

United States International Trade Commission

U.S.-Oman Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects

Investigation No. TA-2104-19
USITC Publication 3837
February 2006



U.S. International Trade Commission

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Address all communications to
Secretary to the Commission
United States International Trade Commission
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U.S. International Trade Commission

Washington, DC 20436

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This report was principally prepared by the Office of Industries

Robert W. Wallace, **Project Leader**
Office of Industries

and

Nannette Christ, **Deputy Project Leader**
Office of Economics

Office of Economics

William Deese and William Powers

Office of Industries

Laura Bloodgood, Heidi Colby-Oizumi, Eric Forden, Cynthia Foreso, Christopher Johnson, Katherine Linton, Deborah McNay, Bill Lipovsky, Eric Land, Kimberlie Freund, Jennifer Baumert, William Chadwick, Dennis Luther, Lisa Alejandro-Ferens, Timothy McCarty, and David Ingersoll

General Counsel
William Gearhart

Office of Tariff Affairs

Donnette Rimmer and Jan Summers

Library Services
Wendy E. Willis

Primary Reviewers
James Stamps and Laura Polly

Supporting assistance was provided by
Brenda Carroll, Monica Reed, and Lynette Gabourel
Office of Industries

Clarification Based on Post-Report Information

Subsequent to the publication of this report, the U.S. International Trade Commission was provided a copy of a letter dated September 28, 2005, from the Minister of Commerce and Industry of Oman to the United States Trade Representative “regarding Oman’s participation in the Arab Boycott of Israel” (a copy of the letter appears on the next page). On the basis of information contained in the letter, the Commission provides the following clarification (designated in bold).

Chapter 1

Page 1-4, “FTA Chapter 1–Establishment and Definitions,” first paragraph, last sentence should read as follows:

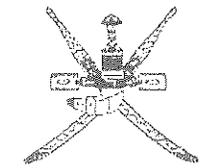
Oman is a member of the Arab League; **the Minister of Commerce and Industry of Oman states that “Oman does not apply any aspect of the boycott, whether primary, secondary or tertiary or have any laws to that effect” and that “the Government is taking steps to ensure that all Ministries are aware of the situation and remove any boycott language that may unintentionally remain in their contracts.”**¹ The President has waived certain restrictions under the Foreign Relations Acts of 1994 and 1995, as amended, with respect to Oman.²

¹ See letter dated September 28, 2005, from the Minister of Commerce and Industry of Oman to the United States Trade Representative, provided to the U.S. International Trade Commission on February 13, 2006.

² Under Public Law 103-236, as amended (108 Stat. 484; April 30, 1994), no defense article or defense service can be sold or leased by the United States Government to any country or international organization that is known to have sent letters to U.S. firms to ask that the firms comply with the secondary or tertiary Arab League boycott of Israel or to solicit information about such compliance. The President can determine, and certify to Congressional committees, that a country or organization does not participate (in policy or in practice) in such boycotts as provided in the Act. In addition, he can waive, for a 1-year period, the application of the law to a country or organization by determining and reporting to these committees that such waiver is in the national interest of the United States and will promote the objectives of the Act to end the boycott, or that the waiver is in the national security interest of the United States. The most recent document issued by the Department of Treasury concerning Oman indicates that Oman “may require participation in, or cooperation with” the boycott (69 F.R. 75604 of December 17, 2004). **The clarification is supported by a notice published by the Department of State in the Federal Register of October 14, 2005, which states that, on May 13, 2005, the Department of State extended a suspension of the application of the prohibitions on certain sales and leases under the above statute with respect to Oman, effective through May 1, 2006 (70 F.R. 60127).**

Sultanate of Oman
Ministry of Commerce and Industry
Muscat

maci/556



مكتب الوزير

Minister's Office

سلطنة عُمان
وزارة التجارة والصناعة
مسقط

28 September 2005

The Honorable Robert Portman,
US Trade Representative
600 17th Street, NW
Washington DC 20508,
United States of America

Dear Ambassador Portman,

Please accept my congratulations on your recent appointment to serve as the US Trade Representative.

It has come to my attention that questions have arisen regarding Oman's participation in the Arab Boycott of Israel. I would like to assure you that Oman does not apply any aspect of the boycott, whether primary, secondary or tertiary or have any laws to that effect. Oman has no restriction whatsoever on U.S. companies trading with Oman or doing business with Oman, regardless of its ownership or relations with Israeli companies, and the Government is taking steps to ensure that all Ministries are aware of the situation and remove any boycott language that may unintentionally remain in their contracts.

As a Member of the World Trade Organization (WTO), Oman did not invoke the non-application provisions of the WTO Agreement toward any other Member, and therefore has all WTO rights and obligations with respect to all Members.

Your sincerely,


Maqbool Bin Ali Sultan
Minister of Commerce and Industry

ABSTRACT

The free trade agreement (FTA) between the United States and Oman will likely spur U.S. trade with Oman in goods and services by eliminating tariff and nontariff barriers. Under the market access provisions of the FTA, the United States and Oman will provide each other immediate duty-free access for tariff lines covering almost all consumer and industrial goods and 87 percent of all agricultural tariff lines; both countries will phase out all tariffs on the remaining eligible goods within 10 years. The FTA contains trade facilitation measures designed to expedite the movement of goods and the provision of services between Oman and the United States; investment provisions intended to strengthen protections for U.S. investors operating in Oman; and provisions on safeguards, intellectual property rights, government procurement, labor, environment, and dispute settlement to improve the regulatory climate for bilateral trade and investment.

The expected growth in U.S. trade with Oman under the FTA would likely have a small but positive impact on the U.S. economy, with the benefits moderated by the relatively small size of Oman's economy and Oman's share of total U.S. trade. The majority of U.S. imports from Oman already enter duty-free or at low tariffs, while most U.S. exports to Oman face a tariff of 5 percent ad valorem. The elimination of U.S. tariffs under the FTA would likely have the greatest effect on U.S. imports of apparel from Oman, albeit from a small and diminished 2005 base. As such, the expected increase in U.S. apparel imports from Oman would likely be small in absolute value and quantity terms, and the resulting increased annual level of U.S. apparel imports from Oman would likely remain below the 2004 level of U.S. apparel imports from Oman. Most of the expected increase in U.S. apparel imports from Oman would likely displace U.S. apparel imports from other countries, rather than domestic production, and thus have almost no effect on U.S. industry. The FTA would also increase opportunities for U.S. exports to Oman, which would eliminate tariffs immediately on U.S. products that accounted for 91 percent of U.S. exports to Oman in 2004.

U.S. bilateral merchandise trade with Oman in 2004 totaled \$736 million, representing less than 0.5 percent of total U.S. trade. U.S. exports to Oman totaled \$314 million and consisted mainly of motor vehicles, machinery, measuring instruments, and related goods; U.S. imports from Oman were \$422 million and consisted mostly of energy and apparel products.

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ABBREVIATIONS AND ACRONYMS

ATC	Agreement on Textiles and Clothing
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 (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates)
GDP	gross domestic product
GSP	Generalized System of Preferences
HS	Harmonized System
HTS	Harmonized Tariff Schedule of the United States
IMF	International Monetary Fund
IPR	intellectual property rights
ITAC	Industry Trade Advisory Committee
MFN	most-favored-nation
NTR	normal trade relations
OECD	Organization for Economic Cooperation and Development
PE	partial equilibrium model
SMEs	square meters equivalent
SPS	sanitary and phytosanitary
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
WTO	World Trade Organization

U.S. Trade Advisory Groups:

ACTPN	Advisory Committee for Trade Policy and Negotiations
APAC	Agricultural Policy Advisory Committee for Trade
ATAC	Agricultural Technical Advisory Committee
IGPAC	Intergovernmental Policy Advisory Committee
ITAC 1	Industry Trade Advisory Committee on Aerospace Equipment

ABBREVIATIONS AND ACRONYMS—

Continued

ITAC 2	Industry Trade Advisory Committee on Automotive Equipment and Capital Goods
ITAC 3	Industry Trade Advisory Committee for Chemicals, Pharmaceuticals, Biotech and Health/Science Products and Services ITAC 4
	Industry Trade Advisory Committee on Consumer Goods
ITAC 5	Industry Trade Advisory Committee on Distribution Services for Trade Policy Matters
ITAC 6	Industry Trade Advisory Committee on Energy and Energy Services
ITAC 7	Industry Trade Advisory Committee on Forest Products for Trade Policy Matters
ITAC 8	Industry Trade Advisory Committee for Information and Communications Technologies, Services and Electronic Commerce
ITAC 9	Industry Trade Advisory Committee on Non-Ferrous Metals and Building Materials
ITAC 10	Industry Trade Advisory Committee on Services and Finance Industries
ITAC 11	Industry Trade Advisory Committee on Small and Minority Business
ITAC 12	Industry Trade Advisory Committee on Steel
ITAC 13	Industry Trade Advisory Committee on Textiles and Clothing
ITAC 14	Industry Trade Advisory Committee on Customs and Trade Facilitation
ITAC 15	Industry Trade Advisory Committee on Intellectual Property
ITAC 16	Industry Trade Advisory Committee on Standards and Technical Trade Barriers
LAC	Labor Advisory Committee for Trade Negotiations and Trade Policy
TEPAC	Trade and Environment Policy Advisory Committee

EXECUTIVE SUMMARY

The U.S.-Oman free trade agreement (FTA) will grant immediate duty-free access for tariff lines covering almost all consumer and industrial goods and 87 percent of all agricultural tariff lines, eliminate nontariff barriers, and liberalize trade in services between the United States and Oman. Both countries will phase out all tariffs on the remaining eligible goods within 10 years.¹ The FTA contains provisions intended to expedite the movement of goods and the provision of services between the two countries and improve the regulatory climate for bilateral trade and investment.

Section 2104(f) of the Trade Act of 2002 requires that the U.S. International Trade Commission (Commission) submit a report to the President and the Congress not later than 90 calendar days after the President enters into the agreement,² assessing the likely impact of the agreement on the U.S. economy as a whole and on specific industry sectors.³ The Commission's assessment of the U.S.-Oman FTA consists of quantitatively estimated effects of tariff elimination on trade in goods and qualitatively estimated effects of all FTA provisions, including those on trade in services, trade facilitation, and the regulatory environment. A summary of the key FTA provisions appears in table ES-1 at the end of this executive summary.

Summary of Findings on Market Access

The U.S.-Oman FTA will likely have a small but positive impact on the U.S. economy. The benefits will likely be moderated by the relatively small size of Oman's economy and Oman's share of U.S. trade; Oman accounted for less than 0.5 percent of total U.S. goods trade in 2004. The trade and welfare effects of tariff elimination on trade in goods will likely be negligible, reflecting not only the small volume of trade between the United States and Oman, but also the low tariffs on current bilateral trade.

Tariff liberalization under the FTA will likely have little effect on the U.S. economy, industry, and consumers because U.S. imports of most goods from Oman already enter duty-free or at low duty rates. Tariff liberalization will likely have the greatest effect on U.S.

¹ The United States will phase out duties over 5 years for tariff lines covering certain fruits and vegetables and certain apparel products and textile articles (blankets, rugs, linens, curtains, and fabrics). U.S. tariff lines subject to 10-year staging cover certain textile and apparel articles (mainly wool goods), footwear, ceramic products, and television parts. See table 2-1 in chap. 2 of this report for further information on the tariff commitments of the United States and Oman under the FTA.

² On October 17, 2005, President Bush signed a letter notifying Congress of his intent to enter into the U.S.-Oman FTA. The United States and Oman signed the FTA on January 19, 2006. The FTA is part of the President's initiative to create a Middle East Free Trade Area by 2013; the United States has FTAs with Israel, Jordan, Morocco, and Bahrain (not yet implemented to date), and is negotiating an FTA with the United Arab Emirates.

³ The Commission instituted this investigation in response to a letter of request from the United States Trade Representative dated October 19, 2005 (a copy of the letter is in app. A of this report; the Commission's notice of institution is in app. B).

imports of apparel from Oman,⁴ albeit from a small and diminished 2005 base.⁵ As such, the expected increase in U.S. apparel imports from Oman will be small in absolute value and quantity terms. In addition, the resulting increased annual level of U.S. apparel imports from Oman will likely remain below the 2004 level of U.S. apparel imports from Oman. Most of the expected growth in U.S. apparel imports from Oman will likely displace U.S. apparel imports from other countries, rather than domestic production.⁶

The FTA will likely increase export opportunities for U.S. firms when Oman immediately removes its uniform tariff of 5 percent ad valorem on U.S. goods and as it phases out its other tariffs on U.S. goods. The 5 percent tariff applied to 91 percent of U.S. exports to Oman in 2004; these exports consisted mostly of machinery, transportation equipment, and measuring instruments. The FTA also will likely increase opportunities for U.S. providers of services through improved market access and greater regulatory transparency.⁷ For example, the FTA will liberalize provisions affecting trade in insurance services as well as banking and securities services such as asset management services.⁸

Summary of Findings Regarding Trade Facilitation and the Regulatory Environment

The FTA provisions on trade facilitation are designed to expedite the movement of goods and the provision of services between the United States and Oman through specific improvements with respect to transparency, technical barriers to trade, customs administration, sanitary and phytosanitary measures, and electronic commerce. The provisions on safeguards, government procurement, investment, intellectual property rights, labor, the environment, and dispute settlement are intended to improve the regulatory climate for bilateral trade and investment.

Although the economic effects of the FTA provisions on trade facilitation and the regulatory environment cannot be quantified, their overall effect on the U.S. economy and industry will likely be small, largely reflecting the relatively small size of Oman's economy.⁹ Nevertheless, U.S.-based firms will likely benefit from the application of these FTA provisions by Oman, because the provisions are intended to promote improvements in regulatory transparency, reduce technical barriers to trade, and establish a secure, predictable legal framework for U.S. firms operating in Oman. The provisions on trade facilitation, for example, will likely expand export opportunities for U.S. firms, particularly for goods often

⁴ Apparel accounted for almost all the duties paid on U.S. goods imports from Oman in 2004.

⁵ U.S. imports of apparel from Oman declined by 55 percent from January-September 2004 to January-September 2005 to a total of \$47 million (c.i.f. value), representing less than 0.1 percent of total U.S. apparel imports. The decline in Oman's shipments reflected the increase in competition in the U.S. apparel market following the expiration of U.S. import quotas on textiles and apparel on January 1, 2005.

⁶ Tariff liberalization effects for apparel are analyzed in chap. 2 of this report.

⁷ The Minister of Commerce and Industry of Oman stated that the FTA will likely "provide new opportunities in areas such as banking, insurance, telecommunications, express delivery services and construction." See Maqbool Ali Sultan, Minister of Commerce and Industry, Sultanate of Oman, in prepared remarks for the Cato Institute Policy Forum, "Advancing Economic Freedom in the Middle East: The U.S.-Omani Free Trade Agreement," Washington, D.C., January 18, 2006.

⁸ FTA provisions on services are analyzed in chap. 3 of this report.

⁹ FTA provisions on trade facilitation and the regulatory environment are analyzed in chaps. 4 and 5 of this report.

subject to technical and regulatory standards and requirements such as food products and building materials. The FTA provisions on investment, though likely to have a small effect on the level of U.S. direct investment in Oman and the level of Oman's direct investment in the United States, will likely provide U.S. investors operating in Oman with greater opportunities as well as equal treatment with Omani investors.¹⁰

¹⁰ The Minister of Commerce and Industry of Oman stated that there has been "an increase in U.S. corporate interest in Oman in the last few years," including involvement in tourism development projects located along Oman's shoreline. In addition, the Minister stated that Dow Chemical has teamed up with Oman Oil Co. to form the Petrochemical Industries Corp., a petrochemical complex that will serve as an anchor for the city port of Sohar, while Bechtel Corp. has signed a contract with Sohar Aluminum Co. to build a \$2.2 billion smelter (see the Minister's prepared remarks for the Cato Institute Policy Forum).

Table ES-1

U.S.-Oman FTA: Summary of key provisions on market access, trade facilitation, and regulatory environment

<p>Market access for trade in goods and services</p> <p>Chapter 2 (market access for goods), chapter 3 (textiles and apparel), and chapter 4 (rules of origin)</p> <ul style="list-style-type: none"> • Grants immediate duty-free access for tariff lines covering almost all consumer and industrial goods, including most apparel articles, and 87 percent of all tariff lines for agricultural goods that meet FTA rules of origin (“originating goods”); phases out duties on other originating goods over periods of 5 and 10 years. • Grants immediate duty-free access under tariff-rate quotas (TRQs) for specified quantities of Oman’s exports of originating beef, dairy products, peanuts, sugar and sugar-containing products, cotton, and tobacco, with no limits on duty-free entry of these goods after 10 years. • Requires a “yarn-forward” rule of origin for most apparel to qualify for duty preferences; that is, the apparel must be assembled in an FTA party from inputs (yarn and fabric) made in an FTA party. • Includes an exception to the yarn-forward rule in the form of a tariff preference level that grants duty preferences to U.S. imports of cotton and manmade-fiber apparel made in Oman from third-country inputs during the first 10 years of the FTA, but not to exceed a total of 50 million square meters equivalent of apparel per year. <p>Chapter 11 (cross-border trade in services), chapter 12 (financial services), and chapter 13 (telecommunications)</p> <ul style="list-style-type: none"> • Provides national treatment and nondiscriminatory guarantees in most service sectors, guarantees market access in most service sectors, and improves regulatory transparency in Oman. • Enhances Oman’s commitments under the WTO General Agreement on Trade in Services.
<p>Trade facilitation</p> <p>Chapter 5 (customs administration)</p> <ul style="list-style-type: none"> • Improves transparency, efficiency, and predictability of customs regulations. • Provides special measures for express shipments. <p>Chapter 6 (sanitary and phytosanitary measures)</p> <ul style="list-style-type: none"> • Follows existing WTO Agreement on the Application of Sanitary and Phytosanitary Measures. • Allows for a bilateral joint committee to address relevant sanitary and phytosanitary issues. <p>Chapter 7 (technical barriers to trade)</p> <ul style="list-style-type: none"> • Builds and expands on the WTO Technical Barriers to Trade Agreement. • Encourages increased acceptance of one another’s certification bodies and establishes informal mechanisms for rapid resolution of disputes. <p>Chapter 14 (electronic commerce)</p> <ul style="list-style-type: none"> • Provides nondiscriminatory treatment of digital products. • Parties agree to not impose customs duties on digital products. • Parties agree on a method of valuation for physically delivered digital products. <p>Chapter 18 (transparency)</p> <ul style="list-style-type: none"> • Requires each party to publish its laws and regulations governing trade and investment, and to publish proposed regulations in advance and provide an opportunity for public comment on them.
<p>Regulatory environment</p> <p>Chapter 8 (safeguards)</p> <ul style="list-style-type: none"> • Provides a framework for procedures covering the application of safeguards. <p>Chapter 9 (government procurement)</p> <ul style="list-style-type: none"> • Provides nondiscriminatory treatment for covered government purchases in excess of agreed monetary thresholds. • Includes transparent disciplines on government procurement procedures. • Maintains criminal and other penalties for bribery in government procurement. <p>Chapter 10 (investment)</p> <ul style="list-style-type: none"> • Provides national treatment, most-favored-nation treatment, and nondiscriminatory treatment. • Includes a secure, predictable legal framework and an investor-state dispute settlement process. <p>Chapter 15 (intellectual property rights)</p> <ul style="list-style-type: none"> • Includes state-of-the art protection for copyrights, patents, trademarks, and trade secrets, and addresses Internet and digital piracy issues. • Strengthens enforcement measures and civil and criminal penalties for piracy and counterfeiting. <p>Chapter 16 (labor) and chapter 17 (environment)</p> <ul style="list-style-type: none"> • Parties agree to effectively enforce respective domestic labor and environmental laws. • Includes cooperative mechanisms for labor and environmental issues. <p>Chapter 20 (dispute settlement)</p> <ul style="list-style-type: none"> • Encourages the early identification and settlement of disputes through consultation.

Source: Compiled from the text of the U.S.-Oman FTA, available at <http://www.ustr.gov>.

CHAPTER 1

Introduction

Purpose, Scope, and Approach of the Report

This report assesses the likely impact of the U.S.-Oman FTA on the U.S. economy as a whole and on specific industry sectors, including the impact of the FTA on gross domestic product; exports and imports; aggregate employment and employment opportunities; and the production, employment, and competitive position of industries likely to be significantly affected by the FTA. The report also assesses the likely impact of the FTA on the interests of U.S. consumers. The assessment is based on a review of all 22 chapters of the final text of the FTA, including its annexes and associated side letters. Table 1-1 identifies the chapters of the U.S.-Oman FTA and where they are analyzed in this report.

Section 2104(f) of the Trade Act of 2002 (the Act) requires that the U.S. International Trade Commission (Commission) submit a report to the President and the Congress not later than 90 calendar days after the President enters into the agreement,¹ assessing the likely impact of the agreement on the U.S. economy as a whole and on specific industry sectors.² Section 2104(f)(3) of the Act requires 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 regarding the FTA.

The Commission's assessment of the U.S.-Oman FTA consists of quantitatively estimated effects of tariff elimination on trade in goods and qualitatively estimated effects of all FTA provisions, including those on trade in services, trade facilitation, and the regulatory environment. To quantitatively estimate the effects of tariff liberalization under the FTA, the Commission used a partial equilibrium (PE) model similar to that used in its assessment of the U.S.-Bahrain FTA.³ As noted in chapter 2 of this report, in several other recent FTA assessments, the Commission relied on computable general equilibrium modeling to estimate

¹ On October 17, 2005, President Bush signed a letter notifying Congress of his intent to enter into the U.S.-Oman FTA. The United States and Oman signed the FTA on January 19, 2006. The FTA is part of the President's initiative to create a Middle East Free Trade Area by 2013; the United States has FTAs with Israel, Jordan, Morocco, and Bahrain (not yet implemented to date), and is negotiating an FTA with the United Arab Emirates.

² This investigation was initiated by a letter of request from the United States Trade Representative (USTR) dated October 19, 2005. A copy of the USTR request letter is in app. A of this report; the Commission's notice of institution, published in the *Federal Register* of November 7, 2005, is in app. B.

³ The Commission has used the PE model in other analyses--for example, to estimate the impact of changes in the Generalized System of Preferences (a program of tariff preferences extended to developing countries) and the Caribbean and Andean trade preference programs. The PE model is described more fully in app. C of this report.

Table 1-1
U.S.-Oman FTA: Location of analysis of FTA chapters in the Commission report¹

FTA chapter and brief description	Chapter of Commission report where analyzed
1. Establishment of Free Trade Area and FTA Definitions	Chapter 1
2. Market Access	Chapter 2
3. Textiles and Apparel	Chapter 2
4. Rules of Origin	Chapter 2
5. Customs Administration	Chapter 4
6. Sanitary and Phytosanitary Measures	Chapter 4
7. Technical Barriers to Trade	Chapter 4
8. Safeguards	Chapter 5
9. Government Procurement	Chapter 5
10. Investment	Chapter 5
11. Cross-Border Trade in Services	Chapter 3
12. Financial Services	Chapter 3
13. Telecommunications	Chapter 3
14. Electronic Commerce	Chapter 3
15. Intellectual Property Rights	Chapter 5
16. Labor	Chapter 5
17. Environment	Chapter 5
18. Transparency	Chapter 4
19. Administration of the Agreement	Chapter 1
20. Dispute Settlement	Chapter 5
21. Exceptions	Chapter 1
22. Final Provisions	Chapter 1

¹ Chaps. 1, 19, 21, and 22 of the U.S.-Oman FTA address primarily administrative and legal matters with respect to the agreement and, hence, are summarized but not analyzed in this report.

the effects of FTAs on overall U.S. economic welfare and on trade in particular industry sectors. However, in the case of the U.S.-Oman FTA, a PE approach is appropriate because one sector (apparel) accounted for almost all of the duties collected on U.S. imports from Oman in 2004. The PE approach has the advantage of providing specific detail for apparel. Thus, the estimated effects of the U.S.-Oman FTA on the U.S. economy, trade, output, and employment that are reported in chapter 2 of this report relate to the elimination of tariffs on U.S. apparel imports from Oman.⁴

The Commission also used qualitative analysis to assess the impact of the market access provisions of the U.S.-Oman FTA for U.S. product sectors, including apparel. The selection of product sectors for analysis was based on a comprehensive examination and consideration of trade liberalization schedules of the FTA on tariff and nontariff measures, U.S.-Oman

⁴ Had Oman 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.

bilateral trade flows, sensitivity of specific commodities, and the expertise of Commission industry analysts. Other nonquantifiable effects of the FTA are associated with provisions on trade in services, trade facilitation (e.g., transparency, customs administration, and technical barriers to trade) and the regulatory environment (e.g., government procurement, intellectual property rights, and investment). The effects of these provisions are more difficult to quantify because of their intangible nature and data limitations.

The Commission's analysis in this report was based mostly on data and other information obtained from interviews with government and industry sources, reports of the USTR advisory committees on the U.S.-Oman FTA, and industry reports.⁵ Other data sources included the U.S. Department of Commerce, the U.S. Department of State, the World Trade Organization (WTO), and the web sites of several government organizations of Oman, including the Ministry of Commerce and Industry and the Ministry of National Economy.

Overview of the U.S.-Oman FTA

Like other FTAs to which the United States is a party,⁶ the U.S.-Oman FTA would create a preferential trade regime for goods and services that are of mutual benefit or interest to the parties, and with commitments covering other trade-related matters. Under the FTA, the United States and Oman will provide each other immediate duty-free access for most originating goods and will phase out tariffs on the remaining originating goods within 10 years.⁷ The FTA would not cover every aspect of bilateral trade or give preferences to all goods under any tariff category; for example, 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 economic relations between the two countries, create employment and raise the standard of living, enhance the competitiveness of firms, set a structure of clear and mutually advantageous rules for bilateral trade, build on commitments in the WTO, and promote creativity and innovation. In addition, commitments to transparency, worker rights, eliminating corruption and bribery, and strengthening environmental protection are cited as important goals.

The text of the U.S.-Oman FTA⁸ is largely modeled upon other recent U.S. FTAs, particularly the U.S.-Bahrain FTA. Some provisions also draw upon multilateral instruments of the WTO or other treaties, or state that the same obligations apply under the FTA. The U.S.-Oman FTA includes express commitments to observe certain existing obligations found

⁵ The Commission did not conduct a public hearing for this investigation, because there were no requests from interested parties to testify. A summary of written submissions is provided in chap. 6 of this report.

⁶ To date, the United States has implemented FTAs with Israel, Canada, Mexico, Jordan, Singapore, Chile, Australia, and Morocco. The U.S. Congress has approved implementing legislation for an FTA with Bahrain and an FTA with Central America and the Dominican Republic; however, neither FTA has been implemented to date. On December 7, 2005, the United States and Peru concluded negotiations on an FTA; U.S. negotiations are continuing with Colombia and Ecuador in an effort to broaden this FTA. In addition, the United States is negotiating FTAs with Panama, Thailand, the United Arab Emirates, and the five nations of the Southern African Customs Union.

⁷ Information on the tariff commitments of the United States and Oman is available in chap. 2 of this report under "Summary of the Market Access Provisions."

⁸ The text of the U.S.-Oman FTA is available at <http://www.ustr.gov>.

in WTO agreements between the parties. These FTA commitments would exist between the two parties on the FTA's date of entry into force even if the corresponding broader WTO agreement provisions were eliminated; the FTA does not provide explicitly that amendments of WTO provisions would become part of the FTA obligations. While this FTA is most similar to the U.S.-Bahrain FTA text, both drew upon the U.S. FTAs with Morocco and Jordan in terms of the extent of tariff concessions, 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. Below is a summary of the text of FTA chapters that address primarily administrative and legal matters regarding the FTA and, hence, are not analyzed in this report (FTA chapters 1, 19, 21, and 22).

FTA Chapter 1—Establishment and Definitions

The parties set forth their agreement to set up a free trade area that is consistent with GATT 1994, reaffirm that existing bilateral rights and obligations (particularly nondiscrimination) continue to apply, and restate that nothing in the FTA is to be read as altering any legal obligation under another international pact. The FTA does not mention the Arab League boycott of Israel. Oman is a member of the Arab League and it has implemented the primary boycott; the President has waived certain restrictions under the Foreign Relations Acts of 1994 and 1995, as amended, with respect to Oman.⁹

Among the general provisions of the FTA text, the term “territory” is defined with respect to the United States as including the customs territory, U.S. and Puerto Rican foreign trade zones, the seabed and subsoil and their resources, and the undersea exclusive economic zone, but not the insular possessions and not the airspace or any area of outer space. For Oman, the term covers its present national territory and internal waters, the related territorial sea and airspace, and the exclusive economic zone and continental shelf under its control pursuant to international law. “Goods of a party” are defined as “domestic products as these are understood in GATT 1994 or such goods as the parties may agree, and includes originating goods of that party.” Among other terms defined in the chapter are covered investment, customs duties, and government procurement.

⁹ Under Public Law 103-236, as amended (108 Stat. 484; April 30, 1994), no defense article or defense service can be sold or leased by the United States Government to any country or international organization that is known to have sent letters to U.S. firms to ask that the firms comply with the secondary or tertiary Arab League boycott of Israel or to solicit information about such compliance. The President can determine, and certify to Congressional committees, that a country or organization does not participate (in policy or in practice) in such boycotts as provided in the Act. In addition, he can waive, for a 1-year period, the application of the law to a country or organization by determining and reporting to these committees that such waiver is in the national interest of the United States and will promote the objectives of the Act to end the boycott, or that the waiver is in the national security interest of the United States. The most recent document issued by the Department of Treasury concerning Oman indicates that Oman “may require participation in, or cooperation with” the boycott; no waiver has been identified (69 F.R. 75604 of December 17, 2004).

FTA Chapter 19–Administration of the Agreement

This chapter sets up a Joint Committee of government officials of the two countries--co-chaired by the United States Trade Representative and the Minister of Commerce and Industry of Oman--to supervise the implementation and functioning of the FTA and consider all types of matters raised under the agreement. The committee would meet in regular sessions 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 address the importance of transparency for the public and require that each party will protect confidential information on the same basis as the other party.

FTA Chapter 21–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 matters related to national treatment, market access, textiles and apparel, rules of origin, customs administration, sanitary and phytosanitary measures, and technical barriers to trade, the relevant provisions of GATT 1994 are incorporated by reference, along with environmental measures discussed in Article XX(g) of GATT 1994. For services-related chapters, the WTO General Agreement on Trade in Services (GATS) is likewise incorporated by reference. Taxation measures are excluded from FTA coverage, except as needed to give effect to the national treatment provisions of GATT 1994 or certain other commitments. The final article provides that a party must be allowed to keep information related to law enforcement and privacy (the latter involving the “financial affairs and accounts of individual customers of financial institutions”) safe from disclosure.

FTA Chapter 22–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 a provision on dealing with WTO changes.¹⁰ Under article 22.5, 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 those with Australia and Morocco), the U.S.-Oman FTA authorizes other countries or groups of countries to join the FTA upon approval by the original parties.

¹⁰ The parties agree that, if a WTO provision is amended, they will consult on amending the FTA to reflect such a change.

Oman Country Profile

The remainder of this chapter provides an economic profile of Oman, presenting data on recent macroeconomic indicators, Oman's leading trading partners and traded products, and the principal products in bilateral trade with the United States. The economic profile highlights key features of Oman's economy relevant to the Commission's assessment of the U.S.-Oman FTA.

OMAN

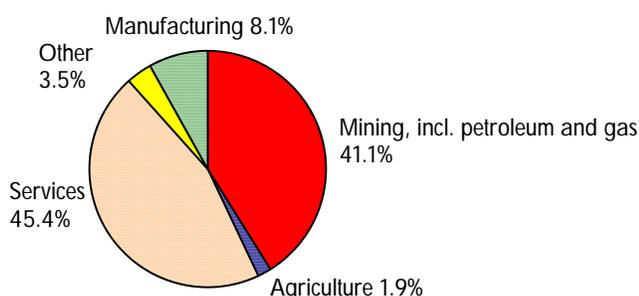


ECONOMIC PROFILE

Economic indicators

	2000	2004
Population (mn)	2.4	2.7
GDP (US\$ bn)	19.9	24.8
GDP per capita (US\$ bn)	8,345	9,194
Real GDP growth (%)	5.5	0.7
Goods exports (US\$ mn)	11,318	13,345
Goods imports (US\$ mn)	4,593	7,873
Trade balance (US\$ mn)	6,725	5,471

GDP by economic activities, 2003 (nominal GDP = \$21.7 billion)



Main trade commodities, US\$ million

Exports (2004)		Imports (2003)	
Crude oil	9,078	Machinery and transport equipment	2,827
Re-exports	1,400	Other manufactured goods	1,015
Non-oil exports	1,093	Food and live animals	749

Main trading partners, percent of total, 2004

Exports		Imports	
Asia	90.7	EU15	41.5
United States	4.3	Asia	39.8
EU15	3.2	United States	6.8
Gulf Cooperation Council	0.2	Gulf Cooperation Council	0.3
Rest of world	1.6	Rest of world	11.6

Sources: Economist Intelligence Unit, "Oman: Economic Structure," *EIU Viewswire* (dated September 2, 2005), www.viewswire.com; United Nations, *COMTRADE Database* (accessed December 5, 2005); and World Bank, *World Development Indicators Database* (accessed December 5, 2005).

Economic overview

- ▶ Oman's GDP rose by 25 percent in 2000-2004. The energy sector accounted for 40 percent of GDP, an estimated 70 percent of government income in 2003, and 65 percent of exports in 2004.
- ▶ Textile and apparel production is a major source of manufacturing activity in Oman, accounting for an estimated 3.4 percent of GDP 14 percent of manufacturing jobs in 2003, and 16 percent of non-energy exports in 2004.
- ▶ Oman's petroleum reserves are projected to be depleted in less than 20 years. As such, in its most recent 5-year economic development plan, the Government of Oman plans to continue to diversify the economy, increase private-sector employment, privatize state-owned enterprises, and liberalize the services sector.
- ▶ Sectors targeted for expansion include manufacturing, information technology, tourism, and fisheries. The discovery of large quantities of natural gas beginning in the late 1980s has supported diversification into the export of liquified natural gas and development of gas-based industrial production, including aluminum, polypropylene, fertilizer, and methanol.
- ▶ Oman's main export is petroleum, mainly to Asian countries, led by China, South Korea, and Japan. Oman's main import is capital goods (e.g., machinery and transportation equipment), mainly from the European Union and Japan. Oman is not a member of OPEC or the Organization of Arab Petroleum Exporting Countries (OAPEC).
- ▶ Services accounted for 45 percent of Oman's GDP; Oman's services imports were \$2.1 billion and services exports were \$457 million. Oman's services exports, consisted almost entirely of transportation services and travel and tourism services.
- ▶ Oman registered \$3.4 billion in inbound foreign direct investment stock in 2004, equal to 14 percent of its GDP.¹

Regional trade agreements²

- ▶ Oman is a member of the Gulf Cooperation Council (GCC).³ Founded in 1981, the GCC launched a customs union in 2003, and plans to establish a monetary union, common market, and single currency. In 1989, the GCC and the EU concluded a Cooperation Agreement, and they continue to negotiate an EU-GCC free trade agreement.
- ▶ Oman is also a member of the League of Arab States (founded in 1945), Arab Monetary Fund (1977), the Indian Ocean Rim Association for Regional Cooperation (1997), and the Arab Free Trade Area, (1998).⁴
- ▶ Oman has signed bilateral investment treaties with 24 countries.⁵

¹ United Nations Conference on Trade and Development (UNCTAD), *World Investment Report 2005* (Geneva: United Nations, 2005), annex tables B.2 and B.3.

² Information on Oman's access to and trade under various trade preference is not readily available. However because about 90 percent of Oman's exports in 2004 were destined for Asia and consisted primarily of energy products, it is unlikely that trade with countries outside Asia and under trade preference programs constitutes a significant share of Oman's trade.

³ GCC member countries are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

⁴ The Arab Free Trade Area countries are Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, the United Arab Emirates, and Yemen.

⁵ The countries are Algeria, Austria, Belarus, Brunei, China, Croatia, Egypt, Finland, France, Germany, India, Iran, Italy, Korea, Morocco, the Netherlands, Pakistan, Sudan, Sweden, Switzerland, Tunisia, Ukraine, the United Kingdom, and Yemen.

OMAN-CONTINUED

U.S.-Oman trade in goods

- ▶ U.S. trade with Oman is small, accounting for less than 0.5 percent of total U.S. goods trade in 2004, and concentrated in a few product sectors.
- ▶ The U.S. trade deficit with Oman fluctuated widely during 2000-2004, primarily reflecting changes in the value of petroleum imports.
- ▶ U.S. exports to Oman in 2004 totaled \$314 million and consisted mainly of machinery, transportation equipment, and measuring instruments.
- ▶ U.S. imports from Oman in 2004 totaled \$422 million and consisted mostly of crude petroleum and apparel. Apparel accounted for 98 percent of all the duties collected on U.S. imports from Oman in 2004.
- ▶ About 11 percent of U.S. imports from Oman (or \$48 million) entered duty free under the U.S. Generalized System of Preferences in 2004.

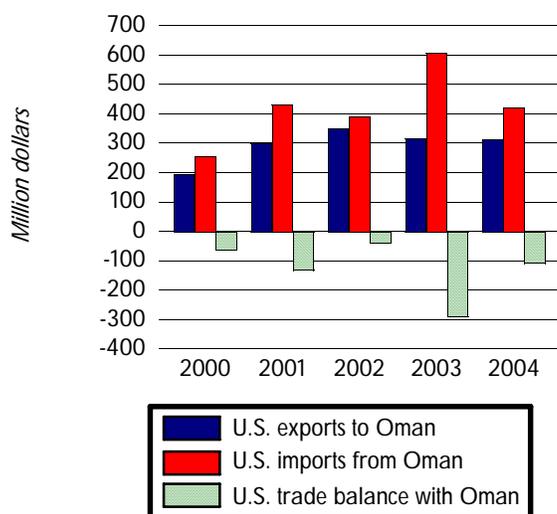
Leading U.S. exports to Oman, US\$ million, 2004

Machinery and parts	145.4
Vehicles and parts	51.3
Measuring and related instruments	17.8
Polymers and articles of plastics	11.9
Aircraft and parts	6.4
Other	81.5
Total	314.3

Leading U.S. imports from Oman, US\$ million, 2004

Petroleum and energy-related products	211.8
Apparel	125.3
Jewelry and parts	45.7
Tubes, pipes, and hollow profiles	18.1
Fish and crustaceans	7.3
Other	14.3
Total	422.5

U.S. merchandise trade with Oman, 2000-2004



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

Map of Oman and Region



The illustration of the map in this figure is an artistic representation of Oman and the region. It is not drawn to scale, nor is it intended to depict political or geographical boundaries.

CHAPTER 2

Effect of Market Access Provisions for Goods

The Commission's analysis indicates that the market access provisions of the U.S.-Oman FTA for goods will likely have a small but positive impact on the U.S. economy, with the economic benefits moderated by the relatively small size of Oman's economy and Oman's share of total U.S. trade. In 2004, Oman accounted for less than 0.5 percent of total U.S. trade in goods. The trade and welfare effects of tariff elimination on trade in goods will likely be negligible, reflecting not only the small volume of trade between the United States and Oman, but also the low tariffs on existing bilateral trade. U.S. imports of most goods from Oman already enter duty-free or at low duty rates, while U.S. exports of most goods to Oman are subject to a duty rate of 5 percent ad valorem.

With respect to sector-specific effects, the Commission's analysis indicates that tariff elimination will likely have the greatest effect on U.S. imports of apparel from Oman, albeit from a small and diminished 2005 base.¹ As such, the expected increase in U.S. apparel imports from Oman as a result of tariff elimination under the FTA will be small in absolute value and quantity terms. In addition, the resulting increased annual level of U.S. apparel imports from Oman will likely remain below the 2004 level of U.S. apparel imports from Oman. Most of the expected increase in U.S. apparel imports from Oman will likely displace U.S. apparel imports from other countries, rather than domestic production, as discussed in this chapter under "Commission findings."

This chapter provides a summary of the provisions in the U.S.-Oman FTA on market access in goods (FTA chapter 2), textiles and apparel (chapter 3), and rules of origin (chapter 4), which are intended to increase bilateral market access for the United States and Oman by liberalizing tariffs and nontariff barriers.² The chapter concludes with a quantitative and qualitative assessment of the likely impact of these provisions on U.S. imports and exports.

Summary of the Market Access Provisions

FTA Chapter 2—Market Access, Including Tariff Commitments

The final text of the U.S.-Oman FTA sets forth the parties' schedules of concessions and general notes to establish the agreed tariff treatment for originating goods (goods meeting

¹ U.S. imports of apparel from Oman during January-September 2005 declined by 55 percent from the corresponding period of 2004 to \$47 million (c.i.f. value), representing less than 0.1 percent of total U.S. apparel imports. The decline in Oman's shipments reflected the increase in competition in the U.S. apparel market following the expiration of U.S. import quotas on textiles and apparel on January 1, 2005.

² Other chapters of the FTA may also improve market access for goods; for example, FTA provisions on trade facilitation, addressed in chap. 4 of this report, are intended to reduce impediments to the cross-border movement of goods and services.

the rules of origin under the FTA). Oman would eliminate duties on most U.S. exports immediately, guarantee existing duty-free access given in most-favored-nation (MFN) trade, and phase out duties on other U.S. goods annually over periods of 5 or 10 years or, for some goods, eliminate duties on January 1 of year 10. According to the WTO, Oman's average applied tariff rate in 2001 was about 10.2 percent ad valorem for agricultural goods and 5 percent for other goods, but Oman's average bound tariff rate was about 28 percent and 11.6 percent for such sectors, respectively.³ Oman reported that 15.9 percent of its imports in 2001 entered under MFN duty rates of free. Oman's FTA tariff schedule annex lists base duty rates for most tariff categories of 5 percent ad valorem and free for most others, including most agricultural products; at the highest duty categories are beer, alcohol, and tobacco, dutiable at 100 percent ad valorem.

The United States would grant immediate duty-free access for most eligible exports of Oman, taking into account its status as a beneficiary of the U.S. Generalized System of Preferences (GSP) and existing U.S. normal trade relations (NTR) rates of free on many tariff categories. Other originating goods would receive phased duty reductions over periods of 5 or 10 years (table 2-1).⁴ The majority of agricultural goods would be eligible for immediate duty-free access or would continue their existing duty-free access; a much smaller group would receive 5- or 10-year staging.⁵ The United States would grant immediate duty-free access under tariff-rate quotas (TRQs) for Oman's exports of originating beef, dairy products, sugar, 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 originating products.

With regard to scheduled tariff concessions, the base duty rates are the 2005 U.S. NTR rates of duty (although Oman may be receiving duty-free entry under the GSP for shipments under many tariff rate lines) and Oman's 2005 duty rates applicable to U.S. goods. The FTA would establish five staging categories for annual duty reductions (in equal annual stages except as noted) as follows: Category A, immediate duty-free entry; category B, 5 equal stages; category C, 10 equal stages; category D, continued duty-free entry; and category E, free of duty on January 1 of year 10. The United States adds two categories applicable to goods of Oman: Category F, immediate duty-free entry on enumerated provisions of chapter 98 of the HTS, and category G, prescribed duty treatment for years 1 through 9 and free of duty on January 1 in year 10. Oman adds two categories applicable to originating goods of the United States: Category H, duty-free entry on January 1 in year 10, but with regulatory measures or fees and excises allowed; and category I, duty-free entry on January 1 in year 10. Oman also reserves the right to continue to ban the importation of goods covered by category I to the extent permitted by GATT 1994. 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.

³ The tariff data are from the WTO Trade Statistics Database, available at <http://www.wto.org>.

⁴ Products subject to 5-year staging primarily include certain fruits, vegetables, apparel, and textile articles such as blankets, rugs, linens, curtains, and fabrics. Products subject to 10-year staging primarily include certain textiles, apparel, footwear, ceramic products, and television parts.

⁵ U.S. imports of originating goods from Oman would not be subject to any duties applied pursuant to article 5 of the WTO Agreement on Agriculture (agriculture safeguards; e-mail from staff of the Office of the United States Trade Representative (USTR), January 5, 2006).

**Table 2-1
U.S.-Oman FTA: Summary of tariff commitments**

Staging category	U.S. commitments	Oman's commitments
A-Immediate duty-free entry		
	6,259 total tariff lines, of which 1,103 are agriculture tariff lines; covering 92 HS chapters; includes all tariff lines not listed below	6,361 tariff lines; current duty rates of 5 percent; covering 92 HS chapters; includes all tariff lines not listed below
B-5-year staging		
	209 tariff lines, of which 80 are agriculture tariff lines; covering 18 HS chapters (primarily fruits, vegetables, apparel, and textiles such as blankets, rugs, linens, curtains, and fabrics)	201 tariff lines; current duty rates of 5 percent; covering 14 HS chapters (primarily agriculture, fish, milk and dairy, textiles, and apparel)
C-10-year staging		
	173 tariff lines; covering 14 HS chapters (primarily textiles, apparel, footwear, ceramic products, and television parts)	86 tariff lines; current duty rates of 5 percent; covering HS chapters 15, 51, 61, and 62 (primarily textiles and apparel)
D-Already free of duty		
	3,792 tariff lines, of which 442 are agriculture tariff lines; covering 87 HS chapters; 114 tariff lines in HS chapter 98 (U.S. goods returned without improvement abroad; personal, religious, educational, artistic, scientific, sample items, etc.)	411 tariff lines; currently free of duty; covering 24 HS chapters (primarily agriculture, fish, milk and dairy, medications and medical supplies, printed items, minerals, and transportation products)
E-Free of duty beginning year 10		
	3 tariff lines in HS chapters 8 and 20 (dates)	6 tariff lines; current duty rates of 15 or 25 percent; in HS chapter 8 (bananas, dates, and lemons)
F-Bond no longer required on certain products currently free of duty		
	17 tariff lines in HS chapter 98 (primarily items for exhibition, repair, or temporary use)	Not applicable
G-Subject to special provisions until beginning year 9		
	2 tariff lines (value of Omani content in goods imported under production-sharing arrangements, HS 9802.00.80, and ski racing apparel, HS 9817.61.01)	Not applicable
H-Free of duty beginning year 10, but regulatory measures and certain fees and excises may apply		
	Not applicable	69 tariff lines representing swine, alcohol, and tobacco products
I-Free of duty beginning year 10, but may be subject to prohibitions		
	Not applicable	12 tariff lines representing mainly live swine and illicit drugs
Tariff-rate quotas (TRQs)		
	189 tariff lines (applies to Oman's exports of originating beef, dairy products, peanuts, sugar and sugar-containing products, cotton, and tobacco; U.S. imports of in-quota quantities are free of duty; TRQs are liberalized over 10 years and ended thereafter, allowing unlimited duty-free imports of these products originating in Oman).	Not applicable

Note.--Rates stated in percent mean "percent ad valorem."

Source: U.S.-Oman FTA, "U.S. Tariff Schedule," and "Oman Tariff Schedule," available at <http://www.ustr.gov>.

The commitments on national treatment made in this chapter are similar to the corresponding provisions of GATT 1994 and the U.S.-Bahrain FTA, but apply only within the region and to trade in goods of a party (as defined in FTA chapter 1). The parties agree to eliminate their customs duties on originating goods under the attached schedules;⁶ 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. 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—to which both are signatories—are dictated by those agreements; amendments of GATT provisions are not expressly covered in the FTA language.

The U.S.-Oman FTA prescribes the treatment of certain special importations, such as the duty-free and bond-free entry required for goods temporarily admitted into the parties' territories, and regulate various customs procedures applicable to bilateral trade. It limits administrative fees to the approximate cost of services rendered by governmental authorities. In addition, the United States will exempt originating goods from its merchandise processing fee. Neither party could require "consular transactions, including related fees and charges" outside of normal customs procedures with respect to any important importation of any good of the other party; the phrase apparently covers documents not filed with customs authorities to gain entry and the associated fees that might normally be required. All fees and charges on trade in goods are required to be published on 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. Both parties would exempt actions authorized by the WTO Dispute Settlement Body from the application of any FTA provision.

FTA Chapter 3—Textiles and Apparel

Chapter 3 of the FTA sets out the rules of origin and other provisions for textiles and apparel except tariff staging, which is covered in FTA chapter 2. U.S. imports of textiles and apparel from Oman in 2004 totaled \$126 million⁷ and consisted almost entirely of apparel classified in HTS chapters 61 (knitted) and 62 (not knitted). Textiles and apparel, by value, accounted for 30 percent of total U.S. goods imports from Oman, 51 percent of U.S. dutiable imports from Oman, and 98 percent of duties collected on U.S. goods imports from Oman in 2004.

The FTA provides immediate duty-free access for most textile and apparel articles that meet the FTA rules of origin ("originating goods"). Articles eligible for immediate tariff elimination (staging category A) consist mainly of cotton and manmade-fiber goods, which accounted for almost all U.S. imports of textiles and apparel from Oman in 2004. A few cotton knit garments (ensembles, men's briefs, women's negligees, robes, track suits, and sweaters) are subject to staging category B, in which the tariffs are reduced to zero in five equal annual cuts, as are certain home furnishings (blankets and bed, bath, and kitchen

⁶ See annex 4-A to the FTA for product-specific rules and the parties' schedules for staging categories on tariff elimination.

⁷ The import data (f.o.b. value) for 2004 are official statistics of the U.S. Department of Commerce and are available on the Web site of its Office of Textiles and Apparel (OTEXA) at <http://www.otexa.ita.doc.gov>.

linens). Wool goods, including yarn, fabric, and apparel, are generally subject to staging category C, in which the tariffs are reduced to zero in 10 equal annual cuts.

The rules of origin for textiles and apparel (annex 3.1 to FTA chapter 3) are similar to those in other recent U.S. FTAs in that they are based on changes in tariff classification from third-country inputs to goods processed or made in one or both FTA parties. In general, the rules of origin in the U.S.-Oman FTA require that imports of most apparel, woven fabrics, and home textiles from the FTA party be assembled from inputs made in the United States or Oman from the yarn stage forward (“yarn-forward rule”) to qualify for FTA preferences.⁸ A “fiber-forward rule” applies to knit fabrics of cotton and manmade fibers, and most yarns.

FTA chapter 3 contains a temporary exception to the yarn-forward rule of origin that would grant duty preferences to a specified quantity of U.S. imports of apparel made in Oman from third-country inputs (“nonoriginating goods”) during the first 10 years of the agreement. A tariff preference level (TPL) would grant duty preferences to nonoriginating apparel of cotton and manmade fibers on the same basis as originating goods, but not to exceed an aggregate of 50 million square meters equivalent (SMEs) per year. In 2004, U.S. apparel imports from Oman totaled 55 million SMEs.

FTA chapter 3 also sets out the general legal principles on origin (article 3.3), including a consultation provision for the parties to consider whether to revise the rules of origin to address issues of availability of fibers, yarns, or fabrics. In addition, article 3.3 contains rule-of-origin requirements for sets and the allowable de minimis foreign content (7 percent of the total weight of the product).⁹ FTA chapter 3 also includes authority to apply bilateral textile safeguard measures (article 3.2), under which either party may reinstate MFN tariffs if imports from the other party cause serious damage or threat of serious damage to the domestic industry, and detailed customs enforcement and cooperation provisions to ensure accuracy of the claims of origin, to prevent circumvention of the agreement, and to enforce measures affecting trade in textiles and apparel (article 3.4).

Chapter 4—Rules of Origin

The tariff benefits of the FTA would apply to originating goods imported directly into one party from the other.¹⁰ In many respects, the origin criteria of this FTA resemble the corresponding provisions of the Israel, Jordan, Morocco, and Bahrain FTAs. Like the latter two FTAs, tariff shift rules apply to textiles and apparel, as well as a few sensitive

⁸ For a garment to qualify for FTA preferences under a yarn-forward rule, it must be made in an FTA party from yarn and fabric made in an FTA party. The fiber used in the production of the yarn could be made in a third country.

⁹ Under the de minimis foreign content rule for textiles and apparel, up to 7 percent of the total weight of a good can result from yarns or fibers that do not change tariff provision in the prescribed way and are used in the component that determines the tariff classification of the good.

¹⁰ 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 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.

agricultural commodities. The primary principle governing eligibility for FTA treatment is substantial transformation¹¹ in Oman or the United States with a threshold value contribution requirement; all goods wholly made in and attributable to one or both parties would likewise qualify. The legal discipline in the chapter covers all goods, so that for most nontextile product categories, FTA eligibility would be accorded 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 cumulatively. In the case of goods covered by tariff shift rules, instead of meeting the above principles, each nonoriginating input must undergo the applicable tariff change as a result of production within the region or satisfy any other specified requirements. A footnote to article 4.1 sets forth a formula for computing regional value content for use where required by product-specific rules of origin. The chapter specifies certain nonqualifying operations as non-origin-conferring (simple combining or packaging and mere diluting with water). 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 rules¹² and requires a basic regional value contribution, no general exemption for de minimis foreign content exists (except in relation to textiles and apparel, as noted above).¹³ Other criteria related to origin under the U.S.-Oman 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. The text provides that a claim for FTA benefits will be considered a certification of compliance; importers must be able to establish this status with customs authorities via a thorough declaration and to provide prescribed documentation. Written 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."

Effect on U.S. Imports, Employment, and Welfare

The Commission's analysis indicates that the U.S.-Oman FTA would likely have a small but positive effect on the U.S. economy, with the benefits moderated by the relatively small size of Oman's economy and Oman's share of total U.S. trade. The expected changes in U.S.

¹¹ The text requires that a "new or different article of commerce" be created (defined in article 4.3 as a good "that has been substantially transformed from a good or material that is not wholly the growth, product or manufacture of one or both of the Parties and that has a new name, character, or use distinct from the good or material from which it was transformed"). The term "substantially transformed" is defined with respect to the processes a good or material undergoes or changes to that good or material.

¹² 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.

¹³ 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 other trade preference program rules and those of the FTA, or because importers cannot provide required documentation or fail to make proper claims for FTA treatment.

trade with Oman as a result of the elimination of tariffs and nontariff barriers under the FTA would likely be very small and, therefore, have almost no effect on U.S. imports, employment, or welfare.

Review of the Literature

The Commission did not find any studies of academic, public sector, or private sector institutions that directly examined the quantitative impact of the U.S.-Oman FTA.¹⁴ The Commission did identify two studies that are similar to its study on the U.S.-Oman FTA in that they are related to economically similar-situated FTAs and used partial equilibrium (PE) analysis of tariff liberalization. In the first study, Dean A. DeRosa used a homogeneous goods, PE model to evaluate the impact of a proposed FTA between the European Union and the Gulf Cooperation Council (GCC), of which Oman is a member.¹⁵ He found that such an FTA would result in small but positive trade and welfare impacts for the European Union, with imports and welfare increasing by 1.0 percent and 0.2 percent, respectively.

In the second study, the Commission used a PE model to assess the economic impact of the U.S.-Bahrain FTA on the United States as it relates to apparel.¹⁶ The Commission estimated that the elimination of tariffs on U.S. apparel imports from Bahrain would lead to a substantial increase in such imports from Bahrain, but only a 0.2 percent increase in total U.S. apparel imports because the expected increase in 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. The Commission also estimated that the elimination of tariffs on U.S. apparel imports from Bahrain would lead to a decrease in production and employment in the U.S. apparel industry of 0.2 percent or less, and that there would likely be a net welfare gain at most of about \$19 million.

Analytical Framework

As noted above, the Commission used a PE model to analyze changes in U.S. import tariffs under the U.S.-Oman FTA, as it did for the U.S.-Bahrain FTA, rather than a general equilibrium model, which was used in the Commission's reports on the U.S. FTAs with Australia and Morocco to estimate the effects on the overall U.S. economy.¹⁷ The use of a PE model for the U.S.-Oman FTA is appropriate because a single sector—apparel—accounted for almost all (98 percent) of the duties paid on U.S. goods imports from Oman in 2004 and

¹⁴ Section 2104(f)(3) requires that the Commission review available economic assessments of the FTA, 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 on a potential U.S.-Oman FTA (*U.S.-Oman Free Trade Agreement: Advice Concerning the Probable Economic Effect of Providing Duty-Free Treatment for Imports*, Inv. nos. TA-131-30 and TA-2104-16, February 2005). As such, for purposes of this report, the Commission's discussion consists only of external economic assessments, the Commission's present study, and other Commission studies.

¹⁵ 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.

¹⁶ U.S. International Trade Commission, *U.S.-Bahrain Free Trade Agreement: Potential Economywide and Selected Sectoral Effects* (Inv. no. TA-2104-15), publication 3726, October 2004.

¹⁷ The PE model used by the Commission for the U.S.-Oman FTA is described in app. C of this report; app. D contains a brief discussion of the conceptual issues involved in such an analysis.

because Oman's economy is small in relation to the U.S. economy. The PE approach allows products in the affected sectors to be modeled with greater detail and more current data than would be feasible with a general equilibrium model.¹⁸

The PE model used by the Commission to estimate the effects of immediate tariff elimination on U.S. apparel imports from Oman is an imperfect-substitutes model, which assumes that similar goods made in different countries are imperfect substitutes.¹⁹ The model assesses only the effects of changing tariffs on specific goods; it does not provide estimates of the effects of an FTA on the U.S. trade deficit or account for the secondary effects on trade in other goods or for the trade effects of other provisions of an FTA, including those on trade facilitation and the regulatory environment. The Commission did not use the PE model to assess the effects of the FTA on U.S. exports because of a lack of information on Oman's domestic market;²⁰ the Commission instead estimated the effects of the FTA on U.S. exports based on assumptions about the responsiveness of Omani demand to changes in export prices.

Key Assumptions and Data

Oman accounted for less than 0.5 percent of total U.S. imports overall and by major product sector in 2004. Imports from Oman are concentrated in energy and apparel products, which accounted for 80 percent of the total customs value and 99 percent of the dutiable value of U.S. imports from Oman in 2004 (table 2-2). Apparel accounted for 98 percent of the duties paid on U.S. goods imports from Oman in 2004. U.S. import tariffs on energy products are either free, as in the case of natural gas and coal, or very small, as in the case of crude petroleum (an ad valorem equivalent of 0.2 percent).²¹ The only other dutiable import from Oman of any significance is prepared or preserved mushrooms (chapter 20 of the HS), which accounted for less than 1 percent of duties paid on U.S. imports from Oman in 2004. As such, because the primary effects of the U.S.-Oman FTA on the domestic economy will be on the apparel sector, the Commission used the PE model only for that sector.

The Commission used the PE model to analyze the effects of the U.S.-Oman FTA on U.S. imports of all apparel (HS chapters 61 and 62) and cotton trousers, the principal type of apparel imported from Oman (62 percent of U.S. apparel imports by value in January-September 2005). U.S. trade and production data for January-September 2005 were used in

¹⁸ Because the effects of the U.S.-Oman FTA are concentrated in a single sector (apparel), the estimated consumer welfare gains generated by the PE analysis should capture nearly all economy-wide general equilibrium effects. Although the PE model does not account for the effects on upstream or downstream sectors, these effects are expected to be small because the magnitude of the expected change in total U.S. imports as a result of the FTA is small.

¹⁹ The imperfect-substitutes model is similar to that used by the Commission to assess the probable effects of tariff changes under FTAs and the U.S. Generalized System of Preferences on a product-by-product basis. For more information on the model, 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).

²⁰ For example, detailed and sector-specific production data for Oman are not readily available.

²¹ U.S. imports of energy products from Oman are very small, accounting for less than 0.5 percent of total U.S. energy imports in 2004. Additional information on Oman's energy sector appears in chap. 1 of this report in "Oman Economic Profile."

Table 2-2

Leading U.S. imports from Oman, customs value, dutiable value, calculated duties collected, and average U.S. duty rate on imports from Oman, 2004

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			
27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	211,838	117,060	269	50.1	47.6	1.3	0.1
62	Articles of apparel and clothing accessories, not knitted or crocheted ¹	90,107	90,107	14,652	21.3	36.7	71.4	16.3
71	Natural or cultured pearls, precious or semiprecious stones, precious metals; precious metal clad metals, articles thereof; imitation jewelry; coin	45,725	0	0	10.8	0.0	0.0	0.0
61	Articles of apparel and clothing accessories, knitted or crocheted ²	35,194	35,194	5,370	8.3	14.3	26.2	15.3
73	Articles of iron or steel	18,066	32	1	4.3	0.0	0.0	0.0
03	Fish and crustaceans, molluscs and other aquatic invertebrates . .	7,316	0	0	1.7	0.0	0.0	0.0
98	Special classification provisions	6,250	2	1	1.5	0.0	0.0	0.0
20	Preparations of vegetables, fruit, nuts, or other parts of plants . . .	1,560	1,280	135	0.4	0.5	0.7	8.7
25	Salt; sulfur; earths and stone; plastering materials, lime and cement	1,512	0	0	0.4	0.0	0.0	0.0
68	Articles of stone, plaster, cement, asbestos, mica or similar materials	1,182	71	3	0.3	0.0	0.0	0.3
	Subtotal	418,750	243,746	20,432	99.1	99.1	99.5	4.9
	All others	3,713	2,105	94	0.9	0.9	0.5	2.5
	Total or average	422,463	245,851	20,526	100.0	100.0	100.0	4.9

¹ For Jan.-Sept. 2005, the customs value, dutiable value, and calculated duties collected (in thousands) were \$29,881, \$29,826, and \$4,984, respectively.

² For Jan.-Sept. 2005, the customs value, dutiable value, and calculated duties collected (in thousands) were \$15,249, \$15,249, and \$2,035, respectively.

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

the model to reflect trade since the elimination of U.S. import quotas on textiles and apparel under the WTO Agreement on Textiles and Clothing (ATC) on January 1, 2005.²² U.S. imports of cotton trousers and other apparel from Oman in January-September 2005 were significantly lower than those in the corresponding period of 2004, reflecting an increase in competition in the U.S. market following the elimination of U.S. import quotas.²³ Quota availability had been an important competitive advantage for Oman. Conversely, U.S. imports of cotton trousers and other apparel from the world were higher in the 2005 period (table 2-3), as many large Asian suppliers previously constrained by quotas now had quota-free access to the U.S. market.²⁴ The Commission estimates that U.S. production of all apparel and cotton trousers both decreased by less than 1 percent in the 2005 period, compared with the corresponding 2004 period.

Aside from U.S. trade and production data, the other major inputs used in the PE model were U.S. tariffs and elasticities. Because tariffs differ among most apparel articles, calculated duties were used as proxies (an ad valorem equivalent of 15.1 percent for all apparel and 15.9 percent for cotton trousers). The elasticities used in the model were 7.4 for import substitution and -0.77 for aggregate demand.²⁵ The supply elasticities were assumed to be 5 for the United States, 10 for Oman, and 15 for the rest of the world.²⁶ The model does not consider the effects of the TPL, as provided for in FTA chapter 3, as described above. However, the Commission estimates that the increase in U.S. imports of apparel made in Oman from third-country inputs as a result of the FTA would not exceed the TPL (the TPL would grant duty preferences to imports of such apparel up to an annual level of 50 million SMEs for the first 10 years of the agreement).

Commission Findings

The Commission's PE analysis indicates that the elimination of U.S. tariffs under the U.S.-Oman FTA would likely result in an increase in U.S. imports of cotton trousers and other apparel from Oman that is small in absolute value and quantity but significant in percentage terms, reflecting a small and diminished base of imports from Oman during January-September 2005. The expected increase in imports of cotton trousers and other apparel from Oman would likely have almost no effect on the total level of U.S. imports or U.S. production of such goods (table 2-4). The elimination of all apparel tariffs would likely reduce the average price of Omani apparel by about 8 percent. This decrease in price is more than offset by an increase in quantity, resulting in increases in the total value of imports from

²² The ATC obligated 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 January 1, 2005. The United States had import quotas on textiles and apparel from 39 WTO countries under the ATC, including Oman.

²³ Even with the reduced level of U.S. imports of apparel from Oman, apparel accounted for 95 percent of the duties collected on U.S. goods imports from Oman during January-September 2005.

²⁴ Oman was subject to U.S. import quotas in several apparel categories, but did not fully utilize them in 2004 (e.g., Oman filled just 66 percent of its quota for cotton trousers).

²⁵ The substitution elasticity is from 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. The demand elasticity, which is a simple average of the own-price elasticities for men's and women's apparel, is from Kisung Kim, "U.S. Aggregate Demand for Clothing and Shoes: Effects of Non-durable Expenditures, Price and Demographic Changes," *International Journal of Consumer Studies*, vol. 27, no. 2, March 2003, pp. 111-125.

²⁶ The supply elasticity for exports from Oman is believed to be less than that for the rest of the world because of labor and transportation issues related to Oman's exports.

Table 2-3**Apparel products: U.S. imports from Oman and the world, and U.S. production, 2004, January-September 2004, and January-September 2005***(1,000 dollars)*

Item	2004	January-September--	
		2004	2005
Imports from Oman:			
Cotton trousers (<i>c.i.f. value</i>)	80,190	64,626	29,061
All apparel (<i>c.i.f. value</i>)	132,388	105,057	47,186
Imports from the world:			
Cotton trousers (<i>c.i.f. value</i>)	11,797,667	8,995,212	9,848,812
All apparel (<i>c.i.f. value</i>)	69,843,497	52,298,856	56,454,394
U.S. production:			
Cotton trousers (<i>shipment value</i>)	3,600,000	2,810,000	2,780,000
All apparel (<i>shipment value</i>)	56,614,000	30,768,000	30,486,000

Note.—U.S. imports of cotton trousers are provided for in HTS subheadings 6103.42.10, 6104.62.20, 6203.42.40, and 6204.62.40. U.S. imports of all apparel, as used in this report, include all apparel articles classified in HTS chapters 61 (apparel, knitted) and 62 (apparel, not knitted).

Source: Import data are official statistics of the U.S. Department of Commerce. U.S. production data for apparel are from the U.S. Census Bureau, *Manufacturers' Shipments, Inventories, and Orders*, December 2004 (M3-1(04)-12). Production data for 2005 are USITC staff estimates based on Census M3 data for the first three quarters of 2005. U.S. production data for trousers are USITC staff estimates based on U.S. Census Bureau, *Current Industrial Report for Apparel* (MQ315A).

Table 2-4**U.S.-Oman FTA: Estimated effects of eliminating U.S. duties on cotton trousers and all apparel from Oman**

Item	Cotton trousers	All apparel
	----- Percent change -----	
Imports from Oman (<i>price</i>)	-8.2	-7.7
Imports from Oman (<i>quantity</i>)	87.4	80.3
Imports from Oman (<i>landed, duty-paid value</i>)	72.1	66.5
Imports from the rest of the world (<i>landed, duty-paid value</i>)	-0.2	(¹)
U.S. output (<i>shipment value</i>)	-0.1	(¹)

¹ The percentage decline is less than 0.05 percent.

Note.—The base period used to estimate the effects is January-September 2005.

Note.—Cotton trousers are classified in HTS subheadings 6103.42.10, 6104.62.20, 6203.42.40, and 6204.62.40. All apparel, as used in this report, includes all articles classified in HTS chapters 61 (apparel, knitted) and 62 (apparel, not knitted).

Source: Commission estimates.

Oman of 67 percent for all apparel and 72 percent for cotton trousers. Even with these projected increases, the estimated levels of U.S. imports of apparel and cotton trousers from Oman would still be lower than those for 2004.²⁷ Based on annualized data for January-September 2005, the expected increases in imports from Oman of \$42 million for all apparel and \$28 million for cotton trousers (c.i.f. value) would likely be largely offset by decreases in imports from the rest of the world of \$35 million and \$27 million, respectively, thereby having a very small effect on U.S. apparel production.²⁸ Although the PE model does not explicitly account for employment changes, if one assumes that employment in the U.S. apparel industry declines by the same proportion as domestic output, then employment in the domestic industry would likely decrease by less than 0.05 percent.²⁹

The expected increase in U.S. apparel imports from Oman under an FTA would likely consist mostly of garments made from third-country inputs, because Oman appears to have little capacity to make yarns and fabrics for use in the production of apparel for export to the United States. The TPL would grant duty preferences to such nonoriginating apparel up to an annual level of 50 million SMEs for the first 10 years of the FTA.³⁰ However, the TPL may provide a temporary incentive to U.S. apparel buyers to continue to source some garments from Oman, particularly those subject to high U.S. tariffs.³¹ Nevertheless, based on the model results, it is likely that the annual level of U.S. imports of apparel from Oman (table 2-4) would not reach the TPL of 50 million SMEs.³² Officials of U.S. apparel companies that source globally said the inclusion of the TPL provision in the FTA was necessary because the yarn forward rule of origin “provides insufficient flexibility or predictability to generate and sustain trade” under the FTA; U.S. retail industry officials said the TPL is small and allows for “no real growth in trade and investment;” and U.S. textile industry officials said they largely support the FTA rules of origin for textiles and apparel, but oppose the inclusion of the TPL.³³

The results of the PE model indicate that the elimination of U.S. apparel tariffs under the U.S.-Oman FTA would likely increase U.S. net welfare by \$302,000 (i.e., the sum of the effects on U.S. taxpayers and U.S. consumers and producers of apparel). Consumers would have access to more goods at a lower price and, thus, the consumer surplus would increase

²⁷ For example, based on annualized c.i.f. value data for U.S. imports from Oman for January-September 2005, the Commission estimates that U.S. imports of apparel could increase up to a level of \$105 million annually, compared with a level of \$132 million for 2004. Similarly, U.S. imports of cotton trousers from Oman could increase to \$67 million annually, compared with \$80 million for 2004.

²⁸ In general, U.S. production of apparel consists of articles that are higher in cost than those of Oman and many other U.S. apparel suppliers, and are concentrated in niche markets.

²⁹ The U.S. apparel industry employed 284,800 people in 2004, based on data (not seasonally adjusted) of the U.S. Bureau of Labor Statistics for North American Industry Classification System (NAICS) code 315 (apparel).

³⁰ By comparison, U.S. apparel imports from Oman totaled 55 million SMEs in 2004 and 14 million SMEs in January-September 2005, compared with 44 million SMEs in the corresponding period of 2004. The import data are official statistics of the U.S. Department of Commerce and are available on the Web site of its Office of Textiles and Apparel (OTEXA) at <http://www.otexa.ita.doc.gov>.

³¹ The trade-weighted average duty on U.S. apparel imports from Oman in 2004 was 15.9 percent ad valorem. The NTR duty rates for heavily traded shirts and trousers range from 14.9 percent to 19.7 percent ad valorem, if of cotton, and from 25.9 percent to 32 percent ad valorem, if of manmade fibers.

³² Based on the modeling results for the increase in volume of U.S. apparel imports from Oman, the Commission estimates that U.S. imports from Oman could increase up to a level of 32 million SMEs on an annual basis.

³³ Reports on the U.S.-Oman FTA of the Industry Trade Advisory Committee (ITAC) on Textiles and Clothing (ITAC 13) and Distribution Services for Trade Policy Matters (ITAC 5), November 15, 2005, available at <http://www.ustr.gov>.

by an estimated \$8.9 million. Domestic producers would likely lose some revenue, but the loss would be small because the estimated net change in imports would be very small; the producer surplus would decrease by an estimated \$1.6 million. U.S. government tariff revenues on apparel imports from Oman would decrease by an estimated \$7.0 million. These model results do not include the effects of U.S. tariff reductions on other goods, or the effects of any increases in U.S. exports to Oman as a result of the FTA market access provisions.

Effect on U.S. Exports

U.S. exports to Oman are very small, accounting for less than 1 percent of total U.S. goods exports by value in 2004 (table 2-5). The leading U.S. exports to Oman were concentrated in machinery, transportation equipment, and measuring instruments, including parts for boring or sinking machinery, heat exchange units, passenger vehicles, and parts of gas turbines (see box 2-1 for further information on U.S. trade with Oman in machinery and equipment). U.S. exports to Oman in 2004 were reported under 931 HS subheadings (aggregated to the 6-digit level), 836 of which had duty rates of 5 percent ad valorem. These 836 subheadings are subject to FTA staging category A, in which the duty would be eliminated immediately upon implementation of the FTA, and accounted for 91 percent (or \$287 million) of total U.S. exports to Oman in 2004.

The Commission approximated the magnitude of potential export expansion under the FTA.³⁴ Assuming that Oman's duty rate of 5 percent ad valorem is eliminated for the 836 HS headings in staging category A, that Omani demand for these items is very responsive (i.e., that demand elasticity equals -3, which is relatively elastic), and that U.S. supply is perfectly elastic (the entire price reduction from tariff removal is passed on to Omani consumers), U.S. exports of these goods to Oman would likely increase by about \$41 million, or 14 percent.³⁵ This increase is a very small share of U.S. exports to the world, less than 0.05 percent, which implies that the effect on U.S. output and employment would be very small. If Oman's demand for U.S. exports is less responsive to tariff elimination (i.e., a demand elasticity of -1), then exports of these goods to Oman would increase by about \$14 million, or 5 percent. This increase is smaller than the observed annual variation in U.S. exports to Oman over the last five years.

³⁴ The Commission did not use the PE model for U.S. exports to Oman because it lacked the necessary data on Oman's production and Oman's demand for U.S. goods.

³⁵ A tariff elimination reduces prices to Omani consumers (assuming that the full tariff cut is passed through to them) by $t/(1+t)$ where t is the tariff. For a 5 percent tariff, this is $.05/1.05$, or .048 (i.e., 4.8 percent). This decrease multiplied by the demand elasticity provides the consumption increase.

Table 2-5
Leading U.S. exports to Oman, total U.S. exports to the world, Omani share of total, 2004, and
Omani duty rates

HTS subheading ¹	Description	Exports to	Exports to	Omani	Omani
		Oman	world	share	duty rate
		—1,000 dollars—		—Percent—	
8431.43	Parts for boring or sinking machinery, nesoi	31,267	4,568,019	0.68	5
8419.50	Heat exchange units, industrial type	23,107	375,625	6.15	5
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	15,990	10,550,638	0.15	5
8703.24	Passenger motor vehicles with spark-ignition internal combustion reciprocating piston engine, cylinder capacity over 3,000 cc	13,374	8,440,792	0.16	5
9880.00	Special classification provisions, nesoi	12,285	18,161,505	0.07	(²)
8411.99	Parts of gas turbines, nesoi (other than parts for turbojets or turbo-propellers)	8,779	3,412,748	0.26	5
3913.90	Natural polymers and modified natural polymers nesoi, in primary forms	8,346	248,978	3.35	5
8462.29	Bending, folding, straightening or flattening machines (including presses) for working metal, not numerically controlled	6,717	77,220	8.70	5
8716.40	Trailers and semi-trailers, nesoi	6,629	73,531	9.02	5
8803.30	Parts of airplanes or helicopters, nesoi	6,157	12,858,453	0.05	5
8705.90	Special purpose vehicles, other than those principally designed for the transport of persons or goods, nesoi	5,311	317,499	1.67	5
2106.90	Food preparations nesoi	4,696	2,047,338	0.23	5
8481.80	Taps, cocks, valves and similar appliances for pipes, vats or the like, including thermostatically controlled valves, nesoi	4,512	1,845,178	0.24	5
2402.20	Cigarettes containing tobacco	4,298	1,294,146	0.33	100
8431.39	Parts for lifting, handling, loading or unloading machinery, nesoi	4,278	1,178,954	0.36	5
1515.21	Corn (maize) oil and its fractions, crude, not chemically modified	3,828	129,337	2.96	5
9306.30	Cartridges and parts thereof, nesoi	3,632	157,962	2.30	5
8515.31	Electric machines and apparatus for arc (including plasma arc) welding of metals, fully or partly automatic	3,203	140,932	2.27	5
9015.80	Surveying instruments and appliances, nesoi, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances nesoi	3,182	421,795	0.75	5
2505.10	Silica sands and quartz sands, natural	3,180	157,995	2.01	5
	Subtotal	172,771	66,458,643	0.26	-
	Other	141,547	660,724,695	0.02	-
	Total	314,318	727,183,338	0.04	-

¹Aggregated from 8-digit level.

² Duty rate not indicated in Oman's tariff schedule.

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

Box 2-1**U.S. trade with Oman in machinery and equipment**

The emphasis of the Government of Oman on industrialization and privatization as outlined in the Oman Vision 2020 plan may provide greater opportunities for U.S. exports of machinery and transportation equipment, which would likely be enhanced by the duty eliminations under the FTA. Anticipated airport, port, and telecommunications infrastructure expansions, additions to power generation capacity, and wastewater management improvements will require significant capital investment. The Government of Oman is also interested in providing its growing population with improved health care. Based on these expected developments, U.S. exports of transportation, medical, power, water and recycling, and telecommunications machinery and equipment appear to have good growth prospects. Although Oman is interested in reducing its economic reliance on the oil sector and diversifying its economy, continued investment in the oil and gas industry, coupled with the elimination of tariffs on machinery and equipment under the U.S.-Oman FTA, may also spur greater demand for U.S. exports of associated machinery and equipment.

Sources: Jasim H. Ali, "GCC Insights: Oman Stays Ahead of Other Gulf States in Privatisation," *Gulfnews*, November 26, 2005, found at <http://www.gulfnews.com> (accessed November 29, 2005); U.S. Department of State, *Oman 2005 Investment Climate Statement*, found at <http://www.state.gov> (accessed December 1, 2005); and U.S. & Foreign Commercial Service, *Doing Business in Oman: A Country Commercial Guide for U.S. Companies, 2005*.

CHAPTER 3

Effect of Market Access Provisions for Services

U.S.-based service firms are likely to benefit from improved market access and greater regulatory transparency, though these benefits will be moderated by the relatively small size of Oman's economy. U.S. trade advisory groups express general satisfaction with the FTA provisions on services and transparency. According to the Minister of Commerce and Industry of Oman, the FTA will likely "provide new opportunities in areas such as banking, insurance, telecommunications, express delivery services and construction."¹ This chapter provides a summary of the FTA provisions on services, and an assessment of the likely impact of these provisions on U.S. imports and exports of banking and securities services, insurance services, and telecommunication services.²

Summary of FTA Provisions

The U.S.-Oman FTA addresses cross-border trade in services in chapter 11 of the FTA, financial services in chapter 12, and telecommunications in chapter 13. These three chapters closely follow comparable chapters in previous U.S. FTAs, including those with Chile, Morocco, and Singapore, and the pending U.S. FTA with Bahrain.

FTA Chapter 11–Cross-Border Trade in Services

Chapter 11 covers services other than financial services, air transport, and basic telecommunication services.³ The FTA would guarantee national and MFN treatment for providers of covered services. Local presence is not required, and regulation of services and qualification requirements may not be unduly burdensome. There are transparency requirements in addition to those set out in FTA chapter 18 on transparency. The parties are permitted to recognize education, experience, licenses, or certifications obtained in particular countries, but neither party is required to recognize comparable education or other credentials obtained in the other party. The parties must permit unfettered transfers and payments relating to the cross-border supply of services and must allow such transactions

¹ Maqbool Ali Sultan, Minister of Commerce and Industry, Sultanate of Oman, in prepared remarks for the Cato Institute Policy Forum, "Advancing Economic Freedom in the Middle East: The U.S.-Omani Free-Trade Agreement," Washington, D.C., January 18, 2006.

² These industries were selected for separate coverage because they are the subject of specific FTA chapters. In addition, the three industries are generally treated separately in reports on the U.S.-Oman FTA of the Industry Trade Advisory Committee (ITAC) for Information and Communications Technologies, Services, and Electronic Commerce (ITAC 8) and Services and Finance Industries (ITAC 10).

³ The covered measures include those adopted or maintained by central, regional, or local governments and authorities and by nongovernmental bodies exercising powers delegated by such governments and authorities.

to occur in a freely usable currency at the prevailing exchange rate on the date of transfer, subject to explicit exceptions. The benefits of this chapter may be denied under limited circumstances if the service supplier is controlled by persons of a nonparty. Chapter 11 includes specific commitments on express delivery services, which define the scope of coverage, confirm the desire to maintain market access no less favorable than that in effect when the FTA was signed, and delineate the relationship between covered services and each party's postal monopoly. In annex 11.9 to FTA chapter 11, parties agree to encourage relevant bodies to develop mutually acceptable standards and criteria for licensing and certification of professional service suppliers and to make recommendations on mutual recognition of such suppliers. Moreover, this annex permits the parties by mutual agreement to encourage the relevant bodies in their respective territories to develop procedures for the temporary licensing of one another's professionals. Annex 11.12 would allow Oman to reserve the right to require that Omani nationals account for up to 80 percent of the employees of a covered investment--except managers, board members, and specialty personnel--unless no qualified Omanis are available.⁴ A side letter on immigration is also an integral part of the FTA.⁵

FTA Chapter 12--Financial Services

Chapter 12 would require each party to allow cross-border trade in financial services, 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. Each party would be required to permit a financial institution of the other party to provide new financial services that it permits its own domestic institutions to provide without additional legislative action. The chapter would not require either party 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.

Under FTA chapter 12, a party could not require financial institutions of the other party to hire individuals of a particular nationality as senior managers or other essential personnel, and could not require more than a simple majority of the board of directors to be nationals or residents of the party. 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 subject to the national treatment and MFN obligations of this chapter. The two parties state that they recognize the importance of maintaining and developing expedited procedures for offering insurance services. The FTA would establish a financial services committee to implement the provisions of chapter 12. Chapter 12 also provides for consultations and dispute resolution, and includes cross references to the provisions covering dispute settlement procedures.

⁴ A similar Omani nationality provision in Annex 12.15 to chapter 12 of the FTA applies to certain employees of U.S. financial institutions with offices in Oman after three years from the start of business.

⁵ This U.S. side letter sets forth the parties' understanding that nothing in the agreement creates an obligation on either party regarding its immigration measures.

Under the FTA, parties may retain specific financial services measures that do not conform to the FTA by including the measures in annex III of the agreement. Further, a U.S. side letter to the FTA would allow a party to require the registration or authorization of the other party's cross-border financial service suppliers and of financial instruments.

FTA Chapter 13–Telecommunications

Chapter 13 would commit each party to ensure a high degree of openness, transparency, and nondiscrimination for the provision of both basic and value-added telecommunication services. For example, it would require each party to ensure that enterprises of the other party have access to and use of any public telecommunication service offered in its territory on reasonable and nondiscriminatory terms and conditions. The chapter imposes obligations on telecommunication service providers related to interconnection, resale and value-added services, number portability, and dialing parity. Major suppliers⁶ of telecommunication services would face additional obligations related to network unbundling, co-location, interconnection, leased circuits and resale services, and access to poles, ducts, conduits, rights-of-way, and submarine cable systems.⁷ The chapter also would require major suppliers of one party to offer public telecommunication services to entities of the other party on terms no less favorable than those accorded to their own subsidiaries, affiliates, and non-affiliated partners.⁸

Chapter 13 would require the governments of the United States and Oman to make all legal and regulatory standards publicly available, ensure the independence of the national telecommunications regulator, maintain dispute resolution procedures, and bestow competent regulatory entities with the authority to enforce compliance with FTA obligations. The chapter contains commitments and obligations related to universal service, licensing, and allocation and use of scarce resources.⁹ Chapter 13 would allow each party to refrain from implementing unspecified regulations deemed unnecessary to protect consumers, promote competition, or prevent discriminatory practices. Two annexes to chapter 13 establish limited exceptions, in both United States and Oman, for commercial mobile services and for telecommunication services in rural areas.

⁶ FTA chap. 13 defines “major supplier” as a supplier of public telecommunication services that has the ability to materially affect the terms of participation in the relevant market due to its use of market position or control over essential facilities.

⁷ The FTA provides a unilateral carve-out of the major supplier provisions for commercial mobile services for the United States. Excepting resale services, the agreement retains these provisions for Oman.

⁸ FTA chap. 13 would require each party to maintain measures that prevent major suppliers from engaging in anti-competitive practices.

⁹ FTA chap. 13 also stipulates that parties may not dictate the technological means by which services are delivered.

Potential Effect on U.S. Service Industries

Effect on U.S. Exports

The U.S.-Oman FTA would provide additional market access and national treatment to U.S. service firms beyond that afforded in Oman's commitments under the General Agreement on Trade in Services (GATS).¹⁰ U.S. service firms and their affiliates in Oman also would likely benefit from improved regulatory transparency, which is particularly important to cross-border trade in services and the establishment of a commercial presence in service industries, because many services are heavily regulated owing to their influence on public health, consumer welfare, and safety.¹¹ Chapter 18 of the U.S.-Oman FTA, which addresses transparency, promotes the public availability and clarity of regulation. In addition, the chapters on services (chapters 11 through 13) include provisions that further promote regulatory transparency.

The improvement in U.S. market access under the FTA vis-à-vis Oman's existing Schedule of Specific Commitments under the GATS is attributable in part to the use of a "negative list" approach in the FTA.¹² Under this approach, all trade disciplines included in FTA chapters 11 through 13 would automatically cover all service industries and industry segments except for those specifically exempted in FTA annexes I through III on nonconforming measures. Annexes I through III also provide detail on current regulatory practice and potential changes in that practice for the affected industry (table 3-1). One result of the negative list approach is that the FTA disciplines are automatically extended to services that have yet to be created or brought to market, an element especially important in the communication services and financial services sectors, where technological advancement and other innovation frequently result in new service offerings and means of delivery. The negative list approach tends to yield greater market access and transparency than the "positive list" approach employed in the GATS, wherein market access and national treatment apply only to the provision of specifically listed services. Under a positive list approach, the extension of trade disciplines to each new service would have to be negotiated individually.¹³

Under the GATS, Oman elected not to make commitments on certain services, such as rail, road, and pipeline transport services; real estate services; recreational, cultural, and sporting services; health related and social services, except hospital services; and rental and leasing services. Although the absence of Omani commitments on these particular services does not necessarily mean that Oman maintains impediments to trade in such services, the absence of commitments affords Oman the right to implement trade restrictions without penalty. In the FTA, however, the use of the negative list approach automatically extends the trade disciplines of the services chapters of the FTA to certain of the services for which Oman made no commitments under the GATS, including rail transport services; pipeline transport

¹⁰ WTO, GATS, *Oman: Schedule of Specific Commitments*, GATS/SC/132, December 22, 2000.

¹¹ A profile of the services industries in the United States and Oman appears in box 3-1.

¹² Report on the U.S.-Oman FTA of the Advisory Committee for Trade Policy and Negotiations, November 15, 2005, available at <http://www.ustr.gov>.

¹³ ITAC 8 report on the U.S.-Oman FTA.

Box 3-1**Profile of services industries in the United States and Oman**

The services sector in Oman accounted for 45 percent of the country's GDP in 2003. Oman posted a services trade deficit in that year, with imports and exports of \$2.1 billion and \$457 million, respectively. Services accounted for 4 percent of Oman's overall exports, with the rapidly expanding transportation services and travel and tourism services each accounting for 48 percent of Oman's services exports in 2003. Oman has four major seaports, the newest of which, at Sohar, opened in 2004 to support the expansion of industrial production, while Salalah port, the major transshipment center in Oman, plans to expand capacity by year-end 2006. International flight arrivals at Oman's major airport increased to record levels in 2003 and 2004, and expansion of the airport terminal reportedly is underway and is expected to be completed by 2008. To stimulate tourism, the Government of Oman gradually reduced visa restrictions during the 1990s. Hotel accommodations in Oman increased by 50 percent between 1998 and 2003, increasing to 9,775 rooms in 133 hotels. Numerous large-scale tourism resort infrastructure projects aimed at wealthy foreign travelers are also under construction, mostly in or near Muscat, the capital of Oman. The Government of Oman established a Ministry of Tourism in 2004 to oversee the development of these and other prospective tourism projects.

The insurance market in Oman in 2004 recorded total premiums of \$274 million, of which 14 percent was life insurance and 86 percent was nonlife insurance. Oman has one of the smallest insurance markets in the world, ranking 85 out of 88 countries in the Swiss Re database. In 2003, there were 17 insurance companies operating in Oman, including 7 foreign-owned firms, with American Life Insurance the only U.S.-owned firm. Oman recorded \$5 million in global exports of insurance services, compared to a negative \$114 million in imports of such services.¹ By contrast, the U.S. insurance market recorded premiums of \$1.1 trillion in 2004, equal to 34 percent of the global insurance market, and U.S. insurers recorded cross-border exports of \$6.1 billion in 2004 and sales by foreign affiliates of \$108.1 billion in 2003.

The U.S. services sector accounted for 78 percent of both U.S. private sector GDP and private sector employment (or 81.6 million full-time equivalent employees) in 2004. The United States is the world's largest services exporter, with cross-border private services exports totaling \$323.4 billion in 2004, and maintains the largest cross-border services trade surplus, measuring \$65.3 billion in 2004. The principal U.S. services exports in 2004 were travel and tourism (\$74.5 billion), followed by services generating royalty and license fees such as software licensing and distribution (\$52.6 billion), and other transportation services, primarily maritime and freight transportation (\$36.9 billion). Sales of services by foreign affiliates of U.S. parent firms, the value of which has exceeded that of U.S. cross-border services exports since 1996, totaled \$477.5 billion in 2003 (latest available). 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.

¹ Cross-border trade in insurance services principally reflect estimates of premiums earned minus claims paid or recovered in a given year. A negative value for imports of insurance services signifies that premiums paid by Omani residents to foreign insurers were smaller than claims paid by foreign insurers to Omani residents.

Sources: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, May 2005, p. 13, August 2005, p. 146, and October 2005, pp. 40, 45, and 63; Sultanate of Oman, Ministry of National Economy, "Insurance Companies Operating During (2003)," found at <http://www.moneoman.gov.om> (accessed November 2, 2005); and *Statistical Year Book*, no. 32, October 2004, tables on national accounts, found at <http://www.moneoman.gov.om/mone/natacc.htm> (accessed November 28, 2005); International Monetary Fund, *Balance of Payments Statistics Yearbook, 2004, Part I: Country Tables*, vol. 55, 2004, pp. 449, 700-701, and 985; Economist Intelligence Unit, *Country Profile 2005: Oman*, pp. 18-19, available at <http://www.eiu.com>; U.S. & Foreign Commercial Service and U.S. Department of State, *Doing Business in Oman: A Country Commercial Guide for U.S. Companies*, 2005, found at http://www.buyusainfo.net/docs/x_9703894.pdf (accessed November 10, 2005); and Swiss Re, *Sigma*, No. 2/2005, pp. 35-39.

Table 3-1
U.S.-Oman FTA: Service sectors subject to nonconforming measures related to cross-border trade

Oman		United States	
Current Measures	Potential measures	Current Measures	Potential measures
Employment placement services	Barbering services	Air transportation services	Communication
	Calligraphy services		Insurance
Financial services, excluding insurance	Financial services, except insurance	Business services	Maritime transportation
Investigation and security services	Household appliance maintenance and repair services	Customs broker services	Minority affairs
Real estate brokerage services	Instructional driving services	Banking and other financial services, excluding insurance	Social services
Specialty air services	Ladies' hair dressing services	Insurance	
Taxi transportation services	Laundry services	Professional services - patent attorneys, patent agents, and others who practice before the Patent and Trademark Office	
Tourist guide services	Photocopying services		
Transportation services on internal waterways	Small auto repair services		
	Tailoring services		
	Telecommunication services		
	Translation services		
	Typing services		
	Upholstery services		

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 concerning nondiscrimination, performance requirements, and senior personnel. 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 future nonconforming measures related to financial services, including insurance.

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

services; road transport services, except taxi transport services; recreational, cultural, and sporting services; rental and leasing services; and real estate services, except real estate brokerage services. Thus, under the FTA, U.S. providers of such services would receive unrestricted market access, nondiscriminatory regulatory treatment, and improved transparency.

U.S. industry sources state that the FTA would provide a favorable environment for professional services trade, despite caveats with respect to legal services.¹⁴ They state that the FTA contains exceptionally few nonconforming measures on professional services, and that equity and reciprocity would likely result from the provisions in annex 11.9 on professional services. U.S. industry sources state that the FTA may set a precedent by not including limits on legal advisory services, although there are concerns over the possible effect that Oman's requirements on the ownership of legal service suppliers may have on the temporary presence of U.S. lawyers in Oman. U.S. industry sources indicate that the FTA's chapters on investment, government procurement, cross-border trade in services, and transparency provide a framework to improve operating conditions in Oman for U.S. energy service firms, especially as the country strives to diversify its energy supply.

In its annex of current nonconforming measures, Oman specifies seven service industries that are restricted to Omani nationals. These industries include employment placement; internal waterway transport; investigation and security; licensed tour guides; real estate brokerage;¹⁵ specialty air services; and taxi transportation. A measure on financial services other than insurance confers advantages on the Omani Housing Bank and the Oman Development Bank, including but not limited to extensions of state guarantees, exemptions from tax and other requirements, infusion of capital, and other subsidies. Oman also reserves the right to impose future measures on the supply of 14 service products (table 3-1); one of these products—financial services (except insurance)—has significant potential for U.S. trade.

Financial Services, Except Insurance

The FTA is expected to generate only a small increase in U.S. exports of financial services except insurance (i.e., banking and securities services) to Oman. Such exports are estimated to account for not more than 1 percent of total U.S. exports of financial services, or \$339 million, in 2004.¹⁶ The FTA could encourage U.S. banks to establish a presence in Oman to provide trade-financing services. None of the 15 commercial banks currently operating in Oman is a U.S. firm,¹⁷ and Oman has barred new non-Gulf Cooperation Council banks from entering the market in recent years.¹⁸ Another segment of the financial services sector in which the United States may be able to expand exports to Oman under the FTA is asset

¹⁴ Information in the paragraph is from the ITAC 10 report on the U.S.-Oman FTA.

¹⁵ The ITAC 10 report on the U.S.-Oman FTA states that efforts should be made to permit U.S. nationals to provide real estate brokerage services in Oman, an area currently reserved for Omani nationals.

¹⁶ This figure represents exports to "other Middle East" countries, including Oman, for which data are not individually available. U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA), *Survey of Current Business*, October 2005, p. 60.

¹⁷ Citibank N.A. had been operating in Muscat since 1975, but closed operations there in 2004. Economist Intelligence Unit (EIU), *Country Profile Oman*, May 1, 2004, found at <http://www.eiu.com> (accessed November 1, 2005); and Sultanate of Oman, Ministry of National Economy, *Statistical Year Book*, no. 32, October 2004, found at www.moneoman.gov.om/mon/banking/htm (accessed December 1, 2005).

¹⁸ Office of the United States Trade Representative (USTR), *2005 National Trade Estimate Report on Foreign Trade Barriers*, p. 460.

management services. Under the FTA, Oman would allow U.S. asset managers of mutual funds to provide cross-border portfolio management services. This commitment, which has been a priority of U.S. asset managers in previous trade negotiations, would permit U.S. mutual fund managers to offer their services in Oman without establishing a commercial presence in that country, enabling them to control costs effectively and increase their competitiveness in the Omani market.¹⁹ Foreign investors are allowed to buy shares on the Muscat Securities Market,²⁰ which is a characteristic of the Oman securities market that predates the FTA and contrasts with equity markets in many of Oman's neighboring countries. Foreign investors accounted for an estimated 18 percent of traded shares in Oman in mid-2004.²¹

U.S. industry sources generally consider the financial services commitments in the FTA to be relatively strong.²² Of particular importance to U.S. firms is the provision allowing them to establish operations as either a branch or a subsidiary, and allowing 100 percent foreign ownership of newly established entities. However, U.S. industry sources expressed concern that the FTA would limit foreign firms to a 70-percent share of equity in existing financial service companies and that Oman reserves the right to require that Omani nationals account for up to 80 percent of the employees of a U.S.-owned firm in Oman.

Insurance

The FTA is expected to generate only a small increase in U.S. exports of insurance services to Oman, with little or no change in overall U.S. insurance exports. The insurance market in Oman is small compared to that in the United States and, therefore, the potential for cross-border U.S. exports or sales by foreign affiliates of U.S. firms in this sector is limited.²³ Moreover, because Oman's existing GATS commitments do not contain any market access or national treatment barriers for insurance carriers,²⁴ it is likely that U.S. firms with an interest in the Omani market are already providing services in that country. Providers of insurance brokerage services and services auxiliary to insurance currently face a foreign equity limit of 70 percent when establishing a commercial presence in Oman.²⁵ This restriction will be removed for U.S. service providers under the FTA. It is unlikely that the removal of this barrier will result in a measurable impact on overall U.S. exports of such services.²⁶

U.S. insurance industry sources expressed support of the FTA, noting that Oman did not take any reservations related to insurance. According to industry sources, U.S. insurers supplying services in Oman are expected to greatly benefit from the FTA. New rights for U.S. insurers in Oman include the ability to establish a commercial presence through subsidiaries, branches, or joint ventures; to supply marine, aviation, and transport insurance and reinsurance to Omani residents on a cross-border basis; and to supply insurance-related

¹⁹ ITAC 10 report on the U.S.-Oman FTA, p. 7.

²⁰ EIU, *Country Profile Oman*, May 1, 2004.

²¹ USTR, *2005 National Trade Estimate Report on Foreign Trade Barriers*, p. 461.

²² Information in the paragraph is from the ITAC 10 report on the U.S.-Oman FTA, p. 8.

²³ Industry representatives, telephone interviews by USITC staff, November 8 and 9, 2005.

²⁴ The noted restriction applies to insurance brokers and providers of services auxiliary to insurance, which are separate from insurance carriers.

²⁵ WTO, GATS, GATS/SC/132.

²⁶ Global sales by foreign affiliates of U.S. insurance brokers and related activities were \$5.4 billion in 2003. See USDOC, BEA, *Survey of Current Business*, October 2005, p. 75.

services on a cross-border basis, including brokerage, claims processing, actuarial services, and other auxiliary services. Oman also committed to swift approval of new products--30 days for nonlife insurance and 60 days for life insurance.²⁷

The insurance market in Oman is small but will likely grow, particularly in the health insurance segment, as Oman follows Saudi Arabia and Kuwait with the expected introduction of laws requiring compulsory health insurance for expatriates working in the country.²⁸ There is some evidence that Middle Eastern countries are beginning to change their policies regarding other insurance segments as well. This change is due in part to the small but steadily growing existence of takaful, or Islamic-based insurance. The growth of the bancassurance²⁹ distribution outlet has also helped to increase insurance sales.³⁰

Telecommunications

The FTA will likely have no measurable impact on U.S. exports of telecommunication services, largely reflecting the existing level of openness and small size of Oman's telecommunication services market.³¹ The FTA includes provisions that improve upon Oman's GATS commitments.³² Commitments made by Oman under the GATS lifted most restrictions on the provision of telecommunication services in Oman. In accordance with its WTO commitments, the Government of Oman has taken steps to liberalize its telecommunications services market. For example, in 2003 and 2004, royal decrees created an independent regulator³³ and divided the incumbent operator into separate fixed and mobile operators—Oman Telecommunications Company (Omantel) and Oman Mobile Telecommunications Company (OMTC).³⁴ The government also enacted measures relating to pricing and interconnection. During 2005, the government privatized 30 percent of Omantel³⁵ and licensed a second mobile operator, Narwas Telecom.³⁶ In anticipation of competition resulting from the WTO agreement, both Omantel and OMTC reduced the per-

²⁷ ITAC 10 report on the U.S.-Oman FTA.

²⁸ Richard Nield, "Expat Cover Leads the Way," *Middle East Economic Digest*, May 27, 2005, vol. 49, no. 21, p. 35.

²⁹ "Bancassurance" refers to insurance sold to customers through banks rather than insurance agents or brokers.

³⁰ Richard Nield, "Expat Cover Leads the Way."

³¹ In 2002, Oman's telecommunications services market totaled about \$504 million, compared with \$294 billion for the U.S. market. International Telecommunications Union, *Yearbook of Statistics*, 2004, pp. 125 and 171.

³² Such "WTO-plus" commitments include obligations related to network access and interconnection, leased circuits, network unbundling, co-location, dispute resolution and enforcement, and regulatory transparency.

³³ In March 2002, Royal Decree No. 30/2002 created the Telecommunications Regulatory Authority.

³⁴ In February 2004, Royal Decree No. 20/2004 converted the incumbent telecommunication provider, Oman Telecommunications Company, into a holding company, and devolved responsibility for fixed-line and mobile services to Omantel and OMTC, respectively.

³⁵ Omantel is currently the only provider of fixed line services in Oman. EIU, *Country Profile Oman - Main Report: May 1st, 2005*, 2005, found at <http://eiu.com> (accessed November 1, 2005).

³⁶ Narwas Telecom, a joint venture between Qatar Telecom and Denmark's TDC, received an operating license in June 2004; Narwas began commercial operations in March 2005. Dow Jones Newswires, "TDC, Qatar Telecom Win GSM License in Oman," *TotalTelecom*, June 24, 2004, found at <http://www.totaltele.com>, and EIU, "Second Mobile-Phone Service Launched," *ViewsWire*, found at <http://www.viewswire.com> (both accessed December 8, 2005).

minute price of a telephone call to the United States in early 2005.³⁷ The per-minute price of an international telephone call is the primary determinant of U.S. exports of telecommunication services to Oman.

Effect on U.S. Imports

It is not possible to establish an overall quantitative measure of the effect of the U.S.-Oman FTA on trade in services because of the unavailability of sufficient data (see table 3-2 for the available data on Oman's services trade). The United States specified six service industries for which it currently maintains cross-border nonconforming measures (table 3-1). However, the impact of these measures on U.S. imports is likely to be minimal, owing to Oman's small and domestically focused service industry. A measure on air transportation requires U.S. Department of Transportation authorization for the provision of specialty air services. A measure applicable to business services requires that Omani-invested firms obtain export certificates issued by the Secretary of Commerce upon finding that the export would not have anti-competitive effects. U.S. citizenship is required to obtain the necessary license for customs brokers and patent attorneys, patent agents, and others who practice before the U.S. Patent and Trademark Office. The United States also reserves the right to impose measures in the future regarding differential treatment for certain modes of communication owing to reciprocity arrangements or international agreements; on maritime transportation and the operation of U.S.-flagged vessels; and on minority affairs, social services, and insurance.

Table 3-2
Cross-border trade in services with all trading partners, the United States and Oman, 2003

(Millions of U.S. dollars)

Service industry	United States		Oman	
	Exports	Imports	Exports	Imports
Total services	304,090	256,300	457	2,059
Passenger transport	15,690	20,960	153	174
Freight transport	14,100	31,770	65	647
Other transport	17,730	12,990	0	0
Travel	84,120	59,660	219	577
Other services	172,440	130,910	20	662

Source: International Monetary Fund, *Balance of Payments Statistics Yearbook, 2004, Part 1: Country Tables*, vol. 55, 2004, pp. 701 and 985.

Because the market for U.S. financial services is already relatively open and the Omani industry is relatively small, the U.S.-Oman FTA is not likely to have a significant impact on U.S. imports of banking and securities services from Oman. In 2004, total U.S. imports of banking and securities services registered \$11.2 billion.³⁸ While precise figures on financial service imports from Oman do not exist, available data indicate that such imports could not

³⁷ In 2005, both Omantel and OMTC reduced their prices for peak-time calls to the United States from \$0.78 to \$0.62; off-peak calls were reduced from \$0.65 to \$0.52 (found at <http://www.omantel.net.om> and <http://www.omanmobile.om> (both accessed December 5, 2005)).

³⁸ USDOC, BEA, *Survey of Current Business*, October 2005, p. 60.

exceed \$54 million,³⁹ or less than 1 percent of total U.S. banking and securities services imports. However, such Omani imports, if any, are most likely concentrated in the provision of trade financing to U.S. clients importing goods from Oman, and do not directly compete with U.S.-based banks.⁴⁰ Any future growth in this industry segment will likely be a result of demand for these services generated by increased trade in goods between the United States and Oman rather than a result of financial sector liberalization.

The U.S. insurance market is already open to foreign firms and the Omani industry is small, so the U.S.-Oman FTA is not likely to have a measurable impact on U.S. imports of insurance services. In 2004, U.S. cross-border imports of such services were \$29.9 billion, and insurance sales by U.S. affiliates of foreign firms equaled \$83.3 billion. Precise figures on U.S. cross-border imports of insurance services from Oman are not available, but existing data indicate that such imports could not exceed \$2 million, or less than 0.1 percent of imports of insurance services.⁴¹ Any future growth in this industry segment will likely result from demand for these services generated by increased trade in goods between the United States and Oman, rather than from insurance sector liberalization.

The FTA will likely have no measurable impact on U.S. imports of telecommunication services, largely due to the relatively high existing level of openness in the U.S. market for telecommunication services, as reflected in the WTO Basic Telecommunications Agreement. Although the U.S. commitments under the WTO agreement removed most foreign investment restrictions in the U.S. market and provide for greater regulatory transparency, Omantel did not enter the U.S. market. In the near term, competitive pressures in the U.S. market will reduce the incentive for either Omantel or OMTC to establish an affiliate in the United States.

³⁹ Ibid.

⁴⁰ As of June 2005, there were no Omani banks with offices in the United States, so the existence of measurable imports is unlikely. See U.S. Federal Reserve Board, "Structure and Share Data for U.S. Offices of Foreign Banks," found at www.federalreserve.gov/releases/iba/current/struca.pdf (accessed December 1, 2005).

⁴¹ Data are not available on sales of insurance services by Omani-owned affiliates in the United States. USDOC, BEA, *Survey of Current Business*, October 2005, pp. 63 and 77.

CHAPTER 4

Effect of Trade Facilitation Provisions

Trade facilitation measures are intended to expedite the movement of goods, services, and trade information across borders, thus promoting economic growth and development. The need for efficient, simple, reliable, and secure international trade procedures is driving worldwide demand for trade facilitation. The U.S.-Oman FTA contains provisions that address trade procedures, and these provisions may serve to expedite the movement of goods and the provision of services between the United States and Oman. Although the effect these trade facilitation provisions have on trade performance cannot be quantified, U.S.-based firms will likely benefit from their application, as they promote efficiencies in the customs clearing process, improve regulatory transparency, and reduce technical barriers to trade.

FTA Chapter 5—Customs Administration

This chapter of the FTA addresses customs procedures and their implementation, and is structurally similar to corresponding sections in other U.S. FTAs, while reflecting existing U.S. laws and regulations. The chapter states that the United States will provide technical assistance to Oman's customs authorities in various areas and that the parties will continue to explore additional means of cooperation. Chapter topics include review and appeal, penalties, advance rulings, express shipments, and technical cooperation and implementation. The express shipments section contains two provisions not included in earlier U.S. FTAs. The first states that such activity will not be limited by a maximum weight or customs value. The second states that under normal circumstances, shipments valued at \$200 or less will not be assessed duties or taxes, and will not require any formal entry documents, except for when expressly identified by each party's laws and regulations. The requirement that importers be able to seek advance rulings would not apply to Oman until two years after the date of entry into force of the FTA; the United States already has a system in place allowing requests for advance rulings.

Documentation requirements appear to be standard and include relevant commercial invoices (three copies required), an original of the certificate of origin, bills of lading (original and one copy required), an insurance certificate, and an import license.¹ In general, certain classes of goods (e.g., alcohol, firearms, pharmaceuticals, and explosives) require a special license, while certain consumer goods and other items are exempted from customs duty.²

The FTA would facilitate the clearance process through greater use of information technology, improve risk management and cooperation among parties, and establish procedures for resolving disputes. It requires each party to adopt separate customs

¹ The Journal of Commerce, "Oman," *Handbook for International Trade*, found at <http://www.joc.com> (accessed November 17, 2005).

² Examples of exempt goods are seeds, fertilizers, agricultural implements, books, refined petroleum products, and basic food commodities such as rice. See U.S. & Foreign Commercial Service and U.S. Department of State, *Doing Business in Oman: A Country Commercial Guide for U.S. Companies*, 2005, found at <http://www.stat-usa.gov> (accessed November 17, 2005).

administration measures for express shipments. These measures would facilitate express shipment processing to allow (1) electronic submission of documents, (2) pre-arrival processing of information, and (3) submission of a single manifest covering all goods in an express shipment, as well as to minimize release documentation, where possible. The FTA would require release of express shipments within 6 hours.

The Industry Trade Advisory Committee (ITAC) on Customs Matters and Trade Facilitation (ITAC 14) stated that it is generally pleased with the FTA provisions on customs administration and that the FTA would provide equity and reciprocity in the customs functional area.³ The ITAC expressed the view that trade is enhanced by the inclusion of provisions such as those requiring prompt publication of customs rules and ensuring the timely release of goods.⁴ For the FTA provision requiring release of express shipments within 6 hours, the ITAC report said its members would prefer to see it reduced by at least 50 percent in the future, so as to improve access for extremely urgent deliveries.

FTA Chapter 6—Sanitary and Phytosanitary Measures

This chapter on sanitary and phytosanitary (SPS) measures will apply to all SPS measures that affect trade between the United States and Oman, whether directly or indirectly. Under provisions of this chapter, the United States and Oman will affirm their existing rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Joint Committee created in article 19.2 of the FTA or its subcommittee will serve as a forum for discussions on these matters, but no other FTA dispute settlement on these issues will be allowed by the text. The chapter specifies that neither party has recourse to dispute settlement under the FTA for any matter arising under the provisions of this chapter. The parties may utilize the dispute settlement mechanism of the WTO agreement on SPS.

FTA Chapter 7—Technical Barriers to Trade

The chapter on technical barriers to trade (TBT) will, among other things, (1) reinforce transparency obligations in rulemaking, (2) provide for direct participation on a nondiscriminatory basis in standards development, (3) establish informal mechanisms for rapid resolution of disputes, and (4) reinforce WTO Technical Barriers to Trade Agreement obligations.⁵ The ITAC for Standards and Technical Trade Barriers (ITAC 16) states that the FTA “effectively promotes the economic interests of the United States and achieves the overall and principal negotiation objectives.”⁶ Implementation of the TBT provisions by the FTA parties will likely result in increased opportunities for U.S. firms to export to Oman,

³ The ITAC 14 report on the U.S.-Oman FTA is available at <http://www.ustr.gov>.

⁴ The ITAC 14 report recommends that the FTA parties adhere to and use the 2002 version of the Harmonized Commodity Coding and Classification System of the World Customs Organization, and the WTO customs valuation system.

⁵ Reports on the U.S.-Oman FTA of the ITACs on Standards and Technical Trade Barriers (ITAC 16), Information and Communications Technologies, Services and Electronic Commerce (ITAC 8), and Non-Ferrous Metals and Building Materials (ITAC 9), November 2005, available at <http://www.ustr.gov>.

⁶ ITAC 16 report on the U.S.-Oman FTA.

particularly in goods often subject to technical and regulatory standards and requirements, such as food products, building materials, and information technologies.⁷

Oman has made significant progress in meeting its WTO TBT Agreement obligations since its WTO accession in November 2000, and has achieved substantial harmonization of its standards and conformity assessment systems with other members of the Gulf Cooperation Council (GCC) customs union.⁸ However, at present, some standards, testing, certification, and labeling problems remain for U.S. firms attempting to access Oman's market, especially for perishable food products.⁹ Further, U.S. industry officials believe that Oman could improve its regulatory system by improving transparency in its rulemaking, accepting certification results of U.S. testing bodies for certain products, and increasing participation by U.S. companies in Oman's standards-developing bodies.¹⁰

The TBT chapter of the FTA would encourage the full implementation by the parties of the WTO TBT Agreement, and reflects the same principles and obligations. The TBT chapter focuses on enhanced cooperation and trade facilitation, and provides that each party must accredit or recognize the conformity assessment bodies of the other, or in the absence of acceptance, explain why. The parties also commit to allowing their nationals to participate in standards development by governmental bodies on a national treatment basis, and to recommending the same transparency for nongovernmental standards bodies. The TBT chapter provides for the establishment of several mechanisms to facilitate this participation, with the parties agreeing to implement this more open approach within five years from the date of entry into force of the FTA.¹¹

FTA Chapter 14—Electronic Commerce

The chapter on electronic commerce (e-commerce) in the U.S.-Oman FTA, while similar to that in other U.S. FTAs, includes a delimited article covering consumer protection. The text mentions the importance of maintaining and adopting transparent and effective measures to protect consumers from fraudulent and deceptive commercial practices. The chapter also affirms the importance of avoiding e-commerce barriers and the applicability of WTO rules to e-commerce. The FTA allows for nondiscriminatory treatment of digital products, providing a broad national treatment and MFN nondiscriminatory provision. This provision may serve to promote e-commerce trade between the parties by limiting the transaction costs associated with electronically-traded goods and services. Another notable provision is the valuation of physically delivered digital products. The FTA states that the parties recognize the importance of e-commerce to economic growth, and affirm that electronically-supplied services are subject to the relevant obligations found within the FTA chapters on investment

⁷ U.S. industry representatives, telephone interviews by USITC staff, November 8-10, 2005.

⁸ Office of the United States Trade Representative (USTR), *2005 National Trade Estimate Report on Foreign Trade Barriers*, March 2005, p. 459, available at <http://www.ustr.gov>, and U.S. trade official, telephone interview by USITC staff, November 3, 2005.

⁹ USTR, *2005 National Trade Estimate Report on Foreign Trade Barriers*, p. 459. Although such restrictions primarily pertain to SPS regulations (covered in FTA chapter 6), restrictive labeling requirements on such products constitute a TBT. The WTO TBT Agreement addresses all standards-related measures not addressed by the WTO SPS Agreement.

¹⁰ U.S. industry representatives, telephone interviews by USITC staff, November 8-10, 2005.

¹¹ USTR, *Proposed Text of the U.S.-Oman Free Trade Agreement*, October 18, 2005, Articles 7.1 through 7.9, available at <http://www.ustr.gov>.

(chapter 10), cross-border services trade (chapter 11), and financial services (chapter 12). In the FTA, the parties agree that trade in digital products should 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.¹²

The ITAC for Information and Communications Technologies, Services and Electronic Commerce (ITAC 8) stated that the FTA chapter on e-commerce meets its negotiating objectives because, among other things, it would require nondiscriminatory treatment of digital products. Under the FTA, digital products will not be discriminated against and customs duties will not be applied to digital products transmitted electronically.¹³ The ITAC stated that the FTA includes a broad national treatment and MFN non-discriminatory provision that may serve to promote e-commerce trade between the parties by limiting the transaction costs associated with electronically-traded goods and services.

FTA Chapter 18–Transparency

Transparency enhances economic activity by providing a certain level of legal and regulatory certainty, which allows firms to make informed decisions before entering new markets.¹⁴ Further, transparency of laws and regulations is considered an important principle in regulatory reform and a fundamental requirement for good governance.¹⁵ This chapter on transparency in the U.S.-Oman FTA generally tracks corresponding sections of other FTAs. Included are anticorruption provisions, which seek to improve trade environments by requiring each party to establish criminal prosecution and penalty procedures for bribery and corruption. Article 18.5 contains many of the FTA’s anticorruption obligations, including commitments to “eliminate bribery and corruption in international trade and investment” through legislation or other means, including criminal prosecution. Specific commitments for public officials of each party are also set forth, as is an obligation to protect informers and to work in other international fora to aid and support anticorruption provisions.

Oman has taken steps to increase regulatory and procedural transparency. In 2003, Oman began to liberalize and privatize the telecommunications sector, and in July 2004, passed a new privatization framework law covering the power and water sectors. The Government of Oman has also issued a series of regulations aimed at increasing transparency and disclosure in the financial market.¹⁶ These new rules are likely to increase transparency in financial transactions in local banks and the Muscat Securities Market and clarify the activities of publicly traded companies. Notwithstanding such deregulation and liberalization efforts, Oman's regulatory environment reportedly can hamper investment and

¹² The ITAC 8 report on the U.S.-Oman FTA states that ITAC members seek to make the WTO Moratorium on Customs Duties and Electronic Transmissions permanent.

¹³ The ITAC 8 report also states that, for the physical delivery of digital products, the FTA parties would agree to apply customs duties on the basis of the value of the carrier medium alone.

¹⁴ Organization for Economic Cooperation and Development (OECD), “Trade Facilitation: The Benefits of Simpler, More Transparent Border Procedures,” *Policy Brief*, August 2003, p. 3.

¹⁵ Geza Feketekuty, “A Vision for the Millennium Round,” p. 3, found at <http://www.commercialdiplomacy.org/articles.htm> (accessed August 2, 2004).

¹⁶ The Capital Market Authority (CMA) of Oman requires all public companies to comply with a set of standards for disclosure. See U.S. & Foreign Commercial Service and U.S. Department of State, *Doing Business in Oman: A Country Commercial Guide for U.S. Companies*, 2005.

commercial activity.¹⁷ In addition to ownership and agency requirements, the licensing of business activities can be time consuming and complicated. Oman's tax and labor laws can also impede foreign investment. Government decisions often require approval by multiple ministries, resulting in a process that can be complex and nontransparent.¹⁸ Further, U.S.-based firms may encounter market entry impediments as a result of procedural ambiguities in domestic regulations. The provisions covering transparency are expected to 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.

¹⁷ U.S. & Foreign Commercial Service and U.S. Department of State, *Doing Business in Oman: A Country Commercial Guide for U.S. Companies*, 2005.

¹⁸ *Ibid.*

CHAPTER 5

Effect of Regulatory Environment and Investment Provisions

Provisions of the U.S.-Oman FTA dealing with the regulatory environment would likely benefit U.S. firms doing business in Oman, primarily as a result of improvements in regulatory transparency. In particular, the FTA's provisions on investment and intellectual property rights (IPR) aim to enhance protection for U.S. investors operating in Oman and U.S. IPR industries. Although it is not possible to quantify the economic effects of these provisions, the Commission's analysis indicates that the effects will likely be very small because of the relatively small size of the Omani economy. This chapter provides a summary of the text and a qualitative assessment of the potential impact of the FTA chapters on safeguards (chap. 8), government procurement (chap. 9), investment (chap. 10), intellectual property rights (chap. 15), labor (chap. 16), environment (chap. 17), and dispute settlement (chap. 20).

Summary of FTA Provisions

FTA Chapter 8–Safeguards

The U.S.-Oman FTA provides the legal framework to allow each party to impose bilateral safeguards on originating goods of the other party. A party must notify the other party when an investigation is initiated and consult before taking any action under the safeguard provisions. An FTA safeguard measure may be taken only if a party determines that, as a result of the reduction or elimination of a 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 (1) a suspension of the further reduction of the FTA duty rate on such goods, or (2) an increase in that duty to a level not to exceed the lower of the MFN duty rate at the time the action is taken or the applied MFN rate on the day before the date of entry into force of the FTA. Such a safeguard is aimed at preventing or remedying serious injury and facilitating adjustment. It cannot be imposed for a period extending longer than three years or, if after the transition period (10 years after entry into force of the FTA), 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.

The bilateral safeguard provisions of the FTA must be given effect through domestic legal action in the signatory countries, and as yet neither party has passed legislation to do so.

Each party would retain all rights and obligations of Article XIX of GATT 1994 and the WTO Agreement on Safeguards but gain none under the FTA.¹

U.S. advisory groups generally did not address the safeguard provisions of the U.S.-Oman FTA in their reports to the USTR on the FTA. However, the Labor Advisory Committee (LAC) in its report stated that the safeguard provisions offer inadequate protection for U.S. producers, and that the remedies allowed under the safeguard measures in the FTA are not strong enough to prevent or reverse possible negative effects on U.S. workers from implementation of the FTA.²

FTA Chapter 9–Government Procurement

The U.S.-Oman FTA applies to covered government procurement of goods and services by any contractual means where the value concerned exceeds thresholds set out in an annex to the chapter. The thresholds would be adjusted every two years based on a U.S. inflation rate measured by the Producer Price Index For Finished Goods as published by the U.S. Bureau of Labor Statistics, with the first adjustment taking place on January 1, 2008, according to a formula set out in the annex. The chapter sets out definitions, general principles with respect to national treatment and nondiscrimination, general principles for the rules of origin used in the normal course of trade, and restrictions on the use of offsets. It also sets forth advance notice requirements for intended procurements, time frames for the tendering process, documentation requirements, rules on the declaration of technical specifications, tendering procedures, conditions for participation, criteria for awarding contracts, requirements concerning the publication of information on selected tenders, and a mechanism for the review of supplier challenges. The annex to the chapter lists covered entities, covered purchases, and exclusions. The annex also establishes the threshold amounts for purchases of goods and services by covered entities and contains the threshold adjustment formula. Side letters to the chapter designate impartial authorities for each party to receive and review supplier challenges and confirm that the procurement activities of certain Omani state-owned enterprises will be conducted in a transparent and “commercial” manner.³

U.S. providers of goods and services would likely benefit from the government procurement provisions in the U.S.-Oman FTA, primarily because of improvements in regulatory transparency and market access. Because Oman has not joined the WTO Government Procurement Agreement, the FTA would establish clear procedures, ensure greater predictability in the government procurement process, and grant U.S. suppliers nondiscriminatory rights to bid on goods and services contracts to supply most Omani government entities. The government procurement provisions in the FTA address reported Omani practices of nonpublication of significant tenders and the provision of a 10-percent

¹ Oman indicated in its notifications to the WTO that it has no domestic legislation concerning the WTO Agreement on Safeguards. See “Notification of Laws and Regulations under Articles 18.5, 32.6 and 12.6 of the Agreements–Oman,” found at http://www.wto.org/english/thewto_e/countries_e/oman_e.htm (accessed January 10, 2006).

² LAC report on the U.S.-Oman FTA, November 2005, available at <http://www.ustr.gov>.

³ U.S. and Omani side letters to chap. 9 of the FTA state that “[w]ith respect to government procurement, the Sultanate of Oman Government does not exercise any undue control or influence in procurement conducted by Omantel, Petroleum Development Oman, and Oman Liquefied Natural Gas. All procurement by these entities will be conducted in a transparent and commercial manner.”

price preference to bids that contain a high degree of local content (goods and/or services).⁴ Specifically, articles 9.2 and 9.4 of the government procurement chapter require public notice of intended procurements covered by the agreement, as well as nondiscriminatory treatment for U.S. firms vis-à-vis Omani firms for government purchases above the threshold levels. Further, although the FTA would not specifically cover government procurement at the local level, a considerable amount of local procurement in Oman is reportedly handled at the federal level; thus, in practice, the FTA may effectively encompass relatively wide market access. At the same time, any economic effects from increased access to the Omani market for government purchases of goods and services would likely be small because of the relatively small size of the Omani economy.

U.S. advisory groups expressed general support for the government procurement chapter with few reservations.⁵ The report of the Advisory Committee for Trade Policy and Negotiations (ACTPN) stated that the FTA covers most Omani government agencies and provides for transparency and nondiscrimination in the tendering process, greater predictability, enhanced notification measures, and criminal penalties for bribery in government procurement. The reports of the Industry Trade Advisory Committee (ITAC) for Information and Communications Technologies, Services and Electronic Commerce (ITAC 8) and for Services and Finance Industries (ITAC 10) said the government procurement provisions give U.S. providers of goods and services improved access to the Omani market, particularly for energy services and information technology and communications products and services.

The report of the Labor Advisory Committee (LAC) cautioned that the regulations on government procurement in the FTA could encroach on the U.S. government's ability to advance public policy aims and social objectives through federal level procurement. The report of the Intergovernmental Policy Advisory Committee (IGPAC) stated that the FTA covers federal, but not state and local, government procurement. The IGPAC report expressed general support for the objectives of increased market access and greater transparency in government procedures and regulatory decisions related to procurement, as well as the preservation of the ability of state and local authorities to adopt legislation, standards, and procedures to best serve their interests. However, the IGPAC report expressed concern that provisions in the U.S.-Oman FTA differ from those in other FTAs and the WTO Government Procurement Agreement, and could cause undue confusion and difficulties in state implementation.⁶

⁴ Office of the United States Trade Representative (USTR), *2005 National Trade Estimate Report on Foreign Trade Barriers*, p. 459, available at <http://www.ustr.gov>; and "Comments of the Emergency Committee for American Trade on Negotiating Objectives for the U.S.-Oman Free Trade Agreement," January 25, 2005, found at <http://www.ecatrade.com> (accessed November 22, 2005).

⁵ The reports of the U.S. advisory groups on the U.S.-Oman FTA are available at <http://www.ustr.gov>.

⁶ The IGPAC report states, for example, that "[w]ith respect to sole source procurements and documentation of the basis for non-competitive procurement, the Oman FTA requires the procuring entity to 'prepare a report in writing' while the CAFTA requires the procuring entity to 'maintain records or prepare written reports.' The Oman position, if intended to be extended to states without modification, would represent a new reporting responsibility for state procurement officials . . ."

FTA Chapter 10–Investment

The investment provisions of the U.S.-Oman FTA would likely contribute to a secure and stable investment environment for U.S. investors in Oman.⁷ The FTA incorporates important investor protections including freedom from performance requirements, free repatriation of capital, protections related to expropriation and fair and equitable treatment, and the investor-state dispute settlement mechanism.

The investment chapter of the U.S.-Oman FTA is closely modeled on the investment chapters of previous bilateral FTAs, including the U.S. FTAs with Chile, Singapore, and Morocco. Chapter 10 of the U.S.-Oman FTA consists of three sections: Section A provides general rules related to investment and articulates the scope and coverage of the FTA's investment provisions; section B outlines procedures for the FTA's investor-state dispute settlement process; and section C provides definitions of relevant terms.

Section A outlines rules on measures of either party that relate to investors from the other party. It also sets forth the types of investments to which these rules would apply.⁸ Specifically, each party would be required to give national and MFN treatment to investors and covered investments of the other party. The treatment of investors under the FTA must comply with customary international law. Other provisions include:

- Expropriation could be only for a public purpose; it must be nondiscriminatory and accompanied by payment of prompt, adequate compensation in accordance with due process of law.
- All financial transfers relating to covered investments, including but not limited to contributions to capital, payment of interest, and payments under contracts, may cover the full value of the investment, and may be made freely and without delay.
- Neither party could impose performance requirements as a condition of investment.⁹
- Neither party could require that senior management or boards of directors be of any particular nationality.

The benefits of this chapter could only be denied in limited, delineated instances, as outlined in the FTA annexes. This section of the chapter also deals with nonconforming measures, special formalities and information requirements, and provides for consultation and negotiation of disputes.

Section B of this chapter provides detailed information and procedures on the investor-state dispute settlement process related to the FTA, including submission of claims to arbitration, selection of arbitrators, conduct of the arbitration, transparency of the arbitral proceedings, governing law, and awards of monetary damages (not including punitive damages) or restitution. Under the terms of the provisions of section B, each party would consent to

⁷ The investment provisions of the FTA include chap. 10 and investment-related aspects of Annexes I through III.

⁸ Investment related to financial services is covered separately in chap. 12 of the FTA on financial services.

⁹ Such provisions may include requirements to export a given level or percentage of goods or services, to purchase goods produced in a party's territory, or to transfer a certain technology or other proprietary information.

claims being submitted according to the process outlined in the FTA. The awards made by any arbitral tribunal would have binding force only between the disputants and with regard to the particular case.

Section C of the chapter contains definitions of terms, including “investment,” “investor,” and relevant conventions for use in the resolution of investment disputes. It defines “investment” as “every asset that an investor owns or controls . . . that has the characteristics of investment.” The text lists eight possible types of investment, including an enterprise, shares in an enterprise, and intellectual property rights. The list is meant to be illustrative rather than exhaustive. An annex defines “customary international law” for purposes of the chapter, while another deals with expropriation (direct and indirect) in some detail. To constitute a covered expropriation, a party’s action or series of actions must interfere “with a tangible or intangible property right or property interest in an investment” based on clear transfers of title or outright seizure. Other annexes deal with the service of documents in such matters, and the establishment of a possible future appellate body.

Nonconforming Measures Related to Investment

The U.S.-Oman FTA also contains provisions for the treatment of existing or future measures that are inconsistent with the FTA’s investment disciplines—namely, those concerning nondiscrimination, performance requirements, and senior personnel. There are exemptions for existing laws or regulations maintained at the central or regional government level, provided that these exemptions are described in Annex I of the FTA. Annex II lists reservations to ensure that a party maintains flexibility to impose future measures that may be inconsistent with FTA disciplines. Nonconforming measures at the local government level are exempted without requiring any notation in an annex. The actual content of the reservations in Annexes I and II varies widely. Some reservations are horizontal in nature, meaning that they address general policy provisions that affect all investment, whereas others only apply to specific industry segments. Annex III lists nonconforming measures specific to financial services that apply to both existing and future laws and regulations.

Oman’s only horizontal reservation under Annex I states that foreign nationals may only own real estate in designated tourist areas. Under the FTA, such designated areas will include most major tourist areas in Oman within 10 years. Foreign nationals are permitted to enter into 50-year renewable leases for real estate in all areas of Oman. There is one horizontal reservation listed by Oman under Annex II. The measure accords differential treatment to countries that have signed international agreements with Oman prior to the entry into force of the U.S.-Oman FTA, specifically including agreements involving aviation, fisheries, or maritime matters.

Horizontal reservations taken by the United States under Annex I address the programs of the Overseas Private Investment Corporation and the registration of public offerings of securities, as well as existing nonconforming measures at the state level. Under annex II, the first horizontal reservation listed by the United States appears to ensure that U.S. obligations under the FTA concerning the cross-border services trade or establishment of a service enterprise are equivalent to those undertaken in the GATS. The second horizontal reservation taken by the United States mirrors the reservation taken by Oman, which accords differential treatment to countries under international agreements that have been signed prior to the U.S.-Oman FTA.

Table 5-1 contains a list of sectors for which reservations are listed in FTA Annexes I, II, and III without attempting to characterize the actual substance of the reservation. In several cases, the reservation indicates a potential constraint on foreign investment that may not have a significant impact on investors' activities or business results. Consequently, the inclusion of a sector in an annex does not mean that the entire sector has been exempted from coverage under the FTA investment disciplines.

Potential Effects on the U.S. Economy

The investment provisions of the U.S.-Oman FTA would likely have a small impact on the level of total U.S. direct investment, largely because of the relatively small size of Oman's economy (see table 5-2 for U.S. and Omani investment data).¹⁰ FDI in Oman takes place in accordance with the Foreign Business and Investment Law of 1974, and the Companies Law of 1974. The laws outline the conditions for new foreign investment, including limits on foreign equity ownership that vary between 49 percent and 70 percent. Under the FTA, these limits would not apply to U.S. investors. Airline and shipping offices are excluded from coverage by the Omani laws and by the FTA, so U.S. investors will not accrue new benefits from the FTA in these areas.¹¹

U.S. industry sources support the investment provisions insofar as the provisions expand market access and incorporate high standards of protection for investment.¹² Industry sources state that the FTA assures U.S. investors of greater opportunities in Oman, and of equal treatment with Omani investors. Investment provisions cited as particularly important include an investor-state dispute settlement process, the free transfer of capital, and protections related to expropriation and fair and equitable treatment.¹³

Although industry sources expressed support for the investor-state dispute settlement process, representatives of U.S. state and local governments said they do not support such a process. The Intergovernmental Policy Advisory Committee (IGPAC) report on the U.S.-Oman FTA stated that foreign investors have abused similar NAFTA provisions in several cases in order to circumvent the jurisdiction of U.S. state and local courts, and could potentially do so again under the U.S.-Oman FTA dispute settlement provisions. In addition, the report of ITAC 10 (Services and Finance Industries) cited the "extremely lengthy and onerous" review procedure for determining whether certain measures fall within

¹⁰ See Box 5-1 for further information on foreign investment in Oman.

¹¹ Sultanate of Oman, Ministry of Information, found at <http://www.omanet.om/english/commerce/invest.asp?cat=comm>, and chap. 10 of the U.S.-Oman FTA.

¹² Industry sources, telephone interviews by USITC staff, November 8 and 9, 2005.

¹³ ITAC 8 and ITAC 10 reports on the U.S.-Oman FTA; and the report of the Industry Advisory Committee on Energy and Energy Services (ITAC 6), November 15, 2005, available at <http://www.ustr.gov>.

**Table 5-1
U.S.-Oman FTA: Industry sectors subject to nonconforming measures related to investment**

Oman		United States	
Current measures (Annex I)	Potential measures (Annex II)	Current measures (Annex I)	Potential measures (Annex II)
Legal services	Household appliance maintenance and repair services	Communication: Radio	Communications
Real estate brokerage services	Barbering services	Atomic energy	Social services
Employment placement services	Tailoring services	Mining	Transportation services: Maritime transportation
Investigation and security services	Laundry services	Transportation services: Air transportation	Insurance
Printing and publishing services	Ladies' hair dressing services	Customs brokerage	
Retail photographic services	Instructional driving services	Banking and other financial services	
Communications: Radio and television transmission services	Typing services	Insurance	
Retailing services	Translation services		
Tourist guide services	Small auto repair services		
News agency services	Calligraphy services		
Transportation services: Internal waterways, maritime freight, taxi, and air transportation services	Photocopying services		
Services related to air transportation: Aircraft maintenance and repair, air transport selling and marketing, and computer air transport reservation systems services	Upholstery services		
Restaurant services	Telecommunication services		
Banking	Banking		

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 concerning nondiscrimination, performance requirements, and senior personnel. 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 future nonconforming measures related to financial services, including insurance.

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

**Table 5-2
United States and Oman: Investment data, 2004**

Source	Oman	United States
Inbound investment stock (<i>million dollars</i>)	3,432	1,473,860
Inbound stock as percentage of GDP (<i>percent</i>)	14	12.6
Outbound investment stock (<i>million dollars</i>)	32	2,018,205
Outbound stock as percentage of GDP	0.1	17.2
Investment inflows (<i>million dollars</i>)	-18	95,859
Bilateral outbound investment stock (<i>million dollars</i>)	(*)	438

Note.--Bilateral outbound investment stock reflects U.S. government statistics for U.S. outbound direct investment position in Oman on a historical-cost basis, and U.S. inbound direct investment position from Oman on a historical-cost basis. (*) reflects a figure between \$500,000 and negative \$500,000.

Sources: Data on total investment stock and investment inflows: UNCTAD, *World Investment Report 2005*. Data on U.S. bilateral investment are from USDOC, BEA, *Survey of Current Business*, September 2005.

the “prudential carve-out” for financial services measures¹⁴ as the only specific drawback to the investment provisions.

FTA Chapter 15–Intellectual Property Rights

Since its WTO accession in November 2000, Oman has made progress in strengthening its trade-related intellectual property rights (IPR) regime in the areas of patent, copyright, and trademark protection.¹⁵ U.S. intellectual property industry sources state that “Oman has done a good job in recent years of enforcing copyright” laws and reducing piracy.¹⁶ However, they believe that further improvements are needed in Oman’s enforcement of IPR protection and in Oman’s legal infrastructure to comply fully with the Trade-Related Aspects of Intellectual Property Rights (TRIPs) agreement, and the World Intellectual Property Organization (WIPO) Copyright and Performances and Phonograms Treaties (see box 5-2 for information on these “WIPO Internet Treaties”).

Chapter 15 of the U.S.-Oman FTA on intellectual property not only reaffirms the rights and obligations set forth in TRIPs but goes beyond TRIPs to (1) increase protection of

¹⁴ The “prudential carve-out” refers to a provision in the U.S.-Oman FTA and other bilateral and multilateral trade agreements that exempts certain financial services regulations from certain provisions of the agreement, on the grounds that the regulations serve strictly prudential purposes. The generally accepted definition comes from the GATS, as follows: “Notwithstanding any other provisions of the Agreement, a Member shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the Member’s commitments or obligations under the Agreement.” See WTO, GATS, Annex on Financial Services, par. 2.

¹⁵ USTR, *2005 National Trade Estimate Report on Foreign Trade Barriers*, p. 460.

¹⁶ Information in remainder of the paragraph is from Michael Schlesinger, Vice President and Associate General Counsel, International Intellectual Property Alliance, *Public Hearing Concerning Proposed United States-Oman Free Trade Agreement*, testimony before the Trade Policy Staff Committee, Washington, D.C., January 14, 2005, p. 4, found at <http://www.iipa.com> (accessed November 1, 2005).

Box 5-1

Foreign investment in Oman

The United States is the world's largest destination for foreign direct investment (FDI), with 2004 inbound direct investment stock of \$1.5 trillion (table 5-2), representing 17 percent of total worldwide inbound investment stock. Inbound FDI accounts for 13 percent of the U.S. gross domestic product (GDP). Oman, with a much smaller economy, registered \$3.4 billion in inbound direct investment stock in 2004, equal to 14 percent of Oman's GDP.

In an effort to diversify the Omani economy away from the petroleum sector, the Government of Oman is offering incentives to attract foreign investment, particularly in the natural gas, shipping, tourism, agriculture and fishery, and mining industries. The incentives include tax exemptions for foreign investors of up to 10 years, access to concessional financing, free convertibility of currency, and exemptions from certain taxes and import duties.

The Omani government is also implementing a privatization program focused on the electric power, water and telecommunications sectors. Under the 2004 program, foreign investors will be permitted to own up to 70 percent of equity in certain Omani firms, and will receive the same treatment regarding taxation and land rights as Omani firms. In July 2005, Oman offered a 30-percent share of the Oman Telecommunications Co. on the Muscat Securities Market.

The largest share of foreign investment in Oman is in the petroleum sector. Royal Dutch/Shell is the largest foreign investor in the sector, holding a 34-percent equity stake of Petroleum Development Oman, the state oil company. Development of the natural gas industry is led by Oman LNG, set up by the Omani government, which retains a 51-percent equity share. Royal Dutch/Shell is the lead foreign investor in Oman LNG, with a 30-percent holding; six other foreign firms hold smaller stakes. In 2003, the Omani government launched Qalhat LNG, a joint venture between Oman LNG and Union Fenosa of Spain. Qalhat owns Oman's third LNG process train, with production primarily destined for customers in Spain and Japan, beginning in 2006.

In shipping, the Omani government has focused on developing the ports of Salalah and Sohar through joint ventures with foreign partners. The Port Salalah container terminal was founded as a joint venture between Omani private investors, the Omani government, and two of the world's largest shipping companies—Denmark-based Maersk and U.S.-based Sea-Land (in 1999, Maersk purchased Sea-Land's share of the project and all of Sea-Land's container shipping business, and changed the company's name to Maersk-Sealand). Port Salalah, now one of the largest container transshipment ports in the region and one of the most efficient in the world, is currently undergoing a major expansion. The Omani government is in the process of developing the Port Sohar area into a diversified industrial park for industries interested in taking advantage of the adjacent port facilities.

Oman established the Ministry of Tourism in 2004 to promote development of the industry and launched an estimated \$800 million, 200 hectare resort development. A UAE-based firm is building a \$822 million resort at Yiti, near Muscat. Other recent foreign investments in the tourism sector include a 2005 deal by Qatar-based Diar Real Estate Investment Co. to develop a \$27 million ecotourism resort partially funded by Thailand-based Six Senses Resorts and Spas.

At least 39 U.S.-based firms were among the foreign investors in Oman in 2004. Twelve U.S.-based firms were operating in industries directly related to the petroleum sector (petroleum exploration and development, oilfield services, and engineering consulting). In addition, five U.S.-based hotel companies, five management consulting firms, and U.S.-based firms involved in insurance, legal services, logistic services, and water treatment all have a presence in Oman.

Sources: United Nations Conference on Trade and Development, *World Investment Report 2005* (Geneva: United Nations, 2005), Annex tables B.2 and B.3; "Oman: Country Forecast," *Political Risk Services*, October 1, 2004, pp. 11-15; EIU, *Business Middle East - Main report* September 1, 2005; U.S. Department of State, "2005 Investment Climate Statement - Oman," found at <http://www.state.gov>; Government of Oman, Ministry of Information, "Economic Diversification," found at <http://www.omanet.om>; Economist Intelligence Unit (EIU), *Business Middle East-Main Report*, September 1, 2005, and *Country Report-Main Report*, May 1, June 1, and September 1, 2005, available at <http://www.eiu.com>; Oman Oil Co., press release, September 16, 2004, found at <http://www.oman-oil.com>; OCO Consulting, Issue One, Qtr 2, 2005, p. 6; "Surging Sohar," *Oman Tribune*, found at <http://www.omantribune.com> (accessed November 28, 2005); "Oman to Get World Largest Plant for Shipping Pallets," April 8, 2005, found at <http://www.europal.net>; Qatar News Agency, "Diar Real Estate Company Initials Deal with Oman," July 24, 2005, found at <http://www.nexis.com>; Uniworld database, U.S. Firms Operating Abroad, 2004; and Maersk corporate Web site, "Company History," found at <http://www.maersk.com> (accessed in November 2005).

Box 5-2 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. Oman ratified both of these treaties, as has the United States, which implemented them domestically via the Digital Millennium Copyright Act of 1998.

- ◆ 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 IPR holders’ rights to maintain control of their works over the Internet and other digital transmission of their works.
- ◆ The treaties ensure that rights 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 technological protection measures.
- ◆ The treaties require 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.”

Source: Adapted, and parts excerpted, by USITC staff from information provided in the following sources: WIPO, “WIPO Copyright Treaty (adopted in Geneva on December 20, 1996)” and “WIPO Performances and Phonograms Treaty (WPPT) (adopted in Geneva on December 20, 1996),” and Chris Gibson, *WIPO Internet Copyright Treaties Coming Into Force*, 2002.

trademarks, copyrights and related rights, and satellite signals, particularly to take into account advances in digital technology; (2) extend protections for patents and trade secrets; and (3) strengthen IPR enforcement.¹⁷ According to U.S. advisory groups and industry sources, the FTA addresses the most significant concerns of U.S. industry regarding the IPR laws and policies of Oman and fulfills the IPR-related negotiating objectives established by Congress.¹⁸

¹⁷ USTR, “Trade Facts: Summary of the U.S.-Oman Free Trade Agreement,” September 2005, pp. 4-5, available at <http://www.ustr.gov>.

¹⁸ In the negotiation of the U.S.-Oman FTA, the United States was guided by express principal negotiating objectives set forth by Congress regarding trade-related IPR: (1) the promotion of adequate and effective protection of IPR; (2) the securing of fair, equitable, and nondiscriminatory market access for U.S. persons relying on intellectual property protection; and (3) respect for the Doha Declaration on TRIPs and Public Health (19 U.S.C. 3802(b)(4)). The principal negotiating objectives set forth in the Trade Act of 2002

(continued...)

Trademarks, Copyrights, and Satellite Signals

According to the report of the Industry Trade Advisory Committee on Intellectual Property Rights (ITAC 15), the U.S.-Oman FTA, with only minor exceptions, reflects the “highest standards of protection” of any of the FTAs negotiated to date in the areas of trademarks, geographical indications, copyright and related rights, and enforcement. Provisions that would assist trademark owners to protect their rights include stronger protection for certification marks, geographical indications, and well-known marks; development of an online system and searchable database for the registration and maintenance of trademarks and geographical indications; the elimination of unnecessary administrative hurdles to trademark protection; and rules clarifying the determination of priority.¹⁹ The FTA would require each party to maintain a system to resolve disputes over trademarks used in Internet domain names based on the Uniform Domain-Name Dispute-Resolution Policy in order to prevent trademark “cyber-squatting.”²⁰

The FTA provisions on copyright and related rights would go beyond those of TRIPs by ensuring protection for copyrighted works in a digital economy. They would require implementation of new obligations under the WIPO Internet Treaties, which entered into force for Oman on September 20, 2005.²¹ For the first time in a U.S. FTA (and in any country other than the United States), the term of protection for sound recordings and audiovisual works would be the same as that in the United States, 95 years from first publication.²² According to the ITA 15 report, for works other than sound recordings and audiovisuals, the FTA would require Oman to extend its term of protection to life of the author plus 70 years. Finally, the FTA addresses the piracy of satellite television programming with provisions protecting against the theft of encrypted program-carrying satellite signals and the manufacturing or trafficking in tools to steal the signals. The FTA would provide for criminal and civil liability for such piracy (article 15.7).

Patents and Trade Secrets

The FTA section on patents “provides a number of clarifications and improvements to the protection standards articulated in the TRIPs Agreement” that would result in strong patent protection in Oman when implemented.²³ In the general provisions of the chapter, Oman has committed to make all reasonable efforts to accede to the WIPO Patent Cooperation Treaty

¹⁸ (...continued)

include the goals of Congress with respect to IPR—specifically, (i) ensuring full implementation of TRIPs; (ii) ensuring that the intellectual property provisions of the FTA reflect a standard of protection similar to that found under U.S. law; (iii) preventing discrimination with respect to the availability and use of IPR; (iv) ensuring that standards of protection and enforcement keep pace with technological developments; and (v) providing strong enforcement of intellectual property rights (19 U.S.C. 3802(b)(4)).

¹⁹ Article 15.2 of the U.S.-Oman FTA and ITAC 15 report on the FTA.

²⁰ Article 15.3 of the U.S.-Oman FTA, and USTR, “Trade Facts: Summary of the U.S.-Oman Free Trade Agreement,” p. 5.

²¹ Articles 15.4-15.6 of the U.S.-Oman FTA. The ITAC 15 report on the FTA states that provisions addressing implementation of the WIPO Internet Treaties are generally consistent with U.S. implementation of these treaties in the Digital Copyright Millennium Act.

²² In all other FTAs, the term was 70 years, extended from the TRIPs requirement of 50 years from first publication (see ITAC 15 report on the U.S.-Oman FTA).

²³ The ITAC 15 report on the U.S.-Oman FTA states that, although the FTA provides “slightly lower protection” for patents than that found in other FTAs, taken as a whole, the additional protections and clarifications provide strong patent protection.

(PCT). According to the ITAC 15 report, Oman's membership in the PCT would reduce the costs to U.S. industry of gaining patent protection in Oman by allowing for the filing of a single patent application, as well as providing other administrative benefits.

The FTA would also confirm that patents shall be available for new uses or methods of using a known product, including products to be used for particular medical conditions.²⁴ Consistent with U.S. practice, the FTA would permit the extension of patent term protections beyond the 20-year term required by TRIPS to compensate for delays in granting the original patent (article 15.8.6). The FTA would restrict how a third party may use a patented invention to generate data for marketing approval of generic pharmaceuticals, restrictions that the U.S. industry views as generally reflecting "best practice" in many key countries, including the United States.²⁵ The FTA would also clarify the obligations contained in TRIPs with respect to data exclusivity and protecting data against unfair commercial use for five years for pharmaceuticals and 10 years for agricultural chemicals.²⁶

Enforcement

Industry sources report that the U.S.-Oman FTA makes "significant advances" toward the goal of U.S. trade officials and industry representatives to enhance enforcement obligations and "deter further infringements." The ITAC 15 report, however, states that lasting improvements in enforcement will only be made when the new standards are implemented on the ground by police, prosecutors, judges, and administrative agencies.

The FTA would also clarify and expand on TRIPs enforcement obligations. It sets forth presumptions to be implemented in Omani law on copyright ownership and subsistence, which are already part of U.S. law. These presumptions expedite the proof of preliminary matters in court and represent a "significant advance for the copyright industries."²⁷ For civil and administrative procedures and remedies, the FTA would establish a system of statutory damages that goes beyond TRIPs, which provides only that statutory damages are an optional remedy. Statutory damages would be "in an amount sufficient to constitute a deterrent to further infringements," and not simply in an amount discretionary to the court, a requirement that industry representatives consider a key element of an effective enforcement system.²⁸ The FTA would further provide for the mandatory payment of reasonable attorneys' fees to the prevailing party, except in exceptional cases. The FTA would extend remedies to cases involving the circumvention of technological protection

²⁴ The ITAC 15 report on the U.S.-Oman FTA states, however, that the FTA "does not explicitly require Oman to implement patent protection for transgenic plants and animals."

²⁵ Article 15.8.5 of the U.S.-Oman FTA. The ITAC 15 report states, however, that the FTA does not place explicit restrictions on a country's authority to grant compulsory licenses nor on international exhaustion. By contrast, the LAC report and a minority of the Trade and Environment Policy Advisory Committee criticize the FTA because its TRIPs-plus provisions could be used to constrain the ability of governments to support public health and to issue compulsory licenses as permitted by TRIPs and the Doha Declaration. The reports of LAC and the Trade and Environment Policy Advisory Committee are available at <http://www.ustr.gov>.

²⁶ Article 15.9 of the U.S.-Oman FTA. According to the ITAC 15 report, while this provision does not impose additional obligations, U.S. industry believes that it serves to clarify the intent of the negotiators of TRIPs.

²⁷ Chap. 15 of the U.S.-Oman FTA and ITAC 15 report on the FTA.

²⁸ Article 15.10.8 of the U.S.-Oman FTA and ITAC 15 report on the FTA.

measures and tampering with rights management information, which is consistent with U.S. practice.²⁹

The U.S.-Oman FTA would also expand upon TRIPs provisions in the area of criminal procedures and remedies. For example, the FTA would clarify that piracy or counterfeiting sufficient to trigger criminal remedies includes infringing acts without a profit motive but which cause damage “on a commercial scale.” The FTA would also provide for an additional offense, not found in TRIPs, that makes it a crime to deal in counterfeit labels or documentation affixed to phonograms, computer programs, motion pictures, or other audiovisual works.³⁰ Finally, the FTA sets forth obligations concerning the liability of Internet service providers (ISP) involved in the hosting and transmission of infringing materials over their facilities. These provisions reflect the balance struck in the U.S. Digital Millennium Copyright Act between legitimate ISP activity and protecting against copyright infringement.

Potential Effects on the U.S. Economy

Full implementation and enforcement of the intellectual property provisions of the U.S.-Oman 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.³¹ However, due to the relatively small size of the Omani economy, any increases in revenues for U.S. IPR industries would likely have a limited effect on the U.S. economy as a whole. Further, there would be little, if any, effect on U.S. industries or the U.S. economy based on U.S. implementation of FTA obligations because the United States already meets and exceeds the high standards of IPR protection contained in the FTA.³²

Among the U.S. copyright industries that would likely benefit most as the result of the increased digital technology protection features of the U.S.-Oman FTA are the motion picture, sound recording, business software applications, entertainment software, and book publishing industries. U.S. industries that might benefit from the greater patent and trade secret protections under the FTA include pharmaceuticals and agricultural chemicals. A broad range of U.S. industries should benefit from strengthened trademark, trade secret, and IPR enforcement provisions of the FTA.

U.S. industry sources indicated that the intellectual property provisions in the U.S.-Oman FTA address many of their concerns on IPR laws and policies in Oman. The report of ITAC 15 said the ITAC supports the intellectual property provisions in the FTA and “believes that the agreement establishes precedents on many of the key [IPR] issues to be included in the

²⁹ Ibid.

³⁰ Articles 15.10.26-27 of the U.S.-Oman FTA and ITAC 15 report on the FTA.

³¹ U.S. industry representatives, in-person and telephone interviews by USITC staff, Washington, D.C., October 6 and November 7 and 8, 2005.

³² See box 5-3 for a discussion of recent conditions of IPR protection in Oman.

Box 5-3

Recent Conditions of IPR Protection in Oman

Oman assumed obligations under the WTO TRIPs Agreement following its accession to the WTO in November 2000. A summary of recent conditions of IPR protection in Oman appears below.

Trademarks, Copyrights, and Satellite Signals

Oman updated its trademark law and added a new law on geographical indications in 2000. U.S. industry sources stated that trademark counterfeiting continues to be a problem in Oman as infringers use established U.S. names, brands, packaging, logos, and other symbols to mislead consumers into purchasing counterfeit versions of trademarked goods. U.S. sources also indicated that illegal importation of goods bearing counterfeit marks into Oman from other countries can be a problem as insufficient authority and resources are provided to customs officials in that country to interdict such goods.

Oman enacted copyright protection legislation in 1996 and amended it in 1998 by adding enforcement mechanisms that “extended protection to foreign copyrighted literary, technical, or scientific works; works of the graphic and plastic arts; and sound and video recordings.” Since 1999, the Omani government has increased enforcement efforts against software, audio, and videocassette piracy; destroyed inventory of pirate vendors; and raided end-user businesses to ascertain that pirated software is not used by Omani firms. However, U.S. industry sources stated that unlicensed copyrighted software continues to be used in some government agencies in Oman and that books and other publications authorized for sale only in India have been imported into Oman. Representatives of U.S. copyright-based industries expressed concern that as Internet use becomes more prevalent in Oman, illicit file swapping of music recordings and movies could increase as it has in other countries. According to U.S. industry sources, although Oman’s Ministry of Commerce reportedly has increased its raids on unlicensed distributors of pirated satellite signals, such raids have been too sporadic to deter piracy effectively.

Patents and Trade Secrets

U.S. industry sources state that Oman, in cooperation with other GCC members, has made strong efforts to improve its patent protection regime. However, industry sources express concern about whether a recently adopted unified GCC patent law is consistent with TRIPs national treatment and MFN obligations. U.S. pharmaceutical firms express concern about whether there is sufficient protection of confidential clinical test data required for market approval of drugs, as required by TRIPs.

Enforcement

Oman’s IPR laws and regulations generally contain strong enforcement provisions but, according to U.S. industry sources, enforcement practices could be improved. Some U.S. government and industry officials assert that Oman customs officials need increased authority and resources to prevent an increase of imports into Oman of copyright- and trademark-infringing goods such as computer software, video cassettes, sound recordings, consumer goods, and food products. The U.S. sources indicate that greater civil and criminal penalties imposed by courts for commercial scale copyright piracy and trademark counterfeiting would provide a more significant deterrent.

Sources: U.S. industry representatives and trade officials, in-person and telephone interviews by Commission staff, Washington, D.C., January-November 2005; USTR, *2005 National Trade Estimate Report on Foreign Trade Barriers*, March 2005, p. 460, found at <http://www.ustr.gov> (accessed November 2, 2005); Kevin D. Skillin, U.S. & Foreign Commercial Service and U.S. Department of State, *Country Commercial Guide for Oman (FY05)*, July 31, 2004, found at <http://www.doc.gov> (accessed November 9, 2005); and Michael Schlesinger, Vice President and Associate General Counsel, International Intellectual Property Alliance, *Public Hearing Concerning Proposed United States-Oman Free Trade Agreement*, Before The Trade Policy Staff Committee, Washington, D.C., January 14, 2005, p. 4, found at <http://www.iipa.com> (accessed November 1, 2005).

other FTAs now being negotiated.” The report of the Advisory Committee for Trade Policy and Negotiations (ACTPN), with membership drawn from business, labor, agriculture, service industries, and consumer interests, stated that the ACTPN endorses the high level of IPR protection in the FTA, including expanded protection for trademarks, digital copyrights, patents and trade secrets, and “tough penalties” for piracy and counterfeiting.³³

FTA Chapter 16–Labor

The United States and Oman would reaffirm their obligations as signatories to the International Labor Organization (ILO) and agree to effectively enforce their labor laws, to seek to make their domestic laws provide for standards consistent with internationally recognized worker rights, and to strive to improve those standards in that light. The parties recognize their right to create and modify domestic labor laws, and acknowledge that it is not appropriate to encourage trade or investment by weakening or reducing the protection afforded in those laws.

Each party will agree to provide domestic tribunal proceedings allowing those 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; adhere to due process of the law; and provide an opportunity for persons involved in such proceedings to support or defend their positions. Each party will agree to ensure independent judicial review of tribunal actions, provide legal remedies to ensure enforcement, and promote public awareness of their respective labor laws. The FTA defines labor laws as national-level measures that directly relate to internationally recognized labor rights, including the right of association, the right to organize and bargain collectively, a ban on forced or compulsory labor, the protection of children and other young laborers, and standards on conditions of work, including minimum wages, hours of work, and occupational health and safety. Domestic tribunal decisions would not be subject to revision and may not be reopened under chapter 16 of the FTA.

The FTA would establish mechanisms for cooperation on 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. The FTA creates a labor cooperation mechanism to facilitate the work of the parties’ ministries of labor (and other government officials) in advancing the FTA labor goals in a broad range of areas such as fundamental rights and their effective application and labor statistics. The labor cooperation mechanism, described in annex 16-A of the FTA, would promote respect for core labor standards as identified in the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* and *ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*, and further advance other common commitments on labor matters. The FTA also would provide for each party to establish national labor advisory committees, which would include members of the public and representatives of business and labor. Such committees would advise the respective party’s government on implementation. 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

³³ The IPR provisions of the U.S.-Oman FTA also have been endorsed by ITAC 8, the ITAC for Consumer Goods (ITAC 4), and the ITAC for Forest Products (ITAC 7). The reports of these ITACs are available at <http://www.ustr.gov>.

refer the matter to the Joint Committee itself, but FTA dispute settlement actions would not be allowed. The FTA encourages public, worker, and employer participation to attain the goals of the FTA. A separate mechanism on disputes dealing with labor claims could result in an annual assessment of up to \$15 million (under chapter 20) payable into a fund set up and run by the Joint Committee for “appropriate labor initiatives.” Neither party would have recourse to dispute settlement for any matter arising under chapter 16 except for each party’s commitment to enforce its respective domestic laws.

Oman’s domestic labor market is characterized by a high reliance on foreign workers, which has led to government efforts to replace foreign laborers with Omani personnel, or “Omanization.”³⁴ Such efforts have included the establishment of training programs and the exclusion of foreign nationals from certain types of jobs.³⁵ Further, Omani law includes several provisions directed toward worker welfare. These include a government-mandated minimum wage, worker safeguards, and a provision requiring the public display of work rules that must be approved by the Ministry of Social Affairs and Labor.³⁶

The USTR states that the U.S.-Oman FTA may increase respect for labor rights in Oman and that the FTA fulfills the labor-related negotiating objectives established by Congress.³⁷ U.S. advisory groups differ on whether the FTA meets these U.S. negotiating objectives.³⁸ The ACTPN report states that the FTA fulfills U.S. negotiating objectives on labor issues, ensures that labor measures would not be employed as disguised trade protections, and establishes efficient mechanisms for implementation. The LAC report states that the FTA does not meet U.S. negotiating objectives, noting that, *inter alia*, the FTA does not obligate parties to adhere to international workers’ rights standards, does not interfere with the parties’ ability to legislate and provide services designed to serve the public interest, and does not protect workers from the possible effects of provisions regarding safeguards and rules of origin.³⁹

FTA Chapter 17–Environment

The environmental provisions in the U.S.-Oman FTA are virtually identical to the environmental provisions in the U.S.-Bahrain FTA. Under the U.S.-Oman FTA, 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

³⁴ EIU, *Country Profile Oman - Main Report*, May 1, 2005, and *Oman Review 2005*, p. 56, found on the EIU Web site at <http://www.eiu.com/>.

³⁵ EIU, *Oman Review 2005*, p. 56.

³⁶ EIU, *Country Profile Oman - Main Report* and *Oman Review 2005*, p. 56.

³⁷ USTR, “Trade Facts: Summary of the U.S.-Oman Free Trade Agreement,” and *2005 Report to the Congress on the Extension of Trade Promotion Authority*, March 30, 2005, available at <http://www.ustr.gov>.

³⁸ Under the Trade Act of 2002, U.S. negotiating objectives on labor issues include increasing the observance of core labor standards and eliminating or reducing regulations and measures that compromise sustainable development. See Erin Mewhirter and Michael Fullerton, U.S. Department of Commerce (USDOC), “The Trade Act of 2002: What Does it All Mean?” *Export America*, November 2002, found at <http://www.ita.doc.gov>.

³⁹ The reports of the U.S. advisory groups on the U.S.-Oman FTA are available at <http://www.ustr.gov>.

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 neither party would have recourse to dispute settlement for any matter arising under this chapter except for each party's commitment to enforce its respective domestic laws. A separate mechanism on disputes dealing with environmental claims could result in an annual assessment of up to \$15 million (under chapter 20) payable into a fund set up and run by the Joint committee for "appropriate environmental initiatives." Several types of measures to enhance environmental performance are specified, supported by the FTA's Joint Committee (under chapter 18) and also a specialized subcommittee to be formed at the request of either party. Detailed provisions deal with opportunities for public participation. 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.

Specific U.S. trade negotiating objectives regarding environmental matters were to: (1) promote trade and environment policies that are mutually supportive; (2) seek an appropriate commitment by Oman to the effective enforcement of its environmental laws; (3) strengthen the capacity of Oman to protect the environment through the promotion of sustainable development; and (4) seek market access for U.S. environmental technologies, goods, and services.⁴⁰

The ACTPN report states that the environmental provisions of the U.S.-Oman FTA meet Congress's environmental objectives. ACTPN endorsed the environmental provisions of the FTA set out in the Joint Statement on Environmental Cooperation and believes they provide effective ways of contributing to environmental improvement.⁴¹ Overall, the Trade and Environment Policy Advisory Committee (TEPAC)⁴² reports that a majority of the committee members support the conclusion that the U.S.-Oman FTA provides adequate safeguards that U.S. environmental negotiating objectives will be met. A majority of TEPAC members consider that the public participation provisions in the FTA are acceptable,⁴³ that the dispute resolution procedures are sufficient to meet U.S. environmental negotiating objectives, that the monetary penalties in the FTA (up to \$15 million per year for noncompliance with rulings confirming violations of enforcement requirements) are adequate, and that the U.S.-Oman Joint Statement on Environmental Cooperation is a reasonable basis for the fulfillment of objectives regarding capacity building and sustainable development. The TEPAC report states that a majority of the committee members reiterated the suggestion in TEPAC reports on the U.S. FTAs with Morocco and Bahrain that the

⁴⁰ USTR, "Letter of Notification to Congress of intent to negotiate FTA with Oman," November 15, 2004, p. 5, available at <http://www.ustr.gov> (accessed November 28, 2005).

⁴¹ The ACTPN report on the U.S.-Oman FTA. The TEPAC also supported the notion that a Joint Forum on Environmental Cooperation will develop a plan of action for future environmental-related projects.

⁴² The 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. The TEPAC report on the U.S.-Oman FTA is available at <http://www.ustr.gov>.

⁴³ However, a majority of the TEPAC is concerned that the public participation provisions do not go as far as they should.

USTR should establish a regional Environmental Affairs Council as an effective supplement to the free trade agreements the United States has with the countries in the region.

Pursuant to the Trade Act of 2002,⁴⁴ the USTR reported to Congress in April 2005 on the probable environmental effects on the United States of the U.S.-Oman FTA.⁴⁵ In its report, the USTR stated that the FTA is unlikely to result in any significant economically driven environmental effects in the United States but that it may have positive environmental consequences in Oman. The USTR adds that the FTA is not expected to have a negative impact on the ability of U.S. government authorities to enforce or maintain U.S. environmental laws or regulations.⁴⁶

FTA Chapter 20–Dispute Settlement

The FTA would commit the parties to cooperate and consult in administering the FTA, but the text would allow 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 (except for labor or environmental obligations). A complaining party could choose an FTA forum or a WTO forum depending on 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.

Each party may also request consultations on covered issues. Where consultations fail, either party could refer the matter to the FTA’s Joint Committee within 60 days of the request for consultations (20 days for perishable goods). The Joint Committee would have 60 days (30 for perishable goods) to obtain resolution or to refer the matter to a dispute settlement panel at the request of a party. No proposed measures could be the basis for dispute settlement actions. The composition and rules of these panels would be regulated, and each 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.

⁴⁴ For further information on the environmental review process, see USTR, “Environmental Reviews in FTAs,” available at <http://www.ustr.gov>.

⁴⁵ USTR, “Interim Environmental Review of the U.S.-Oman Free Trade Agreement,” April 2005, found at <http://www.ustr.gov> (accessed November 28, 2005).

⁴⁶ *Ibid.*, p. 1.

CHAPTER 6

Summary of Views of Interested Parties

American Dehydrated Onion and Garlic Association¹

The American Dehydrated Onion and Garlic Association (ADOGA), representing the leading U.S. producers and marketers of dehydrated onion and garlic products, said it opposes the U.S.-Oman FTA, because the FTA would threaten the domestic industry by (1) encouraging the importation of lower priced dehydrated onions and garlic from Oman and (2) opening the U.S. industry to the threat of transshipped goods from China, through Oman, and into the United States duty-free. The ADOGA stated that Oman has the potential to expand its vegetable production into the dehydrated onion and garlic sector. However, the ADOGA stated that Oman's market presents no corresponding export opportunities for the U.S. dehydrated onion and garlic industry. The ADOGA further stated that the risk posed by potential Omani exports and the real threat of Chinese transshipment outweigh the minuscule possibility that the U.S. industry will find export opportunities in Oman.

Wheat Export Trade Education Committee²

The Wheat Export Trade Education Committee (WETEC), representing 17 U.S. state wheat commissions, said it supports the U.S.-Oman FTA. It indicated that every market, large or small, is important to the U.S. wheat industry, and every agreement that expands market opportunities is a welcome development. WETEC stated that U.S. wheat producers look to the Middle East as a region of great potential, and Oman is a market that can provide opportunities for U.S. exports of wheat. It stated that the U.S. wheat industry supports moving forward with bilateral agreements such as this FTA with Oman. However, WETEC indicated that the World Trade Organization (WTO) Doha negotiations are critical to a balanced world trade situation and are the major key to expanding U.S. wheat trade. According to WETEC, if the United States achieves its long-standing goals in the WTO, the U.S. wheat industry will be better able to take advantage of the opportunity offered by the U.S.-Oman FTA.

¹ Irene Ringwood, Ball Janik LLP, Washington, DC, counsel, the American Dehydrated Onion and Garlic Association.

² Barbara Spangler, Executive Director, Wheat Export Trade Education Committee.

APPENDIX A
REQUEST LETTER

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

OCT 19 2005

RECEIVED
OFFICE OF THE SECRETARY
US INTL TRADE COMM
2005 OCT 21 AM 9:25

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

MOTION DOCKET NUMBER
2452
Office of the Secretary Int'l Trade Commission

Dear Chairman Koplan:

As you know, the United States and Oman recently completed the negotiation of a comprehensive bilateral free trade agreement (FTA). The advice that the United States 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 Oman on October 17, 2005. 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 that 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, and no later than February 3, 2006. On October 18, we posted the text of the Agreement, subject to legal review for accuracy, clarity, and consistency, on the USTR website. USTR staff will be available to answer questions or provide additional information on the FTA.

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

Sincerely,


Rob Portman

APPENDIX B
FEDERAL REGISTER NOTICE

Group VI. ConocoPhillips Company.
 Group VII. Eni Petroleum Co. Inc. Eni
 Petroleum Exploration Co. Inc. Eni
 Deepwater LLC. Eni Oil USA LLC.
 Group VIII. Petrobras America Inc.

Dated: October 6, 2005.

R. M. "Johnnie" Burton,

Director, Minerals Management Service.

[FR Doc. 05-22125 Filed 11-4-05; 8:45 am]

BILLING CODE 4310-MR-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-2104-19]

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

AGENCY: United States International
 Trade Commission.

ACTION: Institution of investigation and
 scheduling of public hearing.

DATES: Effective Date: October 28, 2005.

SUMMARY: Following receipt of a request
 from the United States Trade
 Representative (USTR) on October 19,
 2005, the Commission instituted
 investigation No. TA-2104-19, *U.S.-
 Oman 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)),
 for the purpose of assessing the likely
 impact of the U.S. Free Trade
 Agreement with Oman on the United
 States economy as a whole and on
 specific industry sectors and the
 interests of U.S. consumers.

FOR FURTHER INFORMATION CONTACT:
 Project Leaders, Robert Wallace, Office
 of Industries (202-205-3458;
robert.wallace@usitc.gov), or Nannette
 Christ, Office of Economics (202-205-
 3263; nannette.christ@usitc.gov). For
 information on legal aspects, contact
 William Gearhart of the Office of the
 General Counsel (202-205-3091;
william.gearhart@usitc.gov). The media
 should contact Margaret O'Laughlin,
 Office of External Relations (202-205-
 1819; margaret.olaughlin@usitc.gov).

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 Oman on the U.S.
 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 U.S. consumers.

In preparing its assessment, the
 Commission will review available
 economic assessments regarding the
 agreement, including literature
 concerning 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. On October 17, 2005, the
 President notified the Congress of his
 intent to enter into an FTA with Oman.
 The USTR requested that the
 Commission provide the report by
 February 3, 2006.

Public Hearing: A public hearing in
 connection with the investigation is
 scheduled to begin at 9:30 a.m. on
 December 7, 2005, at the U.S.
 International Trade Commission
 Building, 500 E Street SW., Washington,
 DC. All persons shall have the right to
 appear, by counsel or in person, to
 present information and to be heard.
 Requests to appear at the public hearing
 should be filed with the Secretary,
 United States International Trade
 Commission, 500 E Street SW.,
 Washington, DC 20436, no later than
 5:15 p.m., November 28, 2005. Any
 prehearing briefs (original and 14
 copies) should be filed no later than
 5:15 p.m., December 1, 2005; the
 deadline for filing post-hearing briefs or
 statements is 5:15 p.m., December 15,
 2005. In the event that, as of the close
 of business on November 28, 2005, 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 to the
 Commission (202-205-2000) after
 November 28, 2005, for information
 concerning whether the hearing will be
 held.

Written Submissions: In lieu of or in
 addition to participating in the hearing,
 interested parties are invited to submit
 written statements concerning the
 matters to be addressed by the
 Commission in its report on this
 investigation. Submissions should be
 addressed to the Secretary, United
 States International Trade Commission,
 500 E Street SW., Washington, DC

20436. To be assured of consideration
 by the Commission, written statements
 related to the Commission's report
 should be submitted to the Commission
 at the earliest practical date and should
 be received no later than 5:15 p.m.,
 December 15, 2005. 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). Section 201.8
 of the rules requires that a signed
 original (or 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 business
 information must be deleted (see the
 following paragraph for further
 information regarding confidential
 business 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 rules (see Handbook for Electronic
 Filing Procedures, [ftp://ftp.usitc.gov/
 pub/reports/
 electronic_filing_handbook.pdf](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).

Any submissions that contain
 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 201.6 of the rules
 requires that the cover of the document
 and the individual pages be clearly
 marked as to whether they are the
 "confidential" or "nonconfidential"
 version, and that the confidential
 business information be clearly
 identified by means of brackets. All
 written submissions, except for
 confidential business information, will
 be made available in the Office of the
 Secretary to the Commission for
 inspection by interested parties.

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 public record for this
 investigation may be viewed on the
 Commission's electronic docket (EDIS)

<http://edis.usitc.gov>. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

Issued: November 1, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05-22153 Filed 11-4-05; 8:45 am]

BILLING CODE 7020-02-P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 6, 2005.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428, Fax No. 703-518-6669, E-mail: mcnamara@ncua.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428, or at (703) 518-6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Report of Officials.

OMB Number: 3133-0053.

Form Number: NCUA 4501.

Type of Review: Revision to a currently approved collection.

Description: 12 U.S.C. 1761—This statutory provision requires that a

record of the names and addresses of the executive officers, members of the supervisory committee, credit committee, and loan officers shall be filed with the administration within 10 days of their election/appointment.

Respondents: Credit unions.

Estimated No. of Respondents/Recordkeepers: 8,871.

Estimated Burden Hours per Response: 1 hour.

Frequency of Response: Annually.

Estimated Total Annual Burden

Hours: 8,871 hours.

Estimated Total Annual Cost: 0.

By the National Credit Union Administration Board on November 1, 2005.

Mary Rupp,

Secretary of the Board.

[FR Doc. 05-22100 Filed 11-4-05; 8:45 am]

BILLING CODE 7535-01-M

OFFICE OF PERSONNEL MANAGEMENT

Comment Request for Review of a Revised Information Collection: OPM Online Form 1417

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for clearance of a revised information collection. OPM Online Form 1417, the Combined Federal Campaign (CFC) Information System form, collects information from the 302 local CFC campaigns to verify campaign results and collect contact information. Revisions to the form clarify OPM's request for campaign costs, solicitation data, prior-year receipts, and the inclusion of electronic fund information (EFT). Campaign EFT information is released only to Federal payroll providers for the proper and timely disbursement of aggregated donor pledges. OPM has routinely collected EFT information through e-mail.

We estimate 302 Online OPM Forms 1417 are completed annually. Each form takes approximately 20 minutes to complete. The annual estimated burden is 101 hours.

Comments are particularly invited on: Whether this information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the

public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the appropriate use of technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606-8358, FAX (202) 418-3251 or E-mail to mbtoomey@opm.gov. Please be sure to include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to Cherylynn Stevens, CFC Operations, Office of CFC Operations, U.S. Office of Personnel Management, 1900 E Street, NW., Room 5450, Washington, DC 20415.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

[FR Doc. 05-22066 Filed 11-4-05; 8:45 am]

BILLING CODE 6325-46-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52714; File No. SR-OPRA-2005-04]

Options Price Reporting Authority; Notice of Filing of Proposed Amendment to the Best Bid and Offer Guidelines Adopted Pursuant to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information

November 1, 2005.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")¹ and Rule 608 thereunder,² notice is hereby given that on October 31, 2005, the Options Price Reporting Authority ("OPRA") submitted to the Securities and Exchange Commission ("Commission") a proposal to amend Guideline No. 1 of the Best Bid and Offer Guidelines ("BBO Guidelines") previously adopted by OPRA under Section II(o) of the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan").³ The proposed amendment

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder (formerly Rule 11Aa3-2). See Securities Exchange Act

APPENDIX C

Technical Appendix

MODEL FOR EVALUATING THE EFFECT OF ELIMINATING TARIFFS ON TEXTILES AND APPAREL

Commission staff used partial equilibrium modeling to estimate the economic effects of immediate removal of tariffs on U.S. apparel imports. 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 are taken from Hertel et al.,² and demand elasticities are from Kim.³ The supply elasticities were assumed to be 5 for the United States, 10 for Oman, and 15 for the rest of the world.⁴ Trade and production data are for January-September 2005. Calculated duties were used as proxies for the tariff rates.

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.

Consider the market for imports from Oman illustrated in fig. C-1, panel (a). The line labeled D_b is the U.S. demand for imports from Oman, the line labeled S_b is the supply of imports from Oman with the tariff in place, and the line labeled S'_b is the supply of imports from Oman without the tariff (i.e., the product is receiving duty-free treatment under the FTA). Point A is the equilibrium with the

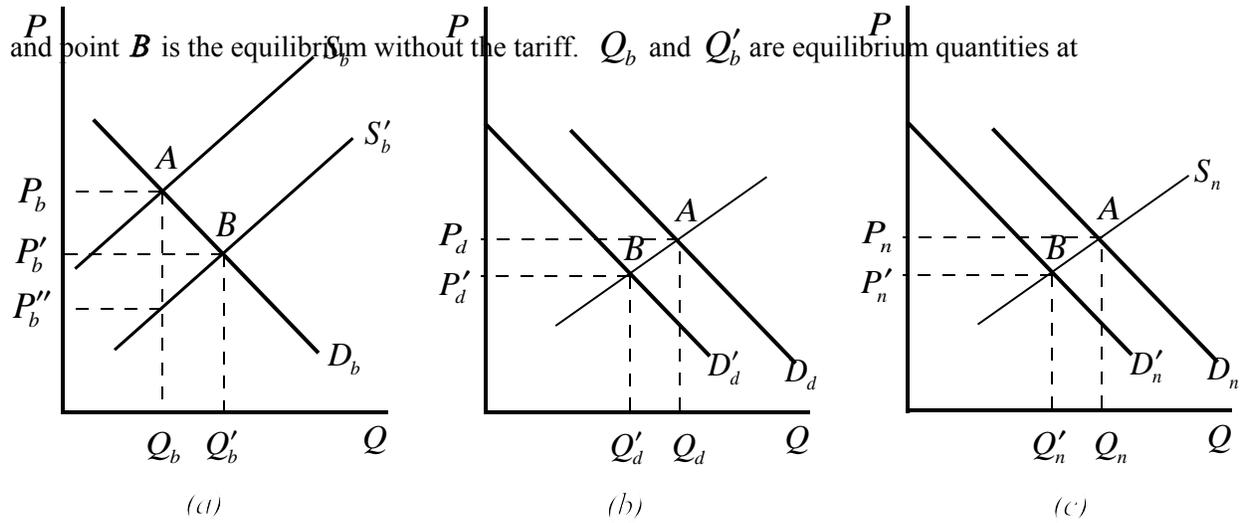
¹ For derivations, see Paul S. Armington, "A Theory of Demand for Products Distinguished by Place of Production," *IMF Staff Papers*, vol. 16 (1969), pp. 159-176; and J. Francois and K. Hall, "Partial Equilibrium Modeling," in J. Francois and K. Reinert, eds., *Applied Methods for Trade Policy Analysis,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

³ Kisung Kim, "U.S. Aggregate Demand for Clothing and Shoes: Effects of Non-durable Expenditures, Price and Demographic Changes," *International Journal of Consumer Studies*, vol. 27, no. 2, March 2003, pp. 111-125. The demand elasticity is a simple average of the own-price elasticities for men's and women's apparel.

⁴ The supply elasticity for exports from Oman was assumed to be less than that for the rest of the world because of labor and transportation issues related to Oman's exports.

tariff in place,



A and B , respectively. P_b and P'_b are equilibrium prices at A and B , and P''_b is the price received by Oman 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 U.S. Import, 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:

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

where q_i denotes quantity demanded for good i in the U.S. market;⁵ 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.⁶ As Armington states, the above equation "... can be written in a variety of useful ways."⁷ One of these useful ways can be derived as follows. The aggregate price index p is defined as

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

In addition, the aggregate quantity index q can be defined as

$$q = k_A p^{\eta_A} \quad (3)$$

where k_A is a constant and η_A is the aggregate demand elasticity for the product grouping (natural sign).

Substituting equation (3) into equation (1) yields

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

⁵ 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.

⁶ Armington (1969), p. 167.

⁷ Ibid., p. 168.

Further manipulation and simplification yields

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

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:

$$K_{si} p_i^{\varepsilon_{si}} - b_i^\sigma k_A \frac{P^{\sigma+\eta_A}}{p_i^\sigma} = 0. \quad (4)$$

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

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

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:

$$\left[p_b(1+t) \right]^{\varepsilon_{sb}} - \frac{P^{\sigma+\eta_A}}{p_b^\sigma} = 0 \quad \text{for imports from FTA beneficiary countries,}$$

$$p_n^{\varepsilon_{sn}} - \frac{p^{\sigma+\eta_A}}{p_n^\sigma} = 0 \quad \text{for imports from nonpartner countries,}$$

$$p_d^{\varepsilon_{sd}} - \frac{p^{\sigma+\eta_A}}{p_d^\sigma} = 0 \quad \text{for U.S. domestic production, and}$$

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

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.

Welfare effects

The gain in consumer welfare is measured as the area between the price axis and the aggregate demand curve evaluated at the initial price and the resulting lower price. The loss in producer welfare is the area between the price axis and the domestic supply curve evaluated at the initial price and the resulting lower price. The loss in tax revenue is calculated as the ad valorem tax rate times the market clearing value of imports before implementation of the FTA. The net welfare effect is obtained by subtracting the loss in producer welfare and tariff revenue from the gain in consumer welfare.

APPENDIX D
General Effects of Trade Agreements

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, all of which are not readily quantifiable. An FTA such as the one between the United States and Oman 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 net welfare and occurs when partner-country production displaces higher-cost domestic production. Trade diversion reduces net 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 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

¹ It should be noted that, although negotiated bilaterally, some FTA provisions such as those related to customs administration, labor, or 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).

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.

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.⁴ One such effect is enhanced security (either against nonmembers or between members).⁵ 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. Nonquantifiable effects assessed in the Commission’s report pertaining to the U.S.-Oman 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.⁶

⁴ The World Bank, *Trade Blocs* New York: Oxford University Press, 2000, p. 66.

⁵ 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.

⁶ Qualitative assessments of the impact of the U.S.-Oman FTA on these negotiated objectives are provided in chaps. 3 through 5 of this report.