



FINAL ENVIRONMENTAL REVIEW OF THE UNITED STATES – OMAN FREE TRADE AGREEMENT

Executive Summary

Pursuant to authority delegated by the President in Executive Order 13277 (67 *Fed. Reg.* 70305, November 21, 2002) and Executive Order 13141 (64 *Fed. Reg.* 63169, November 18, 1999), the United States Trade Representative (USTR), through the Trade Policy Staff Committee (TPSC), submits this Final Environmental Review of the United States – Oman Free Trade Agreement (FTA).

On November 15, 2004, in accordance with section 2104(a) of the Trade Act of 2002 (the Trade Act), U.S. Trade Representative Robert B. Zoellick notified the Congress of the President's intent to enter into negotiations for an FTA with Oman. The negotiations were successfully concluded on October 3, 2005, and the FTA was signed on January 19, 2006.

The environmental review process examines possible environmental effects that may be associated with an FTA. This Final Environmental Review summarizes the Administration's conclusions regarding the environmental effects of the United States – Oman FTA. In identifying and examining these possible effects, the Administration drew on public comments submitted in response to an Interim Review (announced in 69 *Fed. Reg.* 17729), the advice of relevant advisory committees, including the Trade and Environment Policy Advisory Committee (TEPAC), and relevant published economic analyses. The review also draws upon environmental and economic expertise of federal agencies. Consistent with Executive Order 13141 and its Guidelines, the focus of the review is on potential impacts in the United States. Additionally, this review includes consideration of global and transboundary effects.

Findings

1. In this Final Environmental Review, the Administration has concluded that changes in the pattern and magnitude of trade flows attributable to the FTA will not have any significant environmental impacts in the United States. While it is conceivable that there may be instances in which the economic and associated environmental impacts of the FTA are concentrated regionally or sectorally in the United States, we could not identify any such instances.
2. The Final Environmental Review did not identify any significant transboundary or global environmental effects associated with the FTA.

3. In considering whether provisions of the FTA could affect, positively or negatively, the ability of U.S. federal, state, local, or tribal governments to enact, enforce, or maintain environmental laws and regulations, the Administration took into account the range of FTA obligations, including those related to services, SPS measures and TBT, as well as provisions of the FTA's Environment Chapter and related dispute settlement provisions. We concluded that the FTA will not adversely affect the ability of U.S. federal, state, local, or tribal governments to regulate to protect the U.S. environment, and that these and related FTA provisions should have positive implications for the enforcement of environmental laws and the furtherance of environmental protection in both the United States and Oman.

4. Finally, and as a complement to the FTA, the United States and Oman will sign a Memorandum of Understanding (MOU) on Environmental Cooperation that is expected to enhance the positive environmental consequences of the Agreement. Under this MOU the Parties will establish a Joint Forum on Environmental Cooperation that will develop a plan of action and set priorities for future environment-related projects.

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I. Legal and Policy Framework

A. Legal and Policy Framework

On November 15, 2004, in accordance with section 2104(a)(1) of the Trade Act, the U.S. Trade Representative, Ambassador Robert B. Zoellick, notified the Congress of the President's intent to enter into negotiations for a free trade agreement with Oman. The formal launch of negotiations took place on March 12, 2005. The two governments concluded the negotiations on October 3, 2005.

The framework for conducting environmental reviews of trade agreements under the Trade Act is provided by Executive Order 13141, *Environmental Review of Trade Agreements* (64 *Fed. Reg.* 63169) and the Guidelines for Implementation of Executive Order 13141 (65 *Fed. Reg.* 79442). The Order and Guidelines are available at http://www.ustr.gov/Trade_Sectors/Environment/Section_Index.html.

The purpose of environmental reviews is to ensure that policymakers and the public are informed about reasonably foreseeable environmental impacts of trade agreements (both positive and negative), to identify complementarities between trade and environmental objectives and to help shape appropriate responses if environmental impacts are identified. Section 5(b) of Executive Order 13141 provides that, as a general matter, the focus of environmental reviews will be impacts in the United States, "but [a]s appropriate and prudent, reviews may also examine global and transboundary impacts." Reviews are intended to be one tool, among others, for integrating environmental information and analysis into the fluid, dynamic process of trade negotiations. The Office of the U.S. Trade Representative (USTR) and the Council on Environmental Quality (CEQ) jointly oversee implementation of the Order and Guidelines. USTR, through the Trade Policy Staff Committee (TPSC), is responsible for conducting the individual reviews.

Generally, reviews address two types of questions: (1) the extent to which positive and negative environmental impacts may flow from economic changes estimated to result from the prospective agreement; and (2) the extent to which proposed agreement provisions may affect U.S. environmental laws and regulations (including, as appropriate, the ability of state, local and tribal authorities to regulate with respect to environmental matters).

II. Background

A. Environment and Economy in Oman

Oman is a small, upper-middle-income nation located on the Gulf of Oman and the Arabian Sea, bordering Yemen, Saudi Arabia and the United Arab Emirates. Oman has a population of 2.6 million, including half a million foreign nationals. The country's land area, about 212 thousand

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square kilometers (approximately the size of Kansas), includes a central desert plain with rugged mountains in the north and south. About 0.1 percent of the land area is arable.

Environment: Oman is dedicated to the protection of the environment. The Sultan of Oman has demonstrated a personal commitment to protecting the environment and preserving rare and endangered species, including a variety of turtles and the Arabian Oryx. The Ministry of Regional Municipalities, Environment and Water Resources (MRMEWR) is the primary body responsible for environmental regulation and enforcement, including administering protected areas, managing groundwater resources, promoting environmental awareness and evaluating environmental impact assessments of all major public and private projects. Oman has a sound record of environmental law enforcement, including through penalties such as fines and imprisonment.

Despite a scarcity of water, Oman has a varied environment including considerable variety of flora and fauna. However, Oman also faces environmental challenges common to many Middle Eastern countries: periodic drought; damage to coastal areas resulting from dredging, oil spills and other discharges from refineries and oil distribution; and a severe shortage of freshwater resources. Marine and coastal pollution is a particular concern because Oman borders the Strait of Hormuz and is vulnerable to oil spills and subsequent damage to marine resources and beaches. Saline intrusion of aquifers is common in the northwestern Batinah coastal region due to irrigation-intensive agriculture. Overgrazing and resulting desertification also is a growing problem in the south.

The Environmental Society of Oman (ESO), the first officially registered environmental NGO in Oman, is dedicated to research and protection of the environment and includes government officials as well as members of the royal family. The NGO registration process in Oman is time-consuming, but more groups are seeking such registration and their influence is growing.

The inclusion of environment-related commitments as an integral part of the FTA is expected to further increase awareness of environmental issues in Oman and help support Oman's environmental development priorities.

Economy: In 2003, Oman's gross domestic product (GDP) was \$21.7 billion (approximately \$8,350 per capita). Services account for less than half of GDP (44 percent in 2003). Trade is especially important to Oman's economy: trade (exports and imports) of goods and services equaled more than 80 percent of the value of GDP in 2002. Oil is a primary resource and source of wealth, and Oman is making efforts to diversify in the process of opening its economy.

B. United States – Oman Trade

Two-way trade between Oman and the United States totaled \$748 million in 2004 (see table 1). U.S. exports to Oman were \$330 million and imports were \$418 million. The U.S. merchandise trade deficit with Oman declined in 2004 to less than \$100 million, compared to a deficit of over

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\$300 million in 2003 (see table 1). Machinery, vehicles, optical and medical instruments, electrical machinery and special other low value shipments account for the majority of U.S. exports to Oman. Crude oil, textiles and apparel, precious stones and iron and steel products account for the majority of U.S. imports from Oman. With the exception of textiles and apparel and some agricultural products, average U.S. tariffs on most imports from Oman are already relatively low (see table 2).

III. The United States – Oman Free Trade Agreement

A. Overview of the FTA

The FTA will expand an already strong relationship with a key economic and political partner in the Middle East. The FTA consists of a preamble and the following 22 chapters and associated annexes: establishment of a Free Trade Area and definitions; market access; textiles and apparel; rules of origin; customs administration; sanitary and phytosanitary measures; technical barriers to trade; safeguards; government procurement; investment; cross-border trade in services; financial services; telecommunications; electronic commerce; intellectual property rights; labor; environment; transparency; administration of the agreement; dispute settlement; exceptions; and final provisions. The complete text of the FTA, related annexes and side letters, and summary fact sheets are available on USTR's website at http://www.ustr.gov/Trade_Agreements/Bilateral/Oman_FTA/Section_Index.html.

Based on the scoping process and developments since the interim review, the following is a summary of the FTA provisions most relevant to this Final Environmental Review. The provisions of the Environment Chapter are described in section III.B.

Market Access for Goods

The FTA establishes the principle of national treatment and provides specific definitions and related industrial goods provisions. Tariff commitments by the United States and Oman provide immediate benefits for both Parties. One hundred percent of bilateral trade in consumer and industrial products will become duty free immediately upon entry into force of the FTA. Oman will provide for immediate duty free access for U.S. agricultural exports in 98 percent of agricultural lines. The United States will provide for immediate duty free access for 100 percent of Oman's current consumer and industrial, and 87 percent of agricultural exports. All remaining tariffs will be eliminated within 10 years of the Agreement's entry into force.

Customs Matters and Rules of Origin

The FTA establishes methods for valuing products used to qualify for preferential treatment. Product-specific rules of origin are provided in the Agreement, and the FTA establishes specific obligations on customs procedures to ensure compliance with laws governing importation. The FTA requires transparency and efficiency in customs administration, with commitments to

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publish laws and regulations and ensure procedural certainty and fairness. The FTA also includes a commitment to share information to combat illegal trans-shipment of goods.

Sanitary and Phytosanitary Measures (SPS)

The FTA reaffirms the Parties' commitments to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, which includes a science-based regime and transparency provisions. The FTA also creates a process for enhanced cooperation and coordination on SPS matters.

Technical Barriers to Trade (TBT)

The FTA reaffirms commitments to the WTO Agreement on Technical Barriers to Trade (TBT) and creates a process for enhanced cooperation and coordination on technical regulations and standards.

Safeguards

The FTA establishes provisions for implementing several bilateral safeguards and maintains the Parties' rights under the WTO Safeguards Agreement. A Party may exclude imports from the other Party from the application of a WTO safeguard measure, if imports from the other Party are not a substantial cause of serious injury or threat of serious injury.

Intellectual Property Rights (IPR)

The IPR Chapter provides for strong protection of copyrights, patents, trademarks, and trade secrets, including enhanced enforcement and non-discrimination obligations for all types of intellectual property. Through the copyright provisions, the Parties will address the challenge of providing protection in the digital environment of the Internet and provide important protection for performers and producers of phonograms. Under the FTA, the Parties will provide strong protections for trademarks and will apply the principle of "first-in-time, first-in-right" to trademarks and geographic indicators applied to products. The chapter streamlines trademark filing processes while providing greater protection of owners' rights.

Government Procurement

U.S. and Omani Government entities will benefit from using open, transparent and non-discriminatory procurement procedures. The Chapter includes requirements for advance public notice of purchases, as well as timely and effective bid review procedures.

Investment

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The FTA's Investment Chapter establishes a more predictable framework for U.S. investors operating in Oman. The FTA includes major obligations pertaining to non-discrimination (national treatment and MFN), expropriation, free transfers related to covered investments, prohibition on use of performance requirements, minimum standard of treatment, and limitations on requirements on senior managers.

Services

Substantial market access across the entire services regime was achieved in the Agreement, subject to very few exceptions (based on a “negative list” approach); the disciplines of national treatment and most-favored nation (MFN) are extended to the Parties’ services suppliers. Commitments apply across a wide range of sectors (including audiovisual, express delivery, telecommunications, computer and related services, distribution, healthcare, architecture and engineering) and provide for nondiscriminatory treatment through strong disciplines on both cross-border supply of services and the right to invest and establish a local services presence. Market access to services is reinforced by detailed disciplines on regulatory transparency. The FTA requires regulatory authorities to use open and transparent administrative procedures, consult with interested parties before issuing regulations, provide advance notice and comment periods for proposed rules and publish all regulations.

Labor

The FTA's Labor Chapter reaffirms the Parties’ obligations as members of the International Labor Organization (ILO), and commits them to strive to ensure that their domestic laws provide for labor standards consistent with internationally recognized labor principles. The United States and Oman agree that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment. Further, the FTA requires the Parties to effectively enforce their domestic labor laws, a requirement enforceable through the Agreement’s dispute settlement procedures. Procedural guarantees ensure that workers and employers will continue to have fair, equitable and transparent access to labor tribunals/courts. The Parties also establish a process for further cooperation on labor matters. The chapter’s labor obligations meet the labor objectives set out in the Trade Act of 2002.

Transparency

The Transparency Chapter ensures that laws, regulations, procedures and administrative rulings on matters covered by the FTA are published and made available to the public, requiring notification of proposed measures and providing for a reasonable opportunity for interested parties to comment, whenever possible. Procedures for review and appeal of administrative actions covered by the FTA also are provided.

Administration of the Agreement

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The United States and Oman agreed to establish a Joint Committee to supervise the implementation of the Agreement, which will meet in regular session every year. The Joint Committee may also establish and delegate responsibilities to expert subcommittees or working groups, and seek the advice of non-governmental persons.

Dispute Settlement

The FTA provides for clear dispute resolution procedures that set high standards of openness and transparency, calling for open public hearings and the public release of legal submissions by Parties. It provides opportunities for interested third parties to submit views. It promotes compliance through consultation, joint action plans and trade-enhancing remedies. The core obligations of the FTA, including labor and environment provisions concerning effective enforcement, are subject to the dispute settlement provisions with the use of special labor or environment expertise for disputes in these areas. The chapter includes an enforcement mechanism providing for monetary assessments to enforce commercial, labor and environmental obligations of the trade agreement.

Exceptions

For certain chapters, the Parties agreed to incorporate into the FTA Article XX of the GATT 1994 and the GATS Article XIV, including footnotes. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 include environmental measures necessary to protect human, animal, or plant life or health, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources. The Parties also understand that the measures referred to in Article XIV(b) of GATS include environmental measures necessary to protect human, animal, or plant life or health. Nothing in the FTA shall be construed to compel a Party to reveal information contrary to its essential security interests, or from applying measures that it considers necessary to its essential security interests.

B. The FTA Environment Chapter and Related Environmental Provisions

Environmental obligations are part of the core text of the Agreement. The FTA commits the Parties to effectively enforce their domestic environmental laws, and enforces this obligation through the FTA's dispute settlement procedures. Under the Environment Chapter, the Parties commit to ensure that domestic environmental laws will provide for high levels of environmental protection and strive to continue to improve such laws. Provisions also specify that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in domestic environmental laws.

To assist in the administration and implementation of the FTA, the Parties also agreed to provide for the establishment of a sub-committee on environmental affairs at the request of either Party.

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The FTA promotes a comprehensive approach to environmental protection. Obligations to ensure fair, equitable, and transparent proceedings for the administration and enforcement of environmental laws are coupled with provisions that promote voluntary, market-based mechanisms to protect the environment. Finally, the Parties committed to undertaking cooperative environmental activities pursuant to a Memorandum of Understanding (MOU) on Environmental Cooperation.

Through the MOU the Omani and U.S. Governments are establishing a Joint Forum on Environmental Cooperation to discuss ways to strengthen capacity to protect and conserve the environment. The Joint Forum is expected to develop a Plan of Action to identify priority projects for environmental cooperation. The Joint Forum is also expected to promote the development of opportunities for public participation in cooperative projects. The Annex to the MOU outlines priorities for environmental cooperation activities between the United States and Oman. See section VII for further information on environmental cooperation.

IV. Public and Advisory Committee Comments

To determine the scope of the review, the Administration considered information provided by the public and solicited comments through notices in the *Federal Register* and at a public hearing. In addition to providing guidance on the scope of the environmental review, any information, analysis and insights available from these sources were taken into account throughout the negotiating process and were considered in developing U.S. negotiating positions.

Pursuant to Trade Act requirements (section 2104(e)), advisory committees, including the TEPAC, submitted reports on the United States – Oman FTA to the President, USTR and Congress within 30 days after the President notified Congress of his intent to enter into the Agreement. The TEPAC report is summarized in section IV.B.

A. Public Comments

The review was formally initiated by publication of a notice in the *Federal Register*, which requested public comment on the scope of the review (*see 69 Fed. Reg. 76827, December 22, 2004*). The availability of an Interim Review was announced in the *Federal Register* (*see 70 Fed. Reg. 21265, April 25, 2005*) and provided a further opportunity for public comments. There were no public comments on the scope of the environmental review or on the Interim Review.

B. Advisory Committee Report

Under section 135(e) of the Trade Act of 1974, as amended, Advisory Committee reports must include advisory opinions as to whether and to what extent an agreement promotes the economic interests of the United States and achieves the applicable overall and principle negotiating objectives set forth in the Trade Act of 2002. The reports must also include advisory opinions as

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to whether an agreement provides for equity and reciprocity within the sectoral or functional area of the particular committee. The advisory committee reports are available at: http://www.ustr.gov/Trade_Agreements/Bilateral/Oman_FTA/Reports/Section_Index.html.

A majority of TEPAC members supported the conclusion that the FTA provides adequate safeguards to ensure that Congress's environmental negotiating objectives will be met and expressed satisfaction at the manner in which environmental issues were integrated into the drafting of the Agreement. A majority of the Committee expressed the view that trade agreements can create opportunities to enhance environmental protection, noting that trade opens markets, creates business and employment opportunities, and can increase economic growth, leading to increased wealth and providing opportunities to enhance environmental protection, including the creation of a political will in favor of such protection. However, they also noted that trade can create and amplify adverse externalities that require enhanced regulatory oversight.

A majority of the Committee members concluded that the public participation and dispute resolution provisions are acceptable, although the majority also expressed the view that additional elements and obligations could have been added to both sets of provisions. The majority agreed that monetary assessments of up to \$15 million per year for instances of non-compliance with enforcement obligations is adequate.

In particular, a majority of the Committee expressed satisfaction that steps are being made to increase public participation in the region, but noted that it will seek to monitor closely implementation of these provisions and recommended that USTR do the same. A majority of the Committee also reiterated its previous suggestion that USTR consider creating a regional Environmental Affairs Council for the various FTAs, including Israel, Jordan, Morocco, Bahrain and now Oman.

With respect to investment, a majority of TEPAC found that the FTA's investment protection and dispute resolution provisions represented an improvement over corresponding provisions in the North American Free Trade Agreement (NAFTA). They believe that these FTA provisions reduce the possibility of successful challenges to a U.S. environmental measure. In addition, a majority of TEPAC took comfort in specific language clarifying the relationship between investment and environmental obligations.

The majority of TEPAC members agreed that the United States – Oman MOU on Environmental Cooperation provides a reasonable basis for meeting objectives regarding capacity building and sustainable development.

Finally, a majority of the Committee also believe that the Agreement's tariff reductions fulfill Congress's mandate to seek market access, through the elimination of tariffs and nontariff barriers, for U.S. environmental technologies, goods, and services.

V. Potential Economically Driven Environmental Impacts of the United States – Oman FTA

Section V.A discusses the possible direct impacts of the FTA on the U.S. environment resulting from changes in the U.S. economy. Section V.B describes environmental issues associated with possible global and transboundary effects of the FTA. Although possible domestic impacts are the primary concern of this Final Environmental Review, global and transboundary environmental impacts are to be considered as appropriate and prudent.

A. Potential Impacts in the United States

Although Oman is an important market for some U.S. producers and exporters, the impact of the FTA on total U.S. production resulting from changes in U.S. exports appears likely to be very small. Exports to Oman currently account for less than 0.1 percent of total U.S. exports and a very small portion of total U.S. production.¹ The FTA is expected to provide improved market access for some products, but substantial increases in U.S. exports and production are not expected as a consequence of the small size of the Omani economy.

Although small changes in production and exports in environmentally-sensitive sectors could have implications for the FTA's direct environmental effects in the United States, no such implications were identified. Therefore, we concluded that the FTA will not have any significant economically-driven environmental effects in the United States.

B. Transboundary and Global Issues

The Guidelines for environmental reviews encourage consideration, as appropriate, of potential transboundary and global environmental consequences that may flow from the prospective trade agreement. In examining these issues, the Administration took into consideration a number of factors, including the lack of shared borders with Oman, the relatively significant geographic distance between the two countries and the *de minimis* anticipated environmental effects of the FTA in the United States. The Interim Environmental Review provided a discussion, including background information, on the possible environmental effects of the FTA through economic growth in Oman and trade in selected goods and services.² The following is a summary of our further consideration of these topics.

As compared to its effect in the United States, the FTA is expected to have relatively greater effects on the economy of Oman, especially in supporting efforts to restructure and diversify its economy. See table 2 for information on recent U.S. imports from Oman, dutiable imports and duties collected. TPSC agencies examined a variety of possible environmental issues that might

¹ See section II.B.

² The Interim Environmental Review is available at:

http://www.ustr.gov/Trade_Sectors/Environment/Environmental_Reviews/Section_Index.html.

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be associated with the FTA, but did not identify any significant transboundary or global effects of the FTA.

For example, there is relatively little trade between the United States and Oman in wild flora and fauna, including species that are regulated under the Convention on International Trade in Endangered Species (CITES). Oman provides for documentation of trade in wildlife comparable to that which is required under CITES, but has not ratified CITES.³ Oman's trade in the horn of the rhinoceros, a highly endangered species for which commercial trade is banned under Appendix I of CITES, is a concern to the United States. The United States and Oman have identified endangered species as a priority area for enhanced cooperation associated with the FTA (see section VII).

Oman provides critical habitat to two species of marine turtles, loggerhead and green turtles, both of which are protected under the U.S. Endangered Species Act. Trade in loggerhead and green turtles is prohibited under CITES. Although Oman is not a party to CITES, Oman is a signatory to the Memorandum of Understanding on the Conservation and Management of Marine Turtles and Their Habitats of the Indian Ocean and South-East, concluded under the Convention on the Conservation of Migratory Species of Wild Animals. Oman's commitment to protection of wildlife also is reflected in their environmental laws and in their participation in regional environmental cooperation among Cooperation Council for the Arab States of the Gulf (GCC) countries.⁴ The United States and Oman have cooperated on wildlife management, including on management of threatened and endangered species.

The FTA may have positive environmental consequences in Oman. Implementation of the FTA should positively affect Oman's environment through FTA provisions requiring each country to effectively enforce its environmental laws, ensure that its environmental laws and policies provide for high levels of environmental protection, and not to weaken environmental laws to attract trade and investment. In addition, the FTA provides a context for reinforcing and extending existing cooperation activities to address both trade-related and other environmental issues. Moreover, the FTA should facilitate the dissemination of environmentally beneficial technologies as it promotes economic growth and development through increased trade and investment.

VI. Potential Regulatory Impacts

Consistent with Executive Order 13141 and its Guidelines, this review included consideration of the extent to which the FTA might affect U.S. environmental laws, regulations, policies and/or international commitments. Within the range of FTA obligations, those related to services, SPS

³ Oman has stated its intention to join CITES.

⁴ Areas of environmental cooperation among the GCC Member States include environmental assessment, waste management, and protection of wildlife. See <http://library.gcc-sg.org/English/gcc011.htm> for additional information.

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measures and TBT can have particular significance for domestic regulatory practices concerning the environment, health and safety. Previous environmental reviews, including the preliminary and final reviews for the Jordan, Chile, Singapore, Australia and Morocco FTAs, have considered potential impacts on the U.S. regulatory regime with respect to all of these obligations and have found that the respective trade agreements were not anticipated to have a negative impact on U.S. legal or regulatory authority or practices. Further, the reviews noted the potentially positive impact that the FTAs could have on the U.S. environmental regulatory regime as a result of FTA commitments to effectively enforce U.S. environmental laws, to not weaken U.S. environmental laws to attract trade or investment and ensure that U.S. environmental laws and policies provide for and encourage high levels of environmental protection.

Based on this previous analysis, and given that the core obligations in these areas are similar to those undertaken in the previous FTAs,⁵ the Administration concluded that the FTA will not have a negative impact on the ability of U.S. government authorities to enforce or maintain U.S. environmental laws or regulations.

For further analysis of general FTA commitments and their potential regulatory impacts in the United States, see the preliminary and final reviews for the Jordan, Chile, Singapore, Australia and Morocco FTAs at

http://www.ustr.gov/Trade_Sectors/Environment/Environmental_Reviews/Section_Index.html.

Concerning investment, the FTA's Investment Chapter reflects the balance Congress struck in the Trade Act between protecting the rights of U.S. investors abroad and preserving the ability of the federal government and state and local governments to regulate with respect to health, safety and the environment. The FTA clarifies several substantive investment obligations of particular concern (notably provisions on expropriation and "fair and equitable treatment") and incorporates a number of innovations in the investor-State procedures to help ensure that arbitral tribunals interpret substantive obligations in a consistent and coherent manner.

Based on these considerations, we do not expect the FTA to result in a significantly increased potential for a successful challenge to U.S. environmental measures under the FTA's investor-State mechanism as compared with the risk of a successful challenge in a U.S. court. The FTA's innovations as compared with NAFTA Chapter 11 should further reduce the risk that arbitral tribunals will misapply the investment provisions of the FTA.

For a more in-depth analysis of investment provisions and their potential regulatory impacts in the United States, see the final environmental reviews for the United States-Morocco FTA and the United States-Dominican Republic-Central America FTA (both are available at http://www.ustr.gov/Trade_Sectors/Environment/Environmental_Reviews/Section_Index.html).

⁵ For information on FTAs, see the USTR website at http://www.ustr.gov/Trade_Agreements/Bilateral/Section_Index.html.

VII. Environmental Cooperation

The Trade Act establishes that a principal negotiating objective of the United States is to strengthen the capacity of our trading partners to protect the environment through the promotion of sustainable development. In addition, the Trade Act instructs negotiators to seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science. The MOU on Environmental Cooperation was developed as a complement to the environmental provisions of the FTA.

The United States and Oman already cooperate to address shared environmental concerns. Examples of such cooperation include a U.S. Fish and Wildlife Service survey of turtle nesting sites in Oman, technical and financial assistance for Environment Ministry turtle-preserve rangers under the Marine Turtle Conservation Act, a National Science Foundation-supported joint workshop on living marine resources and a USAID-funded project to treat wastewater and replenish a local aquifer.

Through the MOU, the United States and Oman build on their recent and ongoing bilateral, regional and multilateral cooperative efforts by establishing a Joint Forum to consult regularly both on the direction of ongoing cooperative activities and on areas for future cooperative efforts. Areas specifically identified in the Annex to the MOU for future bilateral cooperation include: developing and implementing environmental laws and infrastructure; conducting and reviewing environmental impact assessments; developing environmental incentives and encouraging cleaner production; promoting public participation in environmental protection and public access to information; protecting coastal environments, marine resources, and endangered species; and sharing experience in the review and preparation of contingency mechanisms for oil spills and other environmental disasters.

IV. Data Tables

Table 1—U.S. goods trade with Oman (total exports and total imports), 2000-2004¹

	2000	2001	2002	2003	2004
	<i>Million U.S. dollars</i>				
U.S. total exports	200	306	356	322	330
U.S. total imports	276	420	401	695	418
U.S. goods trade balance	-76	-114	-45	-373	-88

¹ Customs value.

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

Table 2—Selected U.S. imports from Oman by major industry/commodity sectors, 2004

Sector	U.S. imports for consumption ¹	Dutiable imports	Calculated duties collected	Share of U.S. imports for consumption represented by dutiable imports	Average calculated duty collected on dutiable imports
	<i>Thousand U.S. dollars</i>			<i>Percent</i>	
Agricultural products	9,590	1,338	138	14.0	10.3
Forest products.....	0	0	0	0.0	0.0
Chemicals and related products	1,805	126	4	7.0	3.5
Energy-related products	211,838	117,060	269	55.3	0.2
Textiles and apparel	126,288	126,279	20,105	100.0	15.9
Footwear.....	0	0	0	0.0	0.0
Minerals and metals.....	19,587	109	5	0.6	4.3
Machinery	27	0	0	0.0	0.0
Transportation equipment.....	8	0	0	0.0	0.0
Electronic products	67	8	(²)	12.4	2.9
Miscellaneous manufactures	46,115	39	2	0.1	6.1
Special provisions ²	7,138	891	1	12.5	0.1
Total.....	422,463	245,851	20,526	58.2	8.3

¹Customs value.

²Less than \$500,000.

³Trade under special provisions includes exports under chapter 98 of the Schedule B and imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States (HTS). All other product sectors listed are from chapters 1-97 of the Schedule B and HTS.

Note.—Calculations based on unrounded data.

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