STATEMENT OF WHY THE UNITED STATES – BAHRAIN FREE TRADE AGREEMENT IS IN THE INTEREST OF U.S. COMMERCE

INTRODUCTION

President Bush announced the U.S. Government's intention to negotiate a comprehensive free trade agreement ("FTA" or "Agreement") with Bahrain on May 21, 2003. Negotiations for the Agreement began in January 2004, and were completed on May 27, 2004. The Agreement is clearly in the interest of U.S. commerce, as it is groundbreaking in terms of the market access guarantees it secures for trade in both goods and services. Specifically, immediately upon entry into force of the Agreement, 100 percent of bilateral trade in consumer and industrial goods will become duty-free. Bahrain also will provide immediate duty-free access for U.S. agricultural exports in 98 percent of agricultural tariff lines. Additionally, Bahrain has agreed to grant U.S. service providers substantially increased access to its services sectors.

Benefits of the Agreement include:

-Tariff Elimination: One hundred percent of bilateral trade in consumer and industrial products will become duty-free immediately upon entry into force of the Agreement. Bahrain will provide immediate duty-free access for virtually all products in its tariff schedule and will phase out tariffs on the remaining products within 10 years.

-Services Sector Openings: Bahrain will accord substantial market access across its entire services regime, providing among the highest degree of market access of any U.S. free trade agreement negotiated to date.

-Agricultural Market Access: Bahrain will provide immediate duty-free access for U.S. exports in 98 percent of agricultural tariff lines. Tariffs on the remaining products (alcohol and tobacco) will be reduced to zero within 10 years.

-Enhanced Intellectual Property Rights Protection: Bahrain will provide strong protection and enforcement for copyright, patent, and trademark owners and provide intellectual property protection in the digital environment, addressing electronic media and Internet service providers.

-Transparency Measures: Under the Agreement, Bahrain must publish its laws and regulations governing trade. It has also committed, to the extent possible, to publish proposed regulations in advance and provide an opportunity for public comment prior to implementation. Bahrain must also prohibit bribery, including bribery of foreign officials, and establish appropriate criminal penalties to punish violators.

-Customs Cooperation: The Agreement requires Bahrain to take measures that will increase transparency and efficiency in customs administration, including publication of laws and regulations on the Internet and procedural certainty and fairness.

WHY BAHRAIN?

The U.S. private sector supports the Agreement because it levels the playing field, granting U.S. suppliers market access equivalent to that enjoyed by regional Gulf Cooperation Council ("GCC") competitors, and expands access to Bahrain's market for U.S. goods and service providers. The Agreement bolsters economic reforms currently underway in Bahrain and is a further step in achieving President Bush's goal of a broader United States-Middle East Free Trade Agreement ("MEFTA") by 2013. While Bahrain is a relatively small market for U.S. goods and services due to its small population, it is ideally located to serve as a platform from which to enter other markets in the region.

Leveling the Playing Field: Bahrain is a founding member of the GCC (1981) and is part of the GCC Customs Union that was implemented on January 1, 2003. Customs Union members are given preferential, duty-free tariff treatment, while non-GCC countries are subjected to an average tariff of five percent. The United States is currently the second largest source of Bahraini imports behind Saudi Arabia, and the Agreement has the potential to make U.S. goods more competitive with respect to those from Saudi Arabia and other countries in the region due to tariff reductions and enhanced market access.

The Agreement will promote job growth in the United States, workers' rights, and environmental protection. Additionally, Bahrain currently gives GCC countries preferential treatment in establishing services firms, including financial institutions. The Agreement provides for national treatment, granting U.S. firms the right to establish services operations and financial institutions as if they were Bahraini firms, thus bypassing a significant regulatory hurdle.

Economic Reforms: Bahrain is a regional leader in economic reform. In 2003, the Heritage Foundation ranked Bahrain as the world's 16th freest economy – the highest rating in the Arab world. The Agreement is the most recent and important step in Bahrain's efforts to reform its economy, create jobs, and move away from dependence on revenues generated from oil exports.

Bahrain has implemented new regulations making its business environment more attractive to international investors. Foreigners can buy property, enjoy full ownership of their businesses, and remain exempt from both personal and corporate income tax. There are no controls on foreign exchange and investors can repatriate capital, profit, and dividends. The Agreement will reinforce and extend Bahrain's already strong protections for intellectual property rights, modern customs procedures, and the ease with which companies can establish regional operations in Bahrain.

Middle East Free Trade Area: Bahrain is the Arabian Peninsula pillar in a MEFTA, as announced by President Bush in May 2003. MEFTA reflects the Administration's long-term commitment to promoting economic growth, expanding opportunities, and ensuring stability in the region. The region-wide free trade agreement, to be completed by 2013, will provide new export opportunities to U.S. farmers, ranchers, and manufacturers.

Jordan and Israel are already free trade agreement partners, and the Congress approved a free trade agreement with Morocco on July 22, 2004. The President signed the legislation approving and implementing that free trade agreement on August 17, 2004.

LEADING SECTORS FOR U.S. EXPORTS OF NON-TEXTILE INDUSTRIAL GOODS

Tariff Elimination: One hundred percent of bilateral trade in consumer and industrial products will become duty-free immediately upon entry into force of the Agreement. Bahrain will provide immediate duty-free access for virtually all other products as well, and will phase out tariffs on the remaining products within 10 years.

Motor Vehicles and Vehicle Parts

The market for American passenger cars continues to grow in Bahrain. Bahrainis value U.S. cars for their safety, comfort, interior design, and size to accommodate large families. According to the Bahraini General Directorate of Traffic, 251,000 vehicles were registered in Bahrain in 2002; this figure is growing an average rate of 5.3 percent a year. Bahrain currently maintains a five percent tariff on U.S. automobiles, but this tariff will be reduced to zero upon entry into force of the Agreement. This could make American automobiles even more competitive in the Bahraini market.

Asian and Saudi price competition has led U.S. auto parts and accessories producers to focus on certain niche markets for parts and accessories such as brake pads, oil filters, wax, and lubricants, where American products are preferred for their high quality. As with autos, tariffs are currently five percent on these products, but will be reduced to zero upon entry into force of the Agreement. This could make American auto parts and accessories more competitive in the Bahraini market.

Machinery

One of Bahrain’s leading imports is machinery. The Kingdom imported approximately $100 million of U.S. manufactured equipment over the last five years. The Agreement eliminates the current five percent tariff on U.S. manufactured equipment and could result in an advantage for U.S. firms over their export competitors in Europe and Asia, who also service the Bahraini market.

Medical Equipment

Bahrain has long depended on U.S. suppliers for medical equipment. Germany, Britain, and Japan are the United States’ prime competitors. Bahrain announced in June 2003 that $469 million (or 7.7 percent) of the recently approved 2003-2004 budget will be allocated for health services. Bahrain is encouraging the private sector to enter the health care market and thus share the cost of services in this vital area. It is also drawing up plans to attract international hospitals in a move to promote health tourism in the country. A $45 million private hospital, Bahrain Specialist Hospital, opened in September 2002.

The largest hospital in Bahrain, the state-run Sulmaniya Medical Complex, spent $3.5 million for replacement of medical equipment in 2002. U.S. firms may be able to capitalize on supplying equipment to this sector in the future.

The current tariff on U.S. medical equipment is five percent, but this will be reduced to zero on day one of the Agreement. This could make U.S. medical equipment exports to Bahrain more competitive than those from Europe and Asia.

<u>Air Conditioning and Refrigeration Equipment</u>

Bahrain's climate requires air conditioning most of the year, due to high temperatures and high humidity. The market for air conditioning and refrigeration equipment is strong, rising from $37 million in 2001 to $41 million in 2002. Leading American brands, highly regarded for their reliability, have traditionally done well in Bahrain. The Embassy estimates that U.S. sales in this sector could increase by as much as 30 to 35 percent due to the recent construction boom in Bahrain, as well as the benefits of the FTA.

Average tariffs on U.S. consumer goods, which include air conditioning and refrigeration equipment, are 4.6 percent. These tariffs will be reduced to zero upon entry into force of the Agreement, which could make U.S. exports more competitive in this sector.

<u>Agricultural Products</u>

U.S. agricultural exports to Bahrain in recent years have ranged from a high of $30 million per year in 2001 to $14 million in 2003. Major exports have included cotton, beef, chicken, snack foods, and other consumer products to serve the tourist industry. Under the Agreement, which covers all agricultural products, Bahrain will provide immediate duty-free access in 98 percent of U.S. agricultural tariff lines. Bahrain's current average bound tariff on agricultural products is 39.9 percent, and the average applied tariff is 3.8 percent. Tariffs on the remaining products (alcohol and tobacco) will be reduced to zero within 10 years.

Although the United States currently enjoys zero tariffs on many products (including beef, wheat, corn, rice, as well as many fruits and vegetables), the Agreement could make other U.S. agricultural products extremely competitive in Bahrain. Growing sectors for exports of U.S. agricultural products to Bahrain include: poultry; meat; dairy products, particularly cheese; snack foods; processed fruits and vegetables; seafood; fruit and vegetable juices; breakfast cereals; beverage bases, and planting seeds. Tariffs on all of these categories of agriculture products will be reduced to zero upon entry into force of the Agreement.

LEADING SECTORS FOR U.S. SERVICE PROVIDERS

Overall, the Agreement is highly beneficial to U.S. service providers. As Bahrain's economy grows, so too will the demand for services in areas such as finance, telecommunications, architecture, construction, computer services, energy, and others. Bahrain currently has a local presence requirement for non-GCC service providers in most sectors. The Agreement requires this restriction to be phased out within seven years for U.S. service providers (see Annex I of the Agreement for more detail and a list of affected sectors). In the meantime, and from day one of entry into force of the Agreement, U.S. service providers who are licensed and authorized in the United States to supply services can obtain immediate market access by obtaining renewable, temporary operating licenses from the Bahraini Government. These licenses allow U.S. service providers to bypass local presence requirements until the phase-out of the license requirement is completed.

Financial Services

The Bahraini Financial Services Market: For the past 20 years, Bahrain has served as the principal financial center for the Gulf region, much of the Arab world, and beyond. Financial services now account for upwards of 20 percent of Bahrain's GNP; the country's consolidated balance sheet reported roughly $70 billion in 2003. Bahrain is the fastest growing banking and financial center in the Middle East. While the bilateral investment treaty ("BIT") between the United States and Bahrain ensures U.S. investments national and most-favored-nation ("MFN") treatment in Bahrain's financial services sector, U.S. financial service providers will benefit from the additional market access guarantees provided for in the Agreement. The Agreement locks in U.S. financial institutions' access to the already open financial services sector in Bahrain by guaranteeing their ability to establish institutions on a national treatment basis and compete on an even playing field with domestic and regional counterparts. The financial services transparency provisions ensure that applications from U.S. institutions for new licenses will be decided within 120 days and that those U.S. institutions will be granted the ability to review and comment on proposed financial regulations before they are implemented.

Bahrain's attractiveness as a financial center is based on its established offshore facilities, free foreign exchange movement, tax-free status, stable Bahraini Dinar-USD foreign exchange rate, growing insurance sector, modern telecommunications systems, and prime geographical location among the GCC countries.

Banking and other Financial Services (excluding Insurance): As of March 2003, Bahrain's financial institutions included 23 full commercial banks, three specialized banks, 51 offshore banking units, 36 investment banks, 29 representative offices, 18 investment advisory and other financial services, 17 money changers, and four money brokers.

The Government of Bahrain has identified Islamic banking as one of the main economic growth areas in the coming five years. Islamic banking has similar principles to conventional banks, with the exception that they must conform to Sharia, or Islamic law. Bahrain has 26 Islamic banks, six insurance companies, and 37 mutual funds. Bahrain's claim to be the global hub of Islamic banking is supported by the number of governing institutions it has helped develop and locate in country.

Upon entry into force of the Agreement, the informal moratorium on onshore bank licensing will not be applied to U.S. institutions. The self-regulatory organization provision ensures that national and MFN treatment will be given to U.S. broker/dealers by the Bahrain Stock Exchange ("BSE") within two years after entry into force of the Agreement.

Insurance: The Bahrain Monetary Agency ("BMA"), which has regulatory responsibility for the insurance sector, has been actively upgrading the regulatory framework to develop the country as a regional insurance center. Bahrain's underdeveloped insurance market holds significant profit potential for U.S. investors. Only 150 companies were registered by the BMA's Directorate of Insurance in 2003.

The current moratorium on the issuance of new licenses in the insurance sector will be lifted immediately for U.S. companies in the area of life and medical insurance. The moratorium will be lifted in the non-life insurance market six months after entry into force of the Agreement.

Cross-Border Supply of Insurance and Insurance-Related Services: The Agreement provides that U.S. firms will be able to supply reinsurance, reinsurance brokerage, goods in international transit, consultancy, actuarial, claims settlement and risk assessment services immediately upon entry into force of the Agreement without establishing a commercial presence in Bahrain. One year after entry into force of the Agreement, U.S. firms will be able to supply marine, aviation, and transportation insurance and the brokerage thereof without establishing a commercial presence in Bahrain. These areas are currently closed to U.S. service providers that do not meet the local presence requirement.

Access to these sectors will provide U.S. firms with a significant advantage over their non-U.S. competitors, particularly in the area of maritime, aviation, transportation and goods in international transit, where currently Bahraini law requires that these risks be insured on the Bahraini market.

Potential areas of benefit to U.S. insurance service providers include:

Automobile Insurance: Compulsory automobile insurance and the growing number of motor vehicles in Bahrain are accelerating growth of the industry, contributing more than two-fifths of the insurance industry's total net profits. Under the FTA, U.S. insurance providers will be allowed to participate in this previously restricted market six months after entry into force of the Agreement.

Health Insurance: In February 2002, the Ministry of Health announced a plan to make medical insurance mandatory for all Bahraini residents. If enacted, this could provide potential for growth in this sector. Under the FTA, U.S. insurance providers will be allowed to participate in this previously restricted and growing market immediately upon entry into force of the Agreement.

Life Insurance: Demand for life insurance in Bahrain is rising. According to a Bahrain Ministry of Commerce study, Bahrainis spend more on life insurance than other GCC nationals. Under the FTA, U.S. insurance providers will be allowed to participate in this previously restricted and growing market immediately upon entry into force of the Agreement.

Power and Water

U.S. firms may be able to contribute to the needs of Bahrain's growing power and water sectors. Available freshwater in Bahrain meets current demand, but with virtually no excess capacity. Bahrain has built an extensive power and desalination network, but capacity is limited and constrains short-term industrial growth. Bahrain is seriously considering the privatization of its power and water facilities. Demand for power in Bahrain has been growing at approximately eight percent per year, requiring investment in new power facilities every two to three years.

Bahrain is moving forward on the construction of a completely new power and water generating facility in Hidd. It is expected that the facility will be privately financed and managed, with the Government of Bahrain retaining control of distribution. The plan also calls for the construction of a privately managed 1000 mega-watt power facility known as Al-Azel in Hidd. Power production and management will be handled by a private company, while the government, as in the case of water, will maintain control of distribution.

The FTA may create commercial opportunities for U.S. service providers in the following sectors: consulting, construction, management, logistics, and support. The Agreement eliminates local presence requirements on consultancy and management services within three years and on construction and construction related services within seven years.

These market access benefits would put U.S. firms on a level playing field with GCC competitors and give them a competitive advantage over other foreign service suppliers. The Ministry of Electricity and Water's program to upgrade Bahrain's desalination and effluent treatment infrastructure may also provide potential business opportunities for U.S. companies in these sectors. In addition, the water and power industries require large capital goods inputs. The Agreement provides that tariffs on U.S. goods in these categories will be reduced to zero upon entry into force of the Agreement.

Downstream Aluminum Services

Aluminum Bahrain ("ALBA") is currently expanding its operations in a $1.7 billion project that will result in the second largest smelter in the world after one in Bratsk, Russia. In January 2003, ALBA formally appointed a large U.S. firm as its Engineering, Procurement, Construction and Management contractor for the smelter portion of this project. Under this contract, this firm will manage the various contracts and procurements to meet the program and budget targets.

The Agreement eliminates local presence requirements for U.S. firms on sectors related to the aluminum industry such as consultancy and management services within three years, and on construction and construction related services, architectural, and engineering services within seven years. These market access benefits would put U.S. services firms on a level playing field with GCC competitors and at a competitive advantage with respect to other foreign service suppliers. In addition, U.S. firms could supply capital equipment to these projects more cost effectively than competitors, as tariffs on these goods will be reduced to zero upon entry into force of the Agreement.

Telecommunications

Bahrain's telecommunications infrastructure is the most advanced in the region and serves as the impetus for the growth of the Kingdom's information technology ("IT") sector. Bahrain is well positioned geographically to be a gateway between the global IT hubs in Japan and India. As a result of the market access guarantees provided for in the FTA, U.S. firms may be able to take advantage of significant growth that is occurring in the use of mobile phones and the Internet through sales of hardware and providing services.

Bahrain has experienced significant growth in the following sectors, all of which could be of potential interest to U.S firms:

Telecommunications Services: Bahrain has recently opened up its telecommunications sector to competition, and new licenses for a variety of telecom services, including national and international network services, data and Internet services, are expected to be issued later this year. Bahrain allows 100 percent foreign ownership in its telecommunications sector and charges only nominal license fees for the provision of telecommunications services. The number of fixed-line telephones in the country has increased only slightly in recent years and totals 176,000, giving Bahrain a tele-density of 26 percent. In 2003, the number of mobile phone users in Bahrain reached 450,000, up from 389,000 in 2002. Thus, two-thirds of Bahrain's 660,000 people are mobile phone users, the highest level of penetration in the Middle East. The country's impressive per capita GDP rates suggest that prospects are favorable for growth in the broadband access and mobile data markets.

Internet: Use of the Internet in Bahrain has skyrocketed; the number of users now exceeds 200,000. Personal Internet users account for 70 percent and business users make up 30 percent of the total Internet market. Additional Internet Service Provider ("ISP") licenses are available from the telecommunications regulatory authority.

Information and Computer Technologies: As noted, for the past 20 years, Bahrain has served as the principal financial center of the Persian Gulf and much of the Arab world. The financial services sector is highly computer and technology dependent. In addition, both e-commerce and e-government are increasingly accepted as important tools of effective business strategy and good governance. On September 14, 2002, Bahrain implemented an Electronic Transactions Law, which recognizes the validity of electronic records and signatures.

Tariffs on computers entering Bahrain are currently zero due to Bahrain's commitments under the Information Technology Agreement of the World Trade Organization ("WTO"). However, U.S. computer exports to Bahrain could increase after entry into force of the Agreement as a result of demand for U.S. services in related areas covered in the Agreement, such as e-commerce and financial services. Investment opportunities for U.S. companies in Bahrain's IT sector include consulting, logistics, telecommunications services, electronic commerce, and ISPs. The Agreement provides market access in these sectors on a national treatment basis that was previously unavailable. Bahrain is also an ideal location for high-tech component manufacturing and assembly given the allowance for total foreign ownership of enterprises and the absence of corporate taxes.

Oil and Gas

A non-OPEC member, Bahrain is not a major oil producer or exporter. However, Bahrain's location makes it practical as a regional marketing and support center; the oil-rich Eastern Province of Saudi Arabia is only 25 kilometers away, and other Gulf States are easily reached by sea and air. Despite their limited quantity, Bahrain's oil and gas reserves still play a major role in generating state revenue (roughly 60 percent) and account for about two-thirds of all exports.

U.S. companies are currently in the process of exploring for more oil off the Bahraini coast, and Bahrain and Qatar signed a preliminary accord to supply Bahrain with Qatar's natural gas through a pipeline. The Agreement provides market access guarantees that may make business in the oil and gas sectors more lucrative for U.S. goods and services suppliers.

The Agreement eliminates local presence requirements for U.S. firms in sectors related to the oil and gas industry, such as consultancy and management services within three years, and on construction and construction related services, architectural, and engineering services within seven years. These market access benefits could put U.S. service providers on a level playing field with GCC competitors and at a competitive advantage with regards to foreign service suppliers. In addition, U.S. firms could supply capital equipment more cost effectively than competitors, as tariffs on these goods will be reduced to zero upon entry into force of the Agreement.

Health Care

As mentioned previously, Bahrain announced in June 2003 that $469 million, or 7.7 percent, of the recently approved 2003-2004 budget would be allocated for health services. Bahrain recognizes that it must take action to address the increased demand for health care services and is seeking alternative financing through private sector investment in health care services, including joint ventures.

The Agreement could make U.S. health care providers extremely competitive in this high growth area. There are currently no local presence requirements for U.S. service providers or unreasonable barriers to entry in this sector. As mentioned previously, tariffs on U.S. medical equipment entering Bahrain will be zero upon entry into force of the Agreement. Zero tariffs coupled with no local presence requirement could make U.S. medical service providers more competitive than their rivals from Europe and Asia.

Education

Bahrain was the first country in the Gulf to establish a system of formal education. According to the United Nations' Human Development Report 2002, Bahrain is the most advanced Arab state with the highest literacy rate in the region at 87.6 percent, compared to the overall the GCC rate of 84.3 percent. State spending on education represents 14.4 percent of entire state expenditures for 2003-2004, and the Ministry of Education accounts for 35 percent of those employed by the government.

Bahrain is home to well-established universities and training institutes and is promoting the country as a regional education and training hub. Growth has been considerable in recent years in this sector. For example, four new private universities have opened since late 2002, and a new university for women opened in the fall of 2004.

Through market access guarantees provided for in the Agreement, U.S. education service providers could take advantage of Bahrain's efforts to further develop the country's already advanced education sector. There are currently no local presence requirements on U.S. service providers of education. However, tariffs on all goods, including educational equipment and materials, will be reduced to zero upon entry into force of the Agreement. Zero tariffs coupled with no local presence requirement could make U.S. education service providers more competitive in Bahrain than others trying to compete in this sector.

Architecture, Engineering & Construction

Market access guarantees in the Agreement provide potential opportunities for U.S. architecture, engineering, and construction firms. Construction projects are part of a push by Bahrain to create new, non-oil-based industries, such as banking and leisure. In early 2002, Bahrain approved a strategic budget of $1.17 billion for development of a number of special infrastructure projects over a four-year period, including a new port and industrial area in Hidd ($464 million) and new housing ($273 million). Upcoming private sector design and engineering building projects of potential interest include: a $1 billion office/residential project on reclaimed land next to the Manama Port; the $1 billion Amwaj Islands residential project; and the $800 million Durrat Al Bahrain residential complex, set on 20 square kilometers of artificial islands.

The Agreement eliminates local presence requirements for U.S. firms in the consultancy and management services within three years, and on construction and construction related services, architectural, and engineering services within seven years. In addition, tariffs on all goods, including construction related equipment and materials will be reduced to zero upon entry into force of the Agreement. This could make U.S. construction products highly competitive in the Bahraini market. Following is a list of major infrastructure projects being undertaken by Bahrain that U.S. firms could take advantage of by providing goods and services:

Airport: Bahrain International Airport, with a new terminal and boasting more than 35 airlines, is considered a gateway to the region. In 2002, it handled more than 4.2 million passengers, in addition to over 160,000 tons of cargo. Several major infrastructure projects are being planned to expand airport services, with a total budget of $211 million, including a multi-story car park ($115 million) and satellite buildings ($53 million).

Ports: The major seaport of Mina Salman can accommodate vessels up to 65,000 tons, and has a container capacity of 150,000 twenty-foot equivalent units ("TEUs") per year. Although the port is adequate for current volumes of sea-borne freight, Bahrain is starting construction of a new super-port (Khalifa port) at a cost of approximately $350 million. The new port is to have a capacity of 234,000 TEUs per year and will include 1,800 meters of quay with minimum 15 meters draught designed for containers, general cargo, dry bulk and roll-on-roll-off traffic.

Road network: Bahrain has a well-developed road network. Well-lit, multi-lane highways cover the country and the 25-kilometer Bahrain-Saudi Causeway, which opened in November 1986, has created many new commercial opportunities. New construction has begun on a network of futuristic superhighways with a series of flyovers to eliminate bottlenecks on key routes.

Bahrain Financial Harbor: Through the Bahrain Financial Harbor Holding Company, Bahrain is constructing a $1 billion, 470,000 square meter financial center on the Manama Corniche. The project consists of 23 separate development parcels and will house the Bahrain Stock Exchange, brokerage and trading firms, and financial services firms. Service providers will be needed in numerous areas when the financial center is fully operational.

Accounting

Bahrain's vast financial services sector is expected to continue to grow, and with it demand for accounting services. The Agreement eliminates local presence requirements for U.S. firms in the accounting, financial auditing, and bookkeeping service sectors within seven years.

INVESTMENT

The U.S.-Bahrain Bilateral Investment Treaty: In coordination with ITAC 10 (Services and Financial Industries), and due to the existence of a successful BIT, the United States will rely on the BIT to manage the U.S.- Bahrain investment relationship rather than negotiating an investment chapter as part of the Agreement. ITAC 10 reported, "That agreement (BIT) is a high standard investment agreement which provides key market access commitments and investment protections such as national treatment, expropriation, fair and equitable treatment, full protection and security, transfer of capital, no performance requirements, and investment agreements. All are subject to dispute settlement."

U.S. Direct Investment: U.S. direct investment to Bahrain has increased significantly in recent years, reflecting both growing investor confidence in the country and sustained economic growth. While there was a net outflow of $37 million in U.S. direct investment from Bahrain in 1999, U.S. direct investment to Bahrain increased immediately the next year to $39 million and has increased each year reaching a total of $196 million in 2003.

Portfolio Investment: The BIT ensures that beginning on January 1, 2005, U.S. investors may participate, through their covered investments in Bahrain, in the purchase of shares listed on the BSE on national treatment basis, as well as an MFN basis (*i.e.*, on the same basis as GCC countries).

GOVERNMENT PROCUREMENT

The Agreement provides U.S. firms with non-discriminatory market access to covered government procurement opportunities in Bahrain. Bahrain has agreed to make 30 central government entities, as well as 17 major state-owned enterprises, subject to the obligations of the Agreement. Of particular significance for U.S. suppliers is coverage of Bahrain's Ministries of Defense and Interior, and the state petroleum company BAPCO. The Agreement guarantees U.S. firms transparent, predictable procedures when participating in Bahraini government procurement and significant access to procurements involving state-owned enterprises throughout the Kingdom.

The Agreement prohibits Bahraini government procuring entities from discriminating against U.S. firms, or favoring local (or other GCC) firms when purchasing more than $200,000 in goods or services (threshold drops to $175,000 in two years) or $8 million in construction services (threshold drops to $7,611,532 in two years).

The Agreement also requires national treatment/non-discrimination for U.S. suppliers and eligible goods and services; ensures adequate notice and publication of all procurement information, from general laws and regulations to individual procurement opportunities; prohibits the use of offsets and counter trade requirements; specifies a general time period of at least 40 days for interested suppliers to submit bids for contracts; disciplines use of limited tendering procedures; and provides impartial and responsive review of any problems that arise in the course of procurement.

INTELLECTUAL PROPERTY RIGHTS

Those U.S. industries concerned with intellectual property rights ("IPR") protection and enforcement have expressed a high level of satisfaction with the IPR protections of the Agreement. Bahrain will protect IPR to a degree unseen in many other developing countries. Some of the highlights for enhanced copyright, trademark, and patent protection and enforcement include:

Copyrights: The Agreement ensures that authors, composers, and other copyright owners have the exclusive right to make their works available online through confirming their rights to temporary copies of their works on computers. This right is important in protecting music, videos, software and text from widespread unauthorized reproduction and distribution via the Internet. Under the Agreement, Bahrain has committed to using only legitimate computer software within the government, thus setting a positive example for private users.

Bahrain is committed to protecting copyrighted works, including phonograms, for extended terms (*i.e.*, life of the author plus 70 years), consistent with U.S. standards and international trends. The Agreement includes strong anti-circumvention provisions, requiring Bahrain to prohibit tampering with encryption technologies (like embedded codes in DVD players) that are designed to enable copyright owners to control reproduction and distribution over the Internet, as well as the manufacture, sale, and importation of devices whose primary purpose is to tamper with encryption technologies The Agreement also requires protection for encrypted program-carrying satellite signals (including the signal itself and the programming), to prevent piracy of satellite television programming.

The Agreement sets out obligations limiting the liability of ISPs in certain circumstances, reflecting the balance struck in the U.S. Digital Millennium Copyright Act between legitimate ISP activity and the secondary infringement of copyrights.

Trademarks: In the FTA, Bahrain reaffirms its obligations under the WTO Agreement on Trade Related Aspects of Intellectual Property ("TRIPS"), and goes beyond those requirements in several key areas. For example, by agreeing to eliminate a requirement that would force U.S. companies to record their trademark licenses in order to establish the validity of their licenses, to assert any rights in a trademark, or for other purposes, Bahrain will eliminate administrative hurdles from the enforcement process, thus enhancing protection for U.S trademark interests and their licensees. In general, stronger trademark protections will aid U.S. companies in Bahrain for which trademark protection and enforcement are essential, including U.S. franchisees and merchandisers.

Patents: U.S. patent owners will receive increased protection in Bahrain as a result of the Agreement, including a provision that will require that the term of patented inventions be adjusted on request to compensate patent owners for unreasonable delays that occur in the granting of patents. The Agreement also provides that for patents covering pharmaceutical products, patent terms will be adjusted to compensate patent owners for unreasonable curtailment of patent term as a result of the marketing approval process. In addition, Bahrain will improve the protection of undisclosed test data. This enhanced protection for commercially valuable and proprietary undisclosed test and other data will translate into increased business opportunities in Bahrain for U.S. pharmaceutical manufacturers.

Enforcement: The Agreement will improve the ability of U.S. businesses to exploit and protect their creative works, brands, and inventions in Bahrain, including by: (1) authorizing Bahrain's law enforcement officials to take action against pirates and counterfeiters without waiting for complaints from right holders; (2) authorizing the award of pre-established damages to right holders, in amounts sufficient to deter future infringement; (3) enabling authorities and right holders to collect the evidence needed to track counterfeit and pirated products to their ultimate source; (4) permitting the seizure, forfeiture, and destruction of not only seized pirated and counterfeit products, but also the equipment and tools used to produce them; and (5) increasing the transparency of decision-making in both administrative and judicial enforcement activities undertaken by Bahrain.

CONCLUSION

As mentioned at the outset, the FTA is groundbreaking in terms of the market access guarantees it secures in both goods and services. Specifically, upon entry into force of the Agreement, one hundred percent of bilateral trade in consumer and industrial goods will be duty-free, and Bahrain will provide immediate duty-free access for U.S. agricultural exports in 98 percent of agricultural tariff lines. Additionally, Bahrain has agreed to grant U.S. service providers substantially increased access to its services sectors. These obligations will have a positive effect on U.S. commercial interests as they will provide greater market access for both goods and services exports. In terms of goods, U.S. firms may see the biggest gains from the FTA in increased exports of automobiles, agricultural goods, air conditioning and refrigeration equipment, and medical equipment, among many other sectors. Service providers in the financial services and insurance sectors are guaranteed unprecedented market access, and other service providers will benefit from the timed phase-out of local presence requirements and increased access to government procurement tenders.

Additionally, U.S. commercial interests will benefit from the Agreement, as Bahrain has agreed to implement stronger intellectual property protections, greater customs cooperation, and enhanced transparency and environmental protection measures. Given its comprehensive nature, the Agreement will serve as a model for future U.S. free trade agreements.