

109TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2^d Session } 109-

UNITED STATES-OMAN FREE TRADE AGREEMENT
IMPLEMENTATION ACT

JULY , 2006.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means,
submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 5684]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5684) to implement the United States-Oman Free Trade Agreement, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

Contents

- I. Introduction**
 - A. Purpose and Summary
 - B. Background
 - C. Legislative History
- II. Section-by-Section Summary**
 - A. Title I: Approval and General Provisions
 - B. Title II: Customs Provisions
 - C. Title III: Relief from Imports
 - D. Title IV: Government Procurement
- III. Vote of the Committee**
- IV. Budget Effects of the Bill**
 - A. Committee Estimate of Budgetary Effects
 - B. Budget Authority and Tax Expenditures
 - C. Cost Estimate Prepared by the Congressional Budget Office
- V. Other Matters to be Discussed Under the Rules of the House**
 - A. Committee Oversight Findings and Recommendations
 - B. Statement of General Performance Goals and Objectives
 - C. Constitutional Authority Statement
 - D. Information Relating to Unfunded Mandates
- VI. Changes in Existing Law Made by the Bill, as Reported**
- VII. Correspondence related to labor reforms**
 - A. July 12, 2006 letter to Ambassador Schwab from Omani Ambassador Hunaina Al-Mughairy
 - B. June 26, 2006 letter to Chairman Thomas from Ambassador Schwab with attached June 21, 2006 letter to Ambassador Schwab from U.S. Ambassador to Oman Gary Grappo
 - C. June 22, 2006 letter to Chairman Grassley from USTR General Counsel James E. Mendenhall
 - D. May 8, 2006 letter to Ambassador Portman from Omani Minister of Commerce and Industry Maqbool Ali Sultan
 - E. March 26, 2006 letter to Chairman Thomas from Omani Minister of Commerce and Industry Maqbool Ali Sultan
 - F. March 3, 2006 letter to Chairman Thomas from Omani Ambassador Hunaina Al-Mughairy
- VIII. Correspondence related to trade with Israel**
 - A. June 28, 2006 AIPAC letter to Rep. Shaw and Rep. Cardin
 - B. June 22, 1996 memo from Omani Director General of Customs
 - C. June 9, 2006 letter to Omani Sultan bin Said from Rep. Wexler

D. September 28, 2005 letter to Ambassador Portman from Omani Minister of
Commerce and Industry Maqbool Ali Sultan

IX. Views

COMMITTEE ON WAYS AND MEANS
COMMITTEE REPORT
UNITED STATES – OMAN FREE TRADE AGREEMENT

I. INTRODUCTION

A. PURPOSE AND SUMMARY

H.R. 5684 would implement the January 19, 2006 Agreement establishing a free trade area between the United States and Oman.

B. BACKGROUND

I. The United States-Oman Free Trade Agreement

The Committee believes that the Agreement meets the objectives and priorities set forth in the Bipartisan Trade Promotion Authority Act of 2002 (TPA). The Agreement covers all agricultural and industrial sectors, provides for some of the greatest market access for U.S. services of any Free Trade Agreement (FTA), contains robust protections for U.S. intellectual property rights holders, and includes strong labor and environment provisions. In addition to the new commercial opportunities it provides, the Agreement will support many of the recent governance, legal, and economic reforms in Oman.

Trade Impact – All bilateral trade in consumer and industrial products will become duty-free immediately upon entry into force of the Agreement. According to the United States International Trade Commission (ITC), the Agreement will likely have a “small but positive effect on the U.S. economy” due to Oman’s relatively small share of total U.S. trade. Many Omani goods already enjoy duty free treatment because of Oman’s Generalized System of Preferences (GSP) status and Normal Trade Relations (NTR) status.

Agriculture – All agriculture products are covered by the Agreement, which will provide immediate duty-free access for U.S. agriculture exports in 87% of agriculture tariff lines. Oman will phase out tariffs on remaining products within ten years. The United States exported \$12 million in agricultural products to Oman in 2005, including sugars, sweeteners, and beverage bases.

The United States will provide immediate duty free access to 100% of Oman’s current agricultural exports to the United States. Oman has not traditionally been a large agricultural exporter to the U.S. market, and USTR reports that the United States imported \$1.7 million in agricultural products from Oman in 2005. Accordingly, the Agreement does not contain an agricultural safeguard.

Textiles and Apparel – The Agreement contains a yarn-forward rule of origin for textiles. Like other FTAs (including Bahrain, Morocco, Chile, Singapore, and NAFTA), the Agreement contains limited, temporary allowances for the use of yarn and fabric from a non-party under a

Tariff Preference Level (TPL). It is set at an annual level of 50 million square meters equivalent (SMEs) for the first ten years and is equal to approximately 0.1% of total U.S. imports of textile and apparel. U.S. exporters are provided with the same TPL access to Oman's market. After the TPL expires, all trade under the Oman FTA must adhere to the yarn-forward rule of origin. While ITC estimates that the Agreement will result in an increase in Oman's textile exports to the United States, it also estimates that this increase will not have a significant impact on overall U.S. imports because it will be offset by reduced levels of imports from other nations.

In addition, the Agreement contains a special textile safeguard, which allows either party to re-impose tariffs that were in place before the agreement if imports from the other party cause or threaten to cause serious damage to the domestic industry. Furthermore, the FTA has special, state-of-art customs enforcement and cooperation provisions for textiles, allowing the customs authorities of the parties to verify production and ultimately to deny duty preferences or entry if production cannot be authenticated.

The Committee believes that maintaining a current short supply list under the FTA is integral to the effective functioning of the rule of origin for textiles and apparel. The Committee expects the President to seek to incorporate all existing and future affirmative short supply determinations from other trade agreements and trade preference programs into the textile and apparel rule of origin for this FTA. Moreover, given that prior short supply designations have already undergone public comment and consultation with domestic parties, the President should apply those designations to this FTA without further public investigation. Finally, the Committee clarifies that the short supply provision included in this FTA, as well as previous FTAs and trade preference programs enacted by Congress, contemplates items only being added to the list of short supply items, with a limited exception in the Dominican Republic-Central America FTA (DR-CAFTA). In other words, once an item is designated as being in short supply, the item is permanently designated as such unless otherwise provided for by the statute implementing the FTA or trade preference program. Indeed, the fact that Congress specifically designated procedures for removal of products from the list in DR-CAFTA signifies that the authority to do so does not exist in implementing legislation or trade preference programs where that authority is not explicitly provided, such as this FTA.

Furthermore, the Committee expects that all short supply parties will be able to participate in an open and transparent process. Specifically, Committee for the Implementation of Textile Agreements (CITA) should publish procedures that clearly explain the criteria it uses to make its determinations on whether and why a good is or is not available in commercial quantities. At the very least, when CITA determines that a good is available in commercial quantities, a sample of the good should be readily available for physical inspection by all parties as well as by evidence of some effort to market the good in the United States. Moreover, all parties should have open access to the full evidence being considered by CITA as well as the opportunity to respond to the full evidence before a determination is made.

Services – Under the Agreement, Oman will accord broad market access across its services industries and will provide increased market access and regulatory transparency in most industries. The Agreement utilizes the negative list approach for coverage with very few reservations, which means that all services are covered except those few specifically excluded.

The few exceptions taken by Oman include areas such as employment placement, internal waterway transport, investigation and security, licensed tour guides, real estate brokerage, specialty air service, and taxi cabs. The Agreement offers new access in key sectors such as audiovisual, express delivery, telecommunications, computer and related services, distribution, healthcare, services incidental to mining, construction, architecture, and engineering. Benefits are provided for businesses that wish to supply services cross-border (for example, by electronic means over the Internet) as well as those that wish to establish a local presence in Oman. In particular, U.S. financial service providers will have the right to establish subsidiaries, branches, and joint ventures inside Oman. The Agreement provides new opportunities for U.S. managers, professionals, and specialty personnel by removing requirements that U.S. companies hire Omanis for these positions. The ITC report on the Agreement states that the Agreement will provide additional market access to U.S. services firms and that these firms and their affiliates in Oman will likely benefit from the improved transparency and market access.

The agreement does not allow any foreign entity to control, manage, or operate any U.S. port, and this function remains the responsibility of U.S. port authorities. The Agreement, like previous FTAs, simply treats Omani landside service suppliers and investors no less favorably than U.S. landside service providers. Any such service providers are still subject to a rigorous security review because the Agreement does not circumvent the Exon-Florio Act's Committee on Foreign Investment in the United States (CFIUS) process, which authorizes the President to block any proposed foreign investment in the United States that threatens U.S. national security. If the President were to block a transaction on these grounds, it would be consistent with the Agreement. Finally, the Agreement contains an explicit and self-judging exception under the Agreement's Article 21.2 allowing a country to take actions or deny benefits to protect its essential security interests.

Investment – The Agreement contains an investor-state provision, which allows investors alleging a breach in investment obligations to seek binding arbitration with Oman directly, giving U.S. foreign investors enhanced protections. These provisions level the playing field for U.S. investors by giving them legal protections in Oman comparable to the protections that foreign investors already receive in the United States.

The investment language in the Agreement follows the guidance set forth in TPA, which states that foreign investors in the United States should not be accorded “greater substantive rights” than those afforded to U.S. investors in the United States. While the procedures for resolving disputes between a foreign investor and a government may differ from the procedures for resolving disputes between a domestic investor and a government, the Committee notes that the substantive standards in the Agreement are essentially the same as those found in the U.S. Constitution. Specifically, the Agreement's investment provisions are modeled after the Takings, Due Process and Equal Protections provisions of the U.S. Constitution, the Administrative Procedures Act, and other U.S. laws.

The Committee believes that there have been significant misrepresentations about investment protection provisions in this and other free trade agreements. Nothing in this Agreement or any other U.S. free trade agreement or bilateral investment treaty interferes with a state or local government's right to regulate. An investor cannot enjoin regulatory action

through arbitration, nor can arbitral tribunals. Also, the Agreement makes improvements over former FTAs by incorporating standards in the expropriation provisions drawn directly from U.S. Supreme Court decisions and by taking regulatory interests fully into account. Consistent with U.S. law, for example, the Agreement's text specifies that nondiscriminatory regulatory actions designed and applied to protect the public welfare do not constitute indirect expropriations "except in rare circumstances." Moreover, the arbitration process under the Agreement is more open and transparent, and hearings and documents are public, and *amicus curiae* submissions are expressly authorized.

Building on the NAFTA experience, the Agreement's investment chapter includes checks to help ensure that investors cannot abuse the arbitration process. The Agreement includes a special provision (based on U.S. court rules) that allows tribunals to dismiss frivolous claims at an early stage of the proceedings, and it expressly authorizes awards of attorneys' fees and costs if a claim is found to be frivolous.

The Committee believes that the allegations and anti-trade rhetoric surrounding NAFTA Chapter 11 investor-state cases are exaggerated. The United States has never lost a single case under NAFTA or any other FTA or bilateral investment treaty, nor has the United States ever paid to settle such a case.

Labor and Environment – Labor and environmental obligations are part of the core text of the trade agreement, consistent with Trade Promotion Authority requirements, and are similar to provisions in prior FTAs. The Agreement states that both parties shall ensure that their domestic labor laws provide for labor standards consistent with internationally recognized labor principles, and that environmental laws provide for high levels of environmental protection. The Agreement also provides that parties shall strive to continue to improve such laws. The Agreement states that it is inappropriate to weaken or reduce domestic labor or environmental protections to encourage trade or investment. The core commitment--that a party shall not fail to effectively enforce its labor or environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties--is subject to dispute settlement under the Agreement. Oman and the United States will pursue a number of cooperative projects to promote environmental protection, and both governments will utilize a Memorandum of Understanding on Environmental Cooperation to prioritize environmental projects and develop plans of action. The Agreement contains a cooperative mechanism to promote respect for the principles embodied in the International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Forms of Child Labor.

Oman has undertaken significant labor and governance reforms. In 2003 Oman issued a new labor law (Royal Decree No. 35), which removes a 1973 ban on strikes and protects the rights of foreign and national workers to establish representative committees with collective bargaining powers. In the context of Congressional consideration of the Agreement, Committee Members of both parties asked that Oman look to Bahrain as a model in terms of the labor commitments needed to secure broad, bipartisan support.

By any measure, Oman has met or exceeded the example and commitments of Bahrain that helped the Bahrain FTA obtain the largest number of votes in the House of Representatives of any FTA considered under Trade Promotion Authority. During the Committee's markup of the Agreement's implementing legislation, Assistant USTR for Europe and the Middle East Shaun Donnelly stated that, compared with Bahrain, the overall Omani labor commitment is stronger and that based on his knowledge, it is fair to say that Oman has made a more dramatic commitment to labor reform than any government which has entered into such an agreement with the United States. The Committee believes that Oman has provided extensive answers, commitments, and materials to respond to and address every substantive issue raised by Committee Members. As described in the letters from the Omani government included as part of this report, Oman, like Bahrain, has committed to extensive labor reforms, including:

- Strengthening its collective bargaining laws;
- Ensuring that workers have the option of reinstatement for improper termination due to union activity;
- Allowing more than one worker representative committee per enterprise;
- Allowing more than one federation or representative group for individual worker representative committees and removing requirement that each representative committee belong to the current Main Representative Committee;
- Ensuring that penalties for anti-union discrimination are sufficient to deter such discrimination;
- Ensuring that technical standards for strikes do not exceed the requirements of the ILO;
- Providing for notice to impacted groups of changes to its labor laws and interim application of principles under existing law; and
- Ensuring that its commitments are reviewable under the FTA consultation mechanism.

In addition, Oman has made further commitments:

- Strengthening efforts against forced labor;
- Taking action to stop the withholding of foreign worker's documents;
- Strengthening efforts against child labor; and
- Removing all government involvement in representative committees' activities.

Overall, while many of Bahrain's commitments involved only submitting legislation to its parliament, Oman has pledged to enact all of these reforms by a date certain: October 31, 2006. Oman has already taken major action ahead of schedule by enacting a Royal Decree on July 8, 2006 (described in a July 12, 2006 letter from the Omani Ambassador) that addressed its commitments in the following areas:

- Strengthening its collective bargaining laws;
- Allowing more than one union per enterprise;
- Specifying penalties for anti-union discrimination;
- Reinforcing the right to strike;
- Removing all government involvement in union activity;
- Strengthening efforts against forced labor;

Committee on Ways and Means
Chairman Bill Thomas
7/13/2006 5:00pm

- Prohibiting the withholding of travel documents by employers of foreign workers; and
- Strengthening efforts against child labor.

In her letter, the Omani Ambassador reaffirmed her commitment to fulfilling all remaining commitments by the October 31 deadline. The Committee believes that Oman's pledges and concrete action demonstrate Oman's commitment to move rapidly on these issues, while abiding by its legislative process and rule of law, including through consulting with interested parties, such as Omani labor groups and the ILO, as several Committee Members have specifically requested.

In addition, United States Ambassador to Oman Gary Grappo conducted an extensive review of the labor situation on the ground in Oman and issued on June 21, 2006 a letter stating that Oman is already "complying with ILO core labor standards in practice, if not yet in law." This finding was based on an examination the major areas raised as concerns regarding Oman's labor laws. For example, in the key area of government involvement in labor matters, the Ambassador stated that in "regards to the perceived government interference in the labor committees, let me be firm in assuring you that the Ministry of Manpower (MOM) is not intrusively overseeing labor union representative committee activities . . . and that the actual application of the law is already ILO-consistent." In contrast, Bahrain provided no such showing that the application of its laws was already ILO-consistent. In fact contrary to claims by some, Bahrain made no commitment to apply all of its laws in an ILO-consistent manner until changes were made to its laws. Finally, Oman, like Bahrain, has agreed to have all of its commitments fully verifiable under the Agreement's labor consultation mechanisms.

The Committee finds that after Oman's extensive good faith actions to address every substantive labor issue raised by Committee and make verifiable commitments that meet or exceed the standard of Bahrain, it would be unreasonable on the basis of labor issues to fail to provide the same support for the Oman Agreement as provided for the Bahrain Agreement. Changing the standard on one of our strongest allies in the Middle East on the basis that Congress could not trust its labor commitments would sent a disturbing signal to the people of the Middle East, to allies of the United States around the world, and to Americans who rely on our responsible exercise of trade and foreign policy to strengthen the U.S. economy and protect our citizens.

Dispute Settlement – The Agreement sets out detailed procedures for the resolution of disputes over compliance, with high standards of openness and transparency. Dispute settlement procedures promote compliance through consultation and trade-enhancing remedies, rather than relying solely on trade sanctions. The Agreement's dispute settlement procedures also provide for "equivalent" remedies for commercial and labor/environmental disputes, in keeping with TPA requirements. In addition to the use of trade sanctions in commercial disputes, the Agreement provides the parties the option of using monetary assessments to enforce commercial, labor, and environmental obligations of the Agreement, with the possibility that assessments from labor and environmental cases may be used to fund labor and environmental initiatives. If a party does not pay its annual assessment in a labor or environmental dispute, the complaining party may suspend tariff benefits, while bearing in mind the objective of eliminating barriers to trade and while seeking not to unduly affect parties or interests not party to the dispute.

Committee on Ways and Means
 Chairman Bill Thomas
 7/13/2006 5:00pm

Access to Medicines – The Agreement provides protections for developers and manufacturers of innovative pharmaceutical drugs consistent with U.S. law and recent trade agreements. Consistent with the WTO TRIPs Agreement, parties must provide that a drug innovator’s data submitted for the purpose of obtaining marketing approval for a new drug be protected from use by competitors for five years. The Agreement expressly states that nothing in the intellectual property chapter affects the countries’ ability to protect public health. Nor will the Agreement prevent effective utilization of the recent WTO consensus allowing developing countries that lack pharmaceutical manufacturing capacity to import drugs under compulsory licenses.

Stronger patent and data protection increases the willingness of companies to release innovative drugs in the markets of free trade partners, potentially increasing, rather than decreasing, the availability of medicines. For example, the U.S.-Jordan FTA, signed in 2000, contained an intellectual property chapter that covered data protection. As a result of the FTA and effective IP protection, a large number of innovative products have been registered since the FTA went into force. Between 1995-1999, only 25 new pharmaceuticals products were registered, but since 2000, at least 65 new products have been registered. Moreover, data protection for more than 50 innovative products has now expired, and these products are now being produced and exported by the local manufacturers. In fact, the Jordanian generic pharmaceutical sector is flourishing, as evidenced by a significant increase in exports. In 2004 the local industry generated at least \$224 million, a 21% increase from the year 2003. In 2005, this figure increased by 25%, to \$281 million. Pharmaceuticals were Jordan’s second largest export in 2005. Also, since the enactment of the FTA, the Jordanian drug industry has begun to develop its own innovative medicines. The Committee emphasizes that the Jordan case is an example of how strong intellectual property protection can bring substantial benefits to developing countries.

Intellectual Property Rights – Because the WTO agreement in intellectual property contains only rudimentary intellectual property protection requirements, bilateral free trade agreements are an important means of raising international practices to the higher U.S. standards. The U.S.-Oman FTA requires no change to the already highly developed U.S. law and practice. According to the Industry Trade Advisory Committee on Intellectual Property (ITAC 15), the U.S.-Oman FTA reflects the “highest standards of protection” of any of the FTAs negotiated to date in the areas of trademarks, geographical indications, copyrights, and enforcement. U.S. authors, performers, inventors, and other producers of creative material will benefit from the higher and extended standards that the FTA requires of Oman for protecting intellectual property rights such as copyrights, patents, trademarks, and trade secrets as well as enhanced means of enforcing those rights. Each partner country must grant national treatment to nationals of the other, and all laws, regulations, procedures, and final judicial decisions must be in writing and published or made publicly available. The Agreement lengthens terms for copyright protection, covering electronic and digital media, and increases enforcement to go beyond WTO obligations. Each party is obliged to provide appropriate civil and criminal remedies for willful violators, and parties must provide legal incentives for services providers to cooperate with rights holders as well as limitations on liability.

Government Procurement – Oman is not a party to the WTO Agreement on Government Procurement, but the U.S.-Oman FTA provides comparable benefits to U.S. interests, putting them at an advantage over other U.S. trading partners. Specifically, the Agreement grants non-discriminatory rights to bid on most contracts offered by Oman’s ministries, agencies, and departments. It calls for transparent and fair procurement procedures including clear advanced notice of purchases and effective review. The parties are obliged to make bribery a criminal offense in matters affecting international trade and investment.

The 9/11 Commission Report Recommendations – The 9/11 Commission Report specifically noted the importance of the FTAs signed with nations in the Middle East, stating that they are “models [that] are drawing the interest of their neighbors.” Citing the Administration’s strategy for creating a Middle East Free Trade Area (MEFTA), the 9/11 Commission specifically recommended that a “comprehensive U.S. strategy to counter terrorism should include economic policies that encourage development, more open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children’s future.”

U.S.-Oman Cooperation in the War on Terror and International Security – Oman has long been a committed ally of the United States. The United States signed a treaty of friendship with Oman in 1833, one of the first of its kind with an Arab state. On April 21, 1980, just after the Iranian Islamic Revolution, Oman became the first Persian Gulf state to formalize defense relations with the United States, allowing U.S. forces access to Omani military facilities. That agreement was renewed in 2000 for ten years. Oman’s facilities made significant contributions to recent major U.S. combat operations in Afghanistan (Operation Enduring Freedom, OEF) and Iraq (Operation Iraqi Freedom, OIF). There were approximately 4,300 U.S. personnel in Oman during OEF and approximately 3,750 U.S. personnel in Oman during OIF. During these operations, Omani military facilities served as important logistical hubs and launch points for Air Force missions that helped protect U.S. servicemen and support U.S. foreign policy objectives.

After the terrorist attacks of September 11, 2001, Oman issued new laws to prevent terrorist organizations from raising or laundering money in Oman. The State Department’s report on global terrorism for 2004 noted that Oman has established systems to identify unusual transactions and that Oman has demonstrated a commitment to freeze assets of suspected Al Qaeda members and other terrorists. On November 22, 2005, Oman joined the U.S. Container Security Initiative, agreeing to the prescreening of U.S.-bound cargo from the port of Salalah.

Political and Economic Reforms – Under the government of Sultan Qaboos, Oman has been expanding political liberalization in Oman since the 1980s. In 1991, the Sultan established the Consultative Council, and in 2000 the Council held its first elections. Voting rights in the 2003 Consultative Council elections were extended to all citizens over the age of 21, increasing the number of eligible voters from the 2000 elections, during which the electorate consisted of only 25 percent of all citizens over 21. Women are allowed to run for seats in the Council, and the Sultan of Oman has appointed a number of women to cabinet positions and to the Sultan-appointed State Council. In 2004, Sultan Qaboos named five women as appointees to the office of the public prosecutor, making Oman unique in the Gulf for appointing women to the judiciary. In addition, Oman in 2005 became the first Arab state to name a female ambassador to the United States.

Among Gulf Cooperation Council countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates), Oman has the second highest percentage of oil-based GDP (40%), yet Oman's oil reserves could be exhausted within fifteen or twenty years. Given this situation, Oman has been acting to open and expand its economy beyond oil and gas exports. The *Economic Freedom of the World 2005* report published by Canada's Fraser Institute ranks Oman 17th of the 127 countries analyzed in terms of economic freedom, and as the second highest among the proposed Middle East Free Trade Area (MEFTA) countries. The Omani Center for Investment Promotion and Export Development was opened in 1997 to smooth the path for business formation and private sector project development. The permitted level of foreign ownership in privatization projects increased to 100 percent in July 2004, based on a Royal Decree providing an updated privatization framework.

Arab League Boycott of Israel – Oman has been a leader in the Persian Gulf in establishing trade and other ties with Israel. In September 1994, Oman renounced its secondary and tertiary boycotts of Israel. The secondary boycott bans entities in the Arab League States where it applies from doing business with firms that contribute to Israel's military or economic development, while the tertiary boycott deals with the injunction on Arab countries from doing business with firms that are blacklisted because of their ties to Israel. On December 26, 1994, Oman became the first Gulf State to host an Israeli Prime Minister. Oman has also eliminated all aspects of the primary (direct) boycott of Israel, and when Oman acceded to the WTO in 2000, it did not request an exemption for Israel that would allow it to maintain a boycott.

In the context of Congressional consideration of the U.S.-Oman FTA, Oman has reiterated its commitment to not enforce any aspect of a boycott on Israel, in letters on September 28, 2005 and June 15, 2006. In addition, in June 2006 Oman issued an official government circular to its relevant agencies reiterating this policy and commitment.

II. TPA Procedures

As noted above, this legislation is being considered by Congress under TPA procedures. As such, the Agreement has been negotiated by the President in close consultation with Congress, and it can be approved and implemented through legislation using streamlined procedures. Pursuant to TPA requirements, the President is required to provide written notice to Congress of the President's intention to enter into the negotiations. Throughout the negotiating process and prior to entering into an agreement, the President is required to consult with Congress regarding the ongoing negotiations.

The President must notify Congress of his intent to enter into a trade agreement at least 90 calendar days before the agreement is signed. Within 60 days after entering into the agreement, the President must submit to Congress a description of those changes to existing laws that the President considers would be required to bring the United States into compliance with the agreement. After entering into the agreement, the President must also submit to Congress the formal legal text of the agreement, draft implementing legislation, a statement of administrative action proposed to implement the agreement, and other related supporting information as required under section 2105(a) of TPA. Following submission of these documents, the

Committee on Ways and Means
Chairman Bill Thomas
7/13/2006 5:00pm

implementing bill is introduced, by request, by the Majority Leader in each chamber. The House then has up to 60 days to consider implementing legislation for the agreement (the Senate has up to an additional 30 days). No amendments to the legislation are allowed under TPA requirements.

C. LEGISLATIVE HISTORY

On November 15, 2004, the President first notified Congress of his intent to negotiate an FTA with Oman. FTA negotiations between the United States and Oman began in March 2005 and concluded in October 2005. During and after the negotiations, the President continued his consultations with Congress pursuant to the letter and spirit of the TPA requirements. On October 17, 2005, the President notified the Congress of his intent to enter into an FTA with Oman. Under TPA procedures, the President is able to sign an FTA ninety calendar days after he has notified Congress. On January 19, 2006, then-U.S. Trade Representative Rob Portman signed the U.S.-Oman FTA.

On April 5, 2006, the Committee on Ways and Means held a hearing on the United States–Oman FTA. The Committee received testimony supporting the Agreement from the Administration and U.S. private sector entities. On May 10, 2006, the Committee on Ways and Means considered in an informal markup session draft legislation to implement the Oman FTA. The Committee approved the draft implementing legislation by a recorded vote of 23 yeas to 15 nays with 3 Members voting present, without amendment.

During the Finance’s Committee’s non-markup of the Oman FTA implementing legislation, the Finance Committee voted to recommend that the bill included language, known as the Conrad Amendment, to ban under the Agreement products made from forced labor. No Member of the Ways and Means Committee proposed similar language during the Committee’s informal markup, and appropriately the Committee recommended that the version of the bill voted on by the Ways and Means Committee be used by USTR. As was done when the Finance and Ways and Means Committees recommended different language for the implementing legislation or Statements of Administrative Actions for the U.S.-Australia FTA, the U.S.-Dominican Republic Central America FTA, and the U.S.-Bahrain FTA, USTR received the views of the two Committees and made a determination. Using the standard adopted by the Way and Means committee under TPA, USTR properly determined that the Conrad Amendment was not “necessary or appropriate” to implement the bill and could not be included in the bill it submitted to Congress. In making this determination, USTR noted that the Conrad Amendment duplicates existing law which already imposes a ban on goods made from forced labor. Instead of including the Conrad Amendment language, USTR agreed to specific language in the Statement of Administrative Action stating that the Administration would “update the Congress periodically on the progress that Oman achieves in realizing all commitments made to labor law reform,” citing the May 8, 2006 letter from the Minister of Commerce and Industry of Oman to then-USTR Portman.

In accordance with TPA requirements, President Bush submitted to Congress on February 28, 2006, a description of the changes to existing U.S. laws that would be required to bring the United States into compliance with the Agreement.

Committee on Ways and Means
Chairman Bill Thomas
7/13/2006 5:00pm

On June 26, 2006, President Bush formally transmitted to Congress the formal legal text of the United States–Oman FTA, implementing legislation, a statement of administrative action proposed to implement the Agreement, and other related supporting information as required under section 2105(a) of TPA. Following this transmittal, on June 26, 2006, Majority Leader John Boehner introduced, by request, H.R. 5684 to implement the United States–Oman FTA. The bill was referred to the Committee on Ways and Means.

On June 29, 2006, the Committee on Ways and Means formally met to consider H.R. 5684. The Committee ordered H.R. 5684 favorably reported to the House of Representatives by a recorded vote of 23 yeas to 15 nays; under the requirements of TPA, amendments were not permitted.

II. SECTION-BY-SECTION SUMMARY

TITLE I: APPROVAL AND GENERAL PROVISIONS

Section 101: Approval and Entry into Force

Current Law:

No provision.

Explanation of Provision:

Section 101 states that Congress approves the Agreement and the Statement of Administrative Action and provides that the Agreement enters into force when the President determines that Oman is in compliance and has exchanged notes, on or after January 1, 2007.

Reason for Change:

Approval of the Agreement and the Statement of Administrative Action is required under the procedures of section 2103(b)(3) of the Bipartisan Trade Promotion Authority Act of 2002. The remainder of section 101 provides for entry into force of the Agreement.

Section 102: Relationship of the Agreement to U.S. and State Law

Current Law:

No provision.

Explanation of Provision:

Section 102 provides that U.S. law is to prevail in a conflict and states that the Agreement does not preempt state rules that do not comply with the Agreement. Only the United States is entitled to bring a court action to resolve a conflict between a state law and the Agreement.

*Committee on Ways and Means
Chairman Bill Thomas
7/13/2006 5:00pm*

Reason for Change:

Section 102 is necessary to make clear the relationship between the Agreement and federal and state law, respectively.

Section 103: Implementing Actions in Anticipation of Entry into Force and Initial Regulations

Current Law:

No provision.

Explanation of Provision:

Section 103(a) provides that after the date of enactment, the President may proclaim actions and issue regulations as necessary to ensure that any provision of this Act that takes effect on the date that the Agreement is entered into force is appropriately implemented, but not before the date the Agreement enters into force.

Section 103(b) establishes that regulations necessary or appropriate to carrying out the actions proposed in the Statement of Administrative Action shall, to the maximum extent feasible, be issued within one year of entry into force or the effective date of the provision.

Reason for Change:

Section 103 provides for the issuance of regulations. The Committee strongly believes that regulations should be issued in a timely manner to provide maximum clarity to parties claiming benefits under the Agreement. As noted in the Statement of Administrative Action, the regulation-issuing agency will provide a report to Congress not later than thirty days before one year elapses on any regulation that is going to be issued later than one year.

Section 104: Consultation and Layover for Proclaimed Actions

Current Law:

No provision.

Explanation of Provision:

Section 104 provides that if the President implements proclamation authority subject to consultation and layover, the President may proclaim action only after he has: obtained advice from the International Trade Commission and the appropriate private sector advisory committees; submitted a report to the Ways and Means and Finance Committees concerning the reasons for the action; and consulted with the Committees. The action takes effect after 60 days have elapsed.

*Committee on Ways and Means
Chairman Bill Thomas
7/13/2006 5:00pm*

Reason for Change:

The bill gives the President certain proclamation authority but requires extensive consultation with Congress before such authority may be exercised. The Committee believes that such consultation is an essential component of the delegation of authority to the President and expects that such consultations will be conducted in a thorough manner.

Section 105: Administration of Dispute Settlement Proceedings

Current Law:

No provision.

Explanation of Provision:

Section 105 authorizes the President to establish an office within the Commerce Department responsible for providing administrative assistance to any panels that may be established under chapter 20 of the Agreement and authorizes appropriations for the office and for payment of the U.S. share of expenses.

Reason for Change:

The Committee believes that the Department of Commerce is the appropriate agency to provide administrative assistance to panels.

Section 106: Arbitration of Claims

Current Law:

No provision.

Explanation of Provision:

Section 106 authorizes the United States to resolve certain claims covered by the Investor-State Dispute Settlement Procedures set forth in the Agreement.

Reason for Change:

This provision is necessary to meet U.S. obligations under section B of chapter 10 of the Agreement.

Section 107: Effective Dates; Effect of Termination

Current Law:

No provision.

Explanation of Provision:

The effective date of the Act is the date the Agreement enters into force with respect to the United States, except sections 1 through 3 and Title I take effect upon the date of enactment. The provisions of the Act terminate on the date on which the Agreement terminates.

Reason for Change:

Section 107 implements U.S. obligations under the Agreement.

TITLE II: CUSTOMS PROVISIONS

Section 201: Tariff Modifications

Current Law:

No provision.

Explanation of Provision:

Section 201(a) provides the President with the authority to proclaim tariff modifications to carry out the Agreement and requires the President to terminate Oman's designation as a beneficiary developing country for the purposes of the Generalized System of Preferences program.

Section 201(b) gives the President the authority to proclaim further tariff modifications, subject to consultation and layover, as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Oman provided for by the Agreement.

Section 201(c) allows the President, for any goods for which the base rate is a specific or compound rate of duty, to substitute for the base rate an *ad valorem* rate to carry out the tariff modifications in subsections (a) and (b).

Reason for Change:

Section 201(a) is necessary to put the United States in compliance with the market access provisions of the Agreement. Section 201(b) gives the President flexibility to maintain the trade liberalizing nature of the Agreement. The Committee expects the President to comply with the letter and spirit of the consultation and layover provisions of this Act in carrying out this subsection. Section 201(c) allows the President to convert tariffs to *ad valorem* rates to carry out the tariff modifications in the Agreement.

Section 202: Rules of Origin

*Committee on Ways and Means
Chairman Bill Thomas
7/13/2006 5:00pm*

Current Law:

No provision.

Explanation of Provision:

Section 202 codifies the rules of origin set out in chapter 4 of the Agreement. Under the general rules, there are four basic ways for a good of Oman to qualify as an “originating good” and therefore be eligible for preferential tariff treatment when it is imported into the United States. A good is an originating good if it is imported directly from the territory of Oman into the territory of the United States and: (1) it is “wholly the growth, product, or manufacture of Oman or the United States, or both”; (2) it is a new or different good that has been “grown, produced, or manufactured in Oman or the United States, or both” and the value of the materials produced and the direct cost of processing operations performed in Oman or the United States, or both is not less than 35% of the appraised value of the good; (3) it satisfies certain rules of origin for textile or apparel goods specified in Annex 3-A of the Agreement; or (4) it satisfies certain product-specific rules of origin specified in Annex 4-A of the Agreement.

Under the rules in chapter 3 and Annex 3-A of the Agreement, an apparel product must generally meet a tariff shift rule that implicitly imposes a “yarn forward” requirement. Thus, to qualify as an originating good imported into the United States from Oman, an apparel product must have been cut (or knit to shape) and sewn or otherwise assembled in Oman from yarn, or fabric made from yarn, that originates in Oman or the United States, or both. However, Article 3.2.9 provides an exception to this general rule allowing access for 50 million square meter equivalents of apparel that does not meet the yarn forward rule of origin for each of the first ten years of the Agreement. Section 202 also includes a de minimis exemption providing that in most cases a textile or apparel good will be considered originating if the total weight of all nonoriginating fibers or yarns is not more than 7 percent of the total weight of the good.

The remainder of section 202 addresses valuation of materials and special definitions.

Reason for Change:

Rules of origin are needed to confine Agreement benefits, such as tariff cuts, to Omani goods and to prevent third-country goods from being transshipped through Oman and claiming benefits under the Agreement. Section 202 puts the United States in compliance with the rules of origin provisions of the agreement. The Committee notes that the limited exception to the textile and apparel yarn forward rule of origin is phased down over ten years and covers approximately 0.1 percent of U.S. textile and apparel imports by volume.

Section 203: Customs User Fees

Current Law:

Section 58c of the title 19 of the U.S. Code lays out various user fees applied by customs officials to imports, including the Merchandise Processing Fee (MPF), which is applied on an *ad valorem* basis subject to a cap.

Explanation of Provision:

Section 203 of the bill implements U.S. commitments under article 2.9 of the Agreement, regarding the exemption of the merchandise processing fee on originating goods. This provision is similar to those included in the implementing legislation for the North American Free Trade Agreement, the U.S.-Singapore Free Trade Agreement, the U.S.-Chile Free Trade Agreement, the U.S.-Australia Free Trade Agreement, the U.S.-Dominican Republic-Central America-Free Trade Agreement, and the U.S.-Bahrain Free Trade Agreement. The provision also prohibits the use of funds in the Customs User Fee Account to provide services related to the entry of originating goods, in accordance with U.S. obligations under the General Agreement on Tariffs and Trade 1994.

Reason for Change:

As with other Free Trade Agreements, the Agreement eliminates the merchandise processing fee on qualifying goods from Oman. Other customs user fees remain in place. Section 203 is necessary to put the United States in compliance with the user fee elimination provisions of the Agreement. The Committee expects that the President, in his yearly budget request, will take into account the need for funds to pay expenses for entries under the Agreement given that MPF funds will not be available.

Section 204: Enforcement Relating to Trade in Textile and Apparel Goods

Current Law:

No provision.

Explanation of Provision:

Section 204 implements the verification provisions of the Agreement at Article 3.3 and authorizes the President to take appropriate action while the verification is being conducted. Such appropriate action includes suspending liquidation of the textile or apparel good for which a claim of origin has been made or, in a case where the request for verification was based on a reasonable suspicion of unlawful activity related to such goods, for textile or apparel goods exported or produced by the person subject to a verification. If the Secretary of the Treasury determines that the information obtained from verification is insufficient to make a determination, the President may take appropriate action described in section 204(d), including publishing the name and address of the person subject to the verification and denial of preferential treatment and denial of entry to certain textile and apparel goods produced or exported by the person subject to the verification.

Reason for Change:

*Committee on Ways and Means
Chairman Bill Thomas
7/13/2006 5:00pm*

In order to ensure that only qualifying textile and apparel goods receive preferential treatment under the Agreement, special textile enforcement provisions are included in the Agreement. Section 204 is necessary to authorize these enforcement mechanisms for use by U.S. authorities.

Section 205: Reliquidation of Entries

Current Law:

No provision.

Explanation of Provision:

Section 205 implements article 4.11.4 of the Agreement and provides authority for the Customs Service to reliquidate an entry to refund any excess duties (including any merchandise processing fees) paid on a good qualifying under the rules of origin for which no claim for preferential tariff treatment was made at the time of importation if the importer so requests, within one year after the date of importation.

Reason for Change:

Article 4.11.4 of the Agreement anticipates that private parties may err in claiming preferential benefits under the Agreement and provides a one-year period for parties to make such claims for preferential tariff treatment even if the entry of the goods at issue has already been liquidated, i.e., legally finalized by customs officials. Section 205 is necessary to put the United States into compliance with article 4.11.4 of the Agreement.

Section 206: Regulations

Current Law:

No provision.

Explanation of Provision:

Section 206 provides that the Secretary of the Treasury shall issue regulations to carry out provisions of this bill related to rules of origin and customs user fees.

Reason for Change:

Because the implementing bill involves lengthy and complex implementation procedures by customs officials, section 206 is necessary in order to authorize the Secretary of the Treasury to carry out provisions of the implementing bill through regulations.

TITLE III: RELIEF FROM IMPORTS

Subtitle A: Relief from Imports Benefiting from the Agreement (Sections 311-316)

Current Law:

No provision.

Explanation of Provision:

Sections 311-316 authorize the President, after an investigation and affirmative determination by the U.S. International Trade Commission (ITC) or a determination that the President may consider to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), to impose specified import relief when, as a result of the reduction or elimination of a duty under the Agreement, an Omani product is being imported into the United States in such increased quantities and under such conditions as to be a substantial cause of serious injury or threat of serious injury to the domestic industry.

Section 311(c) defines “substantial cause” and applies factors in making determinations in the same manner as section 202 of the Trade Act of 1974.

Section 311(d) exempts from investigation under this section Omani articles for which import relief has been provided under this safeguard since the Agreement entered into force.

Under sections 312(b) and (c), if the ITC makes an affirmative determination, it must find and recommend to the President the amount of import relief that is necessary to remedy or prevent serious injury and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

Under section 313(a), the President shall provide import relief to the extent that the President determines is necessary to remedy or prevent the injury found by the ITC and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

Under section 313(b), the President is not required to provide import relief if the President determines that the relief will not provide greater economic and social benefits than costs.

Section 313(c) sets forth the nature of the relief that the President may provide as: a suspension of further reductions for the article; or an increase to a level that does not exceed the lesser of the existing NTR/MFN rate or the NTR/MFN rate imposed when the Agreement entered into force. Section 313(c)(2) states that if the President provides relief for greater than one year, it must be subject to progressive liberalization at regular intervals over the course of its application.

Section 313(d) states that the import relief that the President is authorized to provide may not, in the aggregate, exceed three years.

*Committee on Ways and Means
Chairman Bill Thomas
7/13/2006 5:00pm*

Section 314 provides that no relief may be provided under this subtitle after ten years from the date on which the Agreement enters into force, unless the President determines under section 314(b) that Oman has consented to such relief.

Section 315 authorizes the President to provide compensation to Oman consistent with article 8.3 of the Agreement.

Section 316 provides for the treatment of confidential business information.

Reason for Change:

The Committee believes that it is important to have in place a temporary, extraordinary mechanism if a U.S. industry experiences injury by reason of increased import competition from Oman in the future, with the understanding that the President is not required to provide relief if the relief will not provide greater economic or social benefits than costs. The Committee intends that administration of this safeguard be consistent with U.S. obligations under chapter 8 (Safeguards) of the Agreement.

Subtitle B: Textile and Apparel Safeguard (Sections 321-328)

Current Law:

No provision.

Explanation of Provision:

Section 321 provides that a request for safeguard relief under this subtitle may be filed with the President by an interested party. The President is to review the request and determine whether to commence consideration of the request. If the President determines to commence consideration of the request, he is to publish a notice commencing consideration and seeking comments. The notice is to include a summary of the request.

Section 322(a) of the Act provides for the President to determine, pursuant to a request by an interested party, whether, as a result of the elimination of a duty provided under the Agreement, an Omani textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

Section 322(b) identifies the relief that the President may provide, which is the lesser of the existing NTR/ MFN rate or the NTR/MFN rate imposed when the Agreement entered into force.

Section 323 of the bill provides that the period of relief shall be no longer than three years. The President may extend the relief if the initial period for relief was less than three years, but the aggregate period of relief, including extensions, may not exceed three years.

Section 324 provides that relief may not be granted to an article under this safeguard if relief has previously been granted under this safeguard, or the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974.

Under section 325, after a safeguard expires, the rate of duty on the article that had been subject to the safeguard shall be the rate that would have been in effect but for the safeguard action.

Section 326 states that the authority to provide safeguard relief under this subtitle expires ten years after the date on which duties on the article are eliminated pursuant to the Agreement.

Section 327 of the Act gives authority to the President to provide compensation to Oman if he orders relief.

Section 328 provides for the treatment of confidential business information.

Reason for Change:

The Committee intends that the provisions of subtitle B be administered in a manner that is in compliance with U.S. obligations under Article 3.1 of the Agreement. In particular, the Committee expects that the President will implement a transparent process that will serve as an example to our trading partners. For example, in addition to publishing a summary of the request for safeguard relief, the Committee notes that the President plans to make available the full text of the request, subject to the protection of business confidential data, on the Department of Commerce, International Trade Administration's website. In addition, the Committee encourages the President to issue regulations on procedures for requesting such safeguard measures, for making its determinations under section 322(a), and for providing relief under section 322(b).

TITLE IV: GOVERNMENT PROCUREMENT

Section 401: Eligible Products

Current Law:

U.S. procurement law (the Buy American Act of 1933 and the Buy American Act of 1988) discriminates against foreign suppliers of goods and services in favor of U.S. providers of goods and services. Most discriminatory purchasing provisions are waived if the United States is party to a bilateral or multilateral procurement agreement, such as the WTO Agreement on Government Procurement and the North American Free Trade Agreement.

Explanation of Provision:

*Committee on Ways and Means
Chairman Bill Thomas
7/13/2006 5:00pm*

Section 401 implements chapter 9 of the Agreement and amends the definition of “eligible product” in section 308 of the Trade Agreements Act of 1979. As amended, section 308(4)(A) will provide that, for a party to United States-Oman Free Trade Agreement, an “eligible product” means “a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States.”

Reason for Change:

This provision implements U.S. obligations under chapter 9 of the Agreement.

III. VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the vote of the Committee on Ways and Means in its consideration of the bill, H.R. 5684.

MOTION TO REPORT THE BILL

The bill, H.R. 5684, was ordered favorably reported by a roll call vote of 23-15 (with a quorum being present).

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas.....	√			Mr. Rangel.....		√	
Mr. Shaw.....	√			Mr. Stark.....		√	
Mrs. Johnson.....	√			Mr. Levin.....		√	
Mr. Herger.....	√			Mr. Cardin.....		√	
Mr. McCrery.....	√			Mr. McDermott.....		√	
Mr. Camp.....	√			Mr. Lewis (GA).....		√	
Mr. Ramstad.....	√			Mr. Neal.....		√	
Mr. Nussle.....	√			Mr. McNulty.....		√	
Mr. Johnson.....				Mr. Tanner.....		√	
Mr. English.....	√			Mr. Becerra.....			
Mr. Hayworth.....	√			Mr. Doggett.....		√	
Mr. Weller.....	√			Mr. Pomeroy.....		√	
Mr. Hulshof.....	√			Ms. Tubbs Jones....		√	
Mr. Lewis (KY).....	√			Mr. Thompson.....		√	
Mr. Foley.....	√			Mr. Larson.....		√	
Mr. Brady.....	√			Mr. Emanuel.....		√	

*Committee on Ways and Means
Chairman Bill Thomas
7/13/2006 5:00pm*

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Reynolds.....	√						
Mr. Ryan.....	√						
Mr. Cantor.....	√						
Mr. Linder.....	√						
Mr. Beauprez.....	√						
Ms. Hart.....	√						
Mr. Chocola.....	√						
Mr. Nunes.....	√						

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of this bill, H.R. 5684, as reported: The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO) which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that enactment of H.R. 5684 would reduce customs duty receipts due to lower tariffs imposed on goods from Oman.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following report prepared by the CBO is provided.

PENDING WITH CBO [INSERT HERE]

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing testimony and information from the Administration, concluded that it is appropriate and timely to consider the bill as reported. In addition, the legislation is governed by procedures of the Bipartisan Trade Promotion Authority Act of 2002.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill H.R. 5684 makes *de minimis* authorization of funding, and the Administration has in place program goals and objectives, which have been reviewed by the Committee.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article 1 of the Constitution, Section 8 ('The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States.')

D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

[TO BE SUPPLIED BY THE OFFICE OF LEGISLATIVE COUNSEL]

IX. VIEWS

[TO BE SUPPLIED]



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

July 5, 2006

H.R. 5684

United States-Oman Free Trade Agreement Implementation Act

As ordered reported by the House Committee on Ways and Means on June 29, 2006

SUMMARY

H.R. 5684 would approve the free trade agreement between the government of the United States and the government of Oman that was entered into on January 19, 2006. It would provide for tariff reductions and other changes in law related to implementation of the agreement.

The Congressional Budget Office estimates that enacting the bill would reduce revenues by \$15 million in 2007, by \$111 million over the 2007-2011 period, and by \$271 million over the 2007-2016 period, net of income and payroll tax offsets. CBO estimates that enacting H.R. 5684 also would increase direct spending by \$1 million in 2007, \$6 million over the 2007-2011 period, and \$10 million over the 2007-2016 period. Further, CBO estimates that implementing the legislation would incur new discretionary spending of less than \$1 million per year, assuming the availability of appropriated funds.

CBO has determined that H.R. 5684 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not directly affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 5684 over the 2007-2016 period is shown in the following table. The cost for spending under this legislation falls within budget function 750 (administration of justice).

By Fiscal Year, in Millions of Dollars										
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
CHANGES IN REVENUES										
Changes in Revenues	-15	-21	-23	-25	-26	-28	-30	-32	-34	-37
CHANGES IN DIRECT SPENDING										
Estimated Budget Authority	1	1	1	1	1	1	1	1	0	0
Estimated Outlays	1	1	1	1	1	1	1	1	0	0

NOTE: Negative changes in revenues and positive changes in direct spending correspond to increases in budget deficits.

BASIS OF ESTIMATE

Revenues

Under the United States-Oman agreement, tariffs on U.S. imports from Oman would be phased out over time. The tariffs would be phased out for individual products at varying rates according to one of several different timetables ranging from immediate elimination on the date the agreement enters into force to gradual elimination over 10 years. According to the U.S. International Trade Commission, the United States collected about \$20 million in customs duties in 2004 on \$422 million of imports from Oman. Those imports consist largely of various types of apparel articles and oils. Based on these data, CBO estimates that phasing out tariff rates as outlined in the U.S.-Oman agreement would reduce revenues by \$15 million in 2007, by \$111 million over the 2007-2011 period, and by \$271 million over the 2007-2016 period, net of income and payroll tax offsets.

This estimate includes the effects of increased imports from Oman that would result from the reduced prices of imported products in the United States, reflecting the lower tariff rates. It is likely that some of the increase in U.S. imports from Oman would displace imports from other countries. In the absence of specific data on the extent of this substitution effect, CBO assumes that an amount equal to one-half of the increase in U.S. imports from Oman would displace imports from other countries.

Direct Spending

This legislation would exempt certain goods imported from Oman from merchandise processing fees collected by the Department of Homeland Security. Such fees are recorded as offsetting receipts (a credit against direct spending). Based on the value of goods imported from Oman in 2005, CBO estimates that implementing this provision would reduce fee collections by about \$1 million in fiscal year 2007 and in each year through 2014, for a total of \$10 million over the 2007-2014 period. There would be no effects in later years because the authority to collect merchandise processing fees expires at the end of 2014.

Spending Subject to Appropriation

Title I of H.R. 5684 would authorize the appropriation of necessary funds for the Department of Commerce to pay the United States' share of the costs of the dispute settlement procedures established by the agreement. Based on information from the agency, CBO estimates that implementing this provision would cost less than \$1 million per year, subject to the availability of appropriated funds.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

PREVIOUS CBO ESTIMATE

On June 28, 2006, CBO transmitted a cost estimate of S. 3569, an identically titled bill ordered reported by the Senate Committee on Finance on June 28, 2006. The two bills are identical, as are CBO's estimates.

ESTIMATE PREPARED BY:

Federal Revenues: Emily Schlect

Federal Spending: Mark Grabowicz and Kim Cawley

Impact on State, Local, and Tribal Governments: Melissa Merrell

Impact on the Private Sector: Craig Cammarata

ESTIMATE APPROVED BY:

G. Thomas Woodward

Assistant Director for Tax Analysis

Peter H. Fontaine

Deputy Assistant Director for Budget Analysis

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 13031 OF THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) * * *

(b) LIMITATIONS ON FEES.—(1) * * *

* * * * *

(17) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Oman Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

* * * * *

SECTION 520 OF THE TARIFF ACT OF 1930

SEC. 520. REFUNDS AND ERRORS.

(a) * * *

* * * * *

(d) GOODS QUALIFYING UNDER FREE TRADE AGREEMENT RULES OF ORIGIN.—Notwithstanding the fact that a valid protest was not filed, the Customs Service may, in accordance with regulations prescribed by the Secretary, reliquidate an entry to refund any excess duties (including any merchandise processing fees) paid on a good qualifying under the rules of origin set out in section 202 of the North American Free Trade Agreement Implementation Act, section 202 of the United States-Chile Free Trade Agreement Implementation Act, [or] section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act [for which], or section 202 of the United States-Oman Free Trade Agreement Implementation Act for which no claim for preferential tariff treatment was made at the time of importation if the importer, within 1 year after the date of importation, files, in accordance with those regulations, a claim that includes—

(1) * * *

* * * * *

(3) such other documentation *and information* relating to the importation of the goods as the Customs Service may require.

SECTION 202 OF THE TRADE ACT OF 1974

SEC. 202. INVESTIGATIONS, DETERMINATIONS, AND RECOMMENDATIONS BY COMMISSION.

(a) PETITIONS AND ADJUSTMENT PLANS.—

(1) * * *

* * * * *

(8) The procedures concerning the release of confidential business information set forth in section 332(g) of the Tariff Act of 1930 shall apply with respect to information received by the Commission in the course of investigations conducted under this chapter, part 1 of title III of the North American Free Trade Agreement Implementation Act, title II of the United States-Jordan Free Trade Area Implementation Act, title III of the United States-Chile Free Trade Agreement Implementation Act, title III of the United States-Singapore Free Trade Agreement Implementation Act, title III of the United States-Australia Free Trade Agreement Implementation Act, title III of the United States-Morocco Free Trade Agreement Implementation Act, title III of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, [and] title III of the United States-Bahrain Free Trade Agreement Implementation Act, *and title III of the United States-Oman Free Trade Agreement Implementation Act.* The Commission may request that parties providing confidential business information furnish nonconfidential summaries thereof or, if such parties indicate that the information in the submission cannot be summarized, the reasons why a summary cannot be provided. If the Commission finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summarized form, the Commission may disregard the submission.

* * * * *

SECTION 308 OF THE TRADE AGREEMENTS ACT OF 1979

SEC. 308. DEFINITIONS.

As used in this title—

(1) * * *

* * * * *

(4) ELIGIBLE PRODUCTS.—

(A) IN GENERAL.—The term “eligible product” means, with respect to any foreign country or instrumentality that is—

(i) * * *

* * * * *

(iv) a party to the Dominican Republic-Central America-United States Free Trade Agreement, a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States; **[or]**

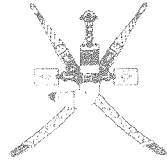
(v) a party to a free trade agreement that entered into force with respect to the United States after December 31, 2005, and before July 2, 2006, a product or service of that country or instrumentality which is covered under the free trade agreement for procurement by the United States **[.]**; *or*

(vi) a party to the United States-Oman Free Trade Agreement, a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States.

* * * * *

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Embassy of
The Sultanate of Oman
Washington, D.C.



سفارة سلطنة عمان
"دولة" "سلطنة"

The Honorable Susan Schwab
United States Trade Representative
600 17th St., n.w.
Washington, D.C. 20508

July 12, 2006

Dear Ambassador Schwab:

I am pleased to advise you that His Majesty, Sultan Qaboos bin Said, signed Royal Decree 74/2006 effective on July 8 , 2006 in order to affect changes to the Omani Labour Law based on discussions that the Omani Government has held with Members of the U.S. Congress.

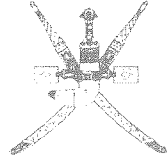
Royal decree 74/2006 was signed by his Majesty as a demonstration of Oman's good faith and continuing efforts to improve working conditions and rights for all workers in the Sultanate. His Majesty believes that his Royal Decree demonstrates Oman's intention to begin to take immediate action to address U.S. Congressional concerns and addresses general labor issues raised during consultations with the U.S. Congress with respect to the U.S.-Oman Free Trade Agreement.

The Royal Decree sets the legal foundation upon which fulfillment of the wide range of changes in Omani labor laws and practice now have been or, in some minor areas, will be accomplished. Specifically, the Decree:

1. Prohibits forced labor by employers (which includes methods by which to coerce labor through, for example, the withholding of travel documents by employers of foreign workers);
2. Specifically endorses collective bargaining and acknowledges the use of strikes as a collective bargaining technique;
3. Provides specific enforcement tools for the prohibition against forced or coerced labor by providing for imprisonment and/or fines of up to \$1,300 per violation, with a doubling of the penalty for repeat offenders.
4. Acknowledges that workers may form labor "syndicates" (unions) to serve their interests and to represent workers in all matters of concern to the workers at the local, regional and international levels. There is no limit for how many such unions may be formed for each enterprise.

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سفارة سلطنة عمان
"دولة" "سلطنة"

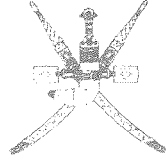
5. Ensures that unions shall have the right to conduct their affairs with full freedom and without interference or influence from any other party. Among other things, this effectively terminates - immediately - Omani Government involvement in union activities including previously legislated criteria for membership and participation in a union or its leadership.
6. Specifically prohibits termination of employment or any other form of employer retribution for representatives performing their union duties.
7. Specifically provides penalties including possible imprisonment and fines for an employer that might deprive a worker of his or her right to form or participate in a union or perform union activities.
8. Increases fines five-fold for violating Oman's prohibition on the use of child labor or improper use of female labor. For recidivists, imprisonment is also a potential penalty.

The effect of the Decree is to provide for new rights for workers in Oman and to cancel all provisions of law that contravene or contradict the Decree. Based on the Royal Decree, Ministerial Decisions are now being prepared that will implement, where necessary, specific provisions of the Decree as well as to formalize government action to educate workers regarding the legal changes and new rights that the Decree has engendered. In doing so, the Government of Oman has illustrated its commitment not only to the U.S. Congress but to ensuring that the benefits of the Free Trade Agreement are enjoyed by workers, farmers and businesses.

It is the intent of the Government of Oman to issue follow-on Ministerial Decisions, primarily from the Ministry of Manpower, which will provide more detailed terms, where necessary, to effectively enforce or implement the commitments made to the U.S. Government. These follow-on decisions and regulations will address the procedures for collective bargaining, for lawful strikes, for reinstatement of employees dismissed due to lawful activity and increase enforcement and education on forced labor to ensure that employers understand that the holding of passports or other documents is not allowed and to make them aware of the new penalties for failure to abide by the new labor laws. In addition the Government of Oman, pursuant to the May 8, 2006 letter from Minister of Commerce and Industry Maqbool Ali Sultan to Ambassador Portman, is committed to enacting further reforms including specifying the types of essential services consistent with ILO Convention 29 and allowing more than one national federation. Of course, Oman shall remain committed to adopting these further reforms by no later than October 31, 2006.

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We believe that the action taken by the Sultan affirms Oman's commitment to undertake the labor law changes as quickly as possible, consistent with Oman's representations throughout the consultative process.

Sincerely,


Hunaina Al-Mughairy
Ambassador

