United States Employment Impact Review of the United States-Bahrain Free Trade Agreement

Pursuant to section 2102(c)(5) of the Trade Act of 2002, the United States Trade Representative, in consultation with the Secretary of Labor, provides the following United States Employment Impact Review of the United States-Bahrain Free Trade Agreement. The report was prepared by the U.S. Department of Labor.

September 2005

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Executive Summary

This employment impact review was prepared pursuant to section 2102(c)(5) of the Trade Act of 2002. Section 2102(c)(5) requires the President to review and report to the Congress on the impact of future trade agreements on U.S. employment, including labor markets. This review describes the contents of the United States-Bahrain Free Trade Agreement (FTA), including a summary of the labor provisions of the FTA, and assesses the potential economic and employment effects of the FTA. In addition, the review summarizes the content of the labor provisions of the FTA.

The major finding of this review is that the United States-Bahrain FTA is expected to have a negligible effect on employment in the United States. This finding regarding the absence of any significant domestic employment effects from the FTA is attributable to, among other factors, the relatively small volume of bilateral trade between the two countries, the fact that slightly under half of all U.S. imports from Bahrain already enter the United States duty-free, provisions in the FTA for the gradual removal of U.S. tariffs on import-sensitive goods from Bahrain over a ten-year period, and safeguards contained in the FTA to attenuate the effects of any increases in imports that might cause serious injury to a domestic industry.

When the United States-Bahrain FTA enters into force, all U.S. industrial and consumer goods currently traded with Bahrain will gain immediate duty-free access to Bahrain's markets and tariffs on all goods will be eliminated within ten years. U.S. service providers will also gain greater market access. As U.S. goods and service-producing industries become more competitive in the Bahraini market, it is expected that U.S. merchandise and service exports to Bahrain will increase. This especially should be the case for the current leading U.S. merchandise exports to Bahrain in areas such as aerospace products, automobiles, fabricated metal products, computer equipment, and machinery and equipment; and services such as financial and other business related services. New U.S. export opportunities may also arise in the areas of manufacturing, services, and agriculture as the Bahraini market—though extremely small—becomes more open.

I. Introduction: Overview of the United States Employment Impact Review Process

A. Scope and Outline of the United States Employment Review

This employment impact review consists of this introduction and two additional parts that follow. Part II discusses the background and contents of the United States-Bahrain Free Trade Agreement (FTA), including the bilateral economic setting; current barriers to bilateral trade; and the major elements of the FTA, including rules in the FTA to ensure that only products which satisfy the FTA's origin requirements benefit from the FTA, mechanisms to attenuate the effects of any increases in imports that may cause serious injury to a domestic industry, longer phase-in of tariff reductions for especially sensitive products, and the labor provisions of the FTA and labor cooperation mechanism. Part III considers the potential economic and employment effects in the United States of the FTA.

B. Legislative Mandate

This review of the employment impact of the United States-Bahrain FTA is pursuant to section 2102(c)(5) of the Trade Act of 2002 ("Trade Act") (Pub. L. No. 107-210). Section 2102(c)(5) provides that the President shall:

> review the impact of future trade agreements on United States employment, including labor markets, modeled after Executive Order 13141 to the extent appropriate in establishing procedures and criteria, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review, and make that report available to the public.

The President, by Executive Order 13277 (67 Fed. Reg. 70305 (Nov. 19, 2002)), assigned the responsibility for conducting reviews under section 2102(c)(5) to the United States Trade Representative (USTR), who delegated such responsibility to the Secretary of Labor with the requirement that reviews be coordinated through the Trade Policy Staff Committee (67 Fed. Reg. 71606 (Dec. 2, 2002)).

The employment impact review is modeled, to the extent appropriate, after Executive Order 13141 (68 Fed. Reg. 63169) on the environmental review of trade agreements; the guidelines developed for the implementation of that order have been adapted for use in this employment review.[1]

[1] Executive Order 13141, on Environmental Review of Trade Agreements, was signed on November 16, 1999. The Order commits the U.S. government to a policy of careful assessment and consideration of the environmental impacts of trade agreements, including factoring environmental considerations into the development of its trade negotiating objectives. The Order directs that, in certain instances, written environmental impact reviews be made available to the public in final form. Also, the Order directs the Office of the U.S. Trade Representative (USTR) and the Council on Environmental Quality (CEQ) to oversee the implementation of the Order, including the development of procedures or guidelines pursuant to the Order. In December 2000, USTR and CEQ published *Guidelines for the Implementation of Executive Order 13141--Environmental Review of Trade Agreements.* The Order and Guidelines are

C. Public Outreach and Comments

1. Responses to Federal Register Notice

The U.S. Department of Labor and USTR jointly issued a notice on September 4, 2003 in the *Federal Register* announcing the initiation of a review of the potential impact on U.S. employment of the proposed United States-Bahrain FTA, including the effects on domestic labor markets, and requesting written public comment on the review and provision of information on potentially significant sectoral or regional employment impacts (both positive and negative) in the United States, as well as other likely labor market effects of the FTA.[2] Four submissions were received in response to the notice.[3]

2. Reports of the Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC) and Other Advisory Committees

Section 2104(e) of the Trade Act requires that advisory committees provide the President, USTR, and Congress with reports under section 135(e)(1) of the Trade Act of 1974, as amended, not later than 30 days after the President notifies Congress of his intent to enter into an agreement. All of the advisory committee reports were submitted on July 14, 2004, and are available on the USTR web site.[4]

The Advisory Committee on Trade Policy and Negotiations (ACTPN) and virtually all of the other 26 trade advisory committees expressed the view that the United States-Bahrain FTA is in the economic interest of the United States and stated their support for the FTA. The unanimous findings of the ACTPN were that the FTA "is strongly in the economic interest of the United States" and should "be adopted quickly." ACTPN also noted that the FTA would not be disruptive to the U.S. economy since "adequate transition and adjustment times have been built into the agreement."

The Industry Sector Advisory Committees (ISACs) on Aerospace Equipment (ISAC-1) and Automotive Equipment and Capital Goods (ISAC-2), in particular, commented that

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available on the USTR web site at: http://www.ustr.gov/Trade_Sectors/Environment/Guidelines_for_Environmental_Reviews/Section_Index.html. USTR and CEQ jointly oversee implementation of the Order and Guidelines, while USTR, through the Trade Policy Staff Committee (TPSC), is responsible for conducting individual reviews.

[2] See 68 Fed. Reg. 52622 (Sept. 4, 2003).

[3] Comments submitted by the American Dehydrated Onion and Garlic Association (ADOGA) reiterated the same concerns about the FTA that they had expressed in each of their submissions on the U.S. employment impact of the FTAs with Singapore, Morocco, Australia, and the Central American countries and the Dominican Republic. Comments submitted by the Tile Council of America, Inc. (TCA) reiterated the same concerns about the FTA that they had expressed in their submission for the United States-Australia FTA. These ADOGA and TCA comments were summarized in the Department of Labor's *United States Employment Impact Review of the United States-Australia Free Trade Agreement* (June 2004), and are not repeated here. The two other submissions were submitted by human rights groups in Bahrain and addressed concerns about the effects of the FTA on labor markets in Bahrain; these submissions are not discussed here.

[4] See http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/Reports/Section_Index.html.

the FTA would benefit the exports of their respective industries. The Committee on Textiles and Clothing (ISAC-13) had "mixed views on many aspects of the agreement relating to rules of origin, market access, and customs procedures." Textile industry members were supportive of the rules of origin, but expressed concerns about tariff preference levels for the use of third-country components in apparel, while apparel industry members said that those provisions were necessary because the rules of origin are too restrictive. Some ISACs welcomed retention of duty-drawback privileges under the FTA; several expressed concerns about rules of origin based only on content value.

The Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC) argued that the FTA would lead to a deteriorating U.S. trade balance and the loss of U.S. jobs, citing its views of NAFTA. The LAC noted that "it is possible that the agreement will result in a deteriorating trade balance in some sectors, including sensitive sectors such as apparel." Reiterating the concerns it raised regarding the recently negotiated free trade agreements with Chile, Singapore, Australia, and Morocco, the LAC expressed concerns about the FTA's labor provisions that only commit the Parties to enforce their own labor laws. The LAC argued that the FTA's dispute resolution procedure provides for lower penalties that are capped, with little punitive or deterrent effect for violations of the Labor Chapter. The LAC also opined that the FTA's rules of origin and safeguard provisions would invite circumvention by producers and fail to protect workers from import surges that may result, and that the FTA provisions on procurement and services would constrain the ability of the U.S. Government to regulate in the public interest and provide public services.

II. Background and Contents of the FTA

Bahrain is an archipelago of 36 islands located off the eastern coast of Saudi Arabia. By virtue of its location and tradition, Bahrain is a major regional trade and financial center.

The United States-Bahrain FTA will not only strengthen bilateral ties, but also advance the U.S. goal of a Middle East Free Trade Area within a decade. While the economic effects of the FTA on the United States are expected to be negligible, especially due to the small volume of existing trade between the United States and Bahrain, the FTA will serve, over time, to reinforce the process of economic reform and economic development in Bahrain.

The FTA will create some new opportunities for U.S. workers, farmers, businesses, and consumers by eliminating current barriers to trade with Bahrain. One hundred percent of current bilateral trade in consumer and industrial products will become duty-free immediately upon entry into force of the FTA. In addition, Bahrain and the United States will provide immediate duty-free access to virtually all products in their tariff schedules and will phase out tariffs on the remaining handful of products not currently traded within ten years.[5] Several key U.S. export sectors that are likely to benefit include information technology products, construction equipment, machinery, and chemicals, among others. When the United States-Bahrain FTA enters into force, U.S. service providers will also gain greater access to the Bahraini market. The Bahraini textile and apparel sector may benefit from the FTA through elimination of tariffs on these exports.

A. Bilateral Economic Setting

1. Population and the Economy

With a land area 3.5 times larger than the District of Columbia, Bahrain's population was 711,700 in 2003 (or about 1.28 times that of the District of Columbia). Bahrain's gross domestic product (GDP) was $7.7 billion in 2002, approximately 0.07 percent the U.S. GDP of $10.4 trillion.[6] Bahrain's economy is comparable in size to about 11 percent of that of the District of Columbia, which had a gross state product of $67.2 billion in 2002. Bahrain's gross national income (GNI) per capita in 2002 was $10,850, approximately 30.6 percent of U.S. per capita GNI of $35,430.

2. Labor Force

a. <u>U.S. Labor Force</u>

[5] The United States will phase out its tariffs on several sensitive agricultural products over ten years, while Bahrain will phase out its tariffs on tobacco products, wine and liquor, and a few other products over the same time period.

[6] The most recent year for which GDP data is available for Bahrain is 2002. See World Bank, World Development Indicators database, available at: http://devdata.worldbank.org/data-query/.

In 2004, the civilian U.S. labor force totaled 147 million workers; approximately 46 percent (68 million) of the labor force was female.[7] The service-producing industries are the major source of employment in the United States. In 2004, service-producing industries accounted for 78 percent of total U.S. employment of 139 million. Other major sectors of employment include manufacturing, which accounted for 12 percent of total U.S. employment in 2004, mining and construction, which accounted for about 8 percent, and agriculture, which accounted for about 2 percent. On an occupational basis, in 2004, approximately 35 percent of all employed persons were in either management, business and financial operations professions (15 percent of total employment) or professional and related occupations (20 percent of total employment); other major occupational categories of U.S. employment were sales and office occupations (25 percent of total employment) and service occupations (16 percent of total employment). On the industrial basis used for cross-country analysis, U.S. employment in 2004 was distributed across industrial sectors as follows: 1.6 percent in the agricultural sector, 20.0 percent in industry, and 78.4 percent in the service sector.[8]

The unemployment rate in the United States was 5.5 percent in 2004. The majority of the unemployed in 2004 were job losers and those who had completed temporary jobs (52 percent). Reentrants to the labor force made up 30 percent of the unemployed in 2004, new entrants represented 8 percent, and job leavers accounted for 11 percent.[9]

b. Bahrain's Labor Force

In 2001, Bahrain's labor force consisted of approximately 308,000 workers, of whom 291,000 were employed; 58.8 percent (181,000) of the labor force and 61.9 percent (180,000) of the employed population were non-Bahraini.[10] Females made up about 21 percent (60,000) of total employment in 2001.[11] The major sectors of employment in Bahrain in 2001 were: government defense, foreign affairs, and security (18.0 percent); manufacturing (17.2 percent); trade and repairs (11.8 percent); and households with employed persons (10.2 percent).[12] The leading occupations of employment in 2001 were: service workers (26 percent); plant and machine operators, assemblers, and laborers (25 percent); clerical workers (11 percent); and professional workers (9 percent).[13] On the industrial basis used for cross-country analysis, Bahrain's employment in 2001 was distributed across industrial sectors as follows: 1.5 percent in agricultural,

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[7] The labor force consists of employed and unemployed persons in the civilian non-institutional population age 16 and older. See *Employment and Earnings* 52:1(January 2005).

[8] *Agriculture* includes agriculture, forestry, hunting and fishing; *Industry* includes manufacturing, mining, and construction; and *Services* includes transportation, communication, public utilities, trade, finance, public administration, private household services, and miscellaneous services. See *Comparative Civilian Labor Force Statistics, Ten Countries: 1960-2004*, U.S. Bureau of Labor Statistics, May 13, 2005; available at: http://stats.bls.gov/fls/home.htm.

[9] See *Employment and Earnings* 52:1(January 2005).

[10] The most recent year for which Bahraini census data are available is 2001. See Kingdom of Bahrain, *Statistical Abstracts 2003,* Tables 11.01 and 11.02, available at http://www.bahrain.gov.bh.

[11] Id., Table 11.02.

[12] Id., Table 11.10. The category "households with employed persons" refers to individuals providing services in households other than their own, for example, domestic workers, gardeners, and private tutors.

[13] Id., Table 11.12.

27.2 percent in industry, and 71.3 percent in services.[14]

The unemployment rate was 5.5 percent in 2001.[15] Approximately 66 percent of the unemployed in Bahrain were workers seeking their first job.[16] Approximately 11 percent of the unemployed were previously employed in engineering positions, 6.2 percent were formerly clerical workers, and 5.7 percent were service workers.

3. *International Trade in Goods*

a. Global and Bilateral Trade in Goods

U.S. trade in goods represented 18.6 percent of its GDP in 2004. U.S. goods trade with the world amounted to $2.2 trillion ($727.2 billion exports and $1,460.2 billion imports) in 2004. Based on available statistics from the World Trade Organization (WTO), the United States was the world's second largest merchandise exporter (behind Germany) and number one merchandise importer on a country basis in 2004.[17]

Bahrain's trade turnover in goods represented 130 percent of its GDP in 2002. During 2003, Bahrain's goods trade with the world amounted to $12.0 billion ($6.6 billion in exports and $5.4 billion in imports). Bahrain's imports consisted primarily of crude oil, machinery, and chemicals, while its exports consisted primarily of petroleum and petroleum products, aluminum, and textiles and apparel.

U.S. bilateral goods trade with Bahrain represents a very small share of total U.S. merchandise trade with the world, accounting for 0.04 percent ($277.7 million) of overall U.S. merchandise exports to the world and 0.03 percent ($405.6 million) of overall U.S. merchandise imports from the world in 2004. Bahrain ranked as the 89th largest U.S. goods export market and the 88th largest source for U.S. goods imports in 2004. In 2003, Bahrain's primary export partners were Saudi Arabia, the United States, Taiwan, India, and the United Arab Emirates; and its major import partners were Japan, Saudi Arabia, Australia, Germany, the United Kingdom, and the United States.[18]

b. U.S. Merchandise Exports to Bahrain

U.S. domestic goods exports to Bahrain amounted to $277.7 million in 2004, down from $497.1 million in 2003. Over the past five years, on a five-digit export-based North American Industry Classification System (NAICS) industry basis, one-third (33.4

[14] Calculation based on data from Kingdom of Bahrain, *Statistical Abstracts 2003*, Table 11.12.
[15] Kingdom of Bahrain, *Statistical Abstracts 2003*, Table 11.06.
[16] Kingdom of Bahrain, *Census 2001 Report – Part 2*, Table 0863.04, available at: http://www.bahrain.gov.bh/census/Part2/01/e312.asp
[17] Trade rankings, which are based on a general trade definition, are compiled by the World Trade Organization (WTO); see *International Trade Statistics 2003* (Geneva: World Trade Organization, 2003), Tables I.5, p. 19.
[18] Kingdom of Bahrain, *Statistical Abstracts 2003*, Foreign Trade (excluding oil), Tables 21.09 and 21.10.

percent) of total U.S. exports to Bahrain were aerospace products. In 2004, aerospace products accounted for just eleven percent of all exports to Bahrain, which accounts for the overall decline in exports. In 2004, on a five-digit NAICS industry basis, the top ten industries accounted for 65.5 percent of total U.S. exports to Bahrain, and covered a variety of products, including articles under special classification provisions;[19] aerospace products and parts; automobiles; other industrial machinery; navigational, measuring, electromedical, and controlling instruments; ventilation, heating, air conditioning, and commercial refrigeration equipment; computer equipment; mining and oil and gas field machinery; other general purpose machinery; and ships and boats (see Table II.1).

c. U.S. Merchandise Imports from Bahrain

U.S. goods imports from Bahrain amounted to $405.6 million in 2004, up from $378.3 million in 2003. The top ten five-digit import-based NAICS industries accounted for nearly all (98.9 percent) imports, and the main imports were textiles and apparel, petroleum refinery products, aluminum, organic chemicals, and fertilizers (see Table II.2).

4. International Trade in Services

The United States was the world's number one commercial services exporter ($287.7 billion) and number one commercial services importer ($228.5 billion) in 2003, based on data from the WTO.[20] By comparison, Bahrain's exports of commercial services to the world amounted to $1.1 billion and its imports of commercial services from the world totaled $872 million in 2003.[21]

The United States does not publish statistics on bilateral services trade with Bahrain.

5. Foreign Direct Investment (FDI)

U.S. foreign direct investment (FDI) in Bahrain was $196 million (on a stock basis) in 2003, up from $70 million in 2002, and Bahraini foreign direct investment in the United States was $288 million (on a stock basis) in 2003, up from $282 million in 2002.[22]

In 2003, Bahrain's inward stock of FDI was estimated to be $6.7 billion and its outward

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[19] Primarily exports of low-value shipments, articles imported for repairs, returned goods, and articles donated to charity.

[20] Trade rankings, which are based on a balance of payments definition, are compiled by the World Trade Organization (WTO); see *International Trade Statistics 2004*, Table I.7 (Geneva: World Trade Organization, 2004), p. 21.

[21] See *International Trade Statistics 2004*, Tables A8 and A9 (Geneva: World Trade Organization, 2004), p. 181 and p. 184.

[22] See *Survey of Current Business* (Sept. 2004), pp. 95 and 137.

stock of FDI was estimated to be $2.9 billion.[23]

B. Current Barriers to Bilateral Trade

1. Trade in Goods

Bahrain is a member of the Gulf Cooperation Council (GCC), which is an economic and political coordination forum made up of Bahrain and five other member states (Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates).[24] In January 2003, the six GCC members implemented a customs union, unifying tariffs throughout the GCC; the GCC has set 2010 as the target date for adoption of a single currency. The GCC cannot impose trade policies upon member states and each is free to pass and enforce its own trade laws. In anticipation of the GCC Customs Union, Bahrain reduced customs tariffs to five percent in January 2002 for imported goods, except alcohol (125 percent) and tobacco (100 percent), and exempted a list of 417 food and medical items from customs duties entirely. All imported beef and poultry products require a health certificate from the country of origin and a *halal* slaughter certificate issued by an approved Islamic center in the United States.

Locally established companies must be at least 51 percent Bahraini-owned to receive import licenses for goods that will be put up for retail sale in Bahrain. Drugs and medicines may be imported into Bahrain only by a drug store or pharmacy licensed by the Minister of Commerce after approval by the Ministry of Health. Bahrain prohibits the importation of weapons (except under special license), pornography, wild animals, radio-controlled model airplanes, foodstuffs containing cyclamates, and children's toys containing methyl chloride (and other articles declared injurious by the Ministry of Health). Bahrain is also taking steps to ban the import of 127 chemicals.

Bahrain has notified the WTO Customs Evaluation Committee of its legislation and started implementing the WTO Customs Valuation Agreement in January 2002. Bahrain has replaced its product shelf-life requirements, which are a major impediment to U.S. processed food exports to Bahrain, with international (Codex) standards. In October 2002, Bahrain implemented a new government procurement law that establishes the basic framework for a transparent, rules-based government procurement system; Bahrain is not a signatory to the WTO Agreement on Government Procurement, but is considering acceding to it.

The United States maintains a transparent and largely open trade regime, although in a few important areas barriers to market access and other measures are maintained.[25] The United States accords MFN/NTR tariff treatment to all but one WTO Member (Cuba).

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[23] United Nations Conference on Trade and Development, *World Investment Report 2004* (New York and Geneva: United Nations, 2004), pp. 378 and 384.

[24] The discussion that follows on Bahrain is based upon *Foreign Trade Barriers: Gulf Cooperation Council* (Office of the U.S. trade Representative, 2004), pp.179-196.

[25] World Trade Organization, *Trade Policy Review United States, Report by the Secretariat*, WT/TPR/S/126 (Geneva, December 2003), paragraph 1, p. 32.

Most imports either enter the United States duty-free or are subject to low tariffs; all tariffs except two are bound. In 2002, the average MFN/NTR tariff was just over 5 percent, although the average for agricultural products (WTO definition) was nearly twice as high. Some 7 percent of all tariffs exceed 15 percent; these tend to be on "sensitive" products, such as tobacco, certain dairy products, peanuts, cotton fibers, certain footwear, textiles, and clothing products.[26]

Currently, Bahrain is a beneficiary developing country under the U.S. Generalized System of Preferences (GSP) program, which provides duty-free treatment to U.S. imports of eligible articles from designated beneficiary developing countries that meet certain specified conditions.[27] Pursuant to section 502(e) of the Trade Act of 1974, the President determined on March 1, 2004 that Bahrain has become a "high income" country, and therefore will no longer be a beneficiary developing country for the purposes of GSP, effective January 1, 2006.[28] In 2004, $57.4 million in U.S. imports from Bahrain (14 percent of all U.S. imports from Bahrain) entered the United States duty-free under the GSP program. The major Bahraini products that benefited from duty-free treatment under the GSP program in 2004 were $29.5 million of aluminum alloy (normally subject to a tariff of 3 percent), $25.4 million of methanol (normally subject to a tariff of 5.5 percent), and $1.3 million of aluminum powders (normally subject to a tariff of 5 percent).

Of the $405.6 million in total U.S. imports from Bahrain in 2004, $280.5 million (69.2 percent) were subject to U.S. import duties, on which $28.9 million in duties were paid, with an average rate of duty of 10.3 percent.[29] Fifteen eight-digit HTS tariff lines (ten textile and apparel items, three petroleum oils and oils obtained from bituminous minerals, methanol, and the estimated imports of low-valued transactions) accounted for $273.0 million or 97.3 percent of the value of all U.S. imports from Bahrain subject to duty in 2004. U.S. tariff rates on these fifteen items ranged from 0 percent (on $817 thousand in estimated imports of low-valued transactions) to 19.7 percent (on $700 thousand in men's and boy's cotton shirts); specifically, five items with a dutiable value of $74.8 million had duty rates between zero and five percent (petroleum oils and oils obtained from bituminous minerals, bed linens, and low-valued transactions), seven items with a dutiable value of $51.6 million had duty rates between five and ten percent (textile and apparel items and methanol), and three items with a dutiable value of $146.6 million had duty rates between fifteen and twenty percent (wearing apparel items).

In 2004, the top five (on an eight-digit HTS tariff line basis) U.S. imports from Bahrain that received MFN/NTR duty-free treatment accounted for $74.7 million and included:

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[26] Id, paragraph 4. Tariff treatment now known in the United States as "normal trade relations" (NTR) treatment was formerly known as "most-favored-nation" (MFN) treatment and other countries continue to use the term MFN.
[27] See Title V of the Trade Act of 1974, as amended.
[28] See 69 Fed. Reg. 10131 (Mar. 4, 2004); the definition of a "high income" country is based on official statistics of the World Bank.
[29] Based on the dutiable value and calculated duties of U.S. imports from Bahrain, compiled from the official statistics of the U.S. Department of Commerce, Bureau of the Census.

U.S. returned goods ($40.6 million); urea ($20.7 million); unwrought aluminum ($4.3 million); machine parts ($855 thousand); and aluminum alloys ($588 thousand).

2. *Trade in Services*

The life and medical insurance sector in Bahrain has been open to foreign competition under recent reforms, but foreign companies may not sell most other insurance products in Bahrain. International financial institutions operate in Bahrain, both internationally and domestically, without impediments.[30] Bahrain presents no major impediments to shipping and is considering privatizing its two major ports. Bahrain's 1998 Agency Law eliminated the sole agent requirement; in October 2002 an amendment to the Agency Law eliminated the requirement for a local agent, except in retail sales, and abolished mandatory commissions.

Bahrain permits 100 percent foreign ownership of new entities and the establishment of representative offices or branches of foreign companies without local sponsors. Wholly foreign-owned companies may be set up for regional distribution services and may operate within the domestic market as long as they do not exclusively pursue domestic commercial sales. Protection of foreign investments is strong. The 2001 U.S.-Bahrain Bilateral Investment Treaty provides benefits and protection to U.S. investors in Bahrain, such as the better of national or most-favored-nation treatment, the right to make financial transfers freely and without delay, international law standards for expropriation and compensation cases, and access to international arbitration.

Foreign firms and GCC nationals have been able to own land in Bahrain since January 2001. Non-GCC nationals may own high-rise commercial and residential properties as well as property in tourism, banking, financial, and health projects and training centers, in specific geographic areas. The Bahrain stock exchange allows GCC firms and persons to own up to 100 percent of listed companies. Non-GCC firms and persons may only own up to 49 percent of listed companies.

The U.S. services and investment regimes are generally open,[31] with some exceptions. In the maritime sector, cabotage laws reserve domestic routes to U.S. operators and provide government support for U.S.-flag vessels. The United States restricts foreign ownership and control of U.S. air transport carriers, and the provision of domestic air service is restricted to U.S. carriers. The United States also restricts foreign investment in telecommunications, radio broadcast, atomic energy, and energy pipelines. Insurance is subject to regulation at the state level, as are professional services. Finally, under the Exon-Florio Amendment to the Defense Production Act, the President has the authority to suspend or prohibit foreign mergers, acquisitions, and takeovers, where there is credible information of a threat to national security.

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[30] The discussion that follows on Bahrain is based upon *Foreign Trade Barriers: Gulf Cooperation Council* (Office of the U.S. Trade Representative, 2004), pp. 179-196.

[31] See *WTO Trade Policy Review: United States, September 2001* at http://www.wto.org/english/tratop_e/tpr_e/tp172_e.htm, and *Statement on Foreign Direct Investment Policy* (U.S. Department of Treasury, December 26, 1991).

C. Major Elements of the FTA

The FTA consists of a Preamble, twenty-one chapters, and associated annexes, letters, and joint statements. The chapters are: Establishment of 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; 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. There are four annexes that include the non-conforming measures for services and financial services, and the U.S. and Bahraini tariff schedules. Among the other associated documents is a Memorandum of Understanding on Environmental Cooperation. The complete text of the FTA and summary fact sheets are available on USTR's web site.[32]

Following is a summary of the FTA provisions that are most relevant to this employment impact review.

- *Preamble*

Although it does not create specific obligations, the Preamble frames the FTA's obligations and sets out the broad aims and objectives of the Agreement. In the Preamble, the Parties express desire to create new employment opportunities and raise the standard of living for their citizens by liberalizing and expanding trade between them, and protect, enhance, and enforce basic workers' rights, and strengthen development and enforcement of labor laws and policies.

- *Market Access (Chapter 2)*

The FTA market access provisions set out the schedules for the elimination of tariffs on goods that originate under the FTA's rules of origin. One hundred percent of bilateral trade in consumer and industrial products will become duty-free immediately upon entry into force of the FTA. In addition, the Parties will provide immediate duty-free access to virtually all products in their tariff schedules and will phase out tariffs on the remaining handful of products within ten years. The FTA covers all agricultural products. Bahrain will provide immediate duty-free access to U.S. agricultural exports in 98 percent of its agricultural tariff lines and phase out remaining tariffs within ten years. The United States will provide immediate duty-free access to 100 percent of Bahrain's current exports of agricultural products that are exported to the United States and phase out remaining tariffs within ten years. The FTA provides for reciprocal duty-free treatment for all qualifying textile and apparel goods immediately upon entry into force of the FTA.

The FTA provides for a ten-year phase-out period for tariffs on U.S. imports from Bahrain of especially sensitive agricultural products (e.g., beef, liquid dairy, cheese, milk

[32] See http://www.ustr.gov.

powder, butter, other dairy, peanuts, cotton, sugar, and tobacco, all subject to tariff-rate quotas, as well some other sensitive agricultural items). In addition, the United States will phase out tariffs over ten years on its imports of especially sensitive industrial products (e.g., certain footwear, cathode ray television tubes, ceramic tiles, and housewares). Likewise, Bahrain will phase out tariffs over ten years on its imports from the United States of some sensitive items (e.g., retread tires, certain tobacco, wine, liquor, mace, aluminum, paper, and ivory products).

- *Textiles and Apparel (Chapter 3)*

This chapter includes a schedule that eliminates duties on originating textile and apparel goods within a ten-year period. The chapter also provides for strict rules of origin for textile and apparel items (a so-called "yarn-forward" rule) and extensive monitoring and anti-circumvention commitments to verify a claim of origin. Under the FTA, non-originating component materials may account for up to seven percent of the total weight of a textile or apparel good.[33] The FTA provides for preferential tariff treatment of some non-originating textile and apparel goods (specified cotton or man-made fiber fabric and apparel goods that are assembled in Bahrain) during the first ten years of the FTA, subject to an annual total quantity limit of 65 million square meters equivalent.

This chapter also includes provisions for bilateral emergency actions (safeguards) to restore the MFN/NTR rate of duty for textile and apparel goods being imported into a Party in such increased amounts as to cause serious damage to a domestic industry producing a like or directly competitive good. No emergency action may exceed three years, be taken more than once against the same good, or be taken or maintained more than ten years after the duty has been eliminated on a good. On termination of an emergency action, the rate of duty on the good subject to the action shall be the rate that would have been in effect but for the action. The Party taking an emergency action shall provide to the other Party compensation having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the emergency action; such concessions shall be limited to textile and apparel goods, unless the Parties agree otherwise. The FTA does not limit a Party's right to restrain imports of textile and apparel goods in a manner consistent with the WTO Agreement on Safeguards; however, a Party may not take or maintain an emergency action under the FTA against a textile or apparel good that is subject, or becomes subject, to a safeguard measure that a Party takes pursuant to that WTO agreement.

- *Rules of Origin (Chapter 4) and Customs Administration (Chapter 5)*

The FTA provides strict but simple rules of origin, which are the rules that establish which goods receive preferential treatment under the FTA. The FTA requires transparency and efficiency in customs administration, with commitments on publishing laws and regulations on the Internet, and ensuring procedural certainty and fairness. The

[33] A good containing elastomeric yarns in the component of the good that determines the tariff classification is considered to be an originating good only if such yarns are wholly formed in the territory of a Party.

Parties agree to share information to combat illegal transshipment of goods. The FTA does not modify the use of duty drawback schemes.

- *Technical Barriers to Trade (Chapter 7)*

The FTA includes an enhanced cooperation program to exchange information on subjects covered by the WTO Agreement on Technical Barriers to Trade (WTO TBT Agreement), which addresses technical regulations, standards, and conformity assessment procedures. The FTA does not contain any additional obligations beyond those contained in the WTO TBT Agreement.

- *Safeguards (Chapter 8)*

The Safeguards Chapter allows a Party to restore the MFN/NTR duty if a product is being imported in such increased quantities so as to be a substantial cause of serious injury, or threat thereof, to a domestic producer of a like or directly competitive product. No measure may be maintained for more than three years or after the ten-year period following entry into force of the Agreement. No measure may be applied against the same good more than once, and upon termination of the measure the rate of duty shall be the rate that would have been in effect but for the measure. The Party taking a measure shall provide to the other Party compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the measure. Each Party retains its rights and obligations under Article XIX of GATT 1994 and the WTO Agreement on Safeguards. The FTA does not confer any additional rights or obligations on the Parties with regard to global safeguard measures.

- *Government Procurement (Chapter 9)*

The FTA includes disciplines on purchases by most Bahraini central government agencies. Bahraini procurement officers will not be able to discriminate against U.S. firms, or in favor of Bahraini firms, when making covered government purchases in excess of agreed monetary thresholds. U.S. and Bahraini suppliers will have increased certainty due to transparent disciplines for procurement procedures, as well as timely and effective bid review procedures. Also, each Party must maintain criminal and other penalties for bribery in government procurement.

- *Cross-Border Trade in Services (Chapter 10)*

The FTA's core commitments regarding services are modeled on obligations and concepts in the WTO General Agreement on Trade in Services (GATS), the North American Free Trade Agreement (NAFTA), and other FTAs to which the United States is a party. These include provisions for national treatment and most-favored-nation treatment for services suppliers in like circumstances and obligations concerning transparency in regulatory processes. Services supplied in the exercise of governmental