



## INTERIM ENVIRONMENTAL REVIEW OF THE U.S.- BAHRAIN FREE TRADE AGREEMENT

March 2004

### Executive Summary

Pursuant to authority delegated by the President in Executive Order 13277 (67 Fed. Reg. 70,305, November 21, 2002) and Executive Order 13141 (64 Fed. Reg. 63,169, November 18, 1999), the United States Trade Representative (USTR), through the Trade Policy Staff Committee (TPSC), submits this Interim Environmental Review of the prospective U.S.-Bahrain Free Trade Agreement (FTA).

Following the guidelines for environmental reviews (65 Fed. Reg. 79,442, December 19, 2000), this Interim Review identifies possible environmental effects that may be associated with the FTA. To determine the scope for the review and to identify possible environmental effects, the Administration requested public comments through a notice in the *Federal Register* (68 Fed. Reg. 56,373) and sought the advice of all agencies with relevant expertise. In preparing this Interim Review, the Administration relied on the expertise of these agencies as well as a variety of other sources of information, including published reports.

This interim review provides provisional conclusions and identifies areas for further attention in the course of the ongoing negotiations and in the review of the final agreement. The Administration welcomes public comment on these preliminary conclusions:

- Based on existing patterns of trade and investment and changes likely to result from provisions of the FTA, the impact of the FTA on total U.S. production appears likely to be very small. As a result, the FTA is not expected to have significant direct effects on the U.S. environment.
- Based on an analysis of comparable provisions of previous FTAs, the U.S.-Bahrain 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.
- The FTA may have positive environmental consequences in Bahrain by reinforcing efforts to effectively enforce environmental laws, accelerating economic growth and development through trade and investment and disseminating environmentally beneficial technologies.
- The FTA provides a context for reinforcing and extending existing cooperation activities to address both trade-related and other environmental issues.

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## **I. Background**

### **A. Legal and Policy Framework**

On August 4, 2003, 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 Bahrain. The formal launch of negotiations took place on January 26, 2004. The two governments are seeking to conclude the negotiations by mid-2004.

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. 63,169) and the Guidelines for Implementation of Executive Order 13141 (65 Fed. Reg. 79,442). The Order and Guidelines are available at [www.ustr.gov/environment/environmental.shtml](http://www.ustr.gov/environment/environmental.shtml).

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).

### **B. Economy and Environment in Bahrain**

Bahrain is a small, middle-income island nation located in the Persian Gulf, east of Saudi Arabia. Bahrain has a population of about 670,000, a significant portion of whom (about 35 percent) are non-nationals. The country's land area is 665 square kilometers, mostly low desert plain. Less than 5 percent of the land area is arable. Bahrain faces environmental challenges common to many Middle Eastern countries: desertification resulting from degradation of limited arable land; periodic drought and dust storms; damage to coastal areas resulting from dredging, oil spills and other discharges from refineries and oil distribution; air pollution, which is exacerbated by extreme summer temperatures; and a shortage of freshwater resources.

Bahrain's marine environment and natural resources are especially stressed as a consequence of pollution, over-exploitation and coastal development projects that require extensive dredging and land reclamation. The most important sources of pollution include oil spills from accidents, exploration, shipping and loading operations. Additional sources include treated, partially treated and untreated domestic sewage, agricultural and industrial wastes that are discharged directly and indirectly into shallow coastal waters, causing eutrophication and other damage to coastal ecosystems. Bahrain's marine environment, including its coral reefs, are also adversely affected by solid waste disposal.

Dredging and coastal reclamation projects put additional pressure on marine habitats, especially coral reefs. The consequences of these pressures are degradation of marine resources, declines in fish stocks and biodiversity loss. It is reported that about 82% of coral reefs in Bahrain's marine area are endangered due to bleaching events and pollution. Bahrain has recently taken steps, however, to reduce dredging and protect sensitive ecosystems.

In 2002, Bahrain's gross domestic product (GDP) was \$8.4 billion (approximately \$12,600 per capita). Services account for more than half of GDP (56 percent in 2002). Trade is very important to Bahrain's economy: exports of goods and services accounted for more than 80 percent of GDP in 2002. Historically, oil has been a primary resource and source of wealth. More recently, and in the face of declining oil reserves, Bahrain has emphasized petroleum processing and international banking services. In addition to efforts to restructure and diversify the economy, Bahrain has initiated significant political reforms in recent years. In October 2002, Bahrainis directly elected members of the lower house of a reconstituted bicameral legislature.

### C. U.S.-Bahrain Trade

Two-way trade between Bahrain and the United States totaled \$802 million in 2002 (see table 1). U.S. exports to Bahrain totaled \$407 million in 2002. The United States enjoyed a small trade surplus with Bahrain of \$12 million in 2002, a reversal of a \$26 million trade deficit in 2001. Aircraft, miscellaneous manufactures and agricultural products account for the majority of U.S. exports.

In 2002, the largest categories of U.S. imports from Bahrain were textiles and apparel and refined petroleum products. Because U.S. tariffs on most imports from Bahrain are already relatively low (see table 2), U.S. imports are not expected to change significantly as a result of the FTA

### D. U.S. Objectives in the Proposed Free Trade Agreement

A U.S.-Bahrain FTA will build on existing FTAs with Israel and Jordan, and will promote the President's initiative to advance economic reforms and openness in the Middle East and the Persian Gulf, moving us closer to the creation of a Middle East Free Trade Area. Bahrain is an important strategic partner that is seeking to implement significant political and economic reforms, and these reforms will be supported and accelerated by an FTA with the United States. An FTA will also support Bahrain's commitment to transparency, openness, and the rule of law. Additionally, the FTA will enhance intellectual property rights, labor rights and environmental

protection.

An FTA with Bahrain is expected to provide direct benefit to the United States by reducing and eliminating barriers to trade and generating export opportunities for U.S. businesses. An FTA with Bahrain can be expected to boost U.S. trade and investment with other Gulf countries as well, facilitating greater regional economic integration and creating economic opportunities for people across the Middle East. Bahrain already provides an attractive market for U.S. products, and an FTA is expected to enhance access to Bahrain's market and promote Bahrain's role as a regional business hub for the Gulf.

The agreement will be built on a strong foundation of economic cooperation. In 2001, the United States and Bahrain signed a bilateral investment treaty that provides assurances to investors from both countries that their property rights will be respected. In 2002, Bahrain entered into a Trade and Investment Framework Agreement (TIFA) with the United States. Since signing the TIFA, Bahrain has demonstrated a commitment to open trade. It has pledged to treat agricultural biotechnology fairly and to upgrade its laws to protect intellectual property. Bahrain and the United States also used the TIFA framework to begin discussions on environmental issues.

A U.S.-Bahrain FTA also will help advance the market-opening commitments that the United States is pursuing in global trade negotiations. Bahrain has already played a constructive role in services negotiations in the World Trade Organization by submitting an initial offer. Bahrain also recently joined the WTO Information Technology Agreement, committing it to free trade in computer, telecommunications, and related products.

Specific U.S. negotiating objectives for the FTA were outlined in notification letters sent to Congress prior to the start of negotiations. The full text of these letters is available at <http://www.ustr.gov/new/fta/bahrain.htm>.

## **II. Scope of the Environmental review**

### **A. Public and Advisory Committee Comments**

To determine the scope of this environmental review, the Administration sought the advice and input of the public, USTR's advisory committee on trade and environment issues, the Trade and Environment Policy Advisory Committee (TEPAC), and input from environmental, trade and investment experts within federal agencies. In addition to providing guidance on the scope of the environmental review, all relevant information, analysis, and insights available from these sources are being taken into account throughout the negotiating process and are considered in developing U.S. negotiating positions. As envisaged by the Guidelines, environmental reviews are an ongoing process to examine environmental issues and inform the negotiating process.

In a *Federal Register* notice dated September 30, 2003 (68 FR 56,373), USTR, through the TPSC, initiated an environmental review of the proposed FTA. The *Federal Register* notice requested written comments from the public on what should be included in the scope of the

environmental review, including the potential environmental effects that might flow from the FTA and the potential implications for U.S. environmental laws and regulations. The notice also invited public views on appropriate methodologies and sources of data for conducting the review. No public comments have been received to date.

TEPAC provides broad-scale advice on trade and trade policy, including approaches to conducting environmental reviews and enhancing public participation in the process. To date, the TEPAC has not provided specific comments to USTR on the environmental review of the proposed U.S.-Bahrain FTA.

## B. Potential Economically-driven Environmental Impacts of the U.S.-Bahrain FTA

Consistent with Executive Order 13141 and the Guidelines, the primary task of this review is to identify the possible environmental effects of the proposed FTA on the United States. Based on existing patterns of trade and investment, the small size of the Bahrain economy and changes in U.S. trade likely to result from provisions of the FTA, the impact of the FTA on total U.S. production through changes in U.S. exports appears likely to be very small. Therefore, it appears very unlikely that there will be any significant economically-driven environmental effects in the United States as a result of the U.S.-Bahrain FTA. The Administration welcomes public comments on this preliminary determination of *de minimus* environmental impacts.

## C. 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 geographic distance between the United States and Bahrain and the *de minimus* anticipated environmental effects of the FTA in the United States.

As compared to its effect in the United States, the FTA is expected to have relatively greater effects on the economy of Bahrain, especially in supporting efforts to restructure and diversify its economy. See table 2 for information on recent U.S. imports from Bahrain, dutiable imports and duties collected. TPSC agencies examined a variety of possible environmental issues that might 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 Bahrain in wild flora and fauna, including species that are regulated under the Convention on International Trade in Endangered Species (CITES). Bahrain is not a party to CITES but has expressed interest in, and taken steps toward, becoming a party. Bahrain's commitment to address environmental issues, including protection of wildlife, is reflected in their environmental laws (Legislative Decree No. 21 (1996)) and in a recently concluded regional convention on conservation of wildlife and wildlife habitat in Gulf Cooperation Council countries, to which Bahrain is a signatory.

The FTA may have positive environmental consequences in Bahrain by reinforcing efforts to effectively enforce environmental laws, accelerating economic growth and development through

increased trade and investment and disseminating environmentally beneficial technologies. The FTA provides a context for reinforcing and extending existing cooperation activities to address both trade-related and other environmental issues. The United States and Bahrain have already identified several priority areas for cooperation in a draft Memorandum of Understanding on Environmental Cooperation, including the improvement of air quality, the protection of coastal zones and the preservation of marine resources.

Implementation of the FTA could also positively affect Bahrain'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.

The Administration welcomes public comment on these preliminary conclusions.

#### D. Potential Regulatory Impacts

Consistent with Executive Order 13141 and the Guidelines, this review includes consideration of the extent to which the FTA might affect U.S. environmental laws, regulations, policies and/or international commitments. FTA negotiators are aware of the need to preserve the U.S. government's ability to maintain strong environmental laws and regulations and an effective process for enforcing them. As the FTA negotiations proceed, negotiators will continue to ensure that this important objective is met.

FTA obligations related to investment, services, sanitary and phytosanitary (SPS) measures and technical barriers to trade (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 and Singapore FTAs, and interim reviews for FTAs with Central America (CAFTA), Australia and Morocco, have considered potential impacts on the U.S. regulatory regime of these obligations in all of these areas and concluded that the respective trade agreements were not likely to negatively affect U.S. legal or regulatory authority or practices. Further, in all cases, 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, not to weaken U.S. environmental laws to attract trade or investment and to ensure that U.S. environmental laws and policies provide for high levels of environmental protection.

Based on this previous analysis and assuming that the core obligations in these areas will be similar to those undertaken in prior FTAs,<sup>1</sup> the Administration does not expect that the U.S.-Bahrain FTA will have a negative impact on the ability of U.S. government authorities to enforce or maintain U.S. environmental laws or regulations. We welcome public comment on this preliminary determination.

Previous interim and final environmental reviews are available at <http://www.ustr.gov/environment/environmental.shtml>.

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<sup>1</sup> Texts of the prior agreements are available at: <http://www.ustr.gov>.

### **III. Environmental Cooperation**

The Trade Act of 2002 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. Environmental cooperation is expected to be an important complement to the environmental provisions of the FTA.

Bahrain and the United States plan to establish a cooperative action plan through a Memorandum of Understanding on Environmental Cooperation, which is currently under discussion. The Administration invites public comment on specific ideas for environmental cooperation, including ideas to address issues identified in section six (above), to inform these discussions. Comment is particularly invited on ways in which non-governmental organizations or business groups might become involved in cooperative efforts through public-private partnerships.

#### IV. Data Tables

**Table 1—U.S. merchandise trade with Bahrain (exports of domestic merchandise, imports for consumption, and merchandise trade balance), by major industry/commodity sectors, 2001-2003<sup>1</sup>**

Item	2001	2002	2003
	<i>Million dollars</i>		
U.S. exports of domestic merchandise:			
Agricultural products .....	36	34	20
Forest products .....	3	4	4
Chemicals and related products.....	12	12	11
Energy-related products .....	19	5	2
Textiles and apparel .....	6	4	2
Footwear.....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
Minerals and metals .....	7	6	9
Machinery .....	29	31	24
Transportation equipment .....	153	133	295
Electronic products.....	38	22	36
Miscellaneous manufactures .....	29	64	23
Subtotal (chapters 1-97) .....	333	315	425
Special provisions .....	65	93	72
Total .....	398	407	497
U.S. imports of merchandise for consumption:			
Agricultural products .....	0	( <sup>2</sup> )	( <sup>2</sup> )
Forest products .....	0	( <sup>2</sup> )	0
Chemicals and related products.....	67	42	62
Energy-related products .....	20	0	5
Textiles and apparel .....	208	202	188
Footwear.....	0	( <sup>2</sup> )	( <sup>2</sup> )
Minerals and metals .....	47	64	37
Machinery .....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
Transportation equipment .....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
Electronic products.....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
Miscellaneous manufactures .....	3	( <sup>2</sup> )	1
Subtotal (chapters 1-97) .....	344	309	293
Special provisions .....	80	86	85
Total .....	424	395	378

<sup>1</sup>Import values are based on customs value; export values are based on f.a.s. value, U.S. port of export.

<sup>2</sup>Less than \$500,000.

<sup>3</sup>Not meaningful for purposes of comparison.

Note: Calculations based on unrounded data.

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

**Table 2—Selected U.S. imports from Bahrain by major industry/commodity sectors, 2003**

Sector	U.S. imports for consumption <sup>1</sup>	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 dollars</i>					
<i>Percent</i>					
Agricultural products .....	252	0	0	0.0	0.0
Forest products .....	0	0	0	0.0	0.0
Chemicals and related products .....	61,628	688	21	1.1	3.0
Energy-related products .....	5,077	5,077	71	100.0	1.4
Textiles and apparel .....	187,791	187,762	29,145	100.0	15.5
Footwear .....	5	5	( <sup>2</sup> )	100.0	8.5
Minerals and metals .....	37,153	200	9	0.5	4.8
Machinery .....	210	71	2	33.9	2.5
Transportation equipment .....	21	4	( <sup>2</sup> )	17.5	2.5
Electronic products .....	276	95	3	34.3	2.7
Miscellaneous manufactures .....	514	102	14	19.8	14.0
Special provisions <sup>3</sup> .....	85,399	2,393	788	2.8	32.9
Total .....	378,327	196,396	30,053	51.9	15.3

<sup>1</sup>Customs value.

<sup>2</sup>Less than \$500,000.

<sup>3</sup>Trade 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.