FINAL ENVIRONMENTAL REVIEW OF THE UNITED STATES - BAHRAIN FREE TRADE AGREEMENT
September 2004

Executive Summary

Pursuant to authority delegated by the President in Executive Order 13277 (67 *Fed. Reg.* 70305) and consistent with Executive Order 13141 (64 *Fed. Reg.* 63169) and its Guidelines (65 *Fed. Reg.* 79442), the Office of the United States Trade Representative (USTR) submits this Final Environmental Review of the United States-Bahrain Free Trade Agreement (FTA), as provided for under section 2102(c)(4) of the Trade Act of 2002 (Trade Act).

On August 4, 2003, in accordance with section 2104(a) of the Trade Act, U.S. Trade Representative Robert B. Zoellick notified the Congress of the President's intent to enter into negotiations for an FTA with Bahrain. The negotiations were successfully concluded on May 27, 2004, and the FTA was signed on September 14, 2004.

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

Findings

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

2. The Final Environmental Review did not identify any significant transboundary or global environmental effects associated with the FTA.

3. In considering whether provisions of the FTA could affect, positively or negatively, the ability of U.S. federal, state, local, or tribal governments to enact, enforce, or maintain environmental laws and regulations, the Administration focused in particular on the provisions of the FTA's Environment Chapter and related dispute settlement provisions. We concluded that the FTA will not adversely affect the ability of U.S. federal, state, local, or tribal governments to regulate to protect the U.S. environment, and that these and related FTA provisions should have

positive implications for the enforcement of environmental laws and the furtherance of environmental protection in both the United States and Bahrain.

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

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I. LEGAL AND POLICY FRAMEWORK

A. The Trade Act of 2002

The Trade Act of 2002 (Trade Act) establishes a number of negotiating objectives and other priorities relating to the environment. As relevant here, the Trade Act contains three sets of objectives: (i) overall trade negotiating objectives; (ii) principal trade negotiating objectives; and (iii) promotion of certain priorities, including associated requirements to report to Congress.

Overall environment-related trade negotiating objectives include:

> (1) ensuring that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources (section 2102(a)(5)); and
>
> (2) seeking provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade (section 2102(a)(7)).

In addition, the Trade Act establishes the following environment-related principal trade negotiating objectives:

> (1) ensuring that a party to a trade agreement with the United States does not fail to effectively enforce its environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties, while recognizing a party's right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to prioritize allocation of resources for environmental law enforcement (sections 2102(b)(11)(A) and (B));
>
> (2) strengthening the capacity of U.S. trading partners to protect the environment through the promotion of sustainable development (section 2102(b)(11)(D));
>
> (3) reducing or eliminating government practices or policies that unduly threaten sustainable development (section 2102(b)(11)(E));
>
> (4) seeking market access, through the elimination of tariffs and non-tariff barriers, for U.S. environmental technologies, goods and services (section 2102(b)(11)(F)); and
>
> (5) ensuring that environmental, health or safety policies and practices of parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against U.S. exports or serve as disguised barriers to trade (section 2102(b)(11)(G)).

The Trade Act also provides for the promotion of certain environment-related priorities and associated reporting requirements, including:

(1) seeking 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 and reporting to the Committee on Ways and Means and the Committee on Finance ("Committees") on the control and operation of such mechanisms (section 2102(c)(3));

(2) conducting environmental reviews of future trade and investment agreements consistent with Executive Order 13141 and its relevant Guidelines, and reporting to the Committees on the results of such reviews (section 2102(c)(4)); and

(3) continuing to promote consideration of multilateral environmental agreements (MEAs) and consultation with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing exceptions under Article XX of the General Agreement on Tariffs and Trade (GATT) 1994 (section 2102(c)(10)).

B. The Environmental Review Process

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

The purpose of environmental reviews is to ensure that policymakers and the public are informed about reasonably foreseeable environmental impacts of trade agreements (both positive and negative), identify complementarities between trade and environmental objectives and 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. 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.

The environmental review process provides opportunities for public involvement, including an early and open process for determining the scope of the environmental review ("scoping"). Through the scoping process, potentially significant issues are identified for in-depth analysis, while issues that are less significant – or that have been adequately addressed in earlier reviews – are eliminated from detailed study.

The Guidelines recognize that the approach adopted in individual reviews will vary from case to case, given the wide variety of trade agreements and negotiating timetables. Generally, however, reviews address two types of questions: (i) the extent to which positive and negative environmental impacts may flow from economic changes estimated to result from the

prospective agreement; and (ii) the extent to which proposed agreement provisions may affect U.S. environmental laws and regulations (including, as appropriate, the ability of state, local and tribal authorities to regulate with respect to environmental matters).

II. BACKGROUND

A. Economy and Environment in Bahrain

Bahrain is a small, middle-income nation located in the Persian Gulf, east of Saudi Arabia. Bahrain is an archipelago with a population of about 698,000, 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 five percent of the land area is arable.

In 2002 (the most recent data available), Bahrain's gross domestic product (GDP) was $7.7 billion (approximately $11,000 per capita). Services account for more than half of Bahrain's 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 its 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.

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, is 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 percent 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 reorganized its environmental protection and regulatory agencies, which had previously been dispersed among several ministries, into one central entity - the Public Commission for the Protection of Marine Resources, Environment and Wildlife. The Commission is responsible for the coordination of environmental activities and for development and implementation of Bahrain's environmental laws and regulations. Bahrain's environmental legislation is relatively new, most of it put into place in the 1980s and 1990s.

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

B. United States-Bahrain Trade

Two-way trade between Bahrain and the United States totaled $887 million in 2003, less than 0.1 percent of total U.S trade. Nevertheless, the United States enjoyed a trade surplus with Bahrain ($130 million) based on goods exports of $508 million and goods imports of $378 million. Aircraft ($243 million), machinery ($45 million), vehicles ($35 million), electrical machinery ($19 million), and agricultural products ($14 million) account for the majority of U.S. exports to Bahrain.

In 2003, the largest categories of U.S. imports from Bahrain were textiles and apparel ($160 million), aluminum ($37 million), organic chemicals ($32 million), and fertilizers ($28 million). With the exception of textiles and miscellaneous manufactures, average U.S. tariffs on most imports from Bahrain are already relatively low (generally less than 3 percent, *ad valorem*) and are applied to a small share of imported goods. U.S. tariffs exceed 10 percent on fewer than 200 tariff lines, most of which are not produced in Bahrain. Tariffs on several of these items will be eliminated gradually over 10 years. Therefore, U.S. imports from Bahrain are not expected to change significantly as a result of the FTA.

U.S. foreign direct investment (FDI) in Bahrain was reported to be $64 million in 2002 (the most recent data available), a 39 percent increase from 2001. Bahraini FDI in the United States was reported to be $131 million in 2002, up 254 percent from 2001. Bahrain and the United States currently have a bilateral investment treaty in force and, as a result, an investment chapter is not included in the FTA.

III. THE UNITED STATES-BAHRAIN FTA

A. Overview of the FTA

The FTA will expand an already strong relationship with a key economic and political partner in the Middle East. The FTA consists of a preamble and the following 21 chapters and associated annexes: establishment of a Free Trade Area and definitions; market access; textiles and apparel; rules of origin; customs administration; sanitary and phytosanitary measures; technical barriers to trade; safeguards; government procurement; cross-border trade in services; financial services; telecommunications; electronic commerce; intellectual property rights; labor; environment;

transparency; administration of the agreement; dispute settlement; exceptions; and final provisions. The complete text of the FTA, related annexes and side letters, and summary fact sheets are available on USTR's website at http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/Section_Index.html.

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

Market Access for Goods

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

Customs Matters and Rules of Origin

The FTA establishes methods for valuing products used to qualify for preferential treatment. Product-specific rules of origin are provided in the Agreement, and the FTA establishes specific obligations on customs procedures to ensure compliance with laws governing importation. The FTA requires transparency and efficiency in customs administration, with commitments to publish laws and regulations and ensure procedural certainty and fairness. The FTA also includes a commitment to share information to combat illegal trans-shipment of goods.

Sanitary and Phytosanitary Measures (SPS)

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

Technical Barriers to Trade (TBT)

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

Safeguards

The FTA establishes provisions for implementing several bilateral safeguards and maintains the

Parties' rights under the WTO Safeguards Agreement. A Party may exclude imports from the other Party from the application of a WTO safeguard measure, if imports from the other Party are not a substantial cause of serious injury or threat of serious injury.

Intellectual Property Rights (IPR)

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

Government Procurement

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

Services

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

Labor

The FTA's Labor Chapter reaffirms the Parties' obligations as members of the International Labor Organization (ILO), and commits them to strive to ensure that their domestic laws provide for labor standards consistent with internationally recognized labor principles. Labor obligations are part of the core text of the Agreement. The United States and Bahrain agree that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment. Further, the FTA requires the Parties to effectively enforce their domestic labor laws, enforceable through the Agreement's dispute settlement procedures. Procedural guarantees ensure that workers and employers will continue to have fair, equitable and transparent access to

labor tribunals/courts. The Parties also establish a process for further cooperation on labor matters.

Transparency

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

Administration of the Agreement

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

Dispute Settlement

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

Exceptions

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

IV. THE FTA ENVIRONMENT CHAPTER AND RELATED ENVIRONMENTAL PROVISIONS

Environmental obligations are part of the core text of the Agreement. The FTA commits the Parties to effectively enforce their domestic environmental laws, and enforces this obligation

through the FTA's dispute settlement procedures. Under the Environment Chapter, the Parties commit to ensure that domestic environmental laws will provide for high levels of environmental protection and strive to continue to improve such laws. Provisions also specify that it is inappropriate to weaken or reduce domestic environmental protections to encourage trade or investment.

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

The FTA promotes a comprehensive approach to environmental protection. Procedural guarantees that ensure fair, equitable, and transparent proceedings for the administration and enforcement of environmental laws are coupled with provisions that promote voluntary, market-based mechanisms to protect the environment. Finally, the Parties agreed to build on their history of collaboration and cooperation on environmental matters by negotiating a Memorandum of Understanding (MOU) on Environmental Cooperation.

The MOU outlines existing environmental cooperation activities and identifies opportunities for future cooperation. Through the MOU the Bahraini and U.S. Governments announce their intention to consult regularly to review ongoing cooperative activities and to identify priority areas for potential future cooperative activities. They also agree to continue to promote public participation and cooperation between governments and civil society as a means of enhancing environmental stewardship and sustainable natural resource management.

In the MOU, the Governments recognize their common concerns and responsibilities for environmental protection and the sustainable use of natural resources. They reiterate commitments to continued cooperation on environmental issues. See Section VII for further information on environmental cooperation.

V. PUBLIC AND ADVISORY COMMITTEE COMMENTS

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

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

A. Public Comments

The review was formally initiated by publication of a notice in the *Federal Register*, which

requested public comment on the scope of the review (*see* 68 *Fed. Reg.* 56373, September 30, 2003). The Administration also requested public comments on all aspects of the negotiations and held a public hearing to discuss issues raised in connection with the FTA, including environmental issues (*see* 68 *Fed. Reg.* 51062, August 25, 2003). Comments and testimony addressing environmental issues received in response to that notice were taken into account in the preparation of the Interim Review. The availability of an Interim Review was announced in the *Federal Register* (*see* 69 *Fed. Reg.* 17729, April 5, 2004) and provided a further opportunity for public comments.

There were no public comments on the scope of the environmental review. Public comments on the Interim Review drew attention to Bahrain's current environmental problems associated with desertification, land degradation and pollution affecting the marine environment and encouraged consideration of opportunities to address these problems through cooperative activities in the context of the FTA.[1] A list of organizations that provided comments on the Interim Review is included in the annex.

B. Advisory Committee Report

Under Section 135(e) of the Trade Act of 1974, as amended, Advisory Committee reports must include advisory opinions as to whether and to what extent an agreement promotes the economic interests of the United States and achieves the applicable overall and principle negotiating objectives set forth in the Trade Act of 2002. The reports must also include advisory opinions as to whether an agreement provides for equity and reciprocity within the sectoral or functional area of the particular committee. The advisory committee reports are available at: http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/Section_Index.html.

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

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

Finally, a majority of TEPAC members agreed that the U.S.-Bahrain Joint MOU on

[1] See section II.A for background information on Bahrain's environment and section VII for information on environmental cooperation.

Environmental Cooperation provides a reasonable basis for meeting objectives regarding capacity building and sustainable development.

VI. POTENTIAL ECONOMICALLY-DRIVEN ENVIRONMENTAL EFFECTS

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

A. Potential Impacts in the United States

Although Bahrain is an important market for some U.S. producers and exporters, the impact of the FTA on total U.S. production resulting from changes in U.S. exports appears likely to be very small. Exports to Bahrain currently account for less than 0.1 percent of total U.S. exports and a very small portion of total U.S. production.[2] The FTA is expected to provide improved market access for some products, but substantial increases in U.S. exports and production are not expected as a consequence of the small size of the Bahraini economy.

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

B. Transboundary and Global Issues

The Guidelines for environmental reviews encourage consideration, as appropriate, of potential transboundary and global environmental consequences that may flow from the prospective trade agreement. In examining these issues, the Administration took into consideration a number of factors, including the lack of shared borders with Bahrain, the relatively significant geographic distance between the two countries and the *de minimis* anticipated environmental effects of the FTA in the United States. The Interim Environmental Review provided a discussion, including background information, on the possible environmental effects of the FTA through economic growth in Bahrain and trade in selected goods and services.[3] Public comments on the Interim Environmental Review drew attention to the possibility that the FTA could exacerbate existing environmental problems in Bahrain (see section IV.A). The following is a summary of our further consideration of these topics.

Our examination of possible transboundary and global effects of the FTA included consideration of the economically-driven environmental effects in Bahrain. As compared to its effect in the United States, the FTA is expected to have relatively greater effects on the economy of Bahrain.

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[2] See section II.B.

[3] The Interim Environmental Review is available at: http://www.ustr.gov/Trade_Sectors/Environment/Environmental_Reviews/Section_Index.html.

Changes in exports may be relatively small, however, because many of Bahrain's exports to the United States already face low or zero tariffs (see section II.B). Nevertheless, the FTA may contribute to further pressure on the environment in Bahrain through economic growth and increased production in polluting industries. Although we did not identify any significant transboundary or global consequences of these possible effects of the FTA, areas identified for priority attention in environmental cooperation activities were selected based on consideration of existing environmental concerns and public comments.[4]

The Interim Environmental Review also considered the possible effects of the FTA on 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). Trade in these products is currently very small, with low or zero tariffs. Therefore the FTA will have little or no effect. Bahrain is not a party to CITES but has expressed interest in, and has taken steps toward, becoming a party. Bahrain's commitment to address environmental issues, including protection of wildlife, is also reflected in its environmental laws (such as 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 some positive environmental consequences in Bahrain. Implementation of the FTA should 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 weaken environmental laws to attract trade and investment. In addition, certain aspects of economic activity stimulated by the FTA may have positive environmental consequences. For example, the FTA's provisions for the liberalization of goods and services as well as IPR protection may encourage increased dissemination of environmentally beneficial technology. The FTA also provides a context for reinforcing and extending existing cooperation activities to address both trade-related and other environmental issues.

VII. POTENTIAL REGULATORY IMPACTS

Consistent with Executive Order 13141 and its Guidelines, this review included consideration of the extent to which the FTA might affect U.S. environmental laws, regulations, policies and/or international commitments. Within the range of FTA obligations, those related to services, SPS measures and TBT can have particular significance for domestic regulatory practices concerning the environment, health and safety. Previous environmental reviews, including the preliminary and final reviews for the Jordan, Chile, Singapore, Australia and Morocco FTAs, have considered potential impacts on the U.S. regulatory regime with respect to all of these obligations and have found that the respective trade agreements were not anticipated to have a negative impact on U.S. legal or regulatory authority or practices. Further, the reviews noted the potentially positive impact that the FTAs could have on the U.S. environmental regulatory regime as a result of FTA commitments to effectively enforce U.S. environmental laws, not weaken U.S. environmental laws to attract trade or investment and ensure that U.S.

4 See sections IV.A and VII.

environmental laws and policies provide for high levels of environmental protection.

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

For further analysis of general FTA commitments and their potential regulatory impacts in the United States, see the preliminary and final reviews for the Jordan, Chile, Singapore, Australia and Morocco FTAs at http://www.ustr.gov/Trade_Sectors/Environment/Environmental_Reviews/Section_Index.html.

VIII. ENVIRONMENTAL COOPERATION

The Trade Act of 2002 establishes that a principal U.S. negotiating objective 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 science-based standards for the protection of the environment and human health. The MOU on Environmental Cooperation was developed as a complement to the environmental provisions of the FTA.

The United States and Bahrain share common concerns and similar responsibilities for protecting and conserving the environment in their respective territories. The two governments have a common interest in promoting global environmental improvement and protection and in using science and technology to address environmental challenges.

Through the MOU, the United States and Bahrain express their recognition of the importance of recent and ongoing bilateral, regional and multilateral cooperative efforts and their intent to consult regularly both on the direction of ongoing cooperative activities and on areas for future cooperative efforts. Areas specifically identified for future bilateral cooperation include: developing and implementing environmental laws and infrastructure; conducting environmental impact assessments; developing environmental incentives and voluntary programs; improving air quality; promoting public awareness and participation in environmental protection; protecting coastal environments, marine resources, and endangered species; and promoting the growth of the environmental technology business sector. A Joint Forum comprised of representatives of the two governments will be established to develop a plan of action, and to review and assess cooperative activities undertaken pursuant to the MOU.

The United States and Bahrain also recognize the importance of their ongoing cooperative activities, including those taking place pursuant to relevant MEAs.

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

ANNEX —Organizations Providing Comments

Comments on Scope for the Environmental Review (in response to 68 *Fed. Reg.* 56373)

No comments were received.

Public Comments on the Interim Review (in response to 69 *Fed. Reg.* 17729)

Defenders of Wildlife