogenous	23.9
Certain woven fabrics	19.3
Total	265.4

Data source: Compiled from official statistics of the United States Department of Commerce.

CHAPTER 2
Overview of the U.S.-Bahrain FTA

Background on Free Trade Agreements

Like other free trade agreements (FTAs) to which the United States is a party,[1] the proposed agreement between the United States and Bahrain would create a preferential regime with a specific, negotiated range of measures on goods and services that are of mutual benefit or interest to the parties, and with commitments covering other trade-related matters. Under the FTA, duties on originating goods[2] (as defined in FTA chapter 4) would be phased out over periods of up to 10 years. The FTA would not cover every aspect of bilateral trade or give preferences to all goods under any tariff category; its rules of origin grant special tariff treatment to particular goods, and some tariff benefits are limited during the transition period. The preamble states that the FTA is intended to strengthen the bilateral partnership, raise the standard of living in the two countries, enhance the competitiveness of firms in the member countries, set a structure of predictable rules on bilateral trade, build on commitments in the World Trade Organization (WTO),[3] and improve the business environment.

Brief Summary of Treaty Provisions

Introduction

The text of the U.S.-Bahrain FTA[4] is largely modeled upon recent FTAs negotiated and implemented by the United States. Some provisions also draw upon multilateral

[1] The United States has implemented FTAs with Israel, Canada, Mexico, Jordan, Singapore, and Chile to date. Congress has approved implementing legislation for FTAs with Australia and Morocco, as have those parties' governments, and they could be made effective as early as Jan. 1, 2005.

[2] Goods are evaluated to identify the particular country to which they are attributable in the ordinary customs sense so as to determine whether they are eligible for either normal trade relations (NTR) or column 2 duty rates, in the case of the United States. "Products of" a country in NTR trade are thus a broader group than "originating goods of" that country under an FTA. Additional rules, more clearly described as "rules of preference," determine if a good that would otherwise be dutiable at NTR rates can be accorded a special duty rate upon importer compliance with Customs requirements. In U.S. FTAs, a good that meets all requirements is referred to as an originating good of the FTA partner in question, and the importer must claim the preference and establish eligibility to Customs' satisfaction.

[3] See Marrakesh Agreement Establishing the World Trade Organization (WTO), posted on the web site of the WTO, *http://www.wto.org/english/docs_e/legal_e/legal_e.htm.*, retrieved April 2004.

[4] The U.S.-Bahrain FTA was signed by the two parties on Sept. 14, 2004. The final text of the FTA is posted on the web site of the Office of the United States Trade Representative (USTR), *http://www.ustr.gov/new/fta/Bahrain/final/index.htm*.

instruments of the WTO or other treaties, or state that the same obligations apply under the FTA. For example, the text contains preferential agricultural tariff-rate quotas[5] (TRQs), as does the WTO. The U.S.-Bahrain FTA includes express commitments to observe certain existing obligations found in WTO agreements between the parties, and these commitments would exist between the two parties even if the corresponding broader WTO agreement provisions were eliminated; amendments of the WTO provisions would seem not to be covered by this language. The agreement is perhaps most similar to the FTA between the United States and Morocco and the existing agreement with Jordan in terms of the extent of tariff concessions, type of rules of origin, and overall complexity of structure. Some FTA obligations deal with specific aspects of bilateral trade relations, and side letters provide for ongoing cooperation or cover other specific matters. The discussion in this chapter is a brief summary of the text of the FTA chapters; it is not intended to interpret them or to identify the negotiators' intent.

Summary of Tariff Commitments

The final text of the U.S.-Bahrain FTA sets forth the parties' schedules of concessions, the two partners' general notes, and U.S. TRQ provisions, providing the tariff treatment of originating goods. Bahrain would eliminate duties on most U.S. exports immediately and on some products on the first day of year ten after the date of entry into force, guarantee existing duty-free access given in NTR trade, and phase out duties on other U.S. goods annually over 10 years. According to a recent trade policy review conducted by the WTO, Bahrain's average applied tariff rate in 2000 was about 7.7 percent ad valorem, but its bound tariff average rate was about 35.6 percent.[6] Bahrain's FTA tariff schedule annex lists base duty rates for most tariff categories of 5 percent ad valorem and free for nearly all others, including most agricultural products; for the highest duty categories, beer and alcohol are dutiable at 125 percent and tobacco and tobacco products at 100 percent, the latter having a minimum payment level per shipment as well. A few other categories, such as distilled water and some medical items, paper products, and aluminum products, have a 20 percent ad valorem base rate. The U.S. schedule of concessions would grant immediate duty-free access for most eligible exports of Bahrain, taking into account its status as a beneficiary of the U.S. Generalized System of Preferences (GSP) and

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[5] In a TRQ, two rate lines are minimally required, with one according a lower duty rate to imports up to a specified trigger quantity, and a second one according a higher duty rate to all other shipments. It should be noted that an importer may choose to enter a shipment into the United States under either rate line, until the trigger quantity is filled, and that this might occur where unit values of the good in question vary by country, quality, time of entry, etc. In the Uruguay Round, as of Jan. 1, 1995, TRQs replaced prior absolute quotas imposed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) or other measures. The over-TRQ duty rate is intended in most instances to be economically prohibitive and thereby to restrict imports to the in-quota or trigger quantity, but it may not always have this effect; some preferential TRQ allotments may not be filled by the countries in question in a quota period, while other possible suppliers may not be able to import at in-quota rates because no allocation is available.

[6] Press release of the Trade Policy Review Body of the WTO, PRESS/TPRB/143 of Nov. 14, 2000, "Review of Bahrain: TPRB's Evaluation" at *http://www.wto.org*.

existing U.S. normal trade relations rates of free on many tariff categories. Other originating goods would receive phased duty reductions over periods of either 5 or 10 years. The United States would apply TRQs to Bahrain's exports of originating beef, dairy products, sugar and sugar-containing products, peanuts, tobacco, and cotton fibers, with over-TRQ shipments having otherwise applicable duties phased out over 10 years. After 10 years, there would be no restrictions on duty-free entry of these products.

Chapter-by-Chapter Review

Chapter One—Establishment and Definitions

The parties set forth their agreement to set up a free trade area that is consistent with the GATT 1994, reaffirm that existing bilateral rights and obligations continue to apply, and restate that nothing in the FTA is to be read as altering any legal obligation under another international pact. The Agreement does not mention the Arab League boycott of Israel. Bahrain is a member of the Arab League and it has officially adopted the primary boycott level, but not the secondary or tertiary boycott levels.

Among the general provisions, the term "territory" is defined with respect to the United States as including the customs territory, U.S. and Puerto Rican foreign trade zones, and the undersea international economic zone (the coastal waters under U.S. legal control are presumably included), but not the insular possessions and not any area of outer space. For Bahrain, the term covers the present kingdom's territory, as well as the related maritime areas, seabed, and subsoil under its control pursuant to international law. "Goods of a party" are defined as those covered by the agreement's rules of origin in chapter 3 or 4 (for textile sector goods and other goods, respectively).

Chapter Two—Market Access

The commitments on national treatment made in this chapter are similar to the corresponding provisions of the GATT 1994 but apply only within the region and to trade in goods of a party. The parties agree to eliminate their customs duties on originating goods under the attached schedules;[7] to refrain from increasing any rate, imposing a new rate, adopting new duty waiver programs, or expanding existing waiver programs; and to consider acceleration of the staging of duty elimination if one party so requests. Other expressed commitments in the chapter are very similar to those included in recent FTAs to which the United States is a party. Recognizing that GATT 1994 controls provisions on export price requirements and certain other areas, FTA article 2.8 reiterates that the parties' rights under various WTO agreements—of which both are members—are dictated by those agreements; amendments of GATT provisions are not expressly covered in the FTA language.

[7] See annex IV to the FTA and schedules for staging categories on tariff elimination.

As was done in other FTAs, the treatment of certain special importations is prescribed, such as the duty-free and bond-free entry required for goods temporarily admitted into the parties' territories. Further, various customs procedures applicable to bilateral trade would be regulated. Administrative fees and formalities must be limited to the approximate cost of services rendered by governmental authorities, and the U.S. merchandise processing fee must be ended for originating goods. Neither party could require "consular transactions, including related fees and charges" outside normal customs procedures with respect to any importation of any good of the other party. All fees and charges on trade in goods are required to be published by means of the Internet. Export taxes or charges cannot be applied in bilateral trade unless the tax or charge is also imposed on a good for domestic consumption. Article 2.11 also provides that neither party can maintain or introduce an export subsidy on agricultural goods destined for the other party. Annexes set forth each party's exclusions from coverage under the chapter, including U.S. log export controls and the Merchant Marine Act, and Bahrain's prohibition on the importation of retreaded tires for a ten-year period. Both parties exempt actions authorized by the WTO Dispute Settlement Body from the application of any FTA provision, and the United States adds such an exemption for actions authorized by the WTO Agreement on Textiles and Clothing (ATC).

With regard to scheduled tariff concessions, the base duty rates are the 2003 U.S. column 1-general rates of duty (although Bahrain may be receiving duty-free entry under the GSP for some shipments under many tariff rate lines) and Bahrain's 2003 duty rates applicable to U.S. goods. The following nine staging categories (A through I) for annual duty reductions (in equal annual stages except as mentioned) are established: (A) immediate duty-free entry; (B) 10 stages; (C) continued duty-free entry; (D) 5 stages; (E) immediately duty-free without bond; (F) free of duty as provided in WTO commitments; (G) free of duty as of year 9; (H) free as of year 10, but regulatory measures and certain fees and excises may apply; and (I) duty-free access in year 10. Categories D through G apply only to goods of Bahrain entering the United States, while categories H and I apply to U.S. goods exported to Bahrain. Bahrain also reserves the right to continue to ban the importation of goods covered by category I to the extent permitted by the GATT. (See table 2-1.) If the FTA enters into force on a date other than January 1 in a calendar year, "year one" staging would be effective on that date; year two staging on January 1 of the next year, and remaining stages on January 1 of each succeeding year.

Chapter Three—Textiles and Apparel

The tariff elimination provisions for this sector are legally described as occurring under various staging categories, but these provisions would effectively grant immediate duty-free access for nearly all originating goods. Such goods subject to staging category A would be free of duty as of the date of entry into force of the agreement. Other originating goods of this sector would be covered by staging categories C or F, with continued duty-free treatment, so that they are free of duty on January 1 of year 1; HTS 5101.19.60 (covering certain wool) is the only textile subheading with category D

Table 2-1
Summary of tariff commitments, U.S.-Bahrain FTA

Staging category	U.S. commitments	Bahrain commitments
A–Immediate duty-free entry		
	▪ About 6260 total tariff lines, of which about 1100 are ag. tariff lines i.e., all tariff lines not listed below	▪ About 6670 tariff lines, all having current duty rates of 5 percent i.e., all tariff lines not listed below
B–10-year staging		
	▪ 53 ag. tariff lines (no imports of these products from Bahrain in 2003) ▪ 36 non-ag. tariff lines, mainly rubber footwear, ceramic tiles, tableware, and kitchenware, and color TV sets and picture tubes	▪ 26 tariff lines, all having current duty rates of 20 percent, incl. some plastic, paper, and aluminum products, and mattresses
C–Already free of duty		
	▪ 3216 tariff lines in HS chs. 1-97 ▪ 112 from ch. 98–U.S. goods returned without improvement abroad; personal, religious, educational, artistic, scientific, sample items, etc.	▪ 416 tariff lines
D–5-year staging		
	▪ 68 ag. tariff lines (no imports of these products from Bahrain in 2003)	▪ Not applicable
E–Bond no longer required on certain products currently free of duty		
	▪ 16 tariff lines in ch. 98, plus admin. changes	▪ Not applicable
F–MFN duty free under URA after 1/1/2005		
	▪ 663 consumer and industrial tariff lines	▪ Not applicable
G–Free of duty as of year 9		
	▪ Value of Bahrain content in goods imported under production-sharing arrangements (HTS 9802.00.80) (most underlying rates are free) ▪ Protective ski racing apparel (HTS 9817.61.01)	▪ Not applicable
H–Free of duty after 10 years, but regulatory measures and certain fees and excises may apply		
	▪ Not applicable	▪ Alcoholic beverages and tobacco products
I–Free of duty after 10 years, but prohibitions may continue		
	▪ Not applicable	▪ Live swine, illicit drugs, ivory, pearls, mace
Tariff-rate quotas (TRQs)		
	▪ Applied to Bahrain's exports of originating beef, dairy products, sugar and sugar-containing products, peanuts, tobacco, and cotton fibers. U.S. imports of under-quota quantities free of duty. TRQs liberalized over 10 years and are ended thereafter, allowing unlimited duty-free imports of these products originating in Bahrain (no imports of these products from Bahrain in 2003).	▪ Not applicable

Source: U.S.-Bahrain FTA and official statistics of the U.S. Department of Commerce.

staging, or five equal annual cuts. In addition, a tariff preference level would accord preferences, on the same basis applicable to originating goods of the same tariff category, for specified quantities of textile and apparel products made in Bahrain but containing nonoriginating inputs that would otherwise disqualify the products, provided they meet all other FTA requirements.[8] Importers of such products must declare at the time of importation that duty-free status is warranted.

[8] Further information on the tariff preference level is provided in the textile sector analysis in chapter 3 of this report.

This FTA chapter contains detailed provisions on special bilateral textile safeguard measures. If invoked, a safeguard measure could increase the rate of duty on originating goods to the MFN rate in effect at the time the action is taken or the MFN rate at the date of entry into force of the agreement, whichever is lower, but only after investigation by a competent authority. No such safeguard could be maintained for more than 3 years, and action may not be taken more than 10 years after the elimination of customs duties for that good. The party imposing the safeguard would be required to provide trade-liberalizing compensation. This chapter does not limit the parties' right to restrain imports in accordance with the WTO ATC[9] or WTO Safeguards Agreement. At the request of either party, the parties must consult on rules of origin for goods of this sector, with such consultations aimed to conclude within 60 days of a request. Other provisions of this chapter allow allowable de minimis foreign content (usually 7 percent by weight for this sector), apparel imported as sets, and certain cotton and man-made fiber fabrics. Declarations by importers seeking preferential treatment, customs cooperation on textile and apparel matters, verification, and enforcement issues also are addressed.

Annex 3-A to the chapter contains general legal principles on origin and sets forth specific rules for goods imported under HS chapters 42, 50 through 63, 70, and 94 based on changes in tariff classification from third-country inputs to more advanced goods made or processed in one or both parties. The rules for HS chapters 50 through 60 and 63 are at the 2- or 4-digit level in the tariff nomenclature hierarchy, apart from the 6-digit level rules for heading 5407 and for most of chapters 61 and 62. Apparel, the principal U.S. import from Bahrain, generally would need to be assembled in a party from yarn and fabric made in one or both parties under the so-called "yarn forward" principle; the fibers used therein could originate in third countries. With respect to some basic textile products, such as unprocessed wool or cotton, or for textile luggage, a "fiber forward" standard would require the fibers and subsequent inputs to be made in the parties. Some other FTAs use somewhat simpler rules for particular goods of this sector, while the NAFTA utilizes mainly the "yarn forward" standard. The Jordan FTA uses a different type of rule for textile and apparel articles, specifying process requirements rather than tariff shifts as set forth in general note 18(d), but the range of goods that can qualify for tariff benefits may be narrower.

Chapter Four—Rules of Origin

The tariff benefits of the FTA would apply to originating goods directly imported into one party from the other. In many respects, the origin criteria of this FTA resemble the corresponding provisions of the Israel, Jordan, and Morocco FTAs, although the Bahrain FTA lacks tariff-shift rules except in the textiles/apparel sector. Eligibility for FTA treatment would be provided to goods substantially transformed in Bahrain or the United States, including all goods wholly made in and attributable to one or both parties. The legal discipline in the chapter covers all goods, but product-specific rules

[9] After 2004, the quota requirements of the ATC will no longer be applied to WTO members.

based on changes in tariff classification exist for textile and apparel goods listed in annex 3-A to chapter 3. For most nontextile product categories, FTA eligibility would apply to those goods comprising new or different articles of commerce grown, produced, or manufactured entirely in the territory of one or both parties with a minimum of 35 percent of the appraised value comprising direct costs of processing and regional materials attributable to the parties. In the case of goods covered by tariff shift rules, each nonoriginating input must undergo the applicable tariff change as a result of production within the region or satisfy any other specified requirements. Under article 4.2, the term "new or different article of commerce" is defined to mean goods that are substantially transformed, a term that under traditional legal analysis could be broader in coverage than change-of-tariff-classification rules alone would suggest.[10] Certain nonqualifying operations (simple combining or packaging and mere diluting with water) are specified as non-origin-conferring for the FTA. Goods containing inputs from the parties would be eligible without regard to other criteria. Because this FTA treats most tariff categories under criteria that appear to track U.S. GSP rules[11] and requires a basic regional value contribution,[12] no general exemption for de minimis foreign content exists (except in relation to the textiles and apparel sector, as noted above). Other criteria related to origin under the U.S.-Bahrain FTA also are set, and these provisions are very similar to the commitments in other recent U.S. FTAs.

As with other FTAs, goods are required to be shipped without substantive change from one party to the other in order to qualify for benefits, which may assist in the enforcement of the agreement's requirements. A claim for FTA benefits would be considered a certification of compliance; importers must be able to establish this status to customs authorities in a thorough declaration. Findings of fact and legal conclusions would be needed for a party to deny a claim. The parties would be required to consult and cooperate on the chapter's subject matter, using ad hoc committees and working groups. Moreover, the parties could later discuss regional accumulation of the value of materials produced in countries in the region "as a step toward achieving regional integration."

Some "products of" a party in the ordinary customs sense, goods now receiving GSP treatment, and goods shipped from one party to the other may not qualify for FTA treatment due to differences between program rules and those of the FTA.

Chapter Five—Customs Administration

This chapter on customs procedures and their implementation generally tracks both other FTAs and existing U.S. laws and regulations to a large extent. The United States would assist Bahrain's customs authorities by providing technical assistance in various

[10] A side letter provides that in applying this test, the parties "should be guided by the specific rules in tariff classification set forth in section 102.20 of the United States Customs Regulations (19 CFR 102.20)." These rules contain specified tariff shifts along with value content and other standards.

[11] See general note 4 to the HTS and title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) and pertinent Customs regulations.

[12] Articles 4.4 through 4.6 set forth rules on computing value contribution.

areas, and the parties would continue to explore new "avenues of cooperation." Other provisions deal with review and appeal, penalties, advance rulings, the treatment of express shipments, and implementation. With respect to Bahrain, the requirement that importers be able to seek advance rulings would not enter into effect until 2 years after the date of entry into force; the United States already has a system allowing requests for advance rulings.

Chapter Six–Sanitary and Phytosanitary Measures

This short chapter covers all sanitary and phytosanitary measures on bilateral trade in originating goods. The parties reiterate that their rights and obligations under the corresponding WTO agreements on this subject matter continue to exist. The Joint Committee created in chapter eighteen or its subcommittee will serve as a forum for discussions on these matters, and no other FTA dispute settlement on these issues is allowed by the text.

Chapter Seven—Technical Barriers to Trade

This chapter's provisions apply only to the central level of government of each party that may directly or indirectly affect bilateral trade in goods, under article 7.1. It is directed toward encouraging the full implementation by the parties of the WTO agreement on the same subject and reflects the same principles and obligations. The chapter rests on enhanced cooperation and the goal of trade facilitation, and would provide that each party must accredit or recognize the conformity assessment bodies of the other party or in the absence of acceptance to explain why. The parties also commit to allowing their nationals to participate in standards development on a national treatment basis by governmental bodies, and to recommending the same transparency for nongovernmental standards bodies. Several mechanisms to facilitate this participation are established, and the two parties agree to implement this more open approach within 5 years from the date of entry into force of the FTA. A coordinator is designated for each party to monitor implementation; an information exchange provision requires each government to respond to all inquiries within a reasonable time.

Chapter Eight—Safeguards

This chapter would provide the legal framework to allow bilateral safeguards on originating goods under the FTA, under terms similar to corresponding provisions of other FTAs. A party must notify the other party when an investigation is initiated and consult before taking any action under the chapter. A bilateral FTA safeguard measure could only be taken if a party determines that, as a result of the reduction or elimination of duty under the FTA, an article is being imported from the other party in such increased quantities (in absolute terms or relative to domestic production) as to be a substantial cause of serious injury or threat thereof to a domestic industry producing a like or directly competitive good. The measure imposed can take the form of a suspension of (1) the further reduction of the FTA duty rate on such goods or an increase in that duty to a level not exceeding the lower of the most-favored-nation duty rate at the time the action is taken, or (2) the applied MFN rate on the day before the date of entry into force. Such a safeguard cannot be imposed for a period extending beyond the longer of 3 years or the final FTA duty stage for the subject good without the consent of the exporting party. Measures continuing longer than 1 year must be progressively liberalized, and the party invoking an FTA safeguard cannot subsequently impose another such measure on a particular originating good. The rate of duty to be applied when the safeguard measure terminates is the FTA rate that would have been in effect without the safeguard. Under the chapter, the parties agree to try to provide compensation that would be mutually accepted and would liberalize trade. Although the United States has already implemented similar bilateral FTA safeguard provisions with respect to other FTA parties, the changes required to be made by Bahrain are not known. Each party would retain all rights and obligations of the WTO Agreement on Safeguards but gain none under the FTA.[13] The principles set in this FTA chapter, thpough limited to the parties, would seem to parallel the broader provisions now in U.S. law with respect to NTR trade (see 19 U.S.C. 2251 et seq.)

Chapter Nine—Government Procurement

This chapter covers government procurement by any contractual means where the value concerned exceeds thresholds set out in an annex. The thresholds would be adjusted every 2 years according to a formula set out in an annex to this chapter. The chapter sets out definitions, general principles such as national treatment and nondiscrimination, and criteria on the rules of origin used in the normal course of trade. The chapter's provisions also set advance notice requirements for intended procurements, time frames, documentation, technical specifications, tendering procedures, conditions for participation, information on awarded contracts, and a mechanism for the review of supplier challenges. The annex to the chapter establishes threshold amounts for some purchases and lists covered entities and types of purchases.

Chapter Ten—Cross-Border Trade in Services

The services measures covered by the chapter include those of central, regional, or local governments and authorities and by nongovernment bodies, other than financial services, air services in most cases, government procurement, subsidies, and grants. National and MFN treatment on covered services would be guaranteed. No local presence may be required, and regulation of services and qualification requirements may not be unduly burdensome. There are transparency requirements in addition to those set out in the chapter on transparency. The parties may recognize education,

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[13] According to the WTO web site, found at *http://www.wto.org/english/tratop_e/adp_e/adp_e.htm*, Bahrain indicated that it has no domestic legislation concerning the WTO safeguards agreement or the WTO anti-dumping agreement. Its notifications do specify that subsidies are paid to certain parts of the industrial sector and to both local and foreign entities.

experience, licenses, or certifications obtained in a third country, but neither party is required to recognize comparable education or other credentials obtained in the other party. Transfers and payments relating to cross-border trade in services must be made freely and without delay. The benefits of this chapter may be denied under limited circumstances, if the service supplier is controlled by persons of a nonparty. Key terms for this chapter are defined in article 10.13. Express delivery services are addressed in an annex; the scope of coverage is defined, a commitment to continued open access is made, and the relationship between covered services and each party's postal monopoly is delineated. Another annex discusses professional services and would establish a professional services working group to develop mutually recognized professional standards and temporary licensing of professionals. There are side letters on gambling, which is prohibited in Bahrain, and on immigration.[14]

Chapter Eleven—Financial Services

Under this chapter, each party must accord national treatment and MFN treatment to investors of the other party and provide market access for financial institutions without limitations on the number of financial institutions, value of transactions, number of service operations, or number of persons employed. Cross-border trade in financial services must be allowed, and each party must permit a financial institution of the other to provide new financial services that it would permit its own institutions to provide without additional legislative action. Neither party would be required to furnish or allow access to information related to individual customers or confidential information the disclosure of which would impede law enforcement, be contrary to the public interest, or prejudice legitimate commercial concerns.

Pursuant to the chapter, a party could not require financial institutions of the other party to hire individuals of a particular nationality or require that more than a minority of the board of directors to be nationals or residents of the party. Provisions are made for nonconforming measures and exceptions. The parties agree that transparent regulations and policies are important, commit to publishing in advance all regulations of general application, and agree to maintain or establish mechanisms to respond to inquiries from interested persons. Where a party requires membership in a self-regulatory organization, the chapter provides that such organizations are also subject to some of the obligations created therein. The two parties state that they recognize the importance of maintaining and developing expedited procedures for offering insurance services. To deal with these provisions, the chapter establishes a financial services committee. Consultations and dispute resolution are discussed and cross-referenced to the provisions covering dispute settlement procedures.

Annexes contain additional provisions on insurance, banking, portfolio management, new financial services, and self-regulatory organizations, and stipulate that the

[14] In this U.S. side letter, Ambassador Zoellick sets forth the parties' understanding that nothing in the agreement creates an obligation on either party regarding its immigration measures (including those with respect to visas) or concerning the right to seek employment, except insofar as is set forth in the FTA chapter on labor.

definition of financial service is comprehensive enough to include financial services that comply with Islamic law or Shariah.[15] There are also side letters on cross-border insurance suppliers, independent agents, and non-life insurance.

Chapter Twelve—Telecommunications

Under this chapter, each party must ensure that enterprises of the other party will have access to and use of any public telecommunications transport network and service offered in its territory or across its borders, on reasonable and nondiscriminatory terms and conditions, but the agreement does not apply to broadcast or cable distribution of radio or television programming. Various specific commitments are listed, and no conditions may be imposed except as necessary. For major suppliers of the other party, a party is required to accord national treatment relative to its own subsidiaries, affiliates, or nonaffiliated supplier with services at any technically feasible point, in a timely fashion, and of no less favorable quality.

Other areas of telecommunications services are also discussed. Interconnection options are listed, and interconnection offers must be publicly available. The chapter deals with the provisioning and pricing of leased circuit services, collocation, and access to poles, ducts, conduits, and rights of way. Procedures for the allocation and use of scarce telecommunications resources must be administered in an objective, timely, transparent, and nondiscriminatory manner. The chapter also covers dispute resolution and appeals relating to the telecommunications commitments; competitive safeguards relating to monopolies; and the resale of covered services. Each party is required to make all legal and regulatory standards publically available, ensure that its national telecommunications regulatory body is independent of service providers, and authorize any regulatory body to enforce compliance relating to FTA obligations. The parties could choose not to apply regulation where it is not necessary. Side letters deal with technology neutrality and interconnection rates.

Chapter Thirteen—Electronic Commerce

The subject matter of this chapter is not covered by the WTO in explicit commitments. An FTA party cannot apply customs duties or other duties, fees, or charges on or in connection with the importation or exportation of digital products on a carrier medium or sent by electronic transmission, and the parties must accord nondiscriminatory treatment to digital products. Each party must base customs value findings on the cost or value of the imported carrier medium alone, without regard to the cost or value of the stored digital product. A party cannot accord less-favorable treatment to some digital products on the basis of the nationality of the author, performer, producer, developer, or distributor of the products or the grounds that the digital products were created, stored, transmitted, or published outside its territory. Certain exceptions apply with regard to nonconforming measures set forth in annexes in cross-border trade in services and for aspects of financial services.

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[15] Based upon the absence of riba (interest charges on borrowing and interest payments on deposits). See *http://www.islamic-finance.net*.

Chapter Fourteen—Intellectual Property Rights

The provisions of this chapter are quite detailed. Under its terms, each party must ratify or accede to a list of international agreements on intellectual property rights (IPR).[16] According to the chapter, the parties may implement more extensive protection in their respective national laws. As a key obligation, national treatment must be granted by each partner to nationals of the other party, but derogation is allowed for judicial and administrative procedures such as service of process. The FTA applies to existing subject matter, but excludes prior acts from coverage. Each party must ensure that all laws, regulations, and procedures concerning the protection or enforcement of IPR will be in writing and will be published or otherwise made publicly available. The discussion of IPR later in this report describes the expanded protections of this FTA and the differences between this FTA and the WTO TRIPs Agreement. The major differences include longer terms of protection under the FTA, specific coverage of electronic and digital media, and increased enforcement measures. The stronger enforcement provisions of the FTA include criminal and civil liability for the knowing circumvention of effective technological measures to protect works, trafficking in devices intended to circumvent such measures, removing or altering rights management information, or trafficking in works from which the rights management information has been removed or altered. Encrypted program-carrying satellite signals would be protected under the FTA's language allowing criminal and civil sanctions.

Final judicial decisions and administrative rulings pertaining to the enforcement of intellectual property rights must be in writing, published, and publicly available. In civil judicial proceedings, the rights holder may request destruction of goods that have been found to be pirated or bear counterfeit marks, except in exceptional cases. Judicial authorities are to have the authority to order the infringer to identify third parties involved in the production or distribution of the infringing goods or services and may fine or imprison persons who fail to abide by valid court orders.

Two other commitments are included. First, each party is obliged to provide appropriate criminal procedures and penalties, at least to cases of willful trademark counterfeiting or copyright or related rights piracy on a commercial scale. Second, the parties must also provide legal incentives for service providers to cooperate with rights holders and limitations on liability. There are side letters on the limitation of liability for service providers and on optical discs.

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[16] The listed pacts are the Patent Cooperation Treaty, as revised and amended (1970), the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (1974), the Protocol relating to the Madrid Agreement Concerning the International Registration of Marks (1989), the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1980), the International Convention for the Protection of New Varieties of Plants (1991), the Trademark Law Treaty (1994), the World Intellectual Property Organization (WIPO) Copyright Treaty (1996), and the WIPO Performances and Phonograms Treaty (1996). Each party must also use its best efforts to ratify or accede to the Patent Law Treaty (2000) and the Hague Agreement Concerning the International Registration of Industrial Designs (1999).

Chapter Fifteen—Labor

In this chapter, the parties reaffirm their obligations as members of the International Labor Organization (ILO) and agree to effectively enforce their labor laws, try to make their respective domestic laws provide for standards consistent with internationally recognized worker rights, and strive to improve those standards in that light. The parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protection afforded in domestic labor laws. Each party agrees to provide tribunal proceedings allowing "persons with a recognized interest under its law in a particular matter" to seek enforcement of its labor laws. Such proceedings must be fair, equitable, and transparent, and persons involved in such proceedings must be able to exercise their due process rights to support or defend their positions. The two countries agree to ensure independent judicial review of tribunal actions, to provide legal remedies to ensure enforcement, and to promote public awareness of its labor laws (defined to include the right of association, the right to organize and bargain collectively, a ban on forced or compulsory labor, regulation of the work of children and youth, and standards on conditions of work).

Under the chapter, cooperative procedures are provided to deal with labor matters. Each party is required to designate an office within its labor ministry to serve as a contact with the other party and the public. A labor cooperation mechanism is set up to facilitate the work of the parties' ministries of labor (and other government officials) in advancing the labor goals of the FTA in a broad range of areas, starting with "fundamental rights and their effective application" and continuing through labor statistics. The chapter provides for cooperation and consultations; to accomplish this result, the parties agree that the FTA's Joint Committee (see summary of chapter eighteen) can discuss labor matters. They also would establish a labor cooperation mechanism, described in an annex, to "promote respect for core labor standards" of the ILO and "to further advance other common commitments" on labor matters. A national labor advisory committee, including members of the public and representatives of business and labor, may be set up in each party to provide advice to that government on implementing this chapter. In addition, either party can request consultations with the other about matters under this chapter with a view toward finding a mutually acceptable resolution; failing that, a party can call upon the Subcommittee on Labor Affairs of the Joint Committee to act or to refer the matter to the Joint Committee itself, but FTA dispute settlement actions are not allowed. Public, worker, and employer participation is encouraged to accomplish the goals of the chapter.

Chapter Sixteen—Environment

Under this chapter, each party must ensure that its environmental protection laws provide for high levels of protection and strive to improve those laws, provide appropriate and effective remedies and sanctions for violations of environmental protection laws, provide opportunities for public participation, and promote public awareness. The parties agree that trade or investment should not be encouraged by weakening or reducing domestic legal protections. To that end, the parties agree to ensure that judicial, quasi-judicial, or administrative proceedings are available to sanction or remedy violations of environmental laws. Such proceedings must be fair, open, and equitable; comply with due process of law; and provide access to persons with a recognizable legal interest. The parties agree to pursue cooperative environmental activities and provide for environmental consultations; but no FTA dispute settlement on matters under this chapter is allowed. Several types of measures to enhance environmental performance are specified, supported by the FTA's Joint Committee (under chapter eighteen) and also a specialized subcommittee to be formed on request of either party. Detailed provisions deal with opportunities for public participation, and the parties also commit to working in multilateral fora to improve environmental standards and their application.

There is a draft text of a memorandum of understanding between the parties concerning environmental cooperation, including exchanges of experts or students and a joint forum of government officials that would meet regularly to arrange and administer the various shared activities.

Chapter Seventeen—Transparency

Transparency regarding the parties' actions under the FTA is the main commitment of this chapter, which provides structural rules to govern the application of the agreement. In general, these "public access and information" and mutual notification requirements are similar to those of other FTAs. Article 17.5 contains the FTA's anticorruption obligations, as the parties reaffirm their "resolve to eliminate bribery and corruption in international trade and investment" by legal or other means, including criminal prosecution. Specific commitments as to the public officials of each party are also set forth, along with an obligation to protect informers and to work in other international fora to aid and support anticorruption provisions.

Chapter Eighteen—Administration of the Agreement

Chapter eighteen sets up a Joint Committee of government officials of the two countries—chaired by the United States Trade Representative and the Minister of Finance and National Economy of Bahrain—to supervise the implementation and functioning of the FTA and consider all types of matters raised under it. The committee would meet at least annually to examine the operation of the agreement, as well as in special sessions to be held within 30 days of a party's request. Other provisions emphasize the importance of transparency for the public and require that each party will protect confidential information on the same basis as the other party.

Chapter Nineteen—Dispute Settlement

The parties commit to cooperate and consult in administering the FTA, but the text allows one party to invoke dispute settlement if it believes that the other has an FTA-inconsistent measure or has failed to carry out an FTA obligation, or that a benefit the complainant reasonably expected has not been given. A complaining party could choose an FTA forum or a WTO forum depending upon the subject matter of the dispute and whether the FTA contains substantive obligations thereon, if any such obligations exist; procedural rules about written notification are set forth. In consultations on covered issues, at the request of either party, a broad range of perspectives would be sought from nongovernmental entities.

Where consultations fail, either party could refer the matter to the FTA's Joint Committee within 60 days of the request for consultations. The Joint Committee would also have 60 days to obtain resolution or to refer the matter to a dispute settlement panel at the request of a party. The composition and rules of these panels would be regulated, and each such panel would be required to deliver reports and findings within 180 days after appointment of a panel chair. If resolution of the dispute is impossible, the parties are directed to negotiate agreed compensation; a suspension of benefits of equivalent effect under the FTA is allowed, under panel supervision and review, if the party maintaining the measure does not indicate it will pay an annual monetary assessment. Such an assessment can be claimed in U.S. dollars for an amount equal to 50 percent of the total benefit the panel deems to have been involved. Absent payment, an actual suspension of benefits could be undertaken in accord with the panel's report. A separate mechanism on disputes dealing with labor or environmental claims could result in an annual assessment of up to $15 million, payable into a fund set up and run by the Joint Committee for "appropriate labor or environmental initiatives." A compliance review on a report can be requested of the same panel when a party believes that the other party has not corrected a situation of nonconformity or has nullified or impaired a concession, and the panel must issue a finding within 90 days. The Joint Committee must review the dispute settlement chapter's operation and effectiveness within 5 years of the FTA's implementation or within 6 months after the imposition of remedies in five proceedings under the chapter, whichever occurs first. No private right of action is given. An annex provides an inflation adjustment mechanism for monetary assessments.

Chapter Twenty—Exceptions

As in many earlier FTAs and other agreements dealing with international trade, this FTA chapter provides that each party can act as it deems necessary for protection of its own essential security. For market access, textiles and apparel, rules of origin, customs administration, and sanitary/phytosanitary and technical barriers to trade measures, the relevant provisions of GATT 1994 are incorporated by reference, along with environmental measures discussed in Article XX(g) of GATT 1994. Taxation measures are excluded from FTA coverage, except as needed to give effect to the national treatment provisions of the GATT 1994 or certain other commitments. The final article provides that a party must be allowed to keep law enforcement-related and privacy-related information (the latter involving the "financial affairs and accounts of individual customers of financial institutions") safe from disclosure.

Chapter Twenty-One—Final Provisions

This chapter contains the legal mechanisms for acceding to the FTA and putting it into force, an article on the legal significance of annexes, provisions on amending the text, and another on dealing with WTO changes.[17] Under article 21.5, the FTA would enter into force 60 days after the exchange of written notifications that domestic requirements have been met and other conditions prerequisite to the entry into force have been achieved. Any withdrawal would take effect 6 months after written notice. Unlike the U.S.-Chile FTA, but like the other recent U.S. FTAs (including the U.S.-Australia FTA and U.S. FTA with Central America and the Dominican Republic), the U.S.-Bahrain FTA text authorizes other countries or groups of countries to join the FTA upon approval by the original parties.

Additional Annexes and Documents

Annexes I and II contain services nonconforming measures in general, while annex III sets forth financial services non-conforming measures and annex IV the two parties' tariff schedules, general notes, and U.S. TRQs. In addition to side letters noted with respect to particular chapters, other papers have been prepared on such subjects as labor and environmental cooperation; taxes; treatment of foreign workers; sanitary and phytosanitary cooperation; and technical assistance regarding trade remedy law, technical barriers to trade, and textiles. While not part of the FTA, these documents may contain additional clarification or understandings relating to the scope of FTA obligations in these subject areas.

[17] The parties agree that, if a WTO provision is amended, they will consult on amending the FTA to reflect such a change.

CHAPTER 3
Sectoral Impacts of Market Access Provisions

This chapter provides a quantitative and qualitative assessment of the U.S.-Bahrain FTA.[1] It begins with a quantitative assessment of the likely impacts of those chapters of the U.S.-Bahrain FTA that increase bilateral market access for the United States and Bahrain (i.e., chapters 2 through 4 of the FTA, which provide for liberalization of tariffs and selected nontariff barriers). This chapter also includes a qualitative assessment of these provisions of the FTA for selected goods sectors, as well as for selected services sectors covered in chapters 11 and 12 of the FTA. A review of the literature indicates that little independent research has been done on the effects of a U.S.-Bahrain FTA on the U.S. economy. Two studies have been found that are reviewed later in this chapter.

Analytical Framework

Several recent Commission analyses have relied on general equilibrium modeling to estimate the effect of free trade agreements on the United States in terms of overall U.S. economic welfare and on trade in particular industry sectors. General equilibrium models can provide a comprehensive assessment of effects of an agreement that involve changes in the trade policy directly affecting imports and exports in many industry sectors, as well as the secondary indirect effects on other industries, consumers, and governments. In the case of the FTA with Bahrain, a partial equilibrium approach is appropriate to model U.S. imports because imports subject to the elimination of import restraints are concentrated within a single sector (apparel). If data on Bahrain's economic structure necessary for a general equilibrium analysis were available,[2] general equilibrium modeling would have allowed adjustment of the base data to reflect the end of quotas under the ATC. The assessment of the FTA in the current study does not account for the end of ATC quotas. The partial-equilibrium model is described in appendix C, and the results obtained from its use are given below. In order to model exports in a similar fashion, data on Bahraini production and imports would be required. Since such data were not available for this analysis, an approximation of the effects of the FTA on U.S. exports is presented, based on broad assumptions about the responsiveness of Bahraini demand for imports to changes in import prices.

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[1] App. D provides a brief discussion of the conceptual issues involved in a preferential free trade agreement such as the U.S.-Bahrain FTA.

[2] The GTAP data base does not include specific data on Bahrain, but rather represents Bahrain as part of the "Rest of Middle East" region.

Table 3-1 shows the leading U.S. imports from Bahrain by HS chapters in 2003, by customs value. Included in the table are customs value, dutiable value, calculated duties collected, share of total for each of the foregoing, and average U.S. duty rate. Bahrain's trade with the United States is concentrated in a few products, mostly within the apparel sector. In view of the differences between the FTA rules of origin and current customs practice, it is not possible to determine the percentage of currently traded goods that would qualify under the rules of origin or the type and volume of trade that might come under them as sourcing patterns change. In this report, it is necessary to assume that importers would claim FTA benefits for all current bilateral trade (based on ordinary substantial transformation and GSP rules) and that all such goods would qualify. Since the apparel sector (HS chs. 61 and 62) accounts for 91 percent of duties collected on U.S. imports from Bahrain, it necessarily would be the source of most of the potential impact of the FTA on the United States.[3]

As shown in table 3-2, U.S. imports from Bahrain accounted for only 0.04 percent of total U.S. imports in 2003. Bahrain's import share exceeded 0.5 percent in only two HS chapters–31 (Fertilizers) and 52 (Cotton, including yarns and fabrics)–and imports of fertilizer are duty free.

Table 3-3 shows the value of imports in 2003 of the two principal products imported from Bahrain (men's and women's woven cotton trousers), as well as their combined values and the total values of imports under HS chapters 61 and 62. In particular, imports of these two products make up over 95 percent of imports of goods from Bahrain under HS chapters 61 and 62, as shown in table 3-3.

Because U.S. apparel sector employment and production data are most reliably reported at a classification level closely matching these 2 chapters,[4] the partial equilibrium analysis was performed for goods identified at the more aggregate level of chapters 61 and 62.

[3] Bahrain's major industries include aluminum, crude petroleum, and refined petroleum products. The more common forms of unwrought aluminum, such as ingots, slabs, and billets enter the United States free of duty. U.S. tariffs on other unwrought forms range from 2.1 percent to 2.6 percent. Bahrain currently qualifies for duty-free entry under the U.S. Generalized System of Preferences (GSP) program for its aluminum mill products. In regards to the petroleum industry, Bahrain's reserves and production of crude petroleum account for less than 0.05 percent of the world's total reserves and production. Bahrain does not export crude petroleum but refines it. Bahrain has one refinery that primarily produces diesel fuel and gasoline, which are consumed domestically and exported to India and to the Far East. During 2003, U.S. imports of refined petroleum products from Bahrain amounted to approximately 1,000 barrels per day or 0.01 percent of total U.S. imports of these products. Imports of agricultural products from Bahrain have occurred under only 4 tariff categories during the period 1996-June 2004. These are dried coconut, 2 categories of pickled vegetables, and bottled water.

[4] North American Industrial Classification (NAICS) category 315–Apparel. NAICS category 315 also includes a number products classified outside HS chs. 61 and 62, such as headgear and leather apparel.

Table 3-1
Leading U.S. imports from Bahrain, customs value, dutiable value, calculated duties collected, and average U.S. duty rate on imports from Bahrain, 2003

					Share of total			
HS chapter	Description	Customs value	Dutiable value	Calculated duties collected	Customs value	Dutiable value	Calculated duties collected	Average U.S. duty rate
		1,000 dollars			*Percent*			
62	Articles of apparel and clothing accessories, not knitted or crocheted	160,105	160,096	26,728	42.3	81.5	88.9	16.7
98	Special classification provisions, nesoi	84,581	1,575	788	22.4	0.8	2.6	0.9
76	Aluminum and articles thereof	36,859	84	4	9.7	0.0	0.0	([1])
29	Organic chemicals	32,422	0	0	8.6	0.0	0.0	0.0
31	Fertilizers	28,404	0	0	7.5	0.0	0.0	0.0
52	Cotton, including yarns and woven fabrics thereof	14,116	14,116	1,168	3.7	7.2	3.9	8.3
63	Made-up textile articles nesoi; needlecraft sets; worn clothing and worn textile articles; rags	9,579	9,579	632	2.5	4.9	2.1	6.6
27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	5,077	5,077	71	1.3	2.6	0.2	1.4
61	Articles of apparel and clothing accessories, knitted or crocheted	3,569	3,569	558	0.9	1.8	1.9	15.6
99	Special import reporting provisions, nesoi	818	818	0	0.2	0.4	0.0	0.0
	Subtotal	375,531	194,914	29,949	99.3	99.2	99.7	8.0
	All others	2,796	1,482	104	0.7	0.8	0.3	3.7
	Total	378,327	196,396	30,053	100.0	100.0	100.0	7.9

[1] Less than 0.05.

Note.—The abbreviation “nesoi” stands for “not elsewhere specified or otherwise included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 3-2
Leading U.S. imports from Bahrain, U.S. imports from the world, and Bahraini share of U.S. imports, customs value, 2003

HS chapter	Description	Imports from Bahrain	Imports from world	Bahrain share
		1,000 dollars		Percent
62	Articles of apparel and clothing accessories, not knitted or crocheted	160,105	33,140,341	0.48
98	Special classification provisions, nesoi[1]	84,581	34,304,447	0.25
76	Aluminum and articles thereof	36,859	9,542,456	0.39
29	Organic chemicals	32,422	38,030,529	0.09
31	Fertilizers	28,404	2,167,645	1.31
52	Cotton, including yarns and woven fabrics thereof	14,116	1,819,134	0.78
63	Made-up textile articles nesoi; needlecraft sets; worn clothing and worn textile articles; rags	9,579	6,671,009	0.14
27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	5,077	145,355,779	([2])
61	Articles of apparel and clothing accessories, knitted or crocheted	3,569	29,687,247	0.01
99	Special import reporting provisions, nesoi	818	14,067,192	0.01
	Subtotal	375,531	314,785,778	0.01
	All other	2,796	745,323,426	0.01
	Total	378,327	1,060,109,204	0.04

[1] U.S. imports from Bahrain under HS chapter 98 entered almost entirely under HTS 9801.00.10 , which provides for "products of the United States when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad." Such imports entered free of duty.

[2] Less than 0.005.

Note.—The abbreviation "nesoi" stands for "not elsewhere specified or otherwise included."

Source: Compiled from official statistics of the U.S. Department of Commerce.

The Commission used partial equilibrium modeling to estimate economic effects of immediate tariff elimination on total U.S. imports of apparel products, on competing U.S. industries, and on U.S. consumers. The partial equilibrium model used in this study is an imperfect substitutes model.[5] The model considers only the direct impact of tariff elimination within a specific sector and assumes that goods produced in different countries are imperfect substitutes. Trade, tariff, and U.S. production data for 2003 in the model were taken from official statistics of the U.S. Department of Commerce. A value of 6.6 was used as the import substitution elasticity, which was derived as a

[5] See Paul S. Armington, "A Theory of Demand for Products Distinguished by Place of Production," *IMF Staff Papers*, vol. 16 (1969), pp. 159-176; and J. Francois and K. Hall, "Partial Equilibrium Modeling," in J. Francois and K. Reinert, eds., *Applied Methods for Trade Policy Analysis, A Handbook* (Cambridge: Cambridge University Press, 1997). The model is similar to those used in recent Commission studies of the probable effects of changes in the U.S. GSP program and the probable effects of FTAs.

Table 3-3
Apparel products from Bahrain: Baseline trade and production values, 2003

(*Thousand dollars*)

	Sector			
	Women's or girls' woven cotton trousers (HTS 6204.62.40)	Men's or boys' woven cotton trousers (HTS 6203.42.40)	Combined (HTS 6204.62.40 and 6203.42.40)	HS chapters 61 and 62
U.S. imports from Bahrain (customs value)	104,027	51,869	155,896	163,674
U.S. imports from the world (customs value)	5,261,120	4,840,655	10,101,775	62,827,588
U.S. production	–	–	–	23,892,000

Source: Compiled from official statistics of the U.S. Department of Commerce.

weighted average of elasticities taken from Hertel et al.[6] The aggregate demand elasticity is 1.06.[7] The export supply for Bahrain is assumed to be perfectly elastic, meaning that Bahrain can meet any increase in U.S. demand resulting from the tariff elimination. In general, assumptions about parameters in the model have been chosen so that estimated results would be an upper bound of the effects on the U.S. economy of the U.S.-Bahrain FTA.

The agreement provides for tariff preference levels (TPLs) that permit duty-free U.S. imports of textiles and apparel made in Bahrain from materials imported from third countries up to a limit of 65 million square meters equivalent (SMEs). Note that the Bahrain apparel industry imports most of its inputs, including fibers, yarns, and fabrics.[8] In 2003, U.S. imports of apparel from Bahrain totaled 32 million SMEs. The modeling does not account for the possibility that TPL quantity limits could constrain duty-free imports of apparel.[9] The TPLs expire after 10 years, at which time the full liberalization modeled in this analysis may become more restrictive.

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[6] Thomas Hertel, David Hummels, Maros Ivanic, and Roman Keeney, *How Confident Can We Be in CGE-Based Assessments of Free Trade Agreements?* GTAP Working Paper No. 26, 2003, available at *http://www.gtap.agecon.purdue.edu/resources/working_papers.asp*. Hertel et al. report an elasticity of 7.4 for the substitution among imports of apparel from different countries (the import/import substitution elastiticity). Often, a value of half the import/import substitution elasticity is used to model substitution between imports and domestic products (see, e.g., McDougall et al., *Global Trade, Assistance, and Protection: the GTAP 4 Data Base,* Center for Global Trade Analysis, Purdue University, 1998). Because the model used in the present analysis considers substitution between Bahraini imports and both U.S. products and other imports, an average of 7.4 and 3.7, with the higher elasticity weighed by the share of all imports in the U.S. market (0.79) and the lower elasticity weighted by the market share of domestic products (1.0-.79, or .21), was used. Thus, (7.4 * .79) + (3.7 * .21) = 6.6.

[7] From Jaime de Melo and David Tarr, *A General Equilibrium Analysis of U.S. Foreign Trade Policy*, MIT Press, Cambridge, 1992, table 5.1 (p. 88).

[8] U.S. Department of State telegram 2436, "Bahrain's Growing Textile Exports and the Coming Quota Phase-out," prepared by the U.S. Embassy, Manama, June 26, 2002.

[9] Bahrain is allowed to subdivide the TPL limit among 4 categories–two for fabrics and one each for apparel and made-up textile articles. Such a subdivision could limit apparel imports to less than 65 million SMEs if Bahrain chooses to do so.

Quotas under the WTO Agreement on Textiles and Clothing (ATC) are due to expire at the end of 2004. This is not explicitly accounted for in the analysis conducted here; with the end of the quota system it is possible that small, relatively high-wage suppliers like Bahrain may lose most of their market share to imports from China, India, Pakistan, and other low wage suppliers, so that subsequent implementation of the FTA would be based on an extremely small base level of trade. The effect of the FTA is likely to help offset the decline in Bahrain's market share that otherwise might be expected. The elimination of the ATC quotas would tend to reduce the effect of the FTA on apparel imports from Bahrain in value terms. Further, the TPLs discussed above are scheduled to terminate after 10 years. This also is not addressed in the model; the end of the TPLs is also likely to reduce the effect of the agreement on apparel imports from Bahrain.

Commission Findings

Impact on U.S. Imports, Exports, Employment, and Welfare

Table 3-4 shows the impact on U.S. imports from Bahrain and the rest of the world, and on U.S. output, of eliminating the 16.7 percent duty on U.S. imports of apparel in HS chapters 61 and 62 from Bahrain.[10] U.S. import quotas on imports of goods in this group of products were only 44 percent filled in the aggregate, implying that there is no quota premium to be modeled. As a result of the elimination of tariffs on these products, imports from Bahrain are estimated to more than double in terms of quantity, increasing by about 165 percent.[11] Because the price of apparel products from Bahrain drops by about 14 percent as a result of the duty elimination, the value of imports increases by about 128 percent.[12] The increase in imports from Bahrain, according to the model results, is almost offset by a corresponding decrease in imports from the rest of the world; in value terms, c.i.f. imports from Bahrain increase by about $209 million, while imports from the rest of the world decrease by about $196 million. This is in accord with the finding reported below, in the section on Impact of the U.S.-Bahrain-FTA on Selected Sectors, that the U.S.-Bahrain FTA is likely to result in a substantial increase in apparel imports from Bahrain but little or no increase in total U.S. imports of apparel.

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[10] It is common in discussions of comparative static analysis to speak of "increases," "decreases," and "changes" as a result of tariff elimination (or some other hypothetical action). These terms should be understood to mean the difference between a base situation with the tariffs in place and a situation without the tariffs. For example, "an increase in imports from Bahrain caused by tariff elimination" should be understood to mean that imports would be higher than in the absence of the FTA (or higher than with tariffs in place).

[11] The quantity increase estimated by the model using 2003 base data would exceed the TPL quantity limit. If it had been possible to simulate base data incorporating the end of quotas under the ATC, the base data quantities and values for imports from Bahrain would have been lower, possibly much lower. While the model estimate of the percentage change in import quantity from Bahrain would be similar in magnitude to the reported estimate, the absolute change would be smaller roughly in proportion to the smaller base quantity. The resulting estimate in apparel import quantity from Bahrain would probably be within the TPL quantity limit.

[12] See the description of the textiles and apparel sector, below.

Table 3-4
Apparel products from Bahrain: Estimated effects of eliminating U.S. duties

(***Percent change***)

	Sector
	HTS chapters 61 and 62
Imports from Bahrain (landed, duty-paid value)	128.3
Imports from Bahrain (quantity)	164.6
Imports from world (cif value)	0.2
U.S. output (quantity)	-0.2

Source: USITC estimates.

The model does not explicitly account for employment changes, but if one assumes that domestic employment declines by the same proportion as does domestic output, then there likely will be a 0.2 percent decline in employment for all apparel.[13] However, as noted above, these estimates do not account for the end of quotas under the ATC and thus likely overstate the effects of liberalization on U.S. imports, production, and employment.

A partial-equilibrium measure of national welfare gained from the elimination of the apparel duty under the FTA measures the benefit of having access to more goods at a lower price (the consumer surplus), net of the tariff revenue lost by eliminating duties on these products. The value of this measure, sometimes known as the net welfare gain,[14] is estimated to be at most $19.4 million for the reduction of tariffs on all imports in HTS chapters 61 and 62. Note that this is not a general equilibrium, economywide welfare measure. It does not measure the gains or losses in the production or consumption of other upstream goods used in the production of the specific apparel articles, or in those downstream goods that use these articles in their production. The impact on upstream and downstream sectors is expected to be minimal, however, as the magnitude of the total change in imports is small. In addition, the model does not include the effects of tariff reductions on other goods, or the effects of increases in exports to Bahrain as a result of the FTA's market access provisions.

Impact on U.S. Exports

The United States exports a variety of products to Bahrain. Most U.S. exports to Bahrain either face a uniform tariff of 5 percent or are free of duty. Table 3-5 shows U.S. exports to Bahrain and to the world of the 20 HS categories for which exports to Bahrain were the largest. These 20 categories account for about 75 percent of U.S.

[13] Data on U.S. industry employment (BLS) for NAICS 315 (apparel) show 312,700 U.S. jobs in 2003.

[14] See app. C for a depiction of the calculation of the net welfare gain. There is no loss of producer surplus, since (due to the small market share of imports from Bahrain) the effect of imports on U.S. producers is essentially zero.

Table 3-5
Leading U.S. exports to Bahrain, total U.S. exports to the world, Bahrain share of total, 2003, and Bahrain duty rates

HTS6	Description	Exports to Bahrain	Exports to world	Bahrain share	Bahrain duty rate
		1,000 dollars			*Percent*
8802.40	Airplanes and other aircraft nesoi, of an unladen weight exceeding 15,000 kg	201,824	21,135,208	1.0	0
9880.00	Estimate of non-Canadian low value export shipments; compiled low value shipments to Canada; and shipments not identified by kind to Canada	55,170	15,710,789	0.4	([1])
8803.30	Parts of airplanes or helicopters, nesoi	39,604	11,828,184	0.3	5
8703.24	Passenger motor vehicles with spark-ignition internal combustion reciprocating piston engine, cylinder capacity over 3,000 cc	11,738	9,459,077	0.1	5
9801.10	Value of repairs or alterations of previously imported articles, repaired or altered prior to exportation from united states	11,385	3,264,877	0.3	([1])
8703.23	Passenger motor vehicles with spark-ignition internal combustion reciprocating piston engine, cylinder capacity over 1,500 cc but not over 3,000 cc	9,529	9,606,466	0.1	5
8411.11	Turbojets of a thrust not exceeding 25 kN	6,968	327,337	2.1	5
9306.90	Bombs, grenades, torpedoes, mines, missiles and similar munitions of war and parts thereof; other ammunition and projectiles and parts thereof, nesoi	5,176	1,114,013	0.5	5
2402.20	Cigarettes containing tobacco	4,620	1,402,998	0.3	100
9803.20	Exports of military equipment not identified by kind	4,201	790,461	0.5	([1])
8431.43	Parts for boring or sinking machinery, nesoi	4,056	4,086,626	0.1	5
8471.49	Digital automatic data processing machines and units thereof presented in the form of systems, nesoi	3,627	3,010,245	0.1	5
9305.91	Parts and accessories for military weapons of heading 9301	3,616	151,785	2.4	5
9403.90	Parts of furniture, nesoi	3,280	292,885	1.1	5
2106.90	Food preparations nesoi	2,702	1,799,877	0.2	5
8414.30	Compressors used in refrigerating equipment (including air conditioning)	2,600	949,870	0.3	5
8906.90	Vessels (including lifeboats other than row boats), other than warships	2,502	63,252	4.0	0
8710.00	Tanks and other armored fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles	1,706	611,444	0.3	5
9406.00	Prefabricated buildings	1,598	308,522	0.5	5
8473.30	Parts and accessories for automatic data processing machines and units thereof, magnetic or optical readers, transcribing machines, etc., nesoi	1,592	12,215,155	0.0	5
	Subtotal	377,494	98,129,072	0.4	-
	All other	119,636	339,690,893	0.0	-
	Total	497,130	437,819,965	0.1	-

[1] Duty rate not indicated in Bahrain tariff schedule.

Note.—The abbreviation “nesoi” stands for “not elsewhere specified or otherwise included.”

Source: Compiled from official statistics of the U.S. Department of Commerce, and Bahrain Tariff Schedule, found at *http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Bahrain_FTA/Draft_Texts/asset_upload_file130_5826.pdf,* retrieved Sept. 13, 2004.

exports to Bahrain. Bahrain accounts for a very small share of U.S. exports. In 2003, aircraft accounted for 40 percent of U.S. exports to Bahrain, but exports of aircraft to Bahrain only represented about 1 percent of total U.S. exports of aircraft to the world. In 2001 and 2002, there were no U.S. exports of aircraft to Bahrain. Aircraft enter Bahrain free of duty.

Of those products subject to the 5 percent duty, in 2003 the greatest share of U.S. exports to Bahrain consisted of aircraft parts (0.3 percent of U.S. exports of these products) and motor vehicles (0.1 percent, for both HS lines 8703.23 and 8703.24). Data on Bahraini output and demand for U.S. exports are not available to allow modeling of U.S. exports to Bahrain, but an approximate indication of the magnitude of potential export expansion under the FTA can be calculated as follows. If the 5 percent duty on the dutiable goods listed in table 3-5 were eliminated as provided for in the FTA (excluding cigarettes); if Bahrain demand is assumed to be very responsive to the tariff elimination (assuming the relatively high elasticity of demand of 5 for these goods in order to obtain an upper bound on the calculated effect); and if U.S. supply is assumed to be perfectly elastic (and the full reduction in price due to the tariff reduction is passed on to Bahraini consumers), then exports of these goods to Bahrain would increase by about 24 percent, or about $23 million based on 2003 exports.[15] As a share of U.S. exports to the world, this would be about 0.1 percent, implying a very small effect on U.S. output and employment. If Bahrain's demand for U.S. exports is instead relatively unresponsive to the tariff elimination (assuming a relatively low elasticity of demand of 2), then exports of these goods to Bahrain would increase by about 9.6 percent, or less than $10 million. This is smaller than observed annual variation in U.S. exports to Bahrain over the last five years, as shown in table 3-6.

Impact of the U.S.-Bahrain-FTA on Selected Sectors

This section supplements the quantitative results presented earlier in this chapter with qualitative analysis of the U.S.-Bahrain FTA and the potential impact on four sectors: (1) textiles and apparel, (2) insurance services, (3) banking and securities services, and (4) telecommunications services. The sectors were chosen based on consideration of apparent sectoral liberalization in terms of tariff and nontariff measures, the importance of the sector in terms of bilateral trade or prominence in the agreement, additional factors affecting production or trade in specific industries, the views of industry representatives, and the views of Commission industry analysts. The Commission's assessments in this section are based on industry knowledge and expertise of Commission industry analysts, industry sources, reports by U.S. industry

[15] The price reduction faced by Bahraini consumers with a tariff elimination (assuming that the full tariff cut is passed through to them) is t/(1+t) where t is the tariff. For a 5 percent tariff, this is .05/1.05, or .048 (i.e., 4.8 percent). Multiplied by the demand elasticity of 5, this yields a consumption increase of .048 * 5 = .24, or a 24 percent increase in demand.

Table 3-6
Leading U.S. exports to Bahrain, 1999–2003

(*Thousand dollars*)

HTS number	Description	1999	2000	2001	2002	2003
8802.40	Airplanes and other aircraft nesoi, of an unladen weight exceeding 15,000 kg	30,526	45,000	0	0	201,824
9880.00	Estimate of non-Canadian low value export shipments; compiled low value shipments to Canada; and shipments not identified by kind to Canada	57,310	41,696	60,837	71,957	55,170
8803.30	Parts of airplanes or helicopters, nesoi	6,604	18,886	28,239	49,735	39,604
8703.24	Passenger motor vehicles with spark-ignition internal combustion reciprocating piston engine, cylinder capacity over 3,000 cc	3,925	4,766	9,258	7,909	11,738
9801.10	Value of repairs or alterations of previously imported articles, repaired or altered prior to exportation from United States	734	3,402	2,117	6,244	11,385
8703.23	Passenger motor vehicles with spark-ignition internal combustion reciprocating piston engine, cylinder capacity over 1,500 cc but not over 3,000 cc	2,712	2,424	5,433	10,106	9,529
8411.11	Turbojets of a thrust not exceeding 25 kn	1,035	12	1,853	5,465	6,968
9306.90	Bombs, grenades, torpedoes, mines, missiles and similar munitions of war and parts thereof; other ammunition and projectiles and parts thereof, nesoi	33,468	180	17,805	31,047	5,176
2402.20	Cigarettes containing tobacco	8,075	6,737	5,929	3,820	4,620
9803.20	Exports of military equipment not identified by kind	5,101	4,160	1,036	13,925	4,201
8431.43	Parts for boring or sinking machinery, nesoi	10,396	1,752	2,577	4,448	4,056
8471.49	Digital automatic data processing machines and units thereof presented in the form of systems, nesoi	1,259	1,510	1,302	1,504	3,627
9305.91	Parts and accessories for military weapons of heading 9301	0	0	0	174	3,616
9403.90	Parts of furniture, nesoi	231	144	178	384	3,280
2106.90	Food preparations nesoi	1,672	1,817	3,402	2,063	2,702
8414.30	Compressors used in refrigerating equipment (including air conditioning)	824	6,117	9,163	3,764	2,600
8906.90	Vessels (including lifeboats other than row boats), other than warships	0	0	0	8,114	2,502
8710.00	Tanks and other armored fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles	2,587	11,447	8,851	3,842	1,706
9406.00	Prefabricated buildings	0	18	0	9	1,598
8473.30	Parts and accessories for automatic data processing machines and units thereof, magnetic or optical readers, transcribing machines, etc., nesoi	1,701	2,327	1,744	1,754	1,592
	Subtotal	168,160	152,396	159,725	226,265	377,494
	All other	167,021	287,499	237,987	181,188	119,636
	Total	335,181	439,896	397,711	407,453	497,13

Note.–The abbreviation “nesoi” stands for not elsewhere specified or otherwise included.
Source: Compiled from official statistics of the U.S. Department of Commerce.

and functional trade advisory committees on the U.S.-Bahrain FTA, and written submissions received in response to the Commission's *Federal Register* notice of institution for this investigation.

Impact on Selected Goods

Textiles and Apparel[16]

U.S. Industry

The United States is the world's largest importer of textiles and apparel, accounting for 24 percent of world imports, based on United Nations data for 2002.[17] U.S. apparel imports accounted for 37 percent of world imports, and imports supply about two-thirds of the U.S. market for apparel. Retailers are increasingly sourcing apparel directly from developing countries, as are many U.S. apparel firms that have reduced or eliminated domestic production altogether so as to focus on product design and marketing. Competition in the U.S. market will intensify following removal of U.S. quotas in 2005,[18] likely increasing downward pressure on prices throughout the apparel supply chain.[19] Faced with difficult market conditions and the prospect of increased import competition, the U.S. apparel sector has undergone extensive restructuring, posting declines of 15 percent in shipments, to $53 billion, and 44 percent in employment, to 312,700 workers, during 1999-2003.[20]

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[16] Encompasses chapters 50-63 of the Harmonized Tariff Schedule (HTS). Except as noted, similar to the quantitative analysis above, the discussion of the U.S. and Bahraini industries and impact on U.S. trade flows largely focuses on apparel (classified in chapters 61and 62 of the HTS). Apparel is the leading export from Bahrain to the United States, accounting for 87 percent of U.S. textile and apparel imports from Bahrain by value in 2003. Apparel also accounted for 43 percent of total U.S. merchandise imports from Bahrain and 83 percent of total U.S. dutiable imports from Bahrain in 2003. By comparison, nonapparel textile articles in HTS chapters 50-60 and 63 accounted for 6 percent of U.S. merchandise imports from Bahrain and 12 percent of total U.S. dutiable imports from Bahrain in 2003.

[17] The latest year for which United Nations data are available on world textile and apparel trade is 2002.

[18] Textile and apparel trade among World Trade Organization (WTO) countries is governed by the Agreement on Textiles and Clothing (ATC), which came into force with the WTO agreements in 1995. The ATC obligates the United States, the European Union, and Canada to phase out their import quotas on textiles and apparel from WTO countries over 10 years ending on Jan. 1, 2005. The United States applies quotas, mostly established under the 1974 Multifiber Arrangement, on articles from 44 countries, either under the ATC (38 WTO countries) or under bilateral agreements with non-WTO countries (Belarus, Cambodia, Laos, Russia, Ukraine, and Vietnam).

[19] The producer price index (PPI, not seasonally adjusted) for textile products and apparel (series WPU03) declined by 1 percent during 1999-2003, compared with an increase of 12 percent in the PPI for nondurable manufactured goods (series WPUDUR0222), based on data of the U.S. Bureau of Labor Statistics (BLS).

[20] Data on U.S. industry shipments (from the U.S. Census Bureau) and employment (BLS) are for NAICS 315 (apparel).

Bahraini Industry

The textile and apparel sector in Bahrain accounts for approximately 3 to 4 percent of the country's GDP.[21] The United States is the largest export market for Bahraini garments, primarily women's and men's cotton trousers. Despite the existence of a small domestic textile industry, the apparel sector imports most of its inputs for garment manufacturing, including fibers, yarns, and fabrics.[22] Bahrain is a comparatively high-cost producer of apparel, largely reflecting high wage rates. The high cost of operating in Bahrain has caused a number of garment companies to close their operations in Bahrain and relocate to lower cost manufacturing locations. Currently, there are 15 garment factories in Bahrain, down from 22 in 2001.[23] The apparel industry employs approximately 10,000 workers, and is a major source of employment in Bahrain.[24]According to its policy of "Bahrainisation," the Government of Bahrain currently requires that 25 percent of apparel industry workers be Bahrain nationals.[25] The Government reportedly reduced the required share of Bahrain citizen employees in apparel factories in 2003, from 36 percent to 25 percent, in an effort to aid ailing factories following a government-mandated increase in the minimum wage for workers who are citizens of Bahrain.to $318 a month in 2001 (up from $212 and compared to $106 for expatriate workers).[26] In 2002, the Government reportedly also eliminated export duties of 18 percent ad valorem on ready-made clothing following declines in exports.[27]

The apparel industry in Bahrain was developed largely by foreign interests, primarily from Pakistan, which, faced with tight quotas on their home-country exports, established production facilities in Bahrain to expand their shipments to the U.S. market.[28] Therefore, the industry in Bahrain will likely be vulnerable following quota elimination in 2005, when the need for global apparel manufacturers to maintain

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[21] U.S. Department of State telegram 2436, "Bahrain's Growing Textile Exports and the Coming Quota Phase-out," prepared by the U.S. Embassy, Manama, June 26, 2002; and BharatTextile.com, "Bahrain: Upcoming FTA with US to Boost Textile Exports," Apr. 23, 2004, found at *http://www.bharattextile.com*, retrieved July 27, 2004.

[22] U.S. Department of State telegram 2436, "Bahrain's Growing Textile Exports and the Coming Quota Phase-out," prepared by the U.S. Embassy, Manama, June 26, 2002.

[23] BharatTextile.com, "Bahrain: Upcoming FTA with US to Boost Textile Exports," Apr. 23, 2004.

[24] The apparel industry in Bahrain is also a major source of employment for 3,500 Bahraini Shia women, for which there are reportedly limited reemployment opportunities. As a critical employment sector, it is predicted that any decline in textile and apparel manufacturing employment could result in negative economic and political repercussions in Bahrain. See U.S. Department of State telegram 272, "Gearing Up for FTA Round Two: Sticky Issues," prepared by the U.S. Embassy, Manama, Feb. 26, 2004.

[25] U.S. Department of State telegram 272, "Gearing Up for FTA Round Two: Sticky Issues," prepared by the U.S. Embassy, Manama, Feb. 26, 2004.

[26] Emerging Textiles.com, "Bahrain's Garment Exporters Confronted with Rising Costs," Mar. 11, 2002, found at *http://www.emergingtextiles.com*, retrieved Aug. 2, 2004; and BharatTextile.com, "Bahrain: Govt Policy Crippling Garment Factories," Aug. 30, 2003, found at *http://www.bharattextile.com*, retrieved July 27, 2004.

[27] BharatTextile.com, "Bahrain: Export Duty on Ready-made Clothing Called Off," Feb. 7, 2004, found at *http://www.bharattextile.com*, retrieved July 27, 2004; and U.S. Department of State telegram 495, "Snapshot of U.S. Trade in Good with Bahrain," prepared by the U.S. Embassy, Manama, Jan. 22, 2003.

[28] U.S. Department of State telegram 272, "Gearing Up for FTA Round Two: Sticky Issues," prepared by the U.S. Embassy, Manama, Feb. 26, 2004; and BharatTextile.com, "Bahrain: Cotton Textile Sector under Threat," May 8, 2004, found at *http://www.bharattextile.com*, retrieved July 27, 2004.

multi-country export bases diminishes and competition in the global apparel market intensifies. Competition is expected to become particularly strong in cotton apparel, for which Bahrain is dependent on export sales.[29] Sources from Bahrain note that apparel companies will need to become more efficient and competitive to survive in the post quota market.[30]

The industry in Bahrain appears to be taking steps towards vertical integration and diversification from commodity articles to more value-added products. Data on Bahrain's exports indicate that overseas shipments of sheets and pillowcases increased greatly during 2002-03, while exports of basic cotton fabrics declined. In addition, a major Pakistani textile firm reportedly plans to expand its operations in Bahrain and announced investment plans for a denim jeans factory, a home furnishings unit, and a yarn spinning facility.[31]

Potential Impact on U.S. Trade Flows

U.S. imports

The U.S.-Bahrain FTA provides for immediate duty-free treatment for apparel articles from Bahrain that meet the FTA rules of origin (i.e., "originating goods"). The 2004 normal trade relations duty on cotton trousers from Bahrain, the primary U.S. import, is 16.6 percent ad valorem, while the trade-weighted average duty on imports from Bahrain was 16.7 percent for apparel as a whole in 2003. The rules of origin for apparel in the U.S.-Bahrain FTA require that imports of most articles from the FTA party be assembled from inputs made in the United States or Bahrain from the yarn stage forward ("yarn forward rule"). However, the U.S.-Bahrain FTA contains certain exceptions. Most notably, the FTA provides for a temporary tariff preference level (TPL) that will exempt specified levels of Bahrain's apparel exports from the yarn forward rule, permitting the use of third-country inputs ("nonoriginating goods") for the first 10 years of the agreement.[32] The TPL grants duty preferences to nonoriginating apparel of cotton and manmade fibers, not to exceed 65 million square meters equivalent (SMEs) per year. Bahrain can institute sublimits on the amount of the annual TPL quantity allocated to certain textile and apparel categories.[33] In 2003, U.S. imports of apparel from Bahrain totaled 32 million SMEs,

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[29] BharatTextile.com, "Bahrain: Cotton Textile Sector under Threat," May 8, 2004.

[30] BharatTextile.com, "Bahrain: Cotton Textile Sector under Threat," May 8, 2004.

[31] Manama Textile Mills, a Pakistani company and one of the largest textile firms in Bahrain, indicated that it will invest over $40 million in these projects. BharatTextile.com, "Bahrain: New Textile Project Comes Up," Feb. 23, 2004, found at *http://www.bharattextile.com*, retrieved July 27, 2004.

[32] The 10-year phase-out is intended to be a transitional period during which U.S. and Bahraini producers can cultivate business relationships. See United States Trade Representative (USTR), "Bahrain Free Trade Agreement Fact Sheet," May 27, 2004, found at *http://www.ustr.gov*, retrieved Aug. 10, 2004.

[33] As specified in the text of the U.S.-Bahrain FTA, there are four categories among which the annual quantity can be allocated. One category is "cotton or man-made apparel goods provided for in Chapters 61 or 62 of the Harmonized System that are cut or knit to shape, or both, and sewn or otherwise assembled..." from third-party yarns or fabrics, and Bahrain can, but is not required to, specify that a certain portion of the annual 65 million SMEs be allotted for products in this group.

or slightly less than one-half of the proposed TPL level. Some U.S. apparel industry representatives indicate that the TPL will create opportunities for trade that otherwise would not exist under the rules of origin as they are presented in the FTA.[34] On the other hand, some textile industry sources view the TPL as overly liberal as it allows for generous exceptions to the rules of origin for a substantial period of time.[35]

The U.S.-Bahrain FTA is likely to result in a substantial increase in apparel imports[36] from Bahrain but little or no increase in total U.S. imports of apparel. Such an increase in imports is expected to result in little or no effect on the U.S. apparel industry. This is likely because even though U.S. imports of apparel from Bahrain are subject to quotas, Bahrain filled only 44 percent of its "group I limit"[37] and less than 5 percent of each of its two "specific limits" on knit cotton shirts (quota categories 338/339) and men's and boys' woven cotton and manmade-fiber shirts (quota categories 340/640) in 2003. Bahrain is a small supplier of apparel to the United States, accounting for less than 0.5 percent, or $164 million, of total U.S. apparel imports in 2003.[38]

The U.S.-Bahrain FTA likely will provide Bahrain's garment factories a boost in the short term, as duty-free treatment will positively affect the industry's cost competitiveness. As Bahrain reportedly relies on imports for most of its yarn and fabric inputs, the TPL in the FTA for nonoriginating apparel may provide an incentive for manufacturers to remain in Bahrain and manufacture garments for export to the United States, particularly those subject to relatively high normal trade relations (NTR) tariffs.[39] The potential for increased apparel exports to the United States under such conditions could be affected if Bahrain institutes sublimits on the amount of the annual TPL allocated to certain apparel articles, as noted above. The long-term outlook for Bahrain's apparel industry is less certain. The likely enhancement of Bahrain's cost competitiveness in the U.S. market will be offset, at least in part, by the elimination of quotas in 2005 on imports from more competitive countries such as China and India.[40]

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[34] Industry Trade Advisory Committee (ITAC) 13, *The U.S./Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Textiles and Clothing*, July 14, 2004, found at *http://www.ustr.gov*, retrieved Aug. 26, 2004.

[35] ITAC 13, *The U.S./Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Textiles and Clothing*, July 14, 2004.

[36] As noted earlier in the Chapter, apparel imports from Bahrain are estimated to increase by about 165 percent as the result of tariff elimination.

[37] The group I limit covers a wide range of apparel articles, including cotton trousers and the products subject to specific limits (knit cotton shirts and men's and boys' woven cotton and manmade-fiber shirts).

[38] In terms of quantity, U.S. imports of apparel from Bahrain of 32 million SMEs accounted for less than 0.5 percent of total U.S. apparel imports of 18,864 million SMEs in 2003, based on official statistics of the U.S. Department of Commerce.

[39] For example, 2004 NTR tariffs for most heavily traded shirts and trousers range between 15 percent and 20 percent ad valorem, if of cotton, and between 25 percent and 32 percent ad valorem, if of manmade fibers.

[40] It is predicted that following the elimination of quotas, some apparel-producing firms in Bahrain may move their operations to countries with lower labor costs. See U.S. Department of State telegram 272, "Gearing Up for FTA Round Two: Sticky Issues," prepared by the U.S. Embassy, Manama, Feb. 26, 2004. Timing with respect to implementation of the U.S.-Bahrain FTA versus quota elimination could affect developments in the Bahraini industry following January 1, 2005 and the potential for increased apparel exports to the United States.

Some apparel companies in Bahrain reportedly intend to transfer their domestic operations to other countries after January 1, 2005.[41] Further, following expiration of the TPL after the 10-year period, Bahrain's apparel industry will face difficulties in meeting the rules of origin for duty-free treatment under the FTA if vertical integration or relationships with U.S. suppliers are not developed.

U.S. exports

The U.S.-Bahrain FTA likely will have little or no effect on U.S. apparel exports to Bahrain, as Bahraini import duties on such goods are already low, at 5 percent, and the United States is a small supplier of apparel to Bahrain's market. U.S. exports of apparel to Bahrain in 2003 totaled $277,000, representing less than 0.01 percent of total U.S. exports of such goods and less than 2 percent of Bahrain's total imports of apparel from all countries.[42] Bahrain sources the majority of its apparel imports from China and India, likely because of the lower costs of such goods. With respect to textile exports, the proposed rules of origin could prompt greater exports of U.S.-produced textile fibers, yarns, and fabrics. However, demand in Bahrain for such articles likely will be constrained by the 10-year TPL period, after which the potential for increased U.S. exports of inputs will depend upon conditions in Bahrain's industry, such as the size of the industry, the state of the domestic supply network, the nature of goods being produced, and the overall competitiveness of firms operating in Bahrain relative to other foreign suppliers.

Impact on Selected Services

It is not possible to establish an overall quantitative measure of the effects of the U.S.-Bahrain FTA on trade in services. However, it appears likely that U.S.-based service firms will benefit from improved market access conditions and greater regulatory transparency, though these benefits will be moderated by the small size of Bahrain's economy. U.S. industry notes general satisfaction with the FTA's provisions on services, including financial services, and transparency. Service industry representatives are also pleased with the decision to maintain the existing U.S.-Bahrain Bilateral Investment Treaty (BIT) instead of negotiating a new investment chapter within the FTA.[43] The following provides an overview of the service sectors in Bahrain and the United States, discusses the overall effects of the FTA, and summarizes the expected impact of the U.S.-Bahrain FTA on U.S. imports and exports of telecommunication, insurance, and banking/securities services.

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[41] U.S. Department of State telegram 993, "Lifting of Textile Quotas May Pull the Rug Out from under Bahrain's Garment Industry," prepared by the U.S. Embassy, Manama, Mar. 18, 2003.

[42] On the basis of United Nations data, imports from the United States accounted for 1.7 percent of total Bahraini imports of apparel. Using official data on U.S. exports of apparel to Bahrain from the U.S. Department of Commerce in conjunction with United Nations data on total Bahraini imports of apparel produces a much smaller U.S. share of less than 0.5 percent.

[43] Industry representatives, telephone interviews with USITC staff, July 23 and Aug. 2-4, 2004; and ITAC 10, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Services and Finance Industries*, July 14, 2004, found at *http://www.ustr.gov/new/fta/Bahrain/reports/Bahrain-ITAC10%20Report071404.pdf,* retrieved July 22, 2004.

Market Overview

The U.S. services sector accounted for 78 percent of U.S. private-sector gross domestic product (GDP) in 2003, and 77 percent of private-sector employment in 2002 (latest available).[44] Globally, the United States is the largest services exporter and maintains the largest cross-border services trade surplus, measuring $65.9 billion in 2003. The travel and tourism industry accounts for the largest share of U.S. cross-border service exports (21.9 percent), followed by royalty- and license fee-generating services such as software licensing and distribution (16.4 percent), and other transportation, primarily maritime and air freight transportation (10.8 percent).[45] Sales of services by foreign affiliates of U.S. parent firms, the value of which has surpassed that of U.S. cross-border services exports since 1996, totaled $432.2 billion in 2001. Such sales follow U.S. direct investment in foreign markets, and in part reflect the degree to which foreign markets are open to U.S. service firms.[46]

In 2002, Bahrain's service sector accounted for 61 percent of Bahrain's GDP with government services included. Private services alone accounted for 45 percent of GDP.[47] Bahrain recorded total services exports of $1.1 billion in 2002, equivalent to 0.4 percent of U.S. service exports in the same year. Services accounted for 18 percent of Bahrain's overall 2002 exports, the majority of which were generated by the travel and tourism sector (table 3-7).[48]

Overall Effects of the FTA on Services

The U.S.-Bahrain FTA will provide substantial market access and national treatment to U.S. services firms. U.S. services firms and their affiliates in Bahrain are likely to benefit from improved regulatory transparency and market access as a result of the FTA. Regulatory transparency is particularly important to cross-border trade in services and the establishment of a commercial presence in the service industries, because many services are heavily regulated owing to their influence on public health, consumer welfare, and safety. The FTA's chapter on transparency (chapter 17 of the FTA) promotes the availability and clarity of regulation. The chapter requires designation of contact points for inquiries about regulation, prompt publication of adopted regulations, advance publication of regulations under consideration, and

[44] U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA), *Survey of Current Business,* Mar. 2004, p. 29; and June 2004, p. 36.

[45] USDOC, BEA, found at *http://www.bea.gov/bea/newsrelarchive/2004/trad0504.xls,* retrieved July 19, 2004.

[46] USITC, "Recent Trends in U.S. Services Trade, 2004 Annual Report," May 2004, p. 2-6.

[47] Calculations by the Commission, based on data from Bahrain's Ministry of Finance and National Economy, "Gross Domestic Product by Type of Economic Activity at Current Prices," found at *http://www.mofne.gov.bh/English/Economy/econ5.asp,* retrieved July 29, 2004.

[48] International Monetary Fund (IMF), *Balance of Payments Statistics Yearbook, 2003, Part 1: Country Tables,* Jan. 2004, pp. 68 and 958.

Table 3-7
Cross-border service exports and imports, Bahrain and the United States, 2002

Service industry	United States Exports	United States Imports	Bahrain Exports	Bahrain Imports
	Million of U.S. dollars			
Total services	288,720	227,380	1,059	928
Passenger transport	17,050	19,970	257	173
Freight transport	12,330	25,970	([1])	281
Other transport	16,840	12,550	([1])	([1])
Travel	85,260	60,840	741	378
Other services	157,250	108,040	63	95

[1] Not available.

Source: International Monetary Fund, *Balance of Payments Statistics Yearbook, 2003, Part 1: Country Tables*, Jan. 2004, pp. 68 and 958.

reasonable notice of proceedings held to adopt or modify regulations. In addition to the chapter on transparency, the chapters on cross-border services (chapter 10 of the FTA) and financial services (chapter 11 of the FTA) include provisions that promote regulatory transparency.[49]

Bahrain's existing Schedule of Commitments under the WTO's General Agreement on Trade in Services (GATS) only reflects commitments related to financial services, so the broad coverage of this FTA represents a substantial improvement over the country's existing services trade commitments. The FTA's broad coverage is in part attributable to the "negative listing" methodology employed in the FTA. Using such a methodology, all trade disciplines found in chapters 10 through 12, which respectively address cross-border services, financial services, and telecommunications, automatically cover all service industries and industry segments except for those that are specifically exempted in the FTA annexes on non-conforming measures (annexes I through III). Exemptions found in the annexes identify those articles of the services agreement that will be breached, and provide detail on current regulatory practice and potential changes in that practice for the affected industry (table 3-8).[50] One forward-looking benefit of negative listing is that the FTA disciplines are automatically extended to services that have yet to be created or brought to market, an element especially important to communication and financial services, where technological advancement and other innovation frequently result in new service offerings and means of delivery.

[49] ITAC 10, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Services and Finance Industries*, July 14, 2004; and Industry Sector Advisory Committee (ISAC) 13, *The U.S.-Morocco Free Trade Agreement: Report of the Industry Sector Advisory Committee on Service for Trade Policy Matters*, Apr. 16, 2004.

[50] ITAC 10, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Services and Finance Industries*, July 14, 2004.

Table 3-8
Industry sectors subject to non-conforming measures in the U.S.-Bahrain FTA

Bahrain		United States	
Current measures	**Potential measures**	**Current measures**	**Potential measures**
• Accounting, financial auditing, bookkeeping and related services • Advertising services • Architectural and engineering services • Car rental services • Census, market research and public opinion polling • Construction services and construction-related services • Consultancy and management services • Debt collection services • Energy services • Islamic pilgrimage services • Legal services • Private security guard services • Publishing and printing • Real estate services • Services incidental to mining • Small business services • Telecommunication services • Terrestrial over the air radio, television, and satellite transmission and subscription services in the territory of Bahrain • Tourism – hotel operations and management • Transportation services • Insurance services • Financial leasing services • Travel agency tour operators and tourist guide services • Wholesale and retail services	• Services related to fisheries • Social services • Communications • Car rental services • Census, market research and public opinion rolling • Construction services and construction-related services • Debt collection services • Employment and temporary personnel services • Postal services except express delivery services • Private security guard services • Real estate services • Banking services • Money changer services	• Business services • Air transportation services • Customs broker services • Professional services - patent attorneys, patent agents, and other practice before the patent and trade-mark office • Insurance	• Communication services • Social services • Minority affairs • Maritime transportation • Insurance

Note: Nonconforming measures are found in Annexes I through III of the FTA. Annex I contains reservations for cross-border services, excluding financial services, to preserve existing measures that are inconsistent with the disciplines outlined in the FTA chapters on cross-border services, financial services, and telecommunications. Annex II contains reservations for cross-border services, excluding financial services, to ensure that a party maintains flexibility to impose measures in the future that may be inconsistent with the disciplines of the FTA. Annex III contains both existing and potential nonconforming measures related to financial services, including insurance.

Source: Text of the U.S.-Bahrain FTA, Annex I, Annex II, and Annex III.

This type of approach tends to yield greater market access and transparency than the "positive listing" methodology employed in the GATS, wherein countries must schedule commitments to specific industries in order to guarantee market access and national treatment. Under a positive listing approach, the extension of trade disciplines to each new service would have to be negotiated individually.

A comparison of the treatment of audiovisual services illustrates the benefits of negative versus positive listing. In the GATS, Bahrain elected not to address this area at all, meaning that the market access and national treatment disciplines of the GATS simply do not apply to audiovisual services. While this does not necessarily mean that Bahrain previously maintained impediments to trade in such services, it does not clarify the existing regulations, and confers on Bahrain the ability to implement new or additional trade restrictions in the future without penalty. In the FTA, Bahrain again elects to leave audiovisual services unaddressed,[51] but by virtue of negative listing, this means that the trade disciplines found in chapter 10 of the FTA apply in their entirety. Therefore, U.S. providers of audiovisual services such as movies, television and radio broadcasting, and sound recording services receive unrestricted market access, nondiscriminatory regulatory treatment, and improved transparency. Bahrain is the first country to make commitments in this sector without maintaining any non-conforming measures,[52] an important achievement for an industry which is a significant exporter of U.S. services.

In its annex of non-conforming measures, Bahrain lists 19 service industries for which foreign providers must establish a commercial presence, rather than supply the services on a cross-border basis. For many of the services expected to generate the greatest quantity of U.S. exports, including accounting, architectural and engineering, construction, consultancy and management, and services incidental to mining (which is important to the petroleum industry), the restrictions on cross-border trade will be removed after a specified time period, either 3 or 7 years. For six of the service industries listed,[53] U.S. service providers will be permitted to obtain temporary licenses to provide these services for periods of up to 3 years, greatly expanding U.S. firms' access to Bahrain's market.

With respect to legal services, Bahrain elects to restrict the practice of law by foreign attorneys, but does so in a transparent manner, representing an improvement over the situation reflected in Bahrain's existing GATS commitments. Annex I of the FTA indicates that foreign attorneys may only practice law in Bahrain under certain circumstances, and when employed by a licensed Bahraini attorney. Providers of legal

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[51] The only exception is a reservation taken by both Bahrain and the United States in annex II, regarding most-favored-nation treatment for Bahrain that reserves the right to adopt certain measures with regard to sharing of the radio spectrum and satellite broadcasting services.

[52] ITAC 10, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Services and Finance Industries*, July 14, 2004.

[53] Accounting, bookkeeping and related services; architectural and engineering services; construction and construction related services; consultancy and management services; services incidental to mining; and terrestrial over-the-air radio, television and satellite transmission, and subscription services in the territory of Bahrain.

services will not be eligible for the temporary licenses described above. However, in a significant advance for legal services consultants, under the FTA, Bahrain will permit foreign legal consultancies to provide advice relating to the law of their home jurisdiction, provided that they first obtain a license in Bahrain; nevertheless, some legal services representatives were disappointed that they would not be permitted to offer advice regarding the law of jurisdictions outside their jurisdiction of admission.[54]

Several industry representatives have stated that the improved transparency and market access provisions included in the text of the FTA, in coordination with the existing U.S.-Bahrain Bilateral Investment Treaty (BIT), will ensure a continued, favorable trade and investment climate for U.S. service providers, and will serve as a strong precedent for future FTAs in the Middle East region.[55]

Impact of the FTA on U.S. Imports of Services for Selected Industries

Telecommunication Services

The U.S.-Bahrain FTA will likely have no measurable impact on U.S. imports of telecommunication services, largely due to the existing level of openness in the U.S. telecommunication services market. Relative to the United States, Bahrain's telecommunications market is very small. The United States is the world's largest telecommunications market, with 2002 revenues of $294 billion, accounting for approximately 3 percent of the country's GDP and representing 30 percent of global revenues in the sector. By contrast, Bahrain's 2002 telecommunication services revenues totaled $132 million.[56] The U.S. telecommunications market is already relatively open, as reflected in the WTO Basic Telecommunications Agreement. Moreover, the main telecommunications provisions of the U.S.-Bahrain FTA, which include commitments on nondiscriminatory network access, interconnection, and licensing, regulatory transparency, and competitive safeguards, are already largely reflected in the reference paper attached to the United States' WTO commitments. Although U.S. commitments in the WTO agreement lifted most foreign investment restrictions in the U.S. market and provide greater regulatory transparency, Bahrain's incumbent telecommunications firm, Bahrain Telecommunications Company (Batelco),[57] has not entered the U.S. market. In the near term, economic conditions and

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[54] ITAC 10, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Services and Finance Industries*, July 14, 2004.

[55] Industry representatives, telephone interviews with USITC staff, Aug. 3, 2004; and ITAC 10, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Services and Finance Industries*, July 14, 2004.

[56] International Telecommunications Union (ITU), *World Telecommunications Indicators*, Winstars database (Geneva: ITU, 2003).

[57] Batelco is 20 percent owned by UK-based Cable & Wireless and 36.6 percent owned by the Government of Bahrain. The remaining shares, which are owned by quasi-government institutions as well as local and Gulf investors, are traded on the Bahrain Stock Exchange. The Government of Bahrain has stated its intention to move ahead with plans to sell the state's stake in Batelco ("Middle East Briefs," *AP Worldstream*, December 28, 2003, found at *http://www.ft.com*, retrieved July 22, 2004; and "Transport and Communications," Bahrain Country Briefing, *Economist Intelligence Unit (EIU)*, May 12, 2004 and "Batelco Releases Its First Quarter Results For 2004," Bahrain Country Briefing, *EIU*, May 17, 2004, both found at *http://www.viewswire.com*, retrieved July 22, 2004).

competitive pressures in the U.S. market will reduce the incentive for Batelco to establish an affiliate in the United States. Instead, Batelco has pursued expansion opportunities in Egypt and Iraq.[58] Over the long term, however, the U.S.-Bahrain FTA may benefit prospective U.S. affiliates of Bahraini firms through increased transparency and greater regulatory certainty.

Banking and Securities

Because the U.S. financial services market is already relatively open and the Bahraini industry is relatively small, the U.S.-Bahrain FTA is not likely to have a measurable impact on U.S. imports of banking and securities services from Bahrain. In 2002, U.S. imports of banking and securities services registered $3.7 billion.[59] However, imports from Bahrain, if any, are most likely concentrated in the provision of trade financing to U.S. clients importing goods from Bahrain, and do not directly compete with U.S.-based banks.[60] Future growth in this industry segment, if any, will most likely result from increased trade in goods between the United States and Bahrain rather than as a result of financial sector liberalization. However, one other possibility exists for increased growth in U.S. imports – the provision of Islamic banking services to the U.S. market. A side letter to the FTA makes clear that the agreement applies to both traditional and Islamic financial services, which may represent a niche market for Bahraini banks and other financial services firms that operate under Islamic principles to export such services to the United States. Bahraini banks and government officials have expressed interest in pursuing this possibility. However, this is a medium- to long-term prospect, as U.S. regulations currently in place do not explicitly address Islamic financial institutions.[61]

Insurance

The FTA is not expected to have a significant impact on U.S. imports of insurance services. Bahrain's insurance companies are small compared to most U.S. firms; and they do not have the global reach of firms in the United States or in the European Union, the primary source of U.S. insurance imports. The insurance industry in Bahrain recorded total 2003 premiums of $29.8 million.[62] This compares with U.S. insurance

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[58] "New Era For Telecoms," Bahrain Country Briefing, *EIU*, September 4, 2003, found at *http://www.viewswire.com*, retrieved July 22, 2004, and "Telecom Reform Gathers Speed," Bahrain Country Briefing, *EIU*, July 22, 2004, found at http://www.viewswire.com, retrieved July 22, 2004.

[59] USDOC, BEA, *Survey of Current Business,* Oct. 2003, p. 101.

[60] As of March 2004, there were no Bahraini banks with offices in the United States, so the existence of measurable imports is unlikely. U.S. Federal Reserve Board, Structure and Share Data for U.S. Offices of Foreign Banks, found at *http://www.federalreserve.gov/releases/iba/current/struca.pdf,* retrieved Aug. 5, 2004.

[61] U.S. banking regulators have stated that Islamic financial institutions will be considered for approval under the same prudential regulations that apply to traditional financial service providers. U.S. Government officials, telephone interviews with USITC staff, July 27 and Aug. 3, 2004; and industry representative, e-mail communication, Aug. 9, 2004.

[62] Bahrain Monetary Agency, *Economic Newsletter*, Mar. 2004, no. 3, p. 13, found at *http://www.bma.gov.bh/cms/media/pdf/statistics/economic/econ/13.pdf*, retrieved July 20, 2004.

premiums of $1.1 trillion the same year, equal to 36 percent of global premiums,[63] illustrating the small size of Bahrain's insurance market compared to that of the United States. In addition, the U.S. insurance sector is substantially open to foreign trade and investment. There appear to be no U.S. imports of insurance services from Bahrain because the country's insurance firms are too small to be competitive in foreign markets, not because of existing U.S. barriers to trade or investment that might be removed as a result of the U.S.-Bahrain FTA. Therefore, the FTA is unlikely to have a measurable impact on U.S. imports of insurance services from Bahrain. As with banking, however, there may be some potential for Bahrain-based insurance firms operating under Islamic principles to establish in the United States, generating some U.S. imports of insurance services from Bahrain.

Impact of the FTA on U.S. Exports of Services for Selected Industries

Telecommunication Services

The U.S.-Bahrain FTA will likely have no measurable impact on U.S. exports of telecommunication services, due in large part to the lack of profitable investment opportunities in Bahrain's small telecommunication services market and because Bahrain's telecommunications market is already relatively open. Bahrain did not make telecommunication services commitments under the WTO Agreement on Basic Telecommunications. As a result, its FTA commitments provide a degree of transparency and regulatory certainty not previously available to prospective U.S. investors. In recognition of the importance that telecommunications play in the economy, particularly Bahrain's strong financial services sector,[64] the Government of Bahrain has taken unilateral steps to liberalize its telecommunications market. In 2002, for example, the Government of Bahrain enacted the Telecommunications Law, with the stated objective of opening all segments of the telecommunications market by the end of 2004; the law also created the country's first independent regulatory body, the Telecommunications Regulatory Authority (TRA). During 2003-04, TRA issued three licenses to foreign and domestic firms.[65] On July 1, 2004, TRA announced the full liberalization of the telecommunications sector.[66] As a result, local and foreign

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[63] Swiss Re, *Sigma,* no. 3/2004, p. 35, found at *http://www.swissre.com/,* retrieved July 26, 2004.

[64] More than 460 financial services firms maintain operations in Bahrain. Will McSheehy, Bahrain Liberalizes Telecoms Market, *Financial Times*, July 2, 2004, found at *http://www.ft.com*, retrieved July 22, 2004.

[65] In 2003, TRA issued a license to MTV-Vodaphone for the creation of a second mobile phone network. In 2004, TRA awarded a very small aperature terminal (VSAT) license and authorized the establishment of the new Bahrain Internet Exchange.

[66] The Telecommunications Law requires that license applicants be juridical entities, or a branch of a foreign company incorporated or licensed to operate within Bahrain. The law also requires that substantially all infrastructure and personnel associated with the supply of the service be located in Bahrain. Legislative Decree No. 48 Of 2002 Promulgating The Telecommunications Law, found at *http://www.tra.org.bh*, retrieved Aug. 2, 2004.

companies are allowed to apply for an unlimited number of operating licenses in eight categories.[67] In the ninth category, mobile services, TRA states that licenses are not currently available.[68] Over the long term, the U.S.-Bahrain FTA provides the benefit of codifying Bahrain's unilateral telecommunication services liberalization in a bilateral treaty, thereby locking in commitments and setting a precedent for future bilateral and multilateral negotiations.

Banking and Securities

The FTA is not expected to generate substantial new U.S. exports of banking and securities services to businesses and individuals in Bahrain, but may encourage financial services firms to establish in the Bahraini market, as the binding commitments in the FTA create incentives for U.S. financial firms to use Bahrain as a regional hub for their activities.[69] International banks currently operate in Bahrain without impediments, so most U.S.-based firms with commercial interests in the market are already established there.[70] Bahrain has made a substantial effort to liberalize its financial services market in recent years in an effort to become a regional financial services center. As a result, in part, foreign investors accounted for 44 percent of shares traded on the Bahrain Stock Exchange in 2003.[71] Moreover, the market in Bahrain is small, with limited export opportunities for U.S. financial services firms, which recorded total exports of $15.9 billion in 2002. Available data suggest that financial services exports to Bahrain did not exceed $264 million in 2002, a small percentage of overall U.S. financial services exports.[72]

Several industry representatives from the banking and securities industries have expressed approval of the FTA, citing it as one of the most trade-liberalizing agreements concluded by the United States. In particular, they cite the low number of non-conforming measures related to banking and securities services.[73] Financial industry representatives have also clearly stated that the FTA would serve as an important precedent for other bilateral FTAs in the region, and for the current U.S. administration's plans for a multilateral Middle East Free Trade Agreement. One area

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[67] Licenses are available in the following eight categories: fixed line services, internet services, value-added services, international services, VSAT services, paging services, public access mobile radio services, and international facilities. Legislative Decree No. 48 Of 2002, found at *http://www.tra.org.bh/en/main*, retrieved Aug. 4, 2004.

[68] In the telecommunication services sector, annex I of the U.S.-Bahrain FTA states that Bahrain reserves the right to limit the number of mobile service providers to two until Dec. 31, 2005.

[69] Industry representatives, telephone interview with USITC staff, Aug. 6, 2004, and e-mail communication, Aug. 9, 2004.

[70] Industry representative, telephone interview with USITC staff, Aug. 6, 2004; and USTR, *2004 National Trade Estimate Report,* p. 191, found at *http://www.ustr.gov/,* retrieved July 23, 2004.

[71] "Bahrain Stock Exchange and Insurance Sector," Bahrain Monetary Agency, *Economic Newsletter*, Mar. 2004, no. 3, p. 13, found at *http://www.bma.gov.bh/cms/media/pdf/statistics/economic/econ/13.pdf*, retrieved July 30, 2004.

[72] USDOC, BEA, *Survey of Current Business,* Oct. 2003, p. 100.

[73] Industry representative, telephone interview by USITC staff, Aug. 3, 2004; and ITAC 10, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Services and Finance Industries*, July 14, 2004.

in which the United States may be able to expand exports of financial services is asset management services. Under the FTA, Bahrain agreed to a commitment permitting cross-border provision of portfolio management services by asset managers of mutual funds. This commitment, which has been a priority of U.S. asset managers in all previous trade negotiations, will permit U.S. mutual fund managers to offer their services in Bahrain without establishing a commercial presence there, enabling them to control costs effectively and increase their competitiveness in the Bahraini market.[74]

Insurance

The FTA is likely to lead to some increased exports of insurance services to Bahrain, but is not expected to have a substantial effect on overall U.S. insurance exports, primarily because Bahrain's economy is small; therefore, the potential for cross-border exports or sales by foreign affiliates of U.S. firms is limited.[75] Bahrain's domestic life insurance market, which represents 22 percent of total premiums,[76] is already open to foreign competition,[77] so foreign firms with commercial interests in that market segment are likely to be doing business there already. Foreign firms are currently barred from selling most other insurance products in Bahrain's market.[78] Under the FTA, U.S. insurers will be able to acquire new non-life insurance licenses, with no restrictions, beginning 6 months after the FTA's entry into force, which will likely lead to an increase in U.S. exports. Due to the small size of Bahrain's insurance market, however, the increase is not likely to have a measurable impact on overall U.S. exports of insurance services, which registered $2.8 billion in 2002.[79] In addition, Bahrain has scheduled full commitments under the GATS[80] for all segments of the offshore insurance industry,[81] which consequently will not be further liberalized under the FTA. The offshore segment of the industry excludes sales of insurance to Bahraini residents and

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[74] Industry representative, telephone interview by USITC staff, Aug. 3, 2004; and ITAC 10, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Services and Finance Industries*, July 14, 2004.

[75] Industry representatives, telephone interviews by USITC staff, July 23, 2004.

[76] "Bahrain Stock Exchange and Insurance Sector," Bahrain Monetary Agency, *Economic Newsletter*, Mar. 2004, no. 3, p. 13, found at *http://www.bma.gov.bh/cms/media/pdf/statistics/economic/econ/13.pdf*, retrieved July 30, 2004.

[77] USTR, *2004 National Trade Estimate Report,* p. 190, found at *http://www.ustr.gov/,* retrieved July 23, 2004.

[78] USTR, *2004 National Trade Estimate Report,* p. 190.

[79] Reflects insurance premiums net of claims. Total premiums from insurance sales by U.S. firms to foreign customers were valued at $11.9 billion in 2002. USDOC, BEA, *Survey of Current Business,* Oct. 2003, p. 105.

[80] Full commitments do not extend to mode 4, the provision of services through the temporary entry and stay of natural persons. WTO, General Agreement on Trade in Services (GATS), GATS/SC/97/Suppl.1, Feb. 26, 1998.

[81] The offshore segment of the insurance industry includes sales of insurance by firms based outside of Bahrain to individuals and businesses residing or operating in Bahrain, provided that the individuals are not Bahraini nationals and the businesses are not based in Bahrain. The term "offshore only," as it appears in Bahrain's GATS schedule, is not defined there. However, the definition provided here corresponds to the accepted industry version of this term. Industry representative and U.S. Government official, telephone interviews with USITC staff, July 26 and Aug. 2, 2004.

to companies based in Bahrain. Therefore, in practice, Bahrain's existing GATS commitments primarily apply to sales of insurance to affiliates of foreign companies operating in Bahrain. While this is a substantive restriction on the portion of the Bahraini insurance market open to foreign firms, U.S. insurers, particularly in the non-life market, in fact conduct a large portion of their overseas business with foreign affiliates of multinational corporations,[82] so one important market segment is already substantially open to U.S. insurers. Therefore, it is likely that many U.S. insurers with commercial interests in Bahrain are already operating in the market.

Literature Review

In examining the literature from academic, public sector, and private sector institutions, the Commission found no studies directly examining the quantitative impact of the U.S.-Bahrain FTA or a similar agreement.[83] However, two that, while not directly related, appear relevant to this analysis used a partial equilibrium approach very similar to that employed in the current Commission study.

In a 2003 study, Dean A. DeRosa used a homogeneous good, partial equilibrium model to evaluate the impact of a proposed FTA between the European Union and the Gulf Cooperation Council (GCC), of which Bahrain is a member.[84] He found that such an FTA would result in positive but small trade and welfare impacts for the European Union, with imports and welfare increasing by 1.0 percent and 0.2 percent, respectively. For Bahrain, imports would increase by 3.1 percent while economic welfare would rise by 5.4 percent as a result of an EU-GCC FTA.

In 2000, the Commission conducted a study of the economic impact on the United States of the U.S.-Jordan FTA.[85] Using a partial equilibrium approach, the study found that an FTA with Jordan would not have a measurable impact on U.S. imports from Jordan for 15 of the 16 sectors reviewed. Only for the textile and apparel sector was the FTA expected to have a measurable but negligible effect on total U.S. imports, production, and employment. The study does not report estimated welfare effects of the FTA.

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[82] Industry representative, telephone interview with USITC staff, Aug. 2, 2004.

[83] Section 2104(f)(3) requires the Commission to review available economic assessments regarding the agreement, to provide a description of the analyses used and conclusions drawn in such literature, and to discuss areas of consensus and divergence among reviewed literature, including that of the Commission. The Commission notes that it conducted a classified study at the request of the USTR concerning a potential U.S.-Bahrain FTA: USITC, *U.S.-Bahrain Free Trade Agreement: Advice Concerning the Probable Economic Effect of Duty-Free Imports*, Investigation Nos. TA-131-26 and TA-2104-008, Dec. 2003. Consequently, for the purpose of this report, the Commission discussion consists only of external economic assessments and the Commission's present study.

[84] Dean A. DeRosa, *The GCC Customs Union and Proposed EU-GCC Free Trade Agreement in a Computable Partial Equilibrium Model of World Trade*, mimeo, Potomac Associates, November 2003.

[85] USITC, *Economic Impact on the United States of a U.S.-Jordan Free Trade Agreement*, USITC Publication 3340, Sept. 2000.

CHAPTER 4
Impact of Trade Facilitation Provisions

Introduction

Trade facilitation, which encompasses procedural simplification and regulatory harmonization, is important for economic growth and development.[1] Increased trade volumes, production processes that rely on timely delivery of goods, and complex import regulations are some of the issues driving worldwide demand for trade facilitation.[2] The U.S.-Bahrain Free Trade Agreement (FTA) contains provisions that may facilitate the movement of goods and the provision of services between the two parties. The FTA chapter on transparency (chapter 17) promotes regulatory transparency and clarifies the regulatory process for potential foreign investors; the chapter on customs administration (chapter 5) provides for efficient processing of goods at the border; the chapter on technical barriers to trade (chapter 7) provides for fairness in regulation; the chapter on electronic commerce (chapter 13) provides that trade disciplines, such as market access and national treatment, apply to electronically traded goods; and the chapter on sanitary and phytosanitary (SPS) regulations (chapter 6) covers all SPS measures that affect trade between the two countries. Although it is not possible to quantify the effect of these provisions on trade performance, U.S.-based firms will likely benefit from the application of the disciplines found in these chapters, as they promote moderate improvements in regulatory transparency and reduce technical barriers to trade.

Transparency

Transparency of laws and regulations is considered an important principle in regulatory reform and a fundamental requirement for good governance.[3] Transparency enhances economic activity by enhancing regulatory certainty, enabling firms to make informed decisions before entering new markets.[4] Bahrain has made efforts to increase regulatory and procedural transparency. In January 2003, a

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[1] World Bank, "Trade and Transport Facilitation: A Toolkit for Audit, Analysis and Remedial Action," *Global Facilitation Partnership for Transportation and Trade,* Dec. 2001, p. v; and Swedish Trade Procedures Council (SWEPRO), "Trade Facilitation - Impact and Potential Gains," Aug. 2002, p. 5.

[2] SWEPRO, "Trade Facilitation," p. 5.

[3] Geza Feketekuty, "A Vision for the Millennium Round," p. 3, found at *http://www.commercialdiplomacy.org/articles.htm*, retrieved Aug. 2, 2004.

[4] Organization for Economic Cooperation and Development (OECD), "Trade Facilitation: The Benefits of Simpler, More Transparent Border Procedures," *Policy Brief*, Aug. 2003, p. 3.

government tenders law improved transparency in the government procurement process, and Bahrain's Economic Development Board is being restructured to enhance transparency and improve coordination among government bodies.[5] Although foreign investors are generally pleased with the current investment climate in Bahrain, facilitated by government cooperation and transparent application of regulations, U.S.-based firms may still encounter market entry impediments as a result of procedural ambiguities in domestic regulations.[6] The FTA's chapter on transparency will help reduce or eliminate such ambiguities by requiring, among other things, prompt publication of rules; early notification of changes, where possible; and reasonable notice and opportunity to respond to administrative proceedings.[7] The chapter also includes anticorruption provisions, which seek to improve trade environments by requiring each party to establish criminal prosecution and penalty procedures for bribery and corruption.[8] In addition to the chapter on transparency, transparency is separately and specifically addressed in the chapters throughout the agreement, including the chapters on customs administration and technical barriers to trade.

Customs Administration

One industry association indicated that it is not aware of any significant impediments in Bahrain's customs administration procedures.[9] Documentation requirements appear to be standard and include relevant bills of lading, an original of the origin certificate, three commercial invoices, and insurance certificates.[10] In general, customs duties are not applied to goods transshipped through Bahrain, exports from Bahrain, manufacturing inputs, goods stored in bonded warehousing, and certain goods subject to preferential trade arrangements.[11] Despite the absence of significant customs impediments, industry representatives are generally pleased with the FTA's provisions on customs administration, which enhance transparency by requiring prompt publication of customs rules and ensuring the timely release of goods.[12] In

[5] U.S. Department of Commerce (USDOC), Foreign Commercial Service (FCS), *Bahrain Country Commercial Guide*, Aug. 22, 2003, p. 4.

[6] Ibid., p. 5.

[7] "Transparency," chapter 17 of the U.S.-Bahrain Free Trade Agreement, found at *http://www.ustr.gov/new/fta/bahrain.htm,* retrieved Aug. 6, 2004.

[8] Ibid.

[9] Industry representative, telephone interview with USITC staff, Washington, DC, Aug. 6, 2004.

[10] WTO, "Trade Policies and Practice by Measure," *Bahrain Trade Policy Review,* WT/TPR/S/74, Sept. 11, 2000, p. 27; and The Journal of Commerce Online, "Bahrain," *Handbook for International Trade*, found at *http://www.joc.com/handbook/handbook.jsp?CID=450#ALL*, retrieved Sept. 15, 2004.

[11] USDOC, FCS, *Bahrain Country Commercial Guide*, p. 3.

[12] Industry representative, telephone interview with USITC staff, Washington, DC, Aug. 6, 2004; and Industry Trade Advisory Committee (ITAC) 14, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Functional Advisory Committee on Customs Matters and Trade Facilitation*, July 2004, found at *http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Bahrain_FTA/Reports/asset_upload_file398_5527.pdf*, retrieved Sept. 14, 2004.

addition, the provisions seek to facilitate the clearance process through greater use of information technology, improve risk management and cooperation among parties, and establish procedures for resolving disputes. Separate measures for express shipments are to be adopted by each party. These measures facilitate express shipment processing by allowing electronic submission of documents, prearrival processing of information, submission of a single manifest covering all goods in an express shipment, and minimizing release documentation, where possible.[13] The agreement guarantees release of express shipments within 6 hours. Although industry representatives are encouraged that the agreement includes a specific timeframe for release of express shipments, they would like to see the target reduced to 3 hours in future trade agreements, thereby improving access for extremely urgent deliveries.[14]

Technical Barriers to Trade

Bahrain has worked to harmonize standards and conformity assessment systems as part of its membership in the Gulf Cooperation Council (GCC) customs union.[15] However, according to USTR, in practice GCC standards are not applied uniformly across member countries, creating ambiguity for foreign investors in the region.[16] The FTA's chapter on technical barriers to trade therefore is expected to improve conditions for U.S.-based firms that plan to invest in Bahrain by creating greater regulatory certainty in the technical standards and conformity assessment process. The FTA builds upon the WTO's Technical Barriers to Trade (TBT) Agreement, which "tries to ensure that regulations, standards, testing and certification procedures do not create unnecessary obstacles."[17] The FTA provides for greater transparency in the rule making process, allowing foreign participation in the development of measures related to setting standards and establishing technical regulations.[18] The agreement also promotes cooperation in performing conformity assessments, provides for the establishment of coordinators to oversee implementation for the TBT provisions and enhance cooperation, and provides for timely response to requests for information. Industry representatives state that they are generally pleased with the agreement's provisions on standards and technical trade barriers, reporting that the FTA meets most negotiating objectives and provides equity between the parties.[19]

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[13] "Customs Administration," ch. 5 in the FTA, found at *http://www.ustr.gov/new/fta/bahrain.htm,* retrieved Aug. 6, 2004.

[14] Industry representative, telephone interview with USITC staff, Washington, DC, Aug. 6, 2004; and ITAC 14, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Functional Advisory Committee on Customs Matters and Trade Facilitation*, July 2004.

[15] USTR, "Gulf Cooperation Council," *Foreign Trade Barriers, 2004.*

[16] Ibid.

[17] WTO, "Technical Barriers to Trade," found at *http://www.wto.org/english/tratop_e/tbt_e/tbt_e.htm*, retrieved May 3, 2004.

[18] "Technical Barriers to Trade," chapter 7 of the FTA, found at *http://www.ustr.gov/new/fta/bahrain.htm*, retrieved Aug. 6, 2004.

[19] ITAC 16, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee on Standards and Technical Trade Barriers*, July 7, 2004.

Electronic Commerce

The FTA's electronic commerce chapter meets U.S. industry objectives for the negotiations by, among other things, providing that digital products are not to be discriminated against and that customs duties are not applied to digital products transmitted electronically.[20] These provisions may serve to promote electronic commerce trade between the parties by limiting the transaction costs associated with electronically-traded goods and services.

The FTA's electronic commerce chapter recognizes the importance of the service to economic growth, and affirms that electronically-supplied services are subject to the FTA's chapters on cross-border services trade (chapter 10) and financial services (chapter 11).[21] The chapter provides that exports and imports of digital products remain free of customs duties and other fees, whether submitted electronically or attached to a physical good. This provision is similar to the WTO Moratorium on Customs Duties and Electronic Transmissions, which representatives from the U.S. electronic commerce industry seek to make permanent.[22] When digital products accompany physical goods, the FTA obligates parties to base customs valuation on the underlying medium. Further, the FTA's national treatment provisions apply to digital products, thereby guaranteeing non-discrimination of electronically-traded goods and services.[23] U.S. industry notes that the FTA does not contain provisions on Authentication, Digital Certificates, and Online Consumer Protection, which were included in the U.S. FTA with Australia.[24] Although preferred, these provisions are not necessary to meet the industry's objectives for the negotiations.[25]

Sanitary and Phytosanitary Measures

Sanitary and phytosanitary (SPS) measures are addressed in chapter 6 of the FTA. The chapter applies to all SPS measures that affect trade between the United States

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[20] ITAC 8, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee for Information and Communications Technologies, Services, and Electronic Commerce*, July 14, 2004, found at *http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Bahrain_FTA/Reports/asset_upload_file284_5521.pdf*, retrieved Sept. 15, 2004.

[21] "Electronic Commerce," chapter 13 of the Bahrain Free Trade Agreement, found at *http://www.ustr.gov/new/fta/bahrain.htm,* retrieved Aug. 23, 2004.

[22] ITAC 8, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee for Information and Communications Technologies, Services, and Electronic Commerce*, July 14, 2004.

The WTO's Geneva Ministerial Declaration on Global Electronic Commerce creates a work program to examine the implication of electronic commerce for international trade and establishes that WTO members shall not impose duties on electronic transmissions. The WTO's work program is ongoing.

[23] ITAC 8, *The U.S.-Bahrain Free Trade Agreement: Report of the Industry Trade Advisory Committee for Information and Communications Technologies, Services, and Electronic Commerce*, July 14, 2004.

[24] Ibid.

[25] Ibid.

and Bahrain, whether directly or indirectly. Under the SPS provisions of chapter 6, the United States and Bahrain affirmed their existing rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures and agreed to create a bilateral joint committee to address relevant SPS issues. The chapter specifies that neither party has recourse to dispute settlement under the FTA for any matter arising under the chapter.

CHAPTER 5
Impact of Provisions With Respect to the Regulatory Environment

This chapter provides a qualitative assessment of the potential impact of provisions of the U.S.-Bahrain Free Trade Agreement (FTA) with respect to safeguards (chapter 8 of the FTA), government procurement (chapter 9), intellectual property rights (chapter 14), labor (chapter 15), environment (chapter 16), and dispute settlement (chapter 19).[1]

Although it is not possible to quantify the economic effects of these provisions, U.S. firms are likely to benefit from their application by Bahrain, primarily as a result of improvements in regulatory transparency. However, the effects are likely to be very small because of the small size of Bahrain's economy and market relative to that of the United States.

Safeguards / Trade Remedies

U.S. trade negotiating objectives regarding safeguards were: (1) to provide a bilateral safeguard mechanism during the transition period of the FTA, and (2) to make no changes in U.S. antidumping and countervailing duty laws. Chapter 8 of the U.S.-Bahrain FTA provides the legal framework for bilateral safeguard actions with respect to originating goods, where such imports increase as a result of the agreement's duty concessions and constitute a substantial cause of serious injury, or threat thereof, to a party's industry producing a like or directly competitive good.[2] Under this FTA chapter, a party may apply a bilateral safeguard measure on originating goods up to the applied most favored nation (MFN) tariff rate, but such measures must be progressively liberalized under terms of the FTA. The rate of duty to be applied at the end of a safeguard is the FTA rate that would have been in effect without the safeguard.

Government Procurement

The U.S. trade negotiating objectives for government procurement were (1) to establish rules requiring government procurement procedures and practices in Bahrain to be

[1] Chs. 1, 21, and 22 of the U.S.-Bahrain FTA address primarily administrative and legal matters with respect to the FTA and are not analyzed in this report.

[2] For additional information, see the summary of the threat provision in ch. 2 of this report.

fair, transparent and predictable for suppliers of U.S. goods and services who seek to do business with the Bahraini Government, and (2) to expand access for U.S. goods and services to Bahrain's Government procurement market.

The Advisory Committee for Trade Policy and Negotiation (ACTPN) report unanimously endorsed the U.S.-Bahrain Free Trade Agreement. The committee report states that the Bahrain FTA together with the existing agreements with Jordan and Israel and the pending agreement with Morocco will serve as a catalyst for yet more agreements in the Middle East.

The ACTPN report notes that the FTA covers most Bahrain government agencies. The committee report states that Bahrain increased its commitments to provide for transparent bidding procedures, nondiscrimination against U.S. suppliers, and criminal penalty for bribery in government procurement. The report also cites the commitment to maintain criminal and other penalties for bribery in government procurement as a means to ensure transparent processes in government procurement.[3]

The report of the Intergovernmental Policy Advisory Committee (IGPAC)[4] expresses support for the goal of improving transparency and increasing fair market access in government procedures and regulatory decisions that are related to procurement, while preserving the independent authority of state and local governments to adopt legislation, standards, and procedures consistent with their experience and interests. The report states that committee members understand the agreement to cover U.S. federal and state, but not local, government procurement.

Intellectual Property Rights

U.S. trade objectives regarding intellectual property rights (IPR) were (1) to establish standards to be applied in Bahrain that build on the foundations established in the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) and other international intellectual property agreements; (2) to require Bahrain to update its copyright laws to take into account new technological developments; (3) to require Bahrain to apply levels of protection and practices more in line with U.S. laws and practices in areas such as patent protection and protection of undisclosed clinical test data; and (4) to strengthen Bahrain's procedures to enforce IPR.[5]

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[3] ACTPN, *The U.S.-Bahrain Free Trade Agreement: Report of the Advisory Committee for Trade Policy and Negotiations,* Jul. 14, 2004, found at *http://www.ustr.gov/new/fta/Bahrain/reports/Bahrain-ATACFruitsVeg%20Report%2007.14.04.pdf*, retrieved Aug. 3, 2004.

[4] Ibid.

[5] Industry Trade Advisory Committee (ITAC) 15, *The U.S.-Bahrain Free Trade Agreement (FTA): The Intellectual Property Provisions*, July 14, 2004, pp. 21-22, found at *http://www.ustr.gov*, retrieved Aug. 4, 2004; and United States Trade Representative (USTR) officials, U.S. Department of State, Foreign Service Institute course: Intellectual Property Rights, July 15, 2004; and U.S. industry representatives, in-person and telephone interviews by USITC staff, Washington, DC, Jan.-Aug. 2004.

Although Bahrain has made significant progress in strengthening its IPR regime in recent years,[6] some problems remain for U.S. industries dependent on IPR protection.[7] Some of the major U.S. concerns include less than full implementation and enforcement of all of Bahrain's obligations under the TRIPs Agreement and international IPR treaties administered by the World Intellectual Property Organization (WIPO); insufficient copyright, trademark, patent, and trade secret protection; and insufficient IPR enforcement.[8]

The intellectual property provisions of the U.S.-Bahrain FTA (Chapter 14) address many of the most significant concerns of U.S. industry representatives and trade officials concerning IPR policies in Bahrain.[9] When the IPR provisions of the proposed FTA are implemented , the increased level of protection afforded to IPR holders will likely result in increased revenues for U.S. industries dependent on copyrights, trademarks, patents, and trade secrets. However, due to the relatively small size of the Bahraini economy, any increases in revenues for U.S. IPR owners due to the FTA will likely have negligible effects on the U.S. IPR owners and the U.S. economy. Further, there would be little, if any, effect on U.S. industries or the U.S. economy based on U.S. implementation of its FTA obligations. The following describes the current status of IPR protection in Bahrain, summarizes the key IPR provisions of the FTA, and describes the potential effects of implementation of IPR provisions in the FTA on U.S. industries and the U.S. economy as a whole.

Current Conditions of IPR Protection in Bahrain

As a member of the WTO, Bahrain has assumed obligations under the WTO TRIPs Agreement. Draft legislation to implement these obligations is now under review by the Bahrani National Assembly.[10] U.S. industry representatives report that Bahrain has made extensive efforts to improve its IPR regime in recent years but problems remain

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[6] U.S. Patent and Trademark Office and USTR officials, U.S. Department of State, Foreign Service Institute course: Intellectual Property Rights, July 15, 2004; and U.S. industry representatives, in-person and telephone interviews by USITC staff, Washington, DC, Jan.-Aug. 2004.

[7] USTR, *2004 National Trade Estimate Report on Foreign Trade Barriers*, Mar. 31, 2004, p. 188, found at *http://www.ustr.gov*, retrieved Apr. 2, 2004.

[8] Eric Smith, President, International Intellectual Property Alliance (IIPA), written submission to the Commission, Aug. 3, 2004; testimony of Joseph Papovich, Senior Vice President International, Recording Industry Association of America (RIAA), on behalf of the RIAA,and the IIPA, Trade Policy Staff Committee Public Hearing Concerning Proposed United States-Bahrain Free Trade Agreement, Washington, DC, Nov. 5, 2003; and U.S. industry representatives, interviews by USITC staff, Jan.-Aug. 2004.

[9] USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004, pp. 3-4, found at *http://www.ustr.gov,* retrieved Aug. 4, 2004; USTR official, U.S. Department of State, Foreign Service Institute course: Intellectual Property Rights, July 15, 2004; International Intellectual Property Alliance, "The U.S. Copyright Industries Laud the Conclusion of the U.S.-Bahrain Free Trade Agreement," May 27, 2004, p. 1, found at *http://www.IIPA.com*, retrieved Aug. 5, 2004; and U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004.

[10] USTR, *2004 National Trade Estimate Report on Foreign Trade Barriers*, Mar. 31, 2004, p. 188.

with aspects of copyright, trademark, satellite signal, patent, and trade secret protection, as well as IPR enforcement, in Bahrain.[11]

Copyrights, Trademarks, and Satellite Program Signals

According to U.S. industry representatives, Bahrain's copyright law needs to be modernized and strengthened because the law, which was last amended in 1993, contains a number of deficiencies, including lack of clarity, absence of important TRIPs requirements, and insufficient penalties for copyright piracy.[12] Despite the reported deficiencies in its copyright law, Bahrain has substantially reduced copyright piracy in recent years by taking advantage of U.S. technical assistance and training related to IPR. Bahrain has initiated several comprehensive copyright enforcement campaigns aimed especially at digital piracy in its video, recording, and computer software industries.[13] These efforts have significantly reduced the extent of copyright infringement in Bahrain,[14] including the unauthorized duplication and sales in Bahrain of CDs, DVDs, and other optical media containing copyrighted movies, music recordings, and other entertainment.[15] However, software piracy continues to be a problem, especially end-user customer violations.[16] Further, unlicensed copyrighted software continues to be used in some government agencies and private companies in Bahrain.[17] There is also a concern among U.S. copyright-based industries that as Internet use becomes more prevalent in Bahrain, illicit file swapping of music recordings and movies could increase as it has in other countries.[18]

U.S. government and industry officials[19] believe that Bahrain's copyright regime could be improved significantly by adopting measures to address digital piracy included in the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms[20]

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[11] U.S. industry representatives, in-person and telephone interviews by USITC staff, Washington, DC, Jan.-Aug. 2004.

[12] Testimony of Joseph Papovich, RIAA on behalf of the RIAA and the IIPA, Trade Policy Staff Committee Public Hearing Concerning Proposed United States-Bahrain Free Trade Agreement, Washington, DC, Nov. 5, 2003.

[13] USTR, *2004 National Trade Estimate Report on Foreign Trade Barriers*, Mar. 31, 2004, p. 188, found at *http://www.ustr.gov*, retrieved Apr. 4, 2004.

[14] Eric Smith, President, International Intellectual Property Alliance (IIPA), written submission to the USITC, Aug. 3, 2004.

[15] U.S. industry representatives, in-person and telephone interviews by USITC staff, Washington, DC, Jan.-Aug. 2004.

[16] Testimony of Joseph Papovich, RIAA on behalf of the RIAA and the IIPA, Trade Policy Staff Committee Public Hearing Concerning Proposed United States-Bahrain Free Trade Agreement, Washington, DC, Nov. 5, 2003; and USTR, *2004 National Trade Estimate Report on Foreign Trade Barriers*, Mar. 31, 2004, p. 188, found at *http://www.ustr.gov*, retrieved Aug. 4, 2004.

[17] U.S. industry representatives, in-person and telephone interviews by USITC staff, Washington, DC, Jan.-Aug. 2004.

[18] U.S. industry representatives, in-person and telephone interviews by USITC staff, Washington, DC, Jan.-Aug. 2004.

[19] U.S. industry and government representatives, in-person and telephone interviews by USITC staff, Washington, DC, Jan.-Aug. 2004.

[20] Phonograms are sound recordings.

Treaty (WPPT) (see text box).[21] Although Bahrain has indicated that it intends to sign both of those treaties, it has not yet done so.[22]

According to U.S. industry representatives, trademark counterfeiting[23] continues to be a problem[24] in Bahrain as infringers use established U.S. names, brands, packaging, logos, and other symbols to mislead consumers into purchasing counterfeit versions of the trademarked goods.[25] For instance, counterfeiting of software, consumer goods, food products, and pharmaceuticals all occur to some extent in that country.[26] In addition, representatives of U.S. businesses indicate that illegal importation of goods bearing counterfeit marks into Bahrain from other countries is sometimes a problem as insufficient authority and resources are provided to customs officials in that country to interdict such goods.[27]

Finally, misuse in Bahrain of well-known names and trademarks occurs in a practice known as "cyber squatting" as individuals and firms secure the rights to Internet domain names identical or misleadingly similar to well-known names to help attract consumers to their websites.

Patents and Trade Secrets

According to U.S. industry representatives, Bahrain, in cooperation with other Gulf Cooperation Council (GCC) members, has made strong efforts to improve its patent protection regime.[28] However, there are some concerns about whether a recently adopted unified GCC patent law is consistent with TRIPs national treatment and most-favored-nation obligations.[29] U.S. pharmaceutical companies are also concerned about whether there is sufficient protection of confidential clinical test data

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[21]These two treaties are often referred to as the "Internet Treaties" because they provide new international standards for the protection of copyrights and related rights in the digital environment. Both treaties went into force in 2002, once the required minimum 30 governments had formally acceded to them. The United States ratified both treaties and implemented them domestically via the Digital Millennium Copyright Act of 1998.

[22]USTR, *2004 National Trade Estimate Report on Foreign Trade Barriers*, Mar. 31, 2004, p. 188; and U.S. industry representatives, in-person and telephone interviews by USITC staff, Washington, DC, Jan.-Apr. 2004.

[23]"Counterfeiting" is a term used to refer to the unauthorized use of a representation or copy of a trademark or service mark. The counterfeiting of trademark-protected features such as words, symbols, and packaging affects a broad range of products from a number of industries, including entertainment media (video cassettes, CDs, DVDs, etc.), apparel, leather goods, toys, cigarettes, pharmaceuticals, beverages, and auto parts.

[24]The Advisory Committee for Trade Policy and Negotiations (ACTPN), *Report to the President, the Congress, and the United States Trade Representative on the U.S.-Bahrain Free Trade Agreement*, July 14, 2004, p. 4, found at *http://www.ustr.gov*, retrieved Aug. 4, 2004.

[25]U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004.

[26]U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004.

[27]U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004.

[28]USTR, *2004 National Trade Estimate Report on Foreign Trade Barriers*, Mar. 31, 2004, p. 187, found at *http://www.ustr.gov*, retrieved Aug. 4, 2004.

[29]USTR, *2004 National Trade Estimate Report on Foreign Trade Barriers*, Mar. 31, 2004, p. 187; and U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004.

The WIPO Internet Treaties

The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) are often referred to as the "Internet Treaties" because they provide new international standards for the protection of copyrights and related rights in the digital economy. The two treaties entered into force on March 6, 2002, and May 20, 2002, respectively, once the required minimum 30 countries had ratified each.

- The WCT provides that traditional means for copyright protection (for such products as books, movies, and software) should apply to works transmitted on the Internet or otherwise using digital media, technology, and protections.
- The WPPT similarly provides intellectual property protections to producers of sound recordings, as well as performers, with respect to works on the Internet or in connection with use of digital technology and media.
- Both treaties clarify that traditional rights of reproduction continue to apply in the digital environment, including the storage of material in digital form in an electronic medium.
- The treaties establish the IPR holders' rights to maintain control of their works over the Internet and other digital transmission of their works.
- The treaties ensure that right holders can use digital rights management technology to protect their rights on the Internet. The treaties' anticircumvention provisions address security and intellectual property infringement risks by requiring that signatories provide minimum levels of legal protection, including civil and criminal penalties, sufficient to deter the unauthorized circumvention of technical protective measures.
- Another provision in the treaties requires signatory countries to prohibit the intentional modification or removal of digital rights management information. This includes prohibitions against interfering with information and data that can be incorporated into the digital code of a protected work and used "to identify the work, its author, performer or owner, the terms and conditions for its use, and any other relevant attributes."
- Bahrain has not ratified either of these treaties. The United States has ratified both treaties, and implemented them domestically via the Digital Millennium Copyright Act of 1998.

Sources: Adapted, and parts excerpted, by USITC staff from information provided in the following sources: World Intellectual Property Organization (WIPO), "WIPO Copyright Treaty (adopted in Geneva on Dec. 20, 1996)" and "WIPO Performances and Phonograms Treaty (WPPT) (adopted in Geneva on Dec. 20, 1996)." and Chris Gibson, *WIPO Internet Copyright Treaties Coming Into Force*, 2002.

required for market approval of drugs that could be used by other companies for approval of unauthorized generic copies.[30] Such "data exclusivity" is required by TRIPs. Countries with more advanced IPR regimes generally provide at least 5 years of exclusive rights to such data after approval of the drug by regulatory authorities.

Enforcement

Bahrain's IPR laws and regulations are expected to improve considerably once legislation now under review by the National Assembly is passed to implement that country's TRIPs obligations; however, U.S. industry representatives report that enforcement practices could be improved.[31] Some industry representatives assert that Bahrain customs officials need increased authority and resources to prevent an increase of importations into Bahrain of copyright and trademark infringing goods, such as computer software, consumer goods, and food products.[32] They also indicate that greater civil and criminal penalties imposed by courts for copyright piracy and trademark counterfeiting done on a commercial scale would provide a deterrent effect.

Major Achievements in IPR Protection of the U.S.-Bahrain FTA

The U.S.-Bahrain FTA reaffirms the rights and obligations set forth in TRIPs, to which both the United States and Bahrain are bound. However, the FTA also goes further than TRIPs by (1) increasing protection of copyrights and trademarks to take into account advances in digital technology; (2) extending protections for copyrights, trademarks, patents, and trade secrets; and (3) increasing IPR enforcement.[33]

Copyrights, Trademarks, and Satellite Program Signals

According to U.S. industry representatives, an important accomplishment of the U.S.-Bahrain FTA is that it goes beyond TRIPs requirements to address Internet and other digital piracy.[34] In this regard, the FTA includes strong anticircumvention provisions, prohibiting interference with technologies designed to prevent piracy and unauthorized Internet distribution of copyrighted materials, such as music recordings,

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[30] Pharmaceutical Research and Manufacturers of America (PhRMA) representatives, interview by USITC staff, Washington, DC, Feb. 25, 2004.

[31] U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004.

[32] U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004.

[33] International Intellectual Property Alliance, "The U.S. Copyright Industries Laud the Conclusion of the U.S.-Bahrain Free Trade Agreement," May 27, 2004, p. 1, found at *http://www.IIPA.com*, retrieved Aug. 5, 2004; and USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004, pp. 3-4, found at *http://www.ustr.gov,* retrieved Aug. 4, 2004.

[34] U.S. copyright industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004.

movie videos, and business software.[35] Further, the FTA provides that only copyright holders have the right to make their works available online. Copyright holders maintain all rights to their works on computers and networks, thereby protecting copyrighted material from unauthorized sharing on the Internet.[36] In addition, protection for encrypted program-carrying satellite signals is extended to both the signals and the programming, in order to deter piracy of satellite television programming.[37] The FTA also requires government involvement to resolve disputes pertaining to unauthorized use of trademarked names by non-rights holders in Internet domain names.[38]

The FTA extends copyright terms of protection beyond those of TRIPs.[39] Under the FTA, where the term of protection of a work (including a photographic work), performance, or phonogram is to be calculated on the basis of a person's life, the term shall be not less than the life of the author plus 70 years after the author's death.[40] There are no corresponding terms of protection based on the life of the author explicitly provided for in TRIPs. However, by reference to the Berne Convention, the term of protection in TRIPs is life of the author plus 50 years after his death.[41] In cases, where the term of protection of a work is to be calculated on a basis other than the life of a person, the term in the FTA is 70 years from the end of the calendar year of the first authorized publication of the work.[42] The comparable period of protection in TRIPs is 50 years and does not apply to photographic works. Finally, if there is no authorized publication within 70 years from the creation of a work, the FTA term of protection is to be not less than 70 years from the end of the calendar year of the creation of the work. Again, the comparable period of protection in TRIPs is 50 years and does not apply to photographic works.

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[35] Eric Smith, President, International Intellectual Property Alliance (IIPA), written submission to the Commission, Aug. 3, 2004; and Industry Trade Advisory Committee on Intellectual Property Rights (ITAC-15), *The U.S.-Bahrain Free Trade Agreement (FTA): The Intellectual Property Provisions*, July 14, 2004, pp. 10-12.

[36] U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004; and USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004.

[37] ITAC-15, *The U.S.-Bahrain Free Trade Agreement (FTA): The Intellectual Property Provisions*, July 14, 2004, p. 12.

[38] U.S. industry representatives, in person and telephone interviews by USITC staff, Jan.-Aug. 2004; and USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004, pp. 3-4, found at *http://www.ustr.gov,* retrieved Aug. 4, 2004.

[39] USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004, pp. 3-4, found at *http://www.ustr.gov,* retrieved Aug. 4, 2004.

[40] FTA Article 14.4.4.

[41] Although the term of protection based on the life of a natural person is not specifically stated in the WTO TRIPs Agreement, article 9 of that agreement specifies that WTO members shall comply with Articles 1-21 of the Berne Convention for the Protection of Literary and Artistic Works (1971). Article 7 of the Berne Convention provides that "the term of protection granted by this Convention shall be the life of the author and fifty years after his death." For more information on the Berne Convention, see *http://www.wipo.org*.

[42] FTA Article 14.4.4.

Patents and Trade Secrets

The FTA also extends patent and trade secret protections beyond what is required by TRIPs.[43] Patent terms may be extended beyond the 20-year term required by TRIPs to compensate for up-front administrative or regulatory delays in granting the original patent.[44] The FTA also ensures that government product approval agencies deny marketing approval to patent-infringing products.[45] Finally, test data and trade secrets submitted for the purpose of marketing approval are protected against disclosure for 5 years from the date of approval for pharmaceuticals and 10 years for agricultural chemicals.[46] While these data protection provisions do not provide for any additional obligations beyond those contained in TRIPs, U.S. industry representatives indicate that they do serve to clarify and reaffirm "the intent of the negotiators of the TRIPs Agreement."[47]

Enforcement

The FTA likely will strengthen Bahrain's IPR enforcement measures.[48] For instance, the FTA requires both pre-established statutory and actual damages for copyright and trademark infringement[49] to deter IPR infringement and permit damages to be awarded even when actual economic harm cannot be calculated.[50] To further increase deterrence of copyright and trademark infringement, the FTA requires criminal procedures and penalties in cases of willful trademark counterfeiting or copyright piracy, as well as willful importation and exportation of counterfeit or pirated goods.[51] Enforcement provisions of the FTA also require that provisions be made for the seizure, forfeiture, and destruction of pirated goods,[52] goods bearing

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[43] U.S. industry representatives, in person and telephone interviews by USITC staff, Jan.-Aug. 2004; and the Advisory Committee for Trade Policy and Negotiations (ACTPN), *Report to the President, the Congress, and the United States Trade Representative on the U.S.-Bahrain Free Trade Agreement*, July 14, 2004, p. 4, found at *http://www.ustr.gov*, retrieved Aug. 4, 2004.

[44] International Intellectual Property Alliance, "The U.S. Copyright Industries Laud the Conclusion of the U.S.-Bahrain Free Trade Agreement," May 27, 2004, p. 1, found at *http://www.IIPA.com*, retrieved Aug. 5, 2004; USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004, pp. 3-4, found at *http://www.ustr.gov,* retrieved Aug. 4, 2004; and U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004.

[45] U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004; and USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004, pp. 3-4.

[46] FTA Article 14.9.1.

[47] ITAC-15, *The U.S.-Bahrain Free Trade Agreement (FTA): The Intellectual Property Provisions*, July 14, 2004, p. 16.

[48] U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004; and USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004, pp. 3-4, found at *http://www.ustr.gov,* retrieved Aug. 4, 2004.

[49] FTA Article 14.10.7.

[50] U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004; and USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004, pp. 3-4.

[51] FTA Article 14.10.26.

[52] U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004; and the Advisory Committee for Trade Policy and Negotiations (ACTPN), *Report to the President, the Congress, and the United States Trade Representative on the U.S.-Bahrain Free Trade Agreement*, July 14, 2004, p. 4, found at *http://www.ustr.gov*, retrieved Aug. 4, 2004.

counterfeit marks, and the equipment used to produce them.[53] Further, IPR laws are to be enforced not only against infringement originating within each country, but also against goods in transit to deter violators from using the country's ports or free trade zones to traffic in infringing products.[54] Finally, police and border agents are provided with greater authority to pursue on their own initiative IPR criminal enforcement in response to willful violations.[55]

Potential Effects on the U.S. Economy

The intellectual property provisions of the U.S.-Bahrain FTA reportedly address many of the most significant concerns of U.S. industry representatives and trade officials regarding the IPR policies of Bahrain.[56] Full implementation and enforcement of the IPR provisions of the FTA would increase the level of protection afforded to IPR holders and, in turn, likely result in increased revenues for U.S. industries dependent on copyrights, trademarks, patents, and trade secrets. However, due to the relatively small size of the Bahrain economy, any increases in revenues for the U.S. IPR industries would likely have a limited effect on the U.S. economy as a whole.

Among the U.S. copyright industries that would likely benefit most due to the increased digital technology protection features of the FTA are the motion picture, sound recording, business software applications, entertainment software, and book publishing industries. Industries that might benefit from the greater patent and trade secret protections include the pharmaceutical industry and the agricultural chemicals industry. A broad range of U.S. industries should benefit from strengthened trademark, trade secret, and other IPR provisions of the FTA. By comparison, because the United States already meets the relatively high standards of IPR protection and enforcement included in the U.S.-Bahrain FTA, there would be little, if any, effect on U.S. industries or the U.S. economy based on U.S. implementation of its obligations under the FTA provisions.

The report of the U.S. Industry Trade Advisory Group on Intellectual Property Rights (ITAC-15), representing a wide range of U.S. IPR interests, states that the obligations of the U.S.-Bahrain FTA IPR chapter, while falling somewhat short of those contained in the Morocco FTA, "builds upon the standards already in force in the TRIPS Agreement, the NAFTA, the Jordan, Singapore, and Chile FTAs...."[57] The report noted that the FTA increases Bahrain's levels of IPR protection beyond that required by TRIPs, including

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[53] U.S. industry representatives, telephone interviews by USITC staff, Jan-Aug. 2004.

[54] U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004; and USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004, pp. 3-4.

[55] FTA Article 14.10.23.

[56] U.S. industry representatives, in-person and telephone interviews by USITC staff, Jan.-Aug. 2004; and USTR, "Free Trade with Bahrain: A Model for Trade in the Persian Gulf Region," *Trade Facts*, Mar. 2, 2004, pp. 3-4.

[57] ITAC-15, *The U.S.-Bahrain Free Trade Agreement (FTA): The Intellectual Property Provisions*, July 14, 2004, pp. 4-7.

inclusion in the agreement of all of the obligations set forth in the WIPO Internet Treaties. Further, the group points out that the transitional provisions in the FTA represent an advance over previous FTAs, requiring, with few exceptions, adherence to international treaties referenced in the FTA upon entry into force of the FTA.[58] The report of another trade advisory group, the Advisory Committee for Trade Policy and Negotiations (ACTPN), endorses the high level of IPR protection negotiated in the U.S.-Bahrain FTA, including "state of the art protection for trademarks and digital copyrights and expanded protection of patents and trade secrets,"as well as strengthened civil and criminal enforcement provisions.

Labor

U.S. trade negotiating objectives regarding labor issues were to establish: (1) an appropriate commitment by Bahrain to the effective enforcement of its labor laws; (2) that Bahrain will strive to ensure that it will not, as an encouragement for trade, weaken or reduce the protections provided for in its labor laws; and (3) procedures for consultation and cooperative activities with Bahrain to strengthen its capacity to promote respect for core labor standards, including compliance with International Labor Organization Convention 182 on the worst forms of child labor, building on technical assistance programs administered by the U.S. Department of Labor.[59]

The ACTPN members report that they consider the U.S.-Bahrain FTA to fully meet the U.S. negotiating objectives on labor. The committee views the FTA as an effective and balanced means of implementing those negotiating objectives. The committee considers the agreement's labor provisions consistent with the standard set in other U.S. FTAs, and that these provisions set out to "providing strong assurances that the provisions cannot be used as a means of disguised protections."[60]

The Labor Advisory Committee (LAC), which includes labor and trade unions from nearly every sector of the U.S. economy, states that the U.S.-Bahrain FTA's "combination of unregulated trade and increased capital mobility not only puts jobs at risk, it places workers in both countries in more direct competition over the terms of and conditions of their employment."[61]

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[58] ITAC-15, *The U.S.-Bahrain Free Trade Agreement (FTA): The Intellectual Property Provisions*, July 14, 2004, pp. 21-22.

[59] IIGPAC, *Advisory Committee Report to the President, the Congress and the United States Trade Representative on the US-Bahrain Free Trade Agreement*, July 14, 2004, found at *http://www.ustr.gov/new/fta/Bahrain/reports/Bahrain-IGPAC%20Report7-14-04.pdf* retrieved on Aug. 4, 2004..

[60] ACTPN, *The U.S.-Bahrain Free Trade Agreement: Report of the Advisory Committee for Trade Policy and Negotiations,* Jul. 14, 2004, found at *http://www.ustr.gov/new/fta/Bahrain/reports/Bahrain-ATACFruitsVeg%20Report%2007.14.04.pdf.*

[61] The Labor Advisory Committee (LAC) expressed concerns that existing laws in Bahrain do not adequately protect core labor rights. The LAC asserts that existing laws do not protect the right to freedom of association, do not provide for collective bargaining, and place restrictions on the right to strike.

U.S. trade negotiating objectives regarding environmental issues were to: (1) promote trade and environment policies that are mutually supportive; (2) seek an appropriate commitment by Bahrain to the effective enforcement of its environmental laws; (3) strengthen the capacity of Bahrain to protect the environment through the promotion of sustainable development; and (4) seek market access for United States environmental technologies, goods, and services.

The ACTPN report considers that the environmental provisions of the U.S.-Bahrain FTA meet Congress's environmental objectives. The ACTPN approved the environmental provisions of the FTA set out in the Joint Statement on Environmental Cooperation and believe they provide effective ways of contributing to environmental improvement.

The Trade and Environment Policy Advisory Committee (TEPAC) report provides the President, Congress, and USTR with policy advice on issues involving trade and the environment, and whether and to what extent negotiated trade agreements promote the interests of the United States.[62] Overall, the TEPAC reports that a majority of the committee members support the conclusion that the U.S.-Bahrain FTA provides adequate safeguards that U.S. environmental negotiating objectives will be met. The report notes that a majority of TEPAC members consider that the public participation provisions in the FTA are acceptable; the dispute resolution procedures are sufficient to meet U.S. environmental negotiating objectives; the monetary penalties in the FTA (up to $15 million per year for noncompliance with rulings confirming violations of enforcement requirements) are adequate; and the U.S.-Bahrain Joint Statement on Environmental Cooperation is a reasonable basis for the fulfillment of objectives regarding capacity building and sustainable development.[63]

USTR reported to Congress in September 2003 on the probable effects on the United States of the environmental provisions of the U.S.-Bahrain FTA.[64] The report is

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[61]—*Continued*

Further, the FTA would "cap the maximum amount of fines and sanctions available at an unacceptably low level, and allow violators to pay fines that end up back in their own territory with inadequate oversight." p. 5. LAC, *The U.S.-Bahrain FTA: Report of the Labor Advisory Committee for Trade Negotiation and Trade Policy (LAC),* July 14, 2004, found at *http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Bahrain_FTA/Reports/asset_upload_file215_5506.pdf*, retrieved Aug. 3, 2004.

[62] TEPAC, *The U.S.-Bahrain Free Trade Agreement: Reports of the Trade and Environment Policy Advisory Committee (TEPAC).* Jul. 14, 2001, found at *http://www.ustr.gov/new/fta/Bahrain/reports/Bahrain-TEPAC%20Report_v2.pdf* , retrieved Aug 3, 2004.

[63] The report expresses the committee's view that the 30 days provided by Congress for the committee to produce reports is an inadequate period. The committee report also points out that several differing viewpoints exist among committee members. For example, TEPAC believed the agreement should have established an Environmental Affairs Council because the organization is valuable in ensuring the achievement of the broader objectives of chapter 16 of the U.S. - Bahrain FTA promote public participation and enhancing environmental cooperation and capacity building.

[64] USTR, *Interim Environmental Review of the U.S.-Bahrain Free Trade Agreement,* March 2004, found at *http://www.ustr.gov/environment/environmental.shtml,* retrieved Aug. 3, 2004.

required pursuant to provisions of the Trade Act of 2002.[65] In its report, USTR stated that,

> *[b]ased on existing patterns of trade and investment and changes likely to result from provisions of the FTA, the impact of the FTA on total U.S. production appears likely to be very small. As a result, the FTA is not expected to have significant direct effects on the U.S. environment.*[66]

Dispute Settlement

The U.S. trade negotiating objectives regarding dispute settlement were to: (1) encourage the early identification and settlement of disputes through consultation, and (2) seek to establish fair, transparent, timely, and effective procedures to settle disputes arising under the FTA. A related U.S. negotiating objective regarding customs administration enforcement was to seek terms for cooperative efforts with the Government of Bahrain regarding enforcement of customs and related issues.

ACTPN reports the agreement's dispute settlement provisions effectively provide for timely and effective resolution of disputes and the application of enforcement mechanisms that provide an adequate incentive for compliance when necessary.

The ACTPN report considers that the U.S.-Bahrain FTA contains effective dispute settlement provisions that can ensure that the FTA's requirements can be enforced. The committee report considers that these provisions are likely to allow for the timely and effective resolution of disputes and the application of enforcement mechanisms that provide an adequate incentive for compliance when needed. The committee report goes on to say that, under the FTA, suspension of tariff benefits or the application of fines are available for all disputes. The committee supports the FTA's provisions that allow for the use of fines as a preferred option, stressing that trade retaliatory measures should be taken as a last resort, since they can interfere with trade and cause considerable economic disruption. The committee also indicated that it supports the FTA's provisions that seek to deal with trade disputes through consultation and amicable dispute resolution. The committee report concludes that the U.S.-Bahrain FTA "sets high standards of openness and transparency for panel procedures."[67]

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[65] For further information on the environmental review process, see USTR, *Environmental Reviews and Reports,* found at *http://www.ustr.gov/environment/environmental.shtml,* retrieved Aug. 3, 2004.

[66] USTR, *Interim Environmental Review, p. I.*

[67] ACTPN, *The U.S.-Bahrain Free Trade Agreement: Report of the Advisory Committee for Trade Policy and Negotiations,* Jul. 14, 2004.

CHAPTER 6
Summary of Written Submissions

Government of the Kingdom of Bahrain[1]

The Government of the Kingdom of Bahrain (Government of Bahrain) asserts that the speed of the U.S.-Bahrain FTA negotiations was expected as a result of several past bilateral agreements such as the Trade and Investment Framework Agreement (TIFA) between the two countries. According to Embassy representative Dr. Naser M.Y. Al Balooshi, Bahrain has concluded bilateral agreements with over 30 nations, and is a member of the WTO and the United Nations.

The Government of Bahrain lists many positive aspects about conducting business within its borders: the strength of their banking sector, political and economic liberalization, training and education opportunities, and geographic location as a center of trade. The Government of Bahrain asserts that, while the economy of Bahrain is small compared with that of the United States, Bahrain provides a geographic center as the distribution point for the Middle East and Southwest and Southern Asia. Further, the Government of Bahrain contends that the aspect of a strong and growing Bahrain would serve as a model for other nations in the region of economic, social, and political growth. The Government of Bahrain states that the FTA would provide Bahrain's neighbors a strong confirmation that Bahrain's advances in its social, political, and economic infrastructure also enhance its trade posture with the United States.

American Dehydrated Onion and Garlic Association[2]

The American Dehydrated Onion and Garlic Association (ADOGA), representing two firms that account for the majority of U.S. dehydrated onion and garlic production, opposes a U.S.-Bahrain FTA. ADOGA states that, although there have been no imports of the subject products from Bahrain in recent years, Bahrain poses a serious threat to the U.S. industry, both as a potential supplier and as a country through which dehydrated onions and garlic may be transshipped. Bahrain already produces other vegetables and benefits from a climate favorable for raising onions and garlic. The majority of ADOGA firms' production is sold to institutional and food-service buyers for use, in very small amounts, as an ingredient in other processed foods. With the cost

[1] Dr. Naser M.Y. Al Balooshi, economic representative, Washington, DC, Embassy of the Kingdom of Bahrain.

[2] Irene Ringwood, Ball Janik LLP, Washington, DC, counsel, the American Dehydrated Onion and Garlic Association.

of dried onions or garlic accounting for a very small share of the cost of the end product in which it is used, product consistency, convenience, and price are the major determinants for dehydrated onion or garlic sales. ADOGA states that any imports from Bahrain would place additional downward price pressure on U.S. production and further exacerbate the competitive position of the U.S. industry. Finally, ADOGA states that Bahrain, with its small population, is not a potential export market for U.S. produced dried onions and garlic.

Consumers for World Trade[3]

Consumers for World Trade (CWT) is a national, nonprofit, nonpartisan organization representing the interests of consumers in international trade policy. CWT states that it applauds the elimination of duties on consumer, industrial, and agricultural products. However, CWT is concerned over the FTA rules of origin for apparel, textiles, and footwear, which it asserts are restrictive. CWT contends that the incorporation of simple and flexible rules of origin would have resulted in lower prices for a wider array of exports from Bahrain, leading to benefits for U.S. consumers.

CWT states that the elimination of tariffs will not only benefit consumers through price reductions, but also stimulate greater competition among suppliers, leading to increased product innovation and choice in the marketplace. Further, CWT contends that the bilateral agreements provide an important opportunity for U.S. exporters to achieve increased access to a foreign market and provide a more open and competitive U.S. market for U.S. consumers.

International Intellectual Property Alliance[4]

The International Intellectual Property Alliance (IIPA) is a coalition of six trade associations representing over 1,300 U.S. companies that produce and distribute materials protected by copyright laws throughout the world. These materials include all types of computer software, including business applications and entertainment software; theatrical films, television programs, home videos and digital representations of audiovisual works; music, records, CDs, DVDs, and audiocassettes; and textbooks, tradebooks, reference and professional publications, and journals in both electronic and print media. IIPA supports the U.S.-Bahrain FTA provisions on intellectual property protection.

IIPA states that the U.S.-Bahrain FTA should significantly raise standards of copyright protection and enforcement in Bahrain and serve as a model for the rest of the Gulf region. IIPA notes that the FTA will require Bahrain to update its copyright law by making it compatible with its obligations under the TRIPs Agreement and the World Intellectual Property Organization (WIPO) Internet Treaties concluded in 1996. IIPA

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[3] Robin W. Lanier, Executive Director, Consumers for World Trade.
[4] Eric H. Smith, President, International Intellectual Property Alliance.

indicates that the FTA will compel Bahrain to (1) extend the terms of copyright protection of works, (2) afford full TRIPs protection for preexisting works, (3) modernize protection for computer programs and databases, (4) provide exclusive rights of protection for record producers, and (5) provide full protection against circumvention of technological measures and rights management information. According to IIPA, to improve enforcement, the FTA will require that Bahrain strengthen civil remedies and increase criminal penalties for copyright piracy.

U.S.-Bahrain Free Trade Agreement Coalition[5]

The U.S.-Bahrain Free Trade Agreement Coalition (Coalition), organized under co-secretariats comprised of the Business Council for International Understanding, the National Foreign Trade Council, and the National U.S.-Arab Chamber of Commerce, states that the U.S.-Bahrain FTA is in the national interest of the United States. The Coalition asserts that the U.S.-Bahrain FTA creates momentum toward a Middle East Free Trade Area (MEFTA) and that it supports the Administration's strategy in moving toward a MEFTA. The Coalition contends that the FTA will extend the strategic partnership between the United States and Bahrain to the economic and commercial sphere.

According to the Coalition, in addition to the tariff eliminations under the FTA, U.S. service industries will benefit from the FTA provisions. The Coalition asserts that the FTA will provide substantial market access across the entire range of services and strong disciplines on regulatory transparency. Additionally, the Coalition states that the agreement provides important commitments and protection for U.S. intellectual property industries—commitments on nondiscriminatory treatment of digital products and state-of-the-art protections for copyrighted works, patents, trade secrets, and trademarks. Further, the Coalition states that the FTA provisions establish an important benchmark for other countries in the region seeking expanded trade ties with the United States.

[5] Jeffrey Donald, Vice President, Business Council for International Understanding.

APPENDIX A
Request Letter

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

JUN 2[illegible] 2004

DOCKET NUMBER
2380
Office of the Secretary
Int'l Trade Commission

The Honorable Stephen Koplan
Chairman
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

Dear Chairman Koplan:

As you know, the United States and Bahrain recently completed the negotiation of a comprehensive bilateral free trade agreement (FTA). The advice that the U.S. International Trade Commission ("Commission") provided over the course of these negotiations assisted us greatly in bringing the FTA negotiations to a successful conclusion.

The President notified Congress of his intent to enter into the FTA with Bahrain on June 15, 2004. Pursuant to authority delegated to me by the President and in accordance with section 2104(f) of the Trade Act of 2002 (Trade Act), I request the Commission prepare a report as specified in section 2104(f)(2)-(3) of the Trade Act assessing the likely impact of the FTA on the United States economy as a whole and on specific industry sectors and the interests of U.S. consumers.

I would greatly appreciate it if the Commission could issue its report as soon as possible. USTR staff will provide the Commission with the details of the FTA immediately and will be available to answer questions and provide additional information. The text of the Agreement has been available to the public since June 21.

Thank you for your continued cooperation and assistance in this matter.

Thanks to you + the staff!

Sincerely,

Bob

Robert B. Zoellick

APPENDIX B
Federal Register Notices

Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On July 6, 2004, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. With regard to subject stainless steel plate from Belgium and Korea, the Commission found that both the domestic interested party group responses and the respondent interested party group responses to its notice of institution (69 FR 17235, April 1, 2004) were adequate and voted to conduct full reviews. With regard to subject stainless steel plate from Canada, Italy, South Africa, and Taiwan, the Commission found that the domestic interested party group responses were adequate and the respondent interested party group responses were inadequate. Although the Commission did not receive a response from any respondent interested parties in the reviews concerning subject imports from Canada, Italy, South Africa, or Taiwan, it determined to conduct full reviews to promote administrative efficiency in light of its decision to conduct full reviews with respect to the reviews concerning subject imports from Belgium and Korea. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: July 22, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–17169 Filed 7–27–04; 8:45 am]

BILLING CODE 7020–02–U

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–770–775 (Review)]

Stainless Steel Wire Rod from Italy, Japan, Korea, Spain, Sweden, and Taiwan

Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty orders on stainless steel wire rod from Italy, Japan, Korea, Spain, Sweden, and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on August 1, 2003 (68 FR 45277) and determined on November 4, 2003 that it would conduct full reviews (68 FR 65085, November 18, 2003). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on February 3, 2004 (69 FR 5185). The hearing was held in Washington, DC, on May 18, 2004, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these reviews to the Secretary of Commerce on July 22, 2004. The views of the Commission are contained in USITC Publication 3707 (July 2004), entitled *Stainless Steel Wire Rod from Italy, Japan, Korea, Spain, Sweden, and Taiwan: Investigations Nos. 731–TA–770–775 (Review).*

Issued: July 23, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–17170 Filed 7–27–04; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson dissenting with respect to stainless steel wire rod from Italy, Korea, Spain, and Sweden.

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–2104–15]

U.S.-Bahrain Free Trade Agreement: Potential Economywide and Selected Sectoral Effects

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: Following receipt on June 28, 2004 of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. TA–2104–15, U.S.-Bahrain Free Trade Agreement: Potential Economywide and Selected Sectoral Effects, under section 2104(f) of the Trade Act of 2002 (19 U.S.C. 3804(f)).

Background: As requested by the USTR, the Commission will prepare a report as specified in section 2104(f)(2)–(3) of the Trade Act of 2002 assessing the likely impact of the U.S. Free Trade agreement with Bahrain on the United States economy as a whole and on specific industry sectors and the interests of U.S. consumers. The report will assess the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers. In preparing its assessment, the Commission will review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and will provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

Section 2104(f)(2) requires that the Commission submit its report to the President and the Congress not later than 90 days after the President enters into the agreement, which he can do 90 days after he notifies the Congress of his intent to do so. The President notified the Congress on June 15, 2004, of his intent to enter into an FTA with Bahrain.

The Commission has begun its assessment, and it will seek public input for the investigation through a public hearing on August 10, 2004 (see below).

DATES: Effective July 26, 2004.

FOR FURTHER INFORMATION CONTACT: Project Leaders, Thomas Jennings, (202–205–3260) or Walker Pollard (202–205–3228), Office of Economics. For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). For media information, contact Peg O'Laughlin (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Public Hearing: A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on August 10, 2004, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., August 3, 2004 in accordance with the requirements in the "Submissions" section below. In the event that, as of the close of business on August 3, 2004, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary (202–205–2000) after August 5, 2004, to determine whether the hearing will be held.

Statements and Briefs: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements or briefs concerning the investigation in accordance with the requirements in the "Submissions" section below. Any prehearing briefs or statements should be filed not later than 5:15 p.m., August 3, 2004; the deadline for filing post-hearing briefs or statements is 5:15 p.m., August 17, 2004.

Submissions: All written submissions including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8); any submission that contains confidential business information must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.8 of the rules requires that a signed original (or a copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted. Section 201.6 of the rules requires that the cover of the document and the individual pages be marked clearly as to whether they are the "confidential" or "nonconfidential" version, and that the confidential business information be clearly identified by means of brackets.

The Commission intends to prepare only a public report in this investigation. The report that the Commission sends to the President and the Congress and makes available to the public will not contain confidential business information. Any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in a manner that would reveal the operations of the firm supplying the information.

The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's Rules (19 CFR 201.8)(see Handbook for Electronic Filing Procedures, *ftp://ftp.usitc.gov/pub/reports/electronic_filing_handbook.pdf).* Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

Issued: July 26, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–17326 Filed 7–27–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for the STOP Violence Against Indian Women Discretionary Grant Program.

The Department of Justice, Office of Justice Programs, Office on Violence Against Women has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 69, Number 57, on page 13878 on March 24, 2004, allowing for a 60-day comment period. The purpose of this notice is to allow for an additional 30 days for public comment until August 27, 2004. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for STOP Violence Against Indian Women Discretionary Grant Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: The affected public includes the 165 grantees from the STOP Violence Against Indian Women Discretionary Grant Program. The STOP Violence Against Indian Women Discretionary Grants are designed to develop and strengthen tribal law enforcement and prosecutorial strategies to combat violent crimes against Indian

APPENDIX C
Technical Appendix

Model for Evaluating the Effect of Eliminating Tariffs on Textiles and Apparel

This appendix presents the methodology used to analyze the effects of immediate tariff elimination for selected products from Bahrain on total U.S. imports of affected products, competing U.S. industries, and U.S. consumers. First, the methodology is introduced. Then the derivation of the model for estimating changes in imports, U.S. domestic production, and net welfare effects is presented.

Introduction

Commission staff used partial equilibrium modeling to estimate economic effects of immediate tariff elimination on total U.S. imports, competing U.S. industries, and U.S. consumers. The model used in this study is a nonlinear, imperfect substitutes model.[1] Trade and U.S. production data were taken from official statistics of the U.S. Department of Commerce. Import substitution elasticities were taken from Hertel et al.,[2] and other elasticities were estimated by USITC industry analysts in consultation with the assigned economist based on relevant product and market characteristics. Trade and production data and tariff rates are for 2003.

The following model illustrates the case of granting a product FTA duty-free status. The illustration is for a product for which domestic production, FTA imports, and non-FTA imports are imperfect substitutes, and shows the basic results of a tariff removal on a portion of imports.

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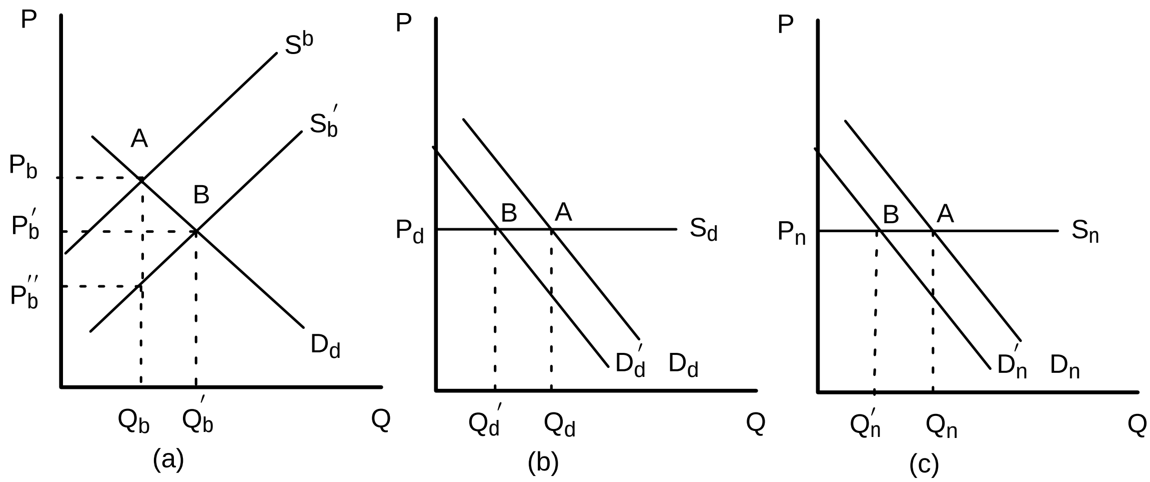
[1] For derivations, see Paul S. Armington, "A Theory of Demand for Products Distinguished by Place of Production," *IMF Staff Papers*, vol. 16 (1969), pp. 159-176, and J. Francois and K. Hall, "Partial Equilibrium Modeling," in J. Francois and K. Reinert, eds., *Applied Methods for Trade Policy Analysis, A Handbook* (Cambridge: Cambridge University Press, 1997).

[2] Thomas Hertel, David Hummels, Maros Ivanic, and Roman Keeney, *How Confident Can We Be in CGE-Based Assessments of Free Trade Agreements?* GTAP Working Paper No. 26, 2003, available at *http://www.gtap.agecon.purdue.edu/resources/working_papers.asp*.

Figure C-1
U.S. markets for FTA beneficiary imports (panel a), domestic production (panel b), and nonbeneficiary imports (panel c)



Consider the market for imports from Bahrain illustrated in fig. C-1, panel (a). The line labeled D_b is the U.S. demand for imports from Bahrain, the line labeled S_b is the supply of imports from Bahrain with the tariff in place, and the line labeled S_b' is the supply of imports from Bahrain without the tariff (i.e., the product is receiving duty-free treatment under the FTA). Point *A* is the equilibrium with the tariff in place, and point *B* is the equilibrium without the tariff. Q_b and Q_b' are equilibrium quantities at *A* and *B*, respectively. P_b and P_b' are equilibrium prices at *A* and *B*, and P_b'' is the price received by Bahrain producers when the tariff is in place. The difference between P_b and P_b'' denotes the tariff, *t*.

In the model, a tariff reduction leads to a decrease in the price of the imported good and an increase in sales of the good in the United States. The lower price paid for the import in the United States leads to a reduction in the demand for U.S. production of the good, as well as for imports from non-FTA countries. These demand shifts, along with supply responses to the lower demand, determine the reduction in U.S. output and non-FTA imports.

The changes in panel (a) lead to the changes seen in panels (b) and (c), where the demand curves shift from D_d and D_n to D_d' and D_n', respectively. Equilibrium quantity in the market for domestic production moves from Q_d to Q_d', and in a similar manner for the market for nonbeneficiary imports, equilibrium quantity falls from Q_n to Q_n'.

Derivation of Import, U.S. Production, and Net Welfare Effects

The basic building blocks of the model are shown below. Armington shows that if consumers have well-behaved constant elasticity of substitution (CES) utility functions, demand for a good in a product grouping can be expressed as follows:

$$q_i = b_i^{\sigma} q \left(\frac{p_i}{p}\right)^{-\sigma} \tag{1}$$

where q_i denotes quantity demanded for good i in the U.S. market;[3] P_i is the price of good i in the U.S. market; σ is the elasticity of substitution for the product grouping; q is the demand for the aggregate product (that is, all goods in the product grouping); p is a price index for the aggregate product (defined below); and b_i^{σ} is a constant.[4] As Armington states, the above equation "... can be written in a variety of useful ways."[5] One of these useful ways can be derived as follows. The aggregate price index p is defined as

$$p = \left(\sum_i b_i^{\sigma} p_i^{\,1-\sigma}\right)^{\frac{1}{1-\sigma}} \tag{2}$$

In addition the aggregate quantity index q can be defined as

$$q = k_A\, p^{\eta_A} \tag{3}$$

where k_A is a constant η_A and is the aggregate demand elasticity for the product grouping (natural sign). Substituting equation (3) into equation (1) yields

$$q_i = b_i^{\sigma} k_A\, p^{\eta_A} \left(\frac{p_i}{p}\right)^{-\sigma} .$$

Further manipulation and simplification yields

$$q_i = b_i^{\sigma} k_A \frac{p^{(\sigma+\eta_A)}}{p_i^{\sigma}} ,$$

---

[3] The product grouping consists of similar goods from different sources. For example, goods *i*, *j*, and *k* would indicate three similar goods from three different sources. See Armington (1969) for further discussion of the concept.

[4] Armington (1969), p. 167.

[5] Ibid., p. 168.

which establishes the demand for q_i in terms of prices, elasticities, and constants.

The supply of each good in the product grouping is represented in constant supply elasticity form:

$$q_i = K_{si}\, p_i^{\varepsilon_{si}},$$

where K_{si} is a constant and ε_{si} is the price elasticity of supply for good i.

Excess supply functions are set up for each good in the product grouping with the following general form:

$$K_{si}\, p_i^{\varepsilon_{si}} - b_i^{\sigma} K_A \frac{p^{\sigma+\eta_A}}{p^{\sigma}} = 0. \qquad (4)$$

The model is calibrated using initial trade and production data and setting all internal prices to unity in the benchmark calibration. It can be shown that calibration yields $K_{si} = b_i^{\sigma} k_A$ for the i^{th} good so that equation (4) can be rendered as ith good so that equation (4) can be rendered as

$$p_i^{\varepsilon_{si}} - \frac{p^{\sigma+\eta_A}}{p_i^{\sigma}} = 0. \qquad (4')$$

If there are n goods, the model consists of n equations like (4′) plus an equation for the price aggregator p, which are solved simultaneously in prices by an iterative technique.

For the case of a product eligible for FTA duty-free treatment, the equations are as follows:

$$\left[p_b\,(1+t)\right]^{\varepsilon_{sb}} - \frac{p^{\sigma+\eta_A}}{p_b^{\sigma}} = 0$$ for imports from FTA <u>b</u>eneficiary countries,

$$p_n^{\varepsilon_{sn}} - \frac{p^{\sigma+\eta_A}}{p_n^{\sigma}} = 0$$ for imports from <u>n</u>on-partner countries,

$$p_d^{\varepsilon_{sd}} - \frac{p^{\sigma+\eta_A}}{p_d^{\sigma}} = 0$$ for U.S. <u>d</u>omestic production, and

$$p = \left(\sum_{i=b,n,d} b_i^{\sigma} p_i^{1-\sigma}\right)^{\frac{1}{1-\sigma}}$$ for the price aggregator.

The prices obtained in the solution to these equations are used to calculate trade and production values, and resulting percentage changes in total imports and domestic production are computed relative to the original (benchmark) import and production values.

Net welfare effects

The net welfare effect (or net consumer benefit) is measured by the area of the triangle below points A and B in figure C-1. This area

$$CS = 0.5\,(Q'_b - Q_b)\,(P_b - P'_b)$$

represents the gain in consumer surplus net of lost tariff revenue, the net benefit of being able to buy a greater quantity of imported goods at a lower price.

APPENDIX D
General Effects of Trade Agreements

Studying the economic impact of a free trade agreement (FTA) entails investigating static effects such as trade creation and trade diversion, as well as terms of trade (i.e., the price of exports relative to the price of imports). In addition, issues related to scale effects and nonquantifiable effects have to be considered. A discussion of these issues is presented below.

Static Effects: Trade Creation and Trade Diversion

Trade liberalization can in general be undertaken in two different manners. First, it can be based on the "most favored nation" (MFN) principle where better market access is granted to all trading partners equally. The classical "gains from trade" argument asserts that such trade liberalization would help consumers have access to more goods at lower prices, and producers have more sources for their inputs and more markets for their products (for which they may receive higher prices). Second, it can be done in a *preferential* way, with better market access granted to one partner but not to others. It should be noted that better market access can result not only from bilateral tariff removal but also from other negotiated provisions in the areas of cross-border trade in services, telecommunications, electronic commerce (e-commerce), and government procurement effects, all of which are not readily quantifiable. An FTA, such as the one between the United States and Bahrain, is an agreement in which preferential liberalization is undertaken reciprocally between participating countries.[1]

To the extent that FTAs are designed to liberalize trade, they are likely to engender economic gains similar to those of an MFN liberalization. However, given their discriminatory nature, studying the economic impact of FTAs involves additional issues that are not present in an MFN liberalization. The traditional way to study an FTA is to categorize the FTA-induced trade expansion into trade creation or trade diversion.[2] Trade creation improves welfare and occurs when partner country production displaces higher-cost domestic production. Trade diversion reduces welfare and occurs when partner country production displaces lower-cost imports from the rest of the world.[3] The combined effect of an FTA on intrabloc trade will then reflect trade

[1] It should be noted that, while negotiated bilaterally, some FTA provisions such as those related to customs administration or labor and environment tend to be applied in a nondiscriminatory manner and are closer to the MFN principle.

[2] The seminal works on this issue are J. Viner, *The Customs Union Issue* New York: Carnegie Endowment for International Peace, 1950 and J. Meade, *The Theory of Customs Union* Amsterdam: North Holland, 1955.

[3] Losses from trade diversion occur when lost tariff revenue associated with changes in the pattern of trade exceeds efficiency gains from the decline of the prices paid by consumers. These losses will be larger the higher the FTA's margin of preferences (i.e., the trade barriers facing nonmembers relative to intra-FTA barriers).

creation as well as trade diversion. Whether the trade-creation (welfare enhancing) or the trade-diversion (welfare reducing) effects dominate depends on a variety of factors, including external trade barriers, cost differences, and relative supply and demand responses and other domestic policies. Thus, the overall welfare impact of an FTA can be empirically determined.

Static Effects: Terms of Trade

The impact of an FTA also can be studied from a "terms of trade" (i.e., the price of exports relative to the price of imports) viewpoint. If the participating countries are large enough to be able to affect import and export prices by their actions, the establishment of an FTA is likely to affect the terms of trade of a given FTA member in three different ways. First, by increasing the demand for its partner's products, the country's own preferential trade liberalization may increase the (pretariff) price of its imports from the partner country leading to a deterioration in its terms of trade. Second, tariff reductions by the partner country could increase the demand (and the price) for the FTA member's exports and improve its terms of trade. Finally, the decreased demand for imports originating from nonmember countries tends to decrease their price and improve the FTA members' terms of trade. Therefore, the impact on economic welfare will depend on whether the terms of trade have improved or deteriorated for a given partner country.

Scale Effects

To the extent that FTAs integrate (and, hence, enlarge) markets, some would argue that they offer firms an opportunity to exploit economies of scale (or increasing returns to scale) and to lower costs by expanding production. Moreover, by increasing the intensity of competition, an FTA can potentially induce firms to make efficiency improvements in order to raise productivity levels.[4] It has, for instance, been pointed out that firms in Canada have long argued that U.S. market access would enable them to exploit economies of scale, and that this access would allow them to increase their exports not only to the countries in North America, but also to the rest of the world.[5] Increasing returns also affect the volume of trade in inputs and intermediate goods used by increasing-return industries because as firms expand production and exploit economies of scale, they need to purchase more inputs and intermediate goods. These goods may be imported from inside or outside the FTA.

[4] A closely related gain comes from increased competition as firms are induced to cut prices and to expand sales, benefitting consumers as the monopolistic distortion is reduced.

[5] H.J. Wall, "NAFTA and the Geography of North American Trade," *Federal Reserve Bank of St. Louis Review*, vol. 85, no. 2, Mar./Apr. 2003.

The enlarged FTA market also may attract investment, including foreign direct investment (FDI), especially investment for which market size is important.[6] It should be noted that the higher the FTA's margin of preference, the more attractive it will be as an FDI destination. In the long run, changes in trade flows can lead to substantial changes in the location of production between member countries of an FTA. These relocations may be determined by comparative advantage (i.e., the removal of barriers might lead each country to produce the goods that it best produces.) Alternatively, sectors with strong backward or forward linkages may all relocate to one country and take advantage of the preferential access to cater to the whole FTA market from there. These agglomeration effects are stronger in the presence of economies of scale. The impact of an FTA will depend on the increased level of economic activity within the FTA and on the distribution of the effects among members.

Nonquantifiable Effects

In addition to the generally quantifiable effects discussed so far, regional integration can provide other potential benefits that are more difficult to evaluate. A World Bank publication discusses a variety of additional effects (or classes of effects) that may result from regional integration agreements.[7] One such effect is enhanced security (either against nonmembers or between members).[8] Another potential benefit is that by forming a unit and pooling their bargaining power, FTA members can negotiate more efficiently in international forums. Regional integration can also be useful in "locking in" domestic (trade or other policy) reforms by raising the cost of policy reversal. Another possible gain is the increased possibilities for cooperation in environmental or technological assistance projects. The nonquantifiable effects pertaining to the U.S.-Bahrain FTA are associated with market access provisions related to cross-border trade in services, telecommunications, and government procurement; trade facilitation provisions related to customs administration and technical barriers; and regulatory environment provisions related to intellectual property rights, trade remedies, and labor and environment.[9]

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[6] In addition to the effects of tariff liberalization, many FTAs have explicit investment provisions (such as improved and secure investment environment) that would further enhance these effects. Investment provisions are not included as part of the U.S.-Bahrain FTA.

[7] The World Bank, *Trade Blocs* New York: Oxford University Press, 2000, p. 66.

[8] For additional information, see Maurice Schiff and L. Alan Winters, "Regional Integration as Diplomacy," *World Bank Economic Review*, 1998, vol. 12, no. 2, pp. 271–296. As has been mentioned above, the impact of negotiated commitments of an FTA related to intellectual property rights and customs administration and services are not readily quantifiable.

[9] Qualitative assessments of the impact of the U.S.-Bahrain FTA on these negotiated objectives is provided in chs. 3 through 5 of this report.