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U.S. GOVERNMENT
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GPO

Calendar No. 306

109TH CONGRESS, *1st Session* | SENATE | REPORT 109–199

UNITED STATES-BAHRAIN FREE TRADE AGREEMENT IMPLEMENTATION ACT

DECEMBER 8, 2005.—Ordered to be printed

Filed under authority of the order of the Senate of November 18, 2005

Mr. GRASSLEY, from the Committee on Finance, submitted the following

R E P O R T

[To accompany S. 2027]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (S. 2027) to implement the United States-Bahrain Free Trade Agreement, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. REPORT AND OTHER MATERIALS OF THE COMMITTEE

A. Report of the Committee on Finance

The Committee on Finance, to which was referred the bill (S. 2027) to implement the United States-Bahrain Free Trade Agreement, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

B. Summary of Congressional Consideration of the United States-Bahrain Free Trade Agreement

1. Background

On May 21, 2003, the White House announced that the United States and the Kingdom of Bahrain would seek to negotiate a bilateral free trade agreement as one step toward achieving a Middle East free trade area proposed by President George W. Bush on May 9, 2003. The United States Trade Representative consulted with the relevant congressional committees, including the Senate Committee on Finance, with respect to the initiation of negotiations with Bahrain. The United States Trade Representative also attended a meeting of the Congressional Oversight Group on July 24, 2003, to discuss the initiation of negotiations with Bahrain. On August 4, 2003, the United States Trade Representative formally notified Congress of the President's intention to initiate negotiations with Bahrain and identified specific objectives for the negotiations, which were launched on January 26, 2004. On May 27, 2004, the United States Trade Representative announced that the United States and the Kingdom of Bahrain had successfully concluded the negotiations. By letter dated June 15, 2004, President George W. Bush notified Congress of his intent to enter into the United States-Bahrain Free Trade Agreement. Notice of the President's notification was published in the Federal Register on June 18, 2004. The text of the United States-Bahrain Free Trade Agreement was made available to the general public on June 22, 2004. On July 19, 2004, the United States Trade Representative received reports from 27 trade advisory groups commenting on the final text of the agreement with Bahrain. United States Trade Representative Robert B. Zoellick and Minister of Finance and National Economy Abdulla Hassan Saif of the Kingdom of Bahrain signed the United States-Bahrain Free Trade Agreement on September 14, 2004.

2. Trade Promotion Authority procedures in general

Article I, section 8 of the Constitution of the United States vests Congress with the authority to regulate international trade. Con-

gress has periodically delegated a portion of this authority to the President, in order to advance the economic interests of the United States. This delegation represents a compact between Congress and the executive, by which Congress guarantees it will vote on a trade agreement entered into by the executive without amendment and the executive guarantees close consultation with Congress during the negotiation of the trade agreement in order to achieve objectives identified by Congress. Thorough and timely consultation by the executive with Congress is the essential bedrock upon which Congress' delegation of constitutional authority rests. This longstanding compact, spanning decades, has resulted in the successful negotiation and implementation of numerous trade agreements that have contributed significantly to increased economic growth and prosperity in the United States.

The most recent incarnation of this compact is found in the Bipartisan Trade Promotion Authority Act of 2002 (the Act), which was included in the Trade Act of 2002 (Pub. L. 107–210). The Act includes prerequisites for congressional consideration of a trade agreement under expedited procedures (known as Trade Promotion Authority (TPA) procedures), which are found in sections 2103 through 2106 of the Act (19 U.S.C. §§3803–3806) and section 151 of the Trade Act of 1974 (19 U.S.C. §2191). Section 2103 of the Act authorizes the President to enter into reciprocal trade agreements with foreign countries to reduce or eliminate tariff or nontariff barriers and other trade-distorting measures. Section 2102 of the Act outlines the negotiating objectives the President is to achieve if the President intends to use TPA procedures to implement a trade agreement. Section 151 of the Trade Act of 1974 sets out expedited procedures for congressional consideration of a trade agreement without amendment. The President's authority under section 2103 extends to trade agreements entered into on or before June 30, 2007.

3. Notification prior to negotiations

Under section 2104(a)(1) of the Act, the President must provide written notice to Congress at least 90 calendar days before initiating negotiations. On August 4, 2003, the United States Trade Representative sent letters to The Honorable Ted Stevens, President Pro Tempore, United States Senate, and The Honorable J. Dennis Hastert, Speaker, United States House of Representatives, to notify Congress of the President's intention to initiate negotiations with Bahrain. The negotiations were initiated on January 26, 2004. Section 2104(a)(2) requires the President, before and after submission of the notice, to consult regarding the negotiations with the relevant congressional committees and the Congressional Oversight Group established under section 2107 of the Act. The Administration engaged in the requisite consultations, including appearances by the United States Trade Representative at meetings of the Congressional Oversight Group on July 24, 2003, and May 6, 2004.

4. Notification of intent to enter into an agreement

Under section 2105(a)(1)(A) of the Act, the President is required, at least 90 days before entering into an agreement, to notify Congress of his intention to enter into the agreement. On June 15,

2004, President George W. Bush notified Congress of his intention to enter into the United States-Bahrain Free Trade Agreement. The Agreement was signed on September 14, 2004.

5. Development of the implementing legislation

Section 2105(a)(1)(B) of the Act requires the President, within 60 days of signing an agreement, to submit to Congress a description of changes to existing laws that the President considers would be required to bring the United States into compliance with such agreement. On October 29, 2004, the United States Trade Representative transmitted to Congress on behalf of the President a description of changes to existing laws required to comply with the Agreement.

Under TPA procedures, Congress and the Administration work together to produce the legislation to implement a free trade agreement. Draft legislation is developed in close consultation between the Administration and the committees with jurisdiction over the laws that must be enacted or amended to implement the agreement. The committees may then hold informal meetings to consider the draft legislation and to make non-binding recommendations to the Administration, if any. The Administration then finalizes implementing legislation for formal submission to Congress and referral to the committees of jurisdiction. These procedures are meant to ensure close cooperation between the executive and legislative branches of government to develop legislation that faithfully implements the agreement. The final legislation should include only those provisions that are necessary or appropriate to faithfully implement the agreement.

The Senate Committee on Finance met in open executive session on November 9, 2005, to informally consider draft implementing legislation for the Agreement. One amendment was filed by Senators Conrad, Baucus, and Bunning, to add to the draft Statement of Administrative Action a provision on monitoring Bahrain's commitment to dismantle its primary boycott of Israel. This amendment was dispensed with by Chairman Grassley, in consultation with Members of the Committee, through the introduction of a chairman's modification to the draft Statement of Administrative Action, which added the following provision:

> "The Administration welcomes the commitment made by the Minister of Finance of Bahrain, in a letter to Ambassador Portman dated September 5, 2005, regarding the efforts of the Kingdom of Bahrain to dismantle its primary boycott of Israel. As part of its annual National Trade Estimates Report, the Administration intends to monitor and report on the efforts of the Kingdom of Bahrain to dismantle its primary boycott of Israel."

Chairman Grassley also announced that it was his understanding that the Administration had agreed to include this provision in the formal Statement of Administrative Action that would be submitted to Congress to accompany formal implementing legislation. Absent a quorum, Chairman Grassley called the meeting into recess and reconvened the meeting later that day. Upon reconvening, the Committee approved the draft implementing legislation and draft Statement of Administrative Action, as modified, by re-

corded vote, 20 ayes, 0 nays, a quorum being present. Ayes: Grassley, Hatch, Lott, Snowe, Kyl, Thomas, Santorum, Frist, Smith, Bunning, Crapo, Baucus, Rockefeller, Conrad, Jeffords, Bingaman, Kerry, Lincoln, Wyden, Schumer (proxy).

On November 10, 2005, Bahrain's Minister of Finance, H.E. Sheikh Ahmed bin Mohammed Al Khalifa, wrote a letter to United States Trade Representative Rob Portman detailing the commitment of the Government of Bahrain to continued reform of its labor laws. By letter dated November 16, 2005, Ambassador Portman responded to confirm the shared understanding between the United States and the Kingdom of Bahrain that "the commitments set forth in {the} letter of November 10, 2005, constitute 'a matter arising under [the Labor Chapter]' pursuant to Article 15.6 of the U.S.-Bahrain Free Trade Agreement." Ambassador Portman further stated his intent to update Congress periodically on the progress that Bahrain achieves in realizing those commitments.

6. Formal submission of the agreement and implementing legislation

When the President formally submits a trade agreement to Congress under section 2105 of the Act, the President must include in the submission the final legal text of the agreement, together with implementing legislation, a Statement of Administrative Action (describing regulatory and other changes that are necessary or appropriate to implement the agreement), a statement setting forth the reasons of the President regarding how and to what extent the agreement makes progress in achieving the applicable policies, purposes, priorities, and objectives set forth in the Act, and a statement setting forth the reasons of the President regarding how the agreement serves the interests of U.S. commerce.

The implementing legislation is introduced in both Houses of Congress on the day it is submitted by the President and is referred to committees with jurisdiction over its provisions. President George W. Bush transmitted the final text of the United States-Bahrain Free Trade Agreement, along with implementing legislation, a Statement of Administrative Action, and other supporting information, as required under section 2105 of the Trade Act of 2002, to Congress on November 16, 2005. The legislation was introduced that same day in both the House (H.R. 4340) and the Senate (S. 2027). The accompanying Statement of Administrative Action includes the provision added by the Committee in its informal consideration of the bill on November 9, 2005.

To qualify for TPA Procedures, the implementing bill itself must contain provisions formally approving the agreement and the Statement of Administrative Action. Further, the implementing bill must contain only those provisions necessary or appropriate to implement the Agreement. The implementing bill reported here—which approves the United States-Bahrain Free Trade Agreement and the accompanying Statement of Administrative Action and contains provisions necessary or appropriate to implement the Agreement into U.S. law—was referred to the Senate Committee on Finance.

7. Committee and floor consideration

When the requirements of the Act are satisfied, implementing revenue bills, such as the United States-Bahrain Free Trade Agreement Implementation Act (Implementation Act), are subject to the legislative procedures of section 151 of the Trade Act of 1974. The following schedule for congressional consideration applies under these procedures:

(i) House committees have up to 45 calendar days in session in which to report the bill; any committee which does not do so in that period will be automatically discharged from further consideration.

(ii) A vote on final passage by the House must occur on or before the 15th calendar day in session after the committees report the bill or are discharged from further consideration.

(iii) Senate committees must act within 15 calendar days in session of receiving the implementing revenue bill from the House or within 45 calendar days in session of Senate introduction of the implementing bill, whichever is later, or they will be discharged automatically.

(iv) The full Senate then must vote within 15 calendar days in session on the implementing bill.

Thus, Congress has a maximum of 90 calendar days in session to complete action on the bill. Once the implementing bill has been formally submitted by the President and introduced, no amendments to the bill are in order in either House of Congress. Floor debate in each House is limited to no more than 20 hours, to be equally divided between those favoring the bill and those opposing the bill.

The Committee on Finance met in open executive session on November 18, 2005, to consider favorably reporting S. 2027. Rule 2(a) of the Rules of Procedure adopted by the Committee on Finance on January 25, 2005, provides that Members will be notified of committee meetings at least 48 hours in advance. By unanimous consent, the Committee waived this provision of Rule 2(a). At the meeting, the Committee favorably reported S. 2027 by recorded vote, 20 ayes, 0 nays, a quorum being present. Ayes: Grassley, Hatch, Lott, Snowe, Kyl, Thomas, Santorum, Frist, Smith, Bunning, Crapo, Baucus, Rockefeller, Conrad, Jeffords, Bingaman, Kerry (proxy), Lincoln, Wyden, Schumer (proxy).

C. Trade Relations With Bahrain

1. United States-Bahrain trade

Bahrain is a small country, with a gross domestic product (GDP) that is less than 1 percent of U.S. GDP, and a population that is about 0.2 percent of U.S. population. Trade between the United States and Bahrain is currently concentrated in very few products. Based on 2003 data, U.S. imports of apparel account for 43 percent of total imports from Bahrain, and U.S. exports of airplanes and parts account for 49 percent of total exports to Bahrain. Two products account for 95 percent of U.S. apparel imports from Bahrain, i.e. women's or girls' woven cotton pants and men's or boys' woven cotton pants. In 2003, U.S. merchandise exports to Bahrain were valued at $497 million, while U.S. imports for consumption from Bahrain were valued at $378 million. Based on 2002 data, the

United States accounts for 4.5 percent of Bahrain's exports and 11.7 percent of Bahrain's imports. Based on 2003 data, Bahrain ranked as the 64th largest market for U.S. exports and the 86th largest source of imports into the United States.

The following tables summarize the top U.S. merchandise exports to Bahrain and the top U.S. merchandise imports from Bahrain during the past 6 years.

U.S. EXPORTS TO BAHRAIN, 1999–2004

[In thousands of U.S. dollars]

Top 15 product descriptions, by HTS chapter	1999	2000	2001	2002	2003	2004
84 Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	81,012	44,598	43,257	54,235	44,448	64,493
98 Special classification provisions, not elsewhere specified or otherwise included	65,164	50,145	64,555	92,778	72,398	61,415
87 Vehicles, other than railway or tramway rolling stock, and parts and accessories thereof	18,492	26,292	31,601	29,077	31,505	31,871
88 Aircraft, spacecraft, and parts thereof	38,252	221,797	79,288	74,539	242,801	27,733
90 Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof	7,940	8,974	17,189	8,781	14,453	13,820
85 Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television recorders and reproducers, parts and accessories	12,286	15,757	16,142	10,345	17,837	13,545
21 Miscellaneous edible preparations	2,716	3,057	5,212	3,355	4,078	4,772
94 Furniture; bedding, cushions etc.; lamps and lighting fittings not elsewhere specified or otherwise included; illuminated signs, nameplates and the like; prefabricated buildings	6,451	4,876	5,702	5,349	9,202	4,484
89 Ships, boats and floating structures	482	1,964	33,168	8,141	3,665	4,434
27 Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	3,439	13,276	18,560	5,104	1,957	4,017
73 Articles of iron or steel	1,358	977	4,113	2,891	3,638	3,750
52 Cotton, including yarns and woven fabrics thereof	762	343	6,073	10,133	1,357	3,710
24 Tobacco and manufactured tobacco substitutes	8,187	6,753	5,985	3,868	4,650	3,279
39 Plastics and articles thereof	3,866	4,025	3,257	3,088	2,772	2,944
49 Printed books, newspapers, pictures and other printed products; manuscripts, typescripts and plans	1,660	1,388	1,424	2,228	2,031	2,142
Subtotal for top 15 products	252,067	404,222	335,526	313,912	456,790	246,407
Subtotal for all other U.S. exports	83,114	35,674	62,185	93,541	40,340	31,294
Total U.S. exports from Bahrain	335,181	439,896	397,711	407,453	497,130	277,701

Source: U.S. International Trade Commission Dataweb from official statistics of the U.S. Department of Commerce.
Note.—HTS is the Harmonized Tariff Schedule of the United States.

U.S. IMPORTS FROM BAHRAIN, 1999–2004

[In thousands of U.S. dollars]

Top 15 product descriptions, by HTS chapter	1999	2000	2001	2002	2003	2004
62 Articles of apparel and clothing accessories, not knitted or crocheted	79,489	133,252	164,644	165,693	160,105	155,160
27 Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	6,985	11,218	19,538	0	5,077	72,805
98 Special classification provisions, not elsewhere specified or otherwise included	15,668	18,951	78,784	85,355	84,581	40,762
63 Made-up textile articles not elsewhere specified or otherwise included; needlecraft sets; worn clothing and worn textile articles; rags	0	66	956	589	9,579	40,450
76 Aluminum and articles thereof	80,741	82,766	46,592	63,972	36,859	35,809
29 Organic chemicals	7,797	18,206	20,955	16,632	32,422	26,738
31 Fertilizers	11,813	30,368	46,166	24,788	28,404	20,688
52 Cotton, including yarns and woven fabrics thereof	2,218	17,488	16,698	21,199	14,116	8,086

U.S. IMPORTS FROM BAHRAIN, 1999–2004—Continued

[In thousands of U.S. dollars]

Top 15 product descriptions, by HTS chapter	1999	2000	2001	2002	2003	2004
84 Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	43	523	197	41	259	1,012
99 Special import reporting provisions, not elsewhere specified or otherwise included	466	619	822	841	818	817
61 Articles of apparel and clothing accessories, knitted or crocheted	17,887	21,924	25,163	12,653	3,569	700
71 Natural or cultured pearls, precious or semiprecious stones, precious metals; precious metal clad metals, articles thereof; imitation jewelry; coin	132	192	2,636	87	345	569
39 Plastics and articles thereof	23	80	94	338	715	562
94 Furniture; bedding, cushions etc.; lamps and lighting fittings not elsewhere specified or otherwise included; illuminated signs, nameplates and the like; prefabricated buildings	0	28	4	0	19	387
68 Articles of stone, plaster, cement, asbestos, mica or similar materials	49	20	65	105	205	187
Subtotal for top 15 products	223,310	335,700	423,314	392,292	377,073	404,733
Subtotal for all other U.S. imports	3,257	1,909	427	2,798	1,254	850
Total U.S. imports from Bahrain	226,567	337,609	423,740	395,090	378,327	405,583

Source.—U.S. International Trade Commission Dataweb from official statistics of the U.S. Department of Commerce.
Note.—HTS is the Harmonized Tariff Schedule of the United States.

2. Tariffs and trade agreements

Bahrain is a member of the World Trade Organization (WTO), and has bound its tariffs at rates ranging from zero to 125 percent ad valorem. Approximately 17 percent of shipments from Bahrain entered the United States free of duty in 2003 under the U.S. Generalized System of Preferences (GSP) program. In total, about 48 percent of shipments from Bahrain entered the United States free of duty in 2003 on a normal trade relations (most-favored-nation) (NTR (MFN)) basis or under GSP or other U.S. provisions. U.S. exports to Bahrain are generally subject to a uniform tariff of 5 percent; exceptions include aircraft (which enter Bahrain free of duty), alcoholic beverages (which are subject to a 125 percent ad valorem duty), tobacco and tobacco products (which are subject to a 100 percent ad valorem duty), and miscellaneous items such as distilled water, and some medical items, paper products, and aluminum products (which are each subject to a 20 percent ad valorem duty). In 2000, Bahrain's average bound tariff was about 35.6 percent ad valorem, while its average applied tariff was about 7.7 percent.

Since the late 1990s, Bahrain has taken steps to liberalize its trade and investment regime. In 1999, the United States and Bahrain negotiated a comprehensive bilateral investment treaty (BIT), i.e. the Treaty Between the Government of the United States of America and the Government of the State of Bahrain Concerning the Encouragement and Reciprocal Protection of Investment. The BIT was based on the standard U.S. prototype for investment agreements. Because the BIT provides a full range of investment disciplines, the United States and Bahrain did not include an investment chapter in the Agreement. However, the market access, domestic regulation, and transparency provisions of Chapter 10 of the Agreement (Cross-Border Trade in Services) govern the treatment of investors and investments in services sectors. The BIT: (1) applies to all forms of U.S. investment in Bahrain; (2) requires that

covered U.S. investments receive the better of national treatment or most-favored-nation treatment provided by Bahrain; (3) prohibits the imposition of performance requirements on covered U.S. investments by Bahrain; (4) allows expropriation of U.S. investments by Bahrain only in accordance with customary international law; and (5) allows U.S. investors to bring disputes with the Government of Bahrain to binding international arbitration, among other provisions. In 2002, Bahrain concluded a bilateral Trade and Investment Framework Agreement (TIFA) with the United States. Over the past several years, Bahrain has pursued economic liberalization and deeper commercial ties with the United States. The government liberalized foreign property ownership and tightened anti-money-laundering laws. Though oil revenues generated 63 percent of total government revenue in 2002, Bahrain remains committed to diversifying its economy. Diversification efforts have focused on financial services, and the government is working to develop other service industries, including information technology, healthcare, and education.

In addition to the United States-Bahrain Free Trade Agreement, the Government of Bahrain has signed bilateral trade agreements with Egypt, Tunisia, Yemen, Bangladesh, China, Singapore, France, Greece, the Philippines, Thailand, Malaysia, Syria, Jordan, Morocco, Turkey, South Korea, India, United Kingdom, Australia, Russia, and Algeria. In addition, Bahrain is a member of the Arab free trade area (in force since 1998), which also includes Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, the United Arab Emirates, and Yemen. Bahrain is also a member of the Gulf Cooperation Council (founded in 1981), which in addition to Bahrain includes Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates. The Gulf Cooperation Council launched a customs union in 2003, with plans to establish a monetary union in 2005, a common market in 2007, and a single currency by 2010. In addition, the Gulf Cooperation Council is engaged in ongoing negotiations with the European Union to conclude a free trade agreement.

Bilateral trade data alone fail to capture the full importance of Bahrain as a trading partner of the United States. In May 2003, President Bush proposed a plan of graduated steps for Middle Eastern nations to increase trade and investment with the United States and others in the world economy, culminating with the establishment of a Middle East Free Trade Area (MEFTA) by the year 2013. On July 22, 2004, the report of the 9/11 Commission (Final Report of the National Commission on Terrorist Attacks Upon the United States) was released; that report contains, as one of its key recommendations, 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." The Agreement with Bahrain is an important achievement in that effort, and joins previously concluded bilateral trade agreements between the United States and Israel, Jordan, and Morocco, as a sound model for other nations in the Middle East to become full participants in the rules-based system of global trade. The Agreement with Bahrain is therefore an impor-

tant part of a broader effort to 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, throughout the Middle East.

3. U.S. International Trade Commission study

In October 2004, the U.S. International Trade Commission (ITC) released the results of its investigation (Investigation No. TA–2104–15) into the probable economic effect of a United States-Bahrain Free Trade Agreement (USITC Pub. 3726). In prior investigations of free trade agreements, the ITC prepared estimates of the overall change in U.S. economic welfare attributable to full implementation of those trade agreements. With respect to Bahrain, however, the ITC was unable to prepare such an estimate because the data available to the ITC were not specific to Bahrain, but instead were aggregated with other data for the Middle East region. In lieu of such an overall estimate of the impact on net U.S. welfare attributable to the United States-Bahrain Free Trade Agreement, the ITC focused on the apparel sector because approximate data were available and because U.S. imports subject to the elimination of import restraints under the Agreement are concentrated in the apparel sector (i.e. apparel accounts for 91 percent of the duties collected on U.S. imports from Bahrain). The ITC concluded that the net welfare gain to the United States attributable to the elimination of tariffs on all imports from Bahrain falling under chapters 61 and 62 of the Harmonized Tariff Schedule of the United States is estimated to be $19.4 million. This estimate does not, however, account for the elimination of textile quotas under the WTO Agreement on Textiles and Clothing effective January 1, 2005, nor does it account for the 10-year tariff preference level (TPL) provided for under the Agreement.

The ITC found that U.S. imports of apparel from Bahrain are likely to be substantially higher than they would be in the absence of the Agreement. However, because higher apparel imports from Bahrain would be largely offset by lower imports from the rest of the world, and because imports from Bahrain are such a small portion of total U.S. imports of apparel, the ITC concluded that total apparel imports into the United States are likely to increase by only a small amount. Consequently, the ITC found that the Agreement is likely to have little or no adverse effect on the U.S. apparel industry.

With respect to services, the ITC concluded that the Agreement is not expected to lead to measurable changes in U.S. exports or imports of services. The ITC further found, however, that U.S.-based service providers likely will benefit from improved market access conditions in some service industries (e.g., providers of insurance and asset management services), and increased regulatory transparency.

D. Overview of the United States-Bahrain Free Trade Agreement

1. Overview of the Agreement

The United States-Bahrain Free Trade Agreement establishes a bilateral free trade area that eliminates tariffs on most merchan-

dise trade between the United States and Bahrain. The Agreement liberalizes trade in services, and contains provisions that cover telecommunications, electronic commerce, intellectual property rights, labor, environment, and government procurement. The Agreement also contains a mechanism for settling disputes that arise under the Agreement. Throughout the Agreement there are important provisions that promote bilateral consultation and cooperation, procedural and substantive due process, administrative and judicial review, transparency, and the rule of law.

2. USTR Summary of the Agreement

The Office of the United States Trade Representative (USTR) prepared a summary of the United States-Bahrain Free Trade Agreement which was included among the documents transmitted to Congress on November 16, 2005. This summary was distributed to Members of the Committee to aid in their consideration of the implementing legislation, and is reprinted below:

UNITED STATES-BAHRAIN FREE TRADE AGREEMENT

SUMMARY OF THE AGREEMENT

This summary briefly describes key provisions of the United States-Bahrain Free Trade Agreement ("FTA" or "Agreement").

Preamble and Chapter One: Establishment of a free trade area and definitions

The Preamble to the Agreement provides the Parties' underlying objectives in entering into the Agreement and provides context to the provisions that follow. Chapter One sets out provisions establishing a free trade area. The Parties affirm their existing rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization ("WTO") and other agreements to which both the United States and Bahrain are party. Chapter One also includes definitions of certain terms that recur in various chapters of the Agreement.

Chapter Two: National treatment and market access for goods

Chapter Two sets out the Agreement's principal rules governing trade in goods. It requires each Party to treat goods from the other Party in a non-discriminatory manner, provides for the phase-out of tariffs on "originating goods" (as defined in Chapter Four (Rules of Origin)) traded between the two Parties, and requires the elimination of a wide variety of non-tariff barriers that restrict or distort trade flows.

Tariff Elimination. Chapter Two provides rules for the elimination of customs duties on originating goods traded between the Parties no later than 10 years after the Agreement enters into force. The Agreement is comprehensive, containing U.S. and Bahraini elimination commitments on all tariffs. For example, 100 percent of bilateral trade in consumer and industrial goods (including textile and apparel goods) will become duty-free immediately upon the Agreement's entry into force. In addition, Bahrain will provide immediate duty-free access for U.S. agricultural exports in 98 percent of agricultural tariff lines. Certain sensitive agricultural goods in Bahrain and the United States will have longer periods for duty

elimination (up to 10 years) or will be subject to other provisions, including, in some cases, the application of transitional preferential tariff-rate quotas ("TRQs") by the United States. Annex 2–B of the Agreement includes detailed provisions on staging of tariff reductions and application of TRQs for certain agricultural goods. Chapter Two also provides that the Parties may agree to speed up tariff phase-outs on a product-by-product basis after the Agreement takes effect.

Temporary Admission. Chapter Two requires the Parties to provide duty-free temporary admission for certain goods without the usual bonding requirement that applies to imports. Such items include professional equipment, goods for display or demonstration, and commercial samples.

Import/Export Restrictions, Fees, and Formalities. The Agreement incorporates the prohibition on import and export restrictions set out in Article XI of the General Agreement on Tariffs and Trade ("GATT") 1994 and specifies that these include: (1) export and import price requirements (except under antidumping and countervailing duty orders); (2) import licensing conditioned on the fulfillment of a performance requirement; and (3) voluntary export restraints inconsistent with Article VI of GATT 1994. In addition, a Party must limit fees and charges imposed on or in connection with importation or exportation to the approximate cost of services rendered, in accordance with Article VIII of GATT 1994. Finally, the United States has also agreed not to apply its merchandise processing fee on imports of originating goods from Bahrain.

Agricultural Export Subsidies. Chapter Two provides that the Parties will work together in WTO agriculture negotiations to eliminate all forms of agricultural export subsidies. The Chapter further provides that each Party will eliminate export subsidies on agricultural goods destined for the other country. According to Article 2.11, neither Party may introduce or maintain a subsidy on agricultural goods destined for the other Party unless the exporting Party believes that a third country is subsidizing its exports to the other Party. In such a case, the exporting Party may initiate consultations with the importing Party to develop measures the importing Party may adopt to counteract such subsidies. If the importing Party agrees to such measures, the exporting Party must refrain from applying export subsidies to its exports of the good to the importing Party.

Chapter Three: Textiles and apparel

Chapter Three sets out provisions addressing trade in textile and apparel goods, including an "emergency action" provision, special rules of origin, and customs cooperation provisions aimed at preventing circumvention.

Emergency Actions. To deal with emergency conditions resulting from the elimination or reduction of customs duties, the Agreement includes an "emergency action" provision that permits the importing country temporarily to re-impose normal trade relations (most-favored-nation) ("NTR" ("MFN")) duty rates on imports of textile or apparel goods that cause or threaten serious damage to a domestic industry. Emergency measures may be applied for a maximum aggregate period of three years, and a Party may not apply an emer-

gency measure on a good beyond 10 years after the Party must eliminate duties on that good under the Agreement.

A Party applying an emergency action must provide the other Party with mutually agreed compensation in the form of trade concessions that are substantially equivalent to the increased duties. If the Parties cannot agree on compensation, the exporting Party may raise duties up to NTR (MFN) levels on any goods from the importing Party to achieve trade effects substantially equivalent to the emergency action.

Rules of Origin and Related Matters. Chapter Three includes special rules for determining whether a textile or apparel good is an "originating good," including a de minimis exception for non-originating yarns or fibers, a rule for treatment of sets, and consultation provisions. The de minimis rule applies to goods that ordinarily would not be considered originating goods because certain of their fibers or yarns do not undergo an applicable change in tariff classification. Under the rule, the Parties will consider a good to be originating if such fibers or yarns constitute seven percent or less of the total weight of the component of the good that determines the tariff classification. This special rule does not apply to elastomeric yarns.

Chapter Three also calls for the United States and Bahrain to provide tariff preference levels ("TPLs") for a limited quantity of specific fabric and apparel goods from non-Party sources. TPL goods will be accorded preferential tariff treatment as if they were originating goods. For the specified fabric, apparel, and made-up goods, TPL status will apply to a maximum of 65 million square meter equivalents for each of the first 10 years after the Agreement's entry into force. After 10 years, TPL status will not be available for such goods.

The Annex to Chapter Three includes specific rules of origin for textile and apparel goods. A textile or apparel good will generally qualify as an "originating good" only if all processing after fiber formation (i.e., yarn-spinning, fabric production, cutting, and assembly) takes place in the territory of one or both of the Parties, or if there is an applicable change in tariff classification under Annex 3–A.

Customs Cooperation. Chapter Three also includes a customs cooperation article that sets out detailed commitments designed to prevent circumvention of the Agreement's rules governing textiles and apparel. The Parties will cooperate in enforcing relevant laws, in ensuring the accuracy of claims of origin, and in preventing circumvention of relevant international agreements. A Party may conduct site visits under certain conditions to verify that circumvention is not occurring, and the other Party must provide information necessary for the visits. An importing Party may respond to circumvention and actions that impede it from detecting circumvention, including by denying preferential tariff treatment under the Agreement to imports of specific textile or apparel goods or to all imports of textile or apparel goods from particular enterprises. Either Party may convene bilateral consultations to resolve technical or interpretive issues that arise under the Chapter's customs cooperation article.

Chapter Four: Rules of origin

To benefit from various trade preferences provided under the Agreement, including reduced duties, a good must qualify as an "originating good" under the rules of origin set out in Chapters Three (Textiles and Apparel) and Four and Annexes 3–A and 4–A. These rules ensure that the tariff and other benefits of the Agreement accrue primarily to firms that produce or manufacture goods in the two Parties' territories. They are similar in approach to those included in the United States-Morocco, United States-Jordan, and United States-Israel free trade agreements.

Key Concepts. Chapter Four provides general criteria under which a good that has been imported directly from one Party into the other Party may qualify as an "originating good:"

- When the good is wholly grown, produced, or manufactured in one or both of the Parties (e.g., crops grown or minerals extracted in the United States);
- When the good: (1) is not covered by the rules in Annex 3–A or Annex 4–A; (2) is a "new or different article of commerce" that has been grown, produced, or manufactured in the territory of one or both of the Parties; and (3) the sum of (a) the value of materials produced in the territory of one or both of the Parties and (b) the "direct costs of processing operations" performed in the territory of one or both of the Parties is at least 35 percent of the appraised value of the good at the time it is imported into the territory of a Party; or
- When the good is covered by the rules in Annex 3–A or Annex 4–A and meets the requirements of the applicable Annex. (Annex 3–A contains specific rules of origin for textile and apparel goods. Annex 4–A contains specific rules of origin on goods such as citrus juices; dairy products; sugar; sweetened cocoa powder; plastics; ignition wiring sets; and motor vehicle parts.)

Chapter Four defines "new or different article of commerce" as "a good that has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of one or both of the Parties and that has a new name, character, or use distinct from the good or material from which it was transformed." It defines "direct costs of processing operations" as "those costs either directly incurred in, or that can be reasonably allocated to, the growth, production, or manufacture of the good." Such costs typically include labor costs, depreciation on machinery or equipment, research and development, inspection costs, and packaging costs, among others. They typically do not include profit and general business expenses, such as salaries, insurance, and advertising.

Chapter Four clarifies that a good will not be considered a "new or different article of commerce" merely by virtue of simple combining or packaging operations or mere dilution with water or another substance that does not change the characteristics of the good.

Declarations of Origin. Under the Chapter, importers who wish to claim preferential tariff treatment for particular goods must submit, on the request of the importing Party's customs authorities, a "declaration" providing all pertinent information concerning the production of the good. The Agreement provides that a Party should request a declaration only when it has reason to question

the accuracy of a claim of origin or when the Party is conducting a random verification. A Party may only deny preferential treatment in writing and must provide legal and factual findings.

Consultations. Chapter Four calls for the Parties to work together to ensure the effective and uniform application of the Chapter. The Chapter permits the creation of ad hoc working groups or a subcommittee of the Joint Committee to discuss necessary amendments or revisions. In addition, Article 4.13 provides that, at an appropriate time, the United States and Bahrain "shall enter into discussions with a view to deciding the extent to which materials that are products of countries in the Middle East or North Africa region may be counted for purposes of satisfying the origin requirement under this Agreement as a step toward achieving regional integration."

Finally, in a separate agreement set out in a side letter regarding Chapter Four, the Parties provide that, for purposes of determining whether a good is a "new or different article of commerce that has been grown, produced, or manufactured" for purposes of Chapter Four, each country is to be guided by the rules of origin set forth in section 102.20 of the United States Customs Regulations (19 CFR 102.20).

Chapter Five: Customs administration

Chapter Five establishes rules designed to facilitate trade through increased transparency, predictability, and efficiency in each Party's customs procedures. It also provides for cooperation between the Parties on customs matters.

General Principles. The United States and Bahrain will observe certain transparency requirements. The Parties must promptly publish their customs measures on the Internet and, where possible, solicit public comments before introducing or amending their customs regulations. Each Party also must provide written advance rulings, upon request, to its importers and to exporters of the other Party regarding whether a good qualifies as an "originating good" under the Agreement, as well as on other customs matters. The Agreement allows Bahrain up to two years to comply with the provisions relating to advance rulings. In addition, each Party must guarantee importers access to both administrative and judicial review of customs decisions. The Parties also must release goods from customs promptly and expeditiously clear express shipments.

Cooperation. Chapter Five also is designed to enhance customs cooperation. It encourages the Parties to give each other advance notice of customs developments likely to affect the Agreement. The Chapter calls for the Parties to cooperate in securing compliance with each other's customs measures related to the Agreement and to import and export restrictions. It includes specific provisions requiring the Parties to share customs information where a Party has a reasonable suspicion of unlawful activity in connection with goods traded between the two countries.

Chapter Six: Sanitary and phytosanitary measures

Chapter Six defines the Parties' obligations to one another regarding sanitary and phytosanitary ("SPS") measures. SPS measures are laws or regulations that protect human, animal, or plant life or health from certain risks, including plant- and animal-borne

pests and diseases, additives, contaminants, toxins, or disease-causing organisms in food and beverages.

Under Chapter Six, the Parties affirm their rights and obligations with respect to each other under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. They also affirm their desire to create a forum through the Joint Committee on SPS matters. However, neither Party may invoke the FTA's dispute settlement procedures for a matter arising under the Chapter. Instead, any SPS dispute between the Parties must be resolved under the applicable WTO agreement(s) and rules.

Chapter Seven: Technical barriers to trade

Under Chapter Seven, the Parties will build on WTO rules to promote transparency, accountability, and cooperation between the Parties on standards issues.

Key Concepts. The term "technical barriers to trade" ("TBT") refers to barriers that may arise in preparing, adopting, or applying voluntary product standards, mandatory product standards ("technical regulations"), and procedures used to determine whether a particular good meets such standards ("conformity assessment" procedures).

International Standards. The principles articulated in the WTO TBT Committee Decision on Principles for the Development of International Standards, Guides and Recommendations emphasize the need for openness and consensus in the development of international standards. Chapter Seven requires the Parties to apply these principles.

Cooperation. Chapter Seven sets out multiple means for cooperation between the Parties to reduce barriers and improve market access. The Chapter specifies that the Office of the United States Trade Representative and Bahrain's Ministry of Commerce will serve as TBT Chapter Coordinators responsible for facilitating this cooperation.

Conformity Assessment. Chapter Seven provides for a dialogue between the Parties on ways to facilitate the acceptance of conformity assessment (i.e., testing to determine whether a product or service meets applicable standards) results. Chapter Seven further provides that, where a Party recognizes conformity assessment bodies in its own territory, it should recognize bodies in the territory of the other Party on the same terms.

Transparency. Chapter Seven contains various transparency obligations, including obligations to: (1) permit persons of the other Party to participate in the development of technical regulations, standards, and conformity assessment procedures on a non-discriminatory basis; (2) transmit regulatory proposals notified under the TBT Agreement directly to the other Party; (3) describe in writing the objectives of and reasons for regulatory proposals; and (4) accept and respond in writing to comments on regulatory proposals. These provisions become effective no later than five years after the Agreement enters into force.

Chapter Eight: Safeguards

Chapter Eight establishes a bilateral safeguard mechanism that will be available to aid domestic industries that sustain or are threatened with serious injury due to increased imports resulting

from tariff reductions or elimination under the Agreement. The Chapter does not affect either government's rights or obligations under the WTO's safeguard provisions (global safeguards) or under other WTO trade remedy rules.

Chapter Eight authorizes each Party to impose temporary duties on a good imported from the other Party if, as a result of the reduction or elimination of a duty under the Agreement, the good is being imported in such increased quantities and under such conditions as to constitute a substantial cause of serious injury, or threat of serious injury, to a domestic industry producing a "like" or "directly competitive" good.

Absent agreement by the other Party, a Party may only apply a safeguard measure to a good during the first 10 years that the FTA is in force. A safeguard measure may take one of two forms—a temporary increase in duties to NTR (MFN) levels or a temporary suspension of duty reductions called for under the Agreement. A safeguard measure may last for a maximum aggregate period of three years. If a measure lasts more than one year, the Party must liberalize it at regular intervals. Chapter Eight incorporates by reference certain procedural and substantive investigation requirements of the WTO Agreement on Safeguards.

If a Party imposes a bilateral safeguard measure, Chapter Eight requires it to provide the other Party offsetting trade compensation. If the Parties cannot agree on the amount or nature of the compensation, the Party entitled to compensation may suspend "substantially equivalent" trade concessions that it has made to the other Party. A Party may not impose a safeguard measure under Chapter Eight more than once on any good. Special safeguard provisions are set out for textile and apparel goods in Chapter Three (Textiles and Apparel).

Global Safeguards. Chapter Eight maintains each Party's right to take action under Article XIX of GATT 1994 and the WTO Agreement on Safeguards against imports from all sources.

Chapter Nine: Government procurement

Chapter Nine provides comprehensive obligations requiring each Party to apply fair and transparent procurement procedures and rules and prohibiting each government and its procuring entities from discriminating in purchasing practices against goods, services, and suppliers from the other country. The rules of Chapter Nine are broadly based on WTO procurement rules. (Bahrain is not a party to the WTO Agreement on Government Procurement.)

General Principles. Chapter Nine establishes a basic rule of "national treatment," meaning that each Party's procurement rules and the entities applying those rules must treat goods, services, and suppliers of such goods and services from the other Party in a manner that is "no less favorable" than the treatment their domestic counterparts receive. The Chapter similarly bars discrimination against locally established suppliers on the basis of foreign affiliation or ownership. Chapter Nine also provides rules aimed at ensuring a fair and transparent procurement process.

Coverage and Thresholds. Chapter Nine applies to purchases and other means of obtaining goods and services valued above certain monetary thresholds by those government departments, agencies, and enterprises listed in each Party's schedule. Specifically, the

Chapter applies to procurements by listed "central" (i.e., Bahraini or U.S. federal) government agencies of goods and services valued at $175,000 or more and construction services valued at $7,611,532 or more.[1] The equivalent thresholds for purchases by "other entities" are $250,000 for goods and services and $9,368,478 for construction services. All thresholds, except the $250,000 threshold, are subject to adjustment for inflation.

Transparency. Chapter Nine establishes rules designed to ensure transparency in procurement procedures. Each Party must publish its laws, regulations, and other measures governing procurement, along with any changes to those measures, and must, upon request, provide an explanation regarding any such measure to the other Party. Procuring entities must publish notices of procurement opportunities in advance. The Chapter also lists minimum information that such notices must include.

Tendering Rules. Chapter Nine provides rules for setting deadlines on "tendering" (bidding on government contracts). It requires procuring entities to give suppliers all the information they need to prepare tenders, including the criteria that procuring entities will use to evaluate tenders.

Entities must also, where appropriate, base their technical specifications (i.e., detailed descriptions of the goods or services to be procured) on performance-oriented criteria and international standards. Chapter Nine provides that procuring entities may not write technical specifications to favor a particular supplier, good, or service. It also sets out rules that procuring entities must follow when they use limited tendering, i.e., when they limit the set of suppliers that may bid on a contract.

Award Rules. Chapter Nine requires all tenders for a contract must be considered, unless submitted by an otherwise disqualified supplier. The tender must meet the criteria set out in the tender documentation, and procuring entities must base their award of contracts on those criteria. Procuring entities must publish information on awards, including the name of the supplier, a description of the goods or services procured, and the value of the contract. Chapter Nine also calls for each Party to ensure that suppliers may bring challenges against procurement decisions before independent reviewers.

Additional Provisions. Chapter Nine is designed to promote integrity in each Party's procurement practices, including by requiring the Parties to adopt and maintain procedures that disqualify suppliers that a Party has determined to have engaged in fraudulent or illegal action in relation to procurement. It establishes procedures under which a Party may change the extent to which the Chapter applies to its government entities, such as when a Party privatizes an entity whose purchases are covered under the Chapter. It also provides that Parties may adopt or maintain measures necessary to protect: (1) public morals, order, or safety; (2) human, animal, or plant life or health; or (3) intellectual property. Parties may also adopt measures relating to procurement of goods or serv-

[1] These thresholds are subject to adjustment every two years according to a "Threshold Adjustment Formula" set out in the Annex to Chapter Nine. In addition, as stated in that Annex, there are specific required threshold amounts during the first two years of the Agreement's effectiveness.

ices of handicapped persons, philanthropic institutions, or prison labor.

Chapter Ten: Cross-border trade in services

Chapter Ten governs measures affecting cross-border trade in services between the United States and Bahrain. Chapter provisions are drawn in part from the services provisions of the NAFTA and the WTO General Agreement on Trade in Services ("GATS"), as well as priorities that have emerged since those agreements.

Key Concepts. Under the Agreement, cross-border trade in services covers the supply of a service:

- from the territory of one Party into the territory of the other (e.g., electronic delivery of services from the United States to Bahrain);
- in the territory of a Party by a person of that Party to a person of the other Party (e.g., a Bahraini company provides services to U.S. visitors in Bahrain); and
- by a national of a Party in the territory of the other Party (e.g., a U.S. lawyer provides legal services in Bahrain).

General Principles. Among Chapter Ten's core obligations are requirements to provide national treatment and MFN treatment to service suppliers of the other Party. Thus, each Party must treat service suppliers of the other Party no less favorably than its own suppliers or those of any other country. This commitment applies to state and local governments as well as the federal government. The Chapter's provisions relate to the rights of existing service suppliers as well as those who seek to supply services, subject to any reservations by either Party. The Chapter also includes a provision prohibiting the Parties from requiring firms to establish a local presence as a condition for supplying a service on a cross-border basis. In addition, certain types of market access restrictions to the supply of services (e.g., rules that limit the number of firms that may offer a particular service or that restrict or require specific types of legal structures or joint ventures with local companies in order to supply a service) are also barred. The Chapter's market access rules apply both to services supplied on a cross-border basis and through local investments pursuant to the Parties' bilateral investment treaty, discussed below.

Sectoral Coverage and Non-Conforming Measures. Chapter Ten applies across virtually all services sectors. The Chapter excludes most financial services and air transportation, although it does apply to specialty air services and aircraft repair and maintenance. Each Party has listed in Annexes those measures in particular sectors for which it negotiated exemptions from the Chapter's core obligations. Any non-conforming aspects of all current U.S. state and local laws and regulations are exempted from these core obligations. A Party may liberalize a measure that it has exempted, but it may not make such measures more restrictive (though certain market access commitments are exempted from this obligation).

Transparency and Domestic Regulation. Provisions on transparency and domestic regulation complement the core rules of Chapter Ten. The transparency rules apply to the development and application of regulations governing services. The Chapter's rules on domestic regulation govern the operation of approval and licensing systems for service suppliers. Like the Chapter's market access

rules, its provisions on transparency and domestic regulation cover services supplied both on a cross-border basis and through local investments under the Parties' bilateral investment treaty, discussed below.

Exclusions. Chapter Ten excludes any service supplied "in the exercise of governmental authority," that is, a service that is provided on a non-commercial and non-competitive basis. Chapter Ten also does not generally apply to government subsidies, although the Parties have undertaken a commitment relating to cross-subsidization of express delivery services. The Parties have also negotiated an Annex regarding the regulation of professional services. Under Annex 10–B, the Parties will endeavor to develop mutually acceptable standards and criteria for licensing and certification of professional service suppliers. Such standards and criteria may be developed with regard, among other things, to: (1) accreditation of schools or academic programs; (2) qualifying examinations for licensing; (3) standards of professional conduct and the nature of disciplinary action for non-conformity with those standards; (4) requirements for knowledge of such matters as local laws, regulations, language, geography, or climate; and (5) consumer protection.

Investment. In 1999, the United States and Bahrain negotiated a comprehensive bilateral investment treaty ("BIT"), the Treaty Between the Government of the United States of America and the Government of the State of Bahrain Concerning the Encouragement and Reciprocal Protection of Investment (1999). The BIT was based on the standard U.S. prototype for investment agreements. The BIT: (1) applies to all forms of U.S. investment in Bahrain; (2) requires that covered U.S. investments receive the better of national treatment or MFN treatment provided by Bahrain; (3) prohibits the imposition of performance requirements on covered U.S. investments by Bahrain; (4) allows expropriation of U.S. investments by Bahrain only in accordance with customary international law; and (5) allows U.S. investors to bring disputes with the Bahraini government to binding international arbitration, among other provisions. Because the BIT provides a full range of investment disciplines, the United States and Bahrain did not include an investment chapter in the FTA. However, as noted above, the market access, domestic regulation, and transparency provisions of Chapter Ten govern the treatment of investors and investments in services sectors pursuant to the BIT.

Side Letters. Finally, in side letters to Chapter Ten that are part of the Agreement, the Parties clarify that: (1) Bahrain may prohibit gambling (and the provision of gambling services) and treat it as a criminal offense, consistent with WTO rules; and (2) no provision of the Agreement imposes obligations on the Parties with respect to immigration or—consistent with Chapter Fifteen—the right to secure employment in the territory of a Party.

Chapter Eleven: Financial services

Chapter Eleven provides rules governing each Party's treatment of financial institutions of the other Party and cross-border trade in financial services.

Key Concepts. The Chapter defines a "financial institution" as any financial intermediary or other institution authorized to do business and regulated or supervised as a financial institution

under the law of the Party where it is located. A "financial service" is any service of a financial nature, including, for example, insurance, banking, securities, asset management, financial information and data processing services, and financial advisory services.

General Principles. Chapter Eleven's core obligations parallel those in Chapter Ten (Cross-Border Trade in Services). Specifically, Chapter Eleven imposes rules requiring national treatment and MFN treatment, prohibits certain quantitative restrictions on market access, and bars restrictions on the nationality of senior management. These rules apply to measures affecting financial institutions, including pre-establishment, and to financial service suppliers that are currently supplying or seek to supply on a cross-border basis.

Non-Conforming Measures. Similar to Chapter Ten, each Party has listed in an Annex to Chapter Eleven particular financial services measures for which it has negotiated exemptions from the Chapter's core obligations. Any non-conforming aspects of all current U.S. state and local laws and regulations are exempted from these obligations. A Party may liberalize a measure that it has exempted, but it may not make such measures more restrictive (though certain market access commitments are exempted from this obligation).

Other Provisions. Chapter Eleven includes provisions on transparency, as well as rules regarding "new" financial services, self-regulatory organizations (the Agreement allows Bahrain up to two years to comply with certain such provisions), and the expedited availability of insurance products.

Relationship to Other Chapters/Agreements. The existing BIT provides U.S. investors in financial institutions in Bahrain with certain benefits not included in the FTA, such as compensation against expropriation, the right to free transfers, and a process for investor-state dispute settlement. Chapter Eleven also incorporates by reference certain provisions of Chapter Ten, such as those relating to denial of benefits and transfers and payments as they relate to cross-border trade.

Side Letters. Finally, side letters to Chapter Eleven that are part of the Agreement contain additional obligations with respect to financial services. In particular, the Parties provide that: (1) in reviewing the regulation of its insurance sector, Bahrain will not fail to permit U.S. insurance suppliers to sell their products through independent agents; (2) a Party may impose registration and other administrative requirements on insurance companies of the other Party, to the extent such requirements are consistent with the Agreement; and (3) the Parties may agree to extend Bahrain's six-month exemption from the obligations of Chapter Eleven (i.e., its non-conforming measure) regarding the market for non-life insurance financial services.

Chapter Twelve: Telecommunications

Chapter Twelve includes disciplines beyond those imposed under Chapter Ten (Cross-Border Trade in Services) and under the BIT on regulatory measures affecting telecommunications trade and investment. Chapter Twelve is designed to ensure that service suppliers of each Party have non-discriminatory access to public telecommunications services in the other country. In addition, the

Chapter requires each Party to regulate its dominant telecommunications suppliers in ways that will ensure a level playing field for new entrants from the other Party. Chapter Twelve also seeks to ensure that telecommunications regulations are set by independent regulators applying transparent procedures and is designed to encourage adherence to principles of deregulation and technological neutrality.

Key Concepts. Under Chapter Twelve, a "public telecommunications service" is any telecommunications service that a Party requires to be offered to the public generally. The term includes voice and data transmission services. It does not include the offering of "value-added services" (e.g., services that enable users to create, store, or process information over a network).

Competition. Chapter Twelve establishes rules that reflect the common elements of the Parties' laws promoting competition in telecommunications services. It also provides flexibility to account for changes that may occur through new legislation or regulatory decisions. The Chapter includes commitments by each Party to:

- Ensure that all service suppliers of the other Party that seek to access or use a public telecommunications service in the Party's territory can do so on reasonable and non-discriminatory terms (e.g., Bahrain must ensure that its public phone companies do not provide preferential access to Bahraini banks or Internet service providers, to the detriment of U.S. competitors);
- Give the other Party's telecommunications suppliers, in particular, the right to interconnect their networks with public networks in its territory at reasonable rates;
- Ensure that telecommunications suppliers of the other Party that seek to build physical networks in the Party's territory have access to key physical facilities of dominant carriers, such as buildings, where they can install equipment, thus facilitating cost-effective investment;
- Ensure that telecommunications suppliers of the other Party enjoy the right to lease lines to supplement their own networks or, alternatively, purchase telecommunications services from dominant domestic suppliers and resell them in order to build a customer base; and

Regulation. The Chapter also addresses key regulatory concerns that may create barriers to trade and investment in telecommunications services. In particular, the Parties:

- Ensure that they will maintain open and transparent telecommunications regulatory regimes, including requirements to publish licensing requirements and criteria and other government measures relating to public telecommunications services;
- Will require their telecommunications regulators to explain their rule-making decisions and provide foreign suppliers the right to challenge those decisions;
- May elect to deregulate telecommunications services when competition exists and certain standards are met; and
- May not prevent telecommunications service suppliers from choosing the technologies they consider appropriate for supplying their services, subject to legitimate public policy requirements.

Side Letters. Finally, side letters to Chapter Twelve that are part of the Agreement provide that: (1) the manner through which the Parties expect Bahrain will ensure cost-oriented interconnection levels for international services; and (2) Bahrain's commitment to issue any additional commercial mobile services licenses in a technologically neutral manner.

Chapter Thirteen: Electronic commerce

Chapter Thirteen establishes rules designed to prohibit discriminatory regulation of electronic trade in digitally encoded products, such as computer programs, video, images, and sound recordings. The Chapter contains state-of-the-art provisions on electronic commerce, similar to those in recent U.S. free trade agreements with Chile, Singapore, Australia, and Morocco.

Customs Duties. Chapter Thirteen provides that a Party may not impose customs duties on digital products of the other Party that are transmitted electronically. The Chapter does not preclude a Party from imposing duties on digital products of the other Party that are fixed on a carrier medium, provided that the duty is based on the cost or value of that medium alone, rather than the cost or value of the digital content stored on that medium.

Non-Discrimination. Chapter Thirteen requires the Parties to apply the principles of national treatment and MFN treatment to trade in electronically transmitted digital products. In particular, a Party may not treat digital products less favorably because such digital products: (1) have undergone certain specific activities (e.g., creation, production, first sale) in the territory of the other Party; or (2) are associated with certain categories of persons of the other Party (e.g., authors, performers, producers). Nor may a Party treat digital products that have such a nexus to the other Party less favorably than it treats like digital products with such a nexus to a non-Party. These non-discrimination rules do not apply to actions taken in accordance with the non-conforming measures specifically exempted from the rules set out in Chapter Ten (Cross-Border Trade in Services) or Chapter Eleven (Financial Services).

Chapter Fourteen: Intellectual property rights

Chapter Fourteen complements and enhances existing international standards for the protection of intellectual property and the enforcement of intellectual property rights, consistent with U.S. law.

General Provisions. Chapter Fourteen calls for the Parties to ratify or accede to certain agreements on intellectual property rights, including the International Convention for the Protection of New Varieties of Plants, the Trademark Law Treaty, the Brussels Convention Relating to the Distribution of Programme-Carrying Satellite Signals (the "Brussels Convention"), the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, the Budapest Treaty on the International Recognition of the Deposit of Microorganisms (the "Budapest Treaty"), the Patent Cooperation Treaty, the WIPO Copyright Treaty, and the WIPO Performances and Phonograms Treaty. The United States is already a party to these agreements.

Chapter Fourteen also requires broad application of the principle of national treatment, with only limited exceptions. The general

provisions further clarify the coverage of existing subject matter and requirements for publication of all laws, regulations, and procedures relating to the protection and enforcement of intellectual property rights.

Trademarks and Geographical Indications. Chapter Fourteen establishes rules concerning the protection of trademarks and geographical indications. For example, Parties must provide the owner of a registered trademark the exclusive right to prevent its use in the course of trade for related goods and services by any party not having the owner's consent. The Chapter also sets out rules with respect to the registration of trademarks. Each Party must provide protection for trademarks, including protecting preexisting trademarks against infringement by later geographical indications. Furthermore, the Chapter requires that the Parties provide efficient and transparent procedures governing the application for protection of trademarks and geographical indications. The Chapter also provides for rules on domain name management that require a dispute resolution procedure to prevent trademark cyber-piracy.

Copyright and Related Rights. Chapter Fourteen provides for broad protection of copyright and related rights, affirming and building on rights set out in several international agreements. For instance, each Party must provide copyright protection for the life of the author plus 70 years (for works measured by a person's life), or 70 years (for corporate works). The Chapter clarifies that the right to reproduce literary and artistic works, recordings, and performances encompasses temporary copies, an important principle in the digital realm. It also calls for each Party to provide a right of communication to the public, which will further ensure that right holders have the exclusive right to make their works available online. The Chapter specifically requires protection for the rights of performers and producers of phonograms.

To curb copyright piracy, Chapter Fourteen requires the governments to use only legitimate computer software, setting an example for the private sector. The Chapter also includes provisions on anti-circumvention, under which the Parties commit to prohibit tampering with technology used to protect copyrighted works. In addition, Chapter Fourteen sets out obligations with respect to the liability of Internet service providers in connection with copyright infringements that take place over their networks. Finally, recognizing the importance of satellite broadcasts, Chapter Fourteen ensures that each Party will protect encrypted program-carrying satellite signals. It obligates the Parties to extend protection to the signals themselves, as well as to the content contained in the signals.

Patents. Chapter Fourteen also includes a variety of provisions for the protection of patents. The Parties may only exclude inventions from patentability to protect ordre public or morality, including to protect human, animal, or plant life or health or to avoid serious prejudice to the environment. The Parties also may exclude from patentability animals and diagnostic, therapeutic, and surgical procedures for the treatment of humans or animals. The Parties also confirm the availability of patents for new uses or methods of using a known product. To guard against arbitrary revocation of patents, each Party must limit the grounds for revoking a patent to the grounds that would have justified a refusal to grant

the patent. The Chapter requires the Parties to provide for patent term adjustments to compensate for unreasonable delays that occur while granting the patent, as well as for unreasonable curtailment of the effective patent term as a result of the marketing approval process for pharmaceutical products.

Certain Regulated Products. Chapter Fourteen includes specific measures relating to certain regulated products, specifically pharmaceuticals and agricultural chemicals. Among other things, the Parties must protect test information regarding safety and efficacy submitted in seeking marketing approval for such products by precluding other firms from relying on the information.

It provides specific periods for such protection—for example, five years for new pharmaceuticals and 10 years for new agricultural chemicals. It also requires the Parties to adopt measures to prevent the marketing of a pharmaceutical product during the term of a patent covering that product.

Enforcement Provisions. Chapter Fourteen also creates obligations with respect to the enforcement of intellectual property rights. Among these, it requires the Parties, in determining damages, to take into account the value of the legitimate goods as well as the infringer's profits. The Chapter also provides for award of damages based on a fixed range (i.e., "statutory damages"), on the election of the right holder in cases involving infringement of copyright and related rights and trademark counterfeiting.

Chapter Fourteen provides that the Parties' law enforcement agencies must have authority to seize suspected pirated and counterfeit goods, the equipment used to make or transmit them, and documentary evidence. Each Party must give its courts authority to order the forfeiture and/or destruction of such items. Chapter Fourteen also requires each Party to empower its law enforcement agencies to take enforcement action at the border against pirated or counterfeit goods without waiting for a formal complaint. Chapter Fourteen provides that each Party must apply criminal penalties against counterfeiting and piracy, including end-user piracy.

Transition Periods. All provisions of the Chapter take effect when the Agreement enters into force. However, Bahrain may take up to one year after the Agreement enters into force effect to ratify or accede to: (1) the Brussels Convention; and (2) the Budapest Treaty.

Side Letters. Finally, two side letters to Chapter Fourteen that are part of the Agreement contain additional obligations on the part of Bahrain with respect to intellectual property rights. In particular, Bahrain will adopt further measures: (1) requiring effective written notice to Internet service providers with respect to materials that are claimed to be infringing a copyright; and (2) regarding the manufacture of optical discs, including provisions concerning licensure, registration, record keeping, and inspections, among others.

Chapter Fifteen: Labor

Chapter Fifteen sets out the Parties' commitments regarding trade-related labor rights. As with other recent free trade agreements, this Chapter draws on, but does not replicate, the North American Agreement on Labor Cooperation (the supplemental

NAFTA labor agreement) and the labor provisions of the U.S. free trade agreements with Chile, Singapore, and Jordan.

General Principles. Under Chapter Fifteen, the Parties reaffirm their obligations as members of the International Labor Organization ("ILO") and their commitments under the 1998 ILO Declaration on Fundamental Principles and Rights at Work. Each Party must strive to ensure that its law recognizes and protects the fundamental labor principles spelled out in the ILO declaration and listed in the Chapter. Each Party also must strive to ensure it does not waive or otherwise derogate from its labor laws to encourage bilateral trade or investment. The Parties also commit to afford procedural guarantees that ensure workers and employers have access to fair, equitable, and transparent procedures for the enforcement of labor laws.

Effective Enforcement. Each Party commits not to fail to effectively enforce its labor laws on a sustained or recurring basis in a manner affecting bilateral trade. The Chapter defines labor laws to include those related to: (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of any form of forced or compulsory labor; (4) labor protections for children and young people, including a minimum age for the employment of children and elimination of the worst forms of child labor; and (5) acceptable conditions of work with respect to minimum wages, hours, and occupational safety and health. While committing each Party to effective labor law enforcement, the Chapter also recognizes each Party's right to establish its own labor laws, exercise discretion in investigatory, regulatory, prosecutorial, and compliance matters, and allocate enforcement resources. The U.S. commitment includes federal statutes and regulations addressing these areas, but it does not cover state or local labor laws.

Cooperation. Each Party may convene a national labor advisory committee, made up of members of its public, including representatives of labor and business organizations, to advise it on the implementation of the Chapter. Each Party also will designate a contact point for communications with the other Party and the public regarding operation of the Chapter. In addition, the Joint Committee (see Article 18.2) may establish a Subcommittee on Labor Affairs comprising the relevant officials from each Party's labor ministry and other appropriate agencies to discuss the operation of Chapter Fifteen. Meetings of the Subcommittee will normally include a public session.

Finally, the Parties will establish a Labor Cooperation Mechanism to address labor matters of common interest, such as: (1) promoting fundamental rights and their effective application; (2) developing unemployment assistance programs and other social safety net programs; (3) improving working conditions; (4) developing processes for regulating foreign workers; (5) creating alternative forms of labor-management collaboration; (6) eliminating gender discrimination in the employment arena; and (7) utilizing labor statistics.

Consultations and Dispute Settlement. If a Party believes that the other Party is not complying with its obligations, Chapter Fifteen provides for consultations regarding any matter arising under the Chapter, including the opportunity to refer a matter to the Subcommittee on Labor Affairs, if established. If the matter con-

cerns a Party's compliance with the Chapter's effective enforcement obligation, the complaining Party may choose to pursue consultations under Chapter Fifteen or Chapter Nineteen (Dispute Settlement). If a Party chooses to request consultations under Chapter Nineteen, consultations under Chapter Fifteen on the same matter cease. In addition, after 60 days of consultations under Chapter Fifteen, the Parties may agree to refer the matter concerning compliance with the effective enforcement obligation directly to the Joint Committee for resolution under Chapter Nineteen.

Chapter Sixteen: Environment

Chapter Sixteen sets out the Parties' commitments regarding environmental protection. Chapter Sixteen draws on, but does not replicate, the North American Agreement on Environmental Cooperation (the supplemental NAFTA environmental agreement) and the environmental provisions included in U.S. free trade agreements with Chile, Singapore, and Jordan.

General Principles. Each Party commits not to fail to effectively enforce its environmental laws on a sustained or recurring basis in a manner affecting bilateral trade. The Parties must ensure that their laws provide for high levels of environmental protection. Each Party also must strive not to weaken or reduce its environmental laws to encourage bilateral trade or investment. The Chapter also includes commitments to provide certain procedural guarantees that ensure fair, equitable, and transparent proceedings for the administration and enforcement of environmental laws. In addition, the Chapter calls on the Parties to encourage the development of voluntary measures and market-based mechanisms for achieving and maintaining high levels of environmental protection. The Parties also must ensure that opportunities exist for the public to provide input concerning the implementation of the Chapter.

Cooperation. Chapter Sixteen includes commitments to enhance bilateral cooperation in environmental matters. In particular, the Parties agree to undertake activities pursuant to a United States-Bahrain Memorandum of Understanding on Environmental Cooperation. The Parties also commit to continue to seek means to enhance the mutual benefits of multilateral environmental agreements ("MEAs") and trade agreements to which they are both party, and to consult regularly with respect to the WTO negotiations regarding MEAs.

In addition, at the request of either Party, a Subcommittee on Environmental Affairs will be established to discuss the operation of Chapter Sixteen. The subcommittee will include the relevant officials from each Party's trade and environmental agencies. Meetings of the subcommittee will normally include an open session, and any decisions or reports of the subcommittee concerning implementation of Chapter Sixteen will normally be made public.

Effective Enforcement. The U.S. commitment on enforcement of environmental laws applies to federal environmental statutes and regulations enforceable by the federal government, but it does not cover state or local environmental laws. The Chapter also recognizes the right of each Party to: (1) establish its own environmental laws; (2) exercise discretion in regulatory, prosecutorial, and compliance matters; and (3) allocate enforcement resources.

Consultations and Dispute Settlement. If a Party believes that the other Party is not complying with its obligations under the Chapter, it may convene bilateral consultations and then may refer the matter to the Subcommittee on Environmental Affairs, if it has been established. If the matter concerns a Party's compliance with the Chapter's effective enforcement obligation, the complaining Party may choose to pursue consultations under Chapter Sixteen or Chapter Nineteen (Dispute Settlement). If a Party chooses to request consultations under Chapter Nineteen, consultations under Chapter Sixteen on the same matter cease. In addition, after 60 days of consultations under Chapter Sixteen, the Parties may agree to refer the matter concerning compliance with the effective enforcement obligation directly to the Joint Committee for resolution under Chapter Nineteen.

Chapter Seventeen: Transparency

Chapter Seventeen sets out requirements designed to foster openness, transparency, and fairness in the adoption and application of administrative measures covered by the Agreement. For example, it requires that, to the extent possible, each Party must promptly publish all measures concerning subjects covered by the Agreement and give interested persons a reasonable opportunity to comment. Wherever possible, each Party must provide reasonable notice to the other Party's nationals and enterprises that are directly affected by an administrative proceeding applying measures to particular persons, goods, or services of the other Party. A Party is to afford such persons a reasonable opportunity to present facts and arguments prior to any final administrative action when time, the nature of the process, and the public interest permit. Chapter Seventeen also provides for independent review and appeal of final administrative actions. Appeal rights must include a reasonable opportunity to present arguments and to obtain a decision based on evidence in the administrative record.

In addition, Chapter Seventeen contains innovative provisions on combating bribery and corruption. Each country must adopt or maintain prohibitions on bribery in matters affecting international trade and investment, including bribery of foreign officials, and establish criminal penalties for such offenses. In addition, both countries will adopt or maintain appropriate measures to protect those who, in good faith, report acts of bribery and will work jointly to encourage and support appropriate regional and multilateral initiatives.

Chapter Eighteen: Administration of the Agreement

Chapter Eighteen requires that each Party designate a contact point to facilitate communication between the Parties on any matter relating to the Agreement. The Chapter also creates a Joint Committee to supervise the implementation and operation of the Agreement and to review the trade relationship between the Parties. Among others, its tasks will be to: (1) facilitate the avoidance and settlement of disputes arising under the Agreement; (2) consider and adopt any amendment or other modification to the Agreement; and (3) consider ways to further enhance trade relations between the Parties. The Joint Committee will convene at least once a year.

Chapter Nineteen: Dispute Settlement

Chapter Nineteen sets out detailed procedures for the resolution of disputes between the Parties over compliance with the Agreement. Those procedures emphasize amicable settlements, relying wherever possible on bilateral cooperation and consultations. When disputes arise under provisions common to the Agreement and other agreements (e.g., the WTO Agreement), the complaining Party may choose the forum for resolving the matter. The selected forum is the exclusive venue for resolving that dispute.

Consultations. Either Party may request consultations on any matter that it believes might affect the operation of the Agreement. After requesting or receiving a request for consultations, each Party must solicit the views of the public on the matter. If the Parties cannot resolve the matter through consultations within 60 days, a Party may refer the matter to the Joint Committee, which will attempt to resolve the dispute.

Panel Procedures. If the Joint Committee cannot resolve the dispute within 60 days after delivery of the request, the complaining Party may refer the matter to a panel comprising independent experts that the Parties select. In disputes related to a Party's enforcement of its labor or environmental laws, panelists must have expertise or experience relevant to the subject matter that is under dispute. The Parties will set rules to protect confidential information, provide for open hearings and public release of submissions, and allow an opportunity for the panel to accept submissions from non-governmental entities in the Parties' territories.

Unless the Parties agree otherwise, a panel is to present its initial report within 180 days after the chair is selected. Once the panel presents its initial report containing findings of fact and a determination on whether a Party has met its obligations, the Parties will have the opportunity to provide written comments to the panel. When the panel receives these comments, it may reconsider its report and make any further examination that it considers appropriate. Within 45 days after it presents its initial report, the panel will submit its final report. The Parties will then seek to agree on how to resolve the dispute, normally in a way that conforms to the panel's determinations and recommendations. Subject to protection of confidential information, the panel's final report will be made available to the public 15 days after the Parties receive it.

Suspension of Benefits. In disputes involving the Agreement's "commercial" obligations (i.e., obligations other than enforcement of labor and environmental laws), if the Parties cannot resolve the dispute after they receive the panel's final report, the Parties will seek to agree on acceptable trade compensation. If they cannot agree on compensation, or if the complaining Party believes the defending Party has failed to implement an agreed resolution, the complaining Party may provide notice that it intends to suspend trade benefits of equivalent effect.

If the defending Party considers that the proposed level of benefits to be suspended is "manifestly excessive," or believes that it has modified the disputed measure to make it conform to the Agreement, it may request the panel to reconvene and decide the matter. The panel must issue its determination no later than 90 days after the request is made (or 120 days if the panel is review-

ing both the level of the proposed suspension and a modification of the measure).

The complaining Party may suspend trade benefits up to the level that the panel sets or, if the panel has not been asked to determine the level, up to the amount that the complaining Party has proposed. The complaining Party cannot suspend benefits, however, if the defending Party provides notice that it will pay an annual monetary assessment to the other Party. The amount of the assessment will be established by agreement of the Parties or, failing that, will be set at 50 percent of the level of trade concessions the complaining Party was authorized to suspend.

Labor and Environment Disputes. Equivalent compliance procedures apply to disputes over a Party's conformity with the labor and environmental law enforcement provisions of the Agreement. If a panel determines that a Party has not met its enforcement obligations and the Parties cannot agree on how to resolve the dispute, or if the complaining Party believes that the defending Party has failed to implement an agreed resolution, the complaining Party may ask the panel to determine the amount of an annual monetary assessment to be imposed on the defending Party. The Panel will establish the amount of the assessment, subject to a $15 million annual cap, taking into account relevant trade- and non-trade-related factors. The assessment will be paid into a fund established by the Joint Committee for appropriate labor or environmental initiatives. If the defending Party fails to pay an assessment, the complaining Party may take other appropriate steps, which may include suspending tariff benefits, as necessary to collect the assessment, while bearing in mind the Agreement's objective of eliminating barriers to bilateral trade and while seeking to avoid unduly affecting parties or interests not party to the dispute.

Compliance Review Mechanism. If, at any time, the defending Party believes it has made changes in its laws or regulations sufficient to comply with its obligations under the Agreement, it may refer the matter to the panel. If the panel agrees, the dispute ends and the complaining Party must withdraw any offsetting measures it has put in place, and the defending country will be relieved of any obligation to pay a monetary assessment.

The Parties will review the operation of the compliance procedures for both commercial and labor and environment disputes either five years after the entry into force of the Agreement or within six months after benefits have been suspended or assessments paid in five proceedings initiated under this Agreement, whichever occurs first.

Chapter Twenty: Exceptions

Chapter Twenty sets out exceptions that apply to the entire Agreement. Article XX of GATT 1994 and its interpretive notes are incorporated into and made part of the Agreement and apply to those Chapters related to treatment of goods. Likewise, for the purposes of Chapters Ten (Cross Border Trade in Services), Twelve (Telecommunications), and Thirteen (Electronic Commerce), GATS Article XIV (including its footnotes) is incorporated into and made part of the Agreement. For both goods and services, the Parties understand that these exceptions include certain environmental measures.

Essential Security. Chapter Twenty allows each Party to take actions it considers necessary to protect its essential security interests.

Taxation. An exception for taxation limits the field of tax measures subject to the Agreement. For example, the exception generally provides that the Agreement does not affect either Party's rights or obligations under any tax convention. The exception sets out certain circumstances under which tax measures are subject to the Agreement's national treatment obligation for goods and national treatment and MFN obligations for services.

Disclosure of Information. The Chapter also provides that a Party may withhold information from the other Party where such disclosure would impede domestic law enforcement or otherwise be contrary to the Party's law protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions.

Chapter Twenty-One: Final provisions

Chapter Twenty-One provides that the Parties may amend the Agreement subject to applicable domestic procedures. It also provides for consultations if any provision of the WTO Agreement that the Parties have incorporated into the Agreement is amended.

Chapter Twenty-One establishes that any other country or group of countries may become a party to the Agreement on terms and conditions that are agreed upon between the country or countries and the Parties and that are approved according to each country's domestic procedures. The Chapter also permits non-application of the agreement between a Party and a newly acceding country or group of countries. It also provides for the entry into force of the Agreement and for its termination 180 days after a Party provides written notice that it intends to withdraw.

E. General Description of the Bill To Implement the United States-Bahrain Free Trade Agreement

Sec. 1. Short title; table of contents

This section provides that the short title of the act implementing the United States-Bahrain Free Trade Agreement (the Agreement) is the "United States-Bahrain Free Trade Agreement Implementation Act" (Implementation Act). Section 1 also provides the table of contents for the Implementation Act.

Sec. 2. Purposes

This section provides that the purposes of the Implementation Act are to approve and implement the Agreement, to strengthen and develop economic relations between the United States and Bahrain, to establish free trade between the United States and Bahrain through the reduction and elimination of barriers to trade in goods and services, and to lay the foundation for further cooperation to expand and enhance the benefits the Agreement.

Sec. 3. Definitions

This section defines the terms "Agreement," "HTS," and "Textile or apparel good," for purposes of the Implementation Act.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

Sec. 101. Approval and entry into force of the Agreement

This section provides congressional approval for the Agreement and its accompanying Statement of Administration Action. Section 101 also provides that, if the President determines that Bahrain has taken measures necessary to comply its obligations that take effect at the time the Agreement enters into force, the President is authorized to exchange notes with Bahrain to provide for the entry into force of the Agreement with respect to the United States on or after January 1, 2006.

Sec. 102. Relationship of the Agreement to United States and state law

This section establishes the relationship between the Agreement and U.S. law. Section 102 clarifies that no provision of the Agreement will be given effect under domestic law if it is inconsistent with federal law, including provisions of federal law enacted or amended by the Implementation Act.

Section 102 provides that only the United States may bring an action in court if there is an unresolved conflict between a state law and the Agreement. This section also precludes any private right of action against the federal government, state or local governments, or against a private party, based on the provisions of the Agreement.

Sec. 103. Implementing actions in anticipation of entry into force and initial regulations

This section provides that, following the enactment of the Implementation Act, the President may proclaim such actions, and other appropriate officers of the federal government may issue such regulations, as may be necessary to ensure that provisions of the legislation that take effect on the date the Agreement enters into force are appropriately implemented on such date. Section 103 provides that, with respect to any action proclaimed by the President that is not subject to the consultation and layover provisions contained in section 104, such action may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register. The 15-day restriction is waived, however, to the extent that it would prevent an action from taking effect on the date the Agreement enters into force. Section 103 also provides that, to the maximum extent feasible, initial regulations necessary or appropriate to carry out the actions required by the Implementation Act or proposed in the Statement of Administrative Action shall be issued within 1 year of the date on which the Agreement enters into force. In accordance with the accompanying Statement of Administrative Action, any agency unable to issue a regulation within one year must report to the Committee, at least 30 days prior to the end of the 1-year period, the reasons for the delay and the expected date for issuance of the regulation.

Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions

This section sets forth consultation and layover steps that must precede the President's implementation of any duty modification by proclamation. Under the consultation and layover provisions, the President is required to obtain advice regarding a proposed action from the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. § 2155) and the U.S. International Trade Commission. The President must also submit to the Senate Committee on Finance and the House Committee on Ways and Means a report setting forth the action proposed, the reasons for the proposed action, and the advice of the appropriate advisory committees and the U.S. International Trade Commission. Section 104 sets aside a 60-day period following the date of transmittal of the report for the President to consult with the Senate Committee on Finance and the House Committee on Ways and Means on the proposed action.

Sec. 105. Administration of dispute settlement proceedings

This section authorizes the President to establish or designate within the Department of Commerce an office responsible for providing administrative assistance to dispute settlement panels established under Chapter 19 of the Agreement. Section 105 also authorizes the appropriation of funds to support this office.

Sec. 106. Effective dates; effect of termination

This section provides that the provisions of the Implementation Act and the amendments made by it take effect on the date on which the Agreement enters into force, except for sections 1 through 3 and Title I, which take effect on the date of enactment of the Implementation Act. Under section 106, the provisions of the Implementation Act and the amendments to other statutes made by it will cease to have effect on the date on which the Agreement terminates.

TITLE II—CUSTOMS PROVISIONS

Sec. 201. Tariff modifications

Section 201(a) authorizes the President to implement by proclamation the modification, continuation, or imposition of duties, or the continuation of duty-free treatment, as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, 3.2.8, and 3.2.9, and Annex 2–B (Tariff Elimination) of the Agreement. In addition, section 201(a) requires the President to terminate the designation of Bahrain as a beneficiary developing country for purposes of the U.S. Generalized System of Preferences on the date on which the Agreement enters into force.

Section 201(b) authorizes the President, subject to the consultation and layover provisions of section 104, to proclaim the continuation, modification, or imposition of additional tariffs, or the continuation of duty-free treatment, as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Bahrain provided for by the Agreement.

Section 201(c) authorizes the President, with respect to any good for which the base rate of duty in the Tariff Schedule of the United States to Annex 2–B (Tariff Elimination) of the Agreement is a specific or compound rate of duty, to substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

Sec. 202. Rules of origin

Section 202 implements the general rules of origin set forth in Chapter 4 of the Agreement. These rules define the circumstances under which a good imported from Bahrain qualifies as an originating good and is thus eligible for preferential tariff treatment according to the terms of the Agreement.

Under section 202(b), for a good entering the United States to qualify as an originating good, it must be imported directly from the territory of Bahrain. Further, section 202(b) provides that the good must be covered by one of three specified categories. First, a good is an originating good if it is wholly the growth, product, or manufacture of Bahrain or the United States, or both.

Second, a good is an originating good if it is a new or different article of commerce that has been grown, produced, or manufactured in Bahrain or the United States, or both, i.e. the good has undergone a "substantial transformation." Additionally, the sum of the value of each material produced in Bahrain or the United States, or both, and the direct costs of processing operations performed in Bahrain or the United States, or both, must be at least 35 percent of the appraised value of the good at the time the good is entered into the United States. This "substantial transformation" rule of origin is akin to rules of origin provided for in the United States-Israel Free Trade Area Implementation Act, the United States-Jordan Free Trade Area Implementation Act, and the United States-Morocco Free Trade Agreement Implementation Act.

Third, a good is an originating good if it meets the product-specific rules set out in Annex 3–A (Rules of Origin for Textile or Apparel Goods for Chapters 42, 50 Through 63, 70, and 94) or Annex 4–A (Certain Product-Specific Rules of Origin) of the Agreement and satisfies all other applicable requirements of section 202. Moreover, each of the non-originating materials used in the production of the good must have undergone an applicable change in tariff classification specified in Annex 3–A or Annex 4–A as a result of production occurring entirely in the territory Bahrain or the United States, or both, or the good must otherwise satisfy the requirements specified in Annex 3–A or Annex 4–A.

Section 202(c) provides a rule of cumulation for an originating good or material produced in the territory of Bahrain or the United States, or both, that is incorporated into a good in the territory of the other country. Section 202(d) provides rules for valuing a material produced in the territory of Bahrain or the United States, or both. Section 202(e) addresses the treatment of packaging and packing materials and containers for retail sale and for shipment in determining whether a good qualifies as an originating good. Section 202(f) addresses the treatment of indirect materials in determining whether a good qualifies as an originating good. Section 202(g) addresses the issue of transit and transshipment in determining the origin of a good.

Section 202(h) provides certain specific rules of origin for textile and apparel goods, including a de minimis rule. Section 202(h)(1)(A) provides that a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component. An exception to section 202(h)(1)(A) is provided, however, at section 202(h)(1)(B), which states that a textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Bahrain or the United States.

Section 202(i) provides definitions of the following terms applicable to the rules of origin: (1) "direct costs of processing operations," (2) "good," (3) "good wholly the growth, product, or manufacture of Bahrain or the United States, or both," (4) "indirect material," (5) "material," (6) "material produced in the territory of Bahrain or the United States, or both," (7) "new or different article of commerce," (8) "recovered goods," (9) "remanufactured good," (10) "simple combining or packaging operations," and (11) "substantially transformed."

Section 202(j) authorizes the President to proclaim, as part of the Harmonized Tariff Schedule of the United States, the provisions set forth in Annex 3–A (Rules of Origin for Textile or Apparel Goods for Chapters 42, 50 Through 63, 70, and 94) and Annex 4–A (Certain Product-Specific Rules of Origin) of the Agreement, and to modify certain of the Agreement's rules of origin by proclamation subject to the consultation and layover provisions of section 104.

Sec. 203. Customs user fees

This section provides for the immediate elimination of the merchandise processing fee for goods qualifying as originating goods under the Agreement. Processing of goods qualifying as originating goods will be financed from the general fund of the Treasury.

Sec. 204. Enforcement relating to trade in textile and apparel goods

This section authorizes the President to apply anti-circumvention provisions concerning trade in textile and apparel goods. Pursuant to article 3.3 of the Agreement, the Secretary of the Treasury may request that the Government of Bahrain conduct a verification to determine the compliance of exporters and producers with applicable customs laws, regulations, and procedures affecting trade in textile or apparel goods, and to determine the accuracy of a claim of origin for a textile or apparel good. Section 204(a) provides that the President may direct the Secretary of the Treasury to take "appropriate action" while such a verification is being conducted. Under section 204(b), such appropriate action includes the suspension of liquidation of the entry of any textile or apparel good exported or produced by the person subject to a verification, and the suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification.

Section 204(c) provides that, if the Secretary of the Treasury is unable to confirm within 12 months of making a verification request that a Bahraini exporter or producer is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods, or that a claim of origin for a textile or apparel good is accurate, the President may determine what additional "appropriate action" to take. Under section 204(d), such additional appropriate action includes: the publication of the name and address of the person subject to the verification; the denial of preferential tariff treatment under the Agreement to (1) any textile or apparel good exported or produced by the person subject to the verification or (2) a textile or apparel good for which a claim has been made that is the subject of the verification; and, the denial of entry into the United States of (1) any textile or apparel good exported or produced by the person subject to the verification or (2) a textile or apparel good for which a claim has been made that is the subject of the verification. Section 204(c) also provides that such additional appropriate action may remain in effect until such time as the Secretary of the Treasury receives information sufficient to make a determination that an exporter or producer in Bahrain is complying with applicable customs laws, regulations, and procedures affecting trade in textile or apparel goods, or a determination that a claim of origin for a textile or apparel good under the Agreement is accurate. However, section 204(c) further provides that such additional appropriate action may remain in effect until such earlier date as the President may direct.

Sec. 205. Regulations

Section 205 authorizes the Secretary of the Treasury to prescribe regulations necessary to carry out the rules of origin and customs user fee provisions in the Implementation Act, as well as with respect to the President's proclamation authority under section 202(j).

TITLE III—RELIEF FROM IMPORTS

Sec. 301. Definitions

This section defines the terms "Bahraini article," "Bahraini textile or apparel article," and "Commission," for purposes of the general bilateral safeguard provision contained in Chapter 8 of the Agreement and the textile and apparel bilateral safeguard provision contained in Chapter 3 of the Agreement. The term "Bahraini article" is defined as an article that qualifies as an originating good under section 202(b) of the Implementation Act or receives preferential tariff treatment under paragraphs 8 through 11 of article 3.2 of the Agreement. The term "Bahraini textile or apparel article" is defined as a Bahraini article that is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. § 3511(d)(4)). The term "Commission" is defined as the United States International Trade Commission.

SUBTITLE A. RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

Sec. 311. Commencing of action for relief

This section requires the filing of a petition with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry, in order to commence a bilateral safeguard investigation.

Section 311(b) provides that, upon the filing of a petition, the Commission shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Bahraini article is being imported into the United States in such increased quantities and under such conditions that imports of the Bahraini article constitute a substantial cause of serious injury, or threat of serious injury, to the domestic industry producing an article that is like, or directly competitive with, the imported article.

Section 311(c) extends certain provisions (both substantive and procedural) contained in subsections (b), (c), and (i) of section 202 of the Trade Act of 1974 (19 U.S.C. § 2252(b), (c), and (i)) that apply to global safeguard investigations, to any bilateral safeguard initiated under the Agreement. These provisions include, inter alia, the requirement that the Commission publish notice of the commencement of an investigation; the requirement that the Commission hold a public hearing at which interested parties and consumers have the right to be present and to present evidence; the factors to be taken into account by the Commission in making its determinations; and, authorization for the Commission to promulgate regulations to provide access to confidential business information under protective order to authorized representatives of interested parties in an investigation.

Section 311(d) precludes the initiation of a bilateral safeguard investigation with respect to any Bahraini article for which import relief has already been provided under this bilateral safeguard provision.

Sec. 312. Commission action on petition

This section establishes deadlines for Commission action following the initiation of a bilateral safeguard investigation. Section 312(b) applies certain statutory provisions that address an equally divided vote by the Commission in a global safeguard investigation under section 202 of the Trade Act of 1974 (19 U.S.C. § 2252) to Commission determinations and findings under this section. If the Commission renders an affirmative injury determination, or a determination that the President may consider to be an affirmative determination in the event of an equally divided vote by the Commission, section 312(c) requires that the Commission also find and recommend to the President the amount of import relief that is necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. Section 312(d) specifies the information to be included by the Commission in a report to the President regarding its determination. Upon submitting the requisite report to the President, section 312(e) requires the Com-

mission to promptly make public a summary of such report, except for any confidential information contained in the report.

Sec. 313. Provision of relief

This section directs the President, not later than 30 days after receiving the report from the Commission, to provide relief from imports of the article subject to an affirmative determination by the Commission, or a determination that the President considers to be an affirmative determination in the event of an equally divided vote by the Commission, to the extent that the President determines necessary to remedy or prevent the injury 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 provision of the import relief will not provide greater economic and social benefits than costs.

Section 313(c) specifies the nature of the import relief that the President may impose, to include: the suspension of any further reduction in duty provided for under Annex 2–B of the Agreement; and, an increase in the rate of duty imposed on such article to a level that does not exceed the lesser of: (1) the normal trade relations (most-favored-nation) (NTR (MFN)) duty rate imposed on like articles at the time the import relief is provided, or (2) the NTR (MFN) duty rate imposed on like articles on the day before the date on which the Agreement enters into force. Section 313(c) also requires that, if the period for which import relief is provided exceeds one year, the President shall provide for the progressive liberalization of such relief at regular intervals during the period of its application.

Section 313(d) provides that any import relief that the President imposes in a bilateral safeguard action may not, in the aggregate, be in effect for more than 3 years. If the initial period of import relief is less than 3 years, the President may extend the effective period of such import relief to a total of no more than 3 years; however, the Commission must first report an affirmative determination to the President that import relief continues to be necessary to remedy or prevent serious injury and that there is evidence that the domestic industry is making a positive adjustment to import competition (or a determination that the President considers to be an affirmative determination in the event of an equally divided vote by the Commission). The President may then extend the effective period of import relief to a total of no more than 3 years if the President determines that import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition, and that there is evidence that the domestic industry is making a positive adjustment to import competition.

Section 313(e) provides that upon termination of import relief with respect to an article under the bilateral safeguard provision, the rate of duty to be applied to imports of that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

Section 313(f) precludes the application of import relief pursuant to the bilateral safeguard provision with respect to any Bahraini article for which import relief has already been provided under the

bilateral safeguard provision after the date on which the Agreement enters into force.

Sec. 314. Termination of relief authority

This section provides that the President's authority to impose import relief under the bilateral safeguard provision ends after the date that is 10 years after the date on which the Agreement enters into force; however, import relief may continue to be provided beyond such date with respect to an article subject to such import relief pursuant to the bilateral safeguard provision if the President determines that Bahrain consents to the application of such relief.

Sec. 315. Compensation authority

This section authorizes the President, under section 123 of the Trade Act of 1974 (19 U.S.C. § 2133), to grant Bahrain new concessions as compensation for the imposition of import relief pursuant to the bilateral safeguard provision, in order to maintain the general level of reciprocal concessions under the Agreement.

Sec. 316. Confidential business information

This section applies the same procedures for the treatment and release of confidential business information by the Commission in a global safeguard investigation under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. § 2251 et seq.) to bilateral safeguard investigations under subtitle A of Title III of the Implementation Act.

SUBTITLE B. TEXTILE AND APPAREL SAFEGUARD MEASURES

Sec. 321. Commencement of action for relief

This section requires the filing of a request with the President by an interested party in order to commence action for relief under the textile and apparel safeguard provision. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request. Section 321(b) provides that, if the President determines that the request provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

The Committee notes that our regulatory processes should be administered in an open and transparent manner that can serve as a model for our trading partners. For example, in addition to publishing a summary of a request for safeguard relief, the Committee notes that the President plans to make available the full text of the request on the website of the International Trade Administration of the U.S. Department of Commerce, subject to the protection of business confidential information, if any. The Committee encourages this and similar efforts to enhance government transparency. In particular, the Committee encourages the President to issue regulations on procedures for: requesting a textile and apparel safeguard action under section 321(a) of the Implementation Act; making a determination under section 322(a) of the Implementation

Act; providing safeguard relief under section 322(b) of the Implementation Act; and, extending safeguard relief under section 323(b) of the Implementation Act.

Sec. 322. Determination and provision of relief

This section provides that following the President's commencement of consideration of a request, the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Bahraini textile or apparel article is being imported into the United States in such increased quantities 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(a) provides that in making such a determination the President shall examine the effect of increased imports on the domestic industry's output, productivity, capacity utilization, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive. Section 322(a) also provides that the President shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

Section 322(b) authorizes the President, in the event of an affirmative determination of serious damage or actual threat thereof, to provide import relief to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry to import competition. Section 322(b) also specifies the nature of the import relief that the President may impose, to consist of an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of: (1) the NTR (MFN) duty rate imposed on like articles at the time the import relief is provided, or (2) the NTR (MFN) duty rate imposed on like articles on the day before the date on which the Agreement enters into force.

Sec. 323. Period of relief

Section 323(a) provides that any import relief that the President imposes under the textile and apparel safeguard provision may not, in the aggregate, be in effect for more than 3 years. If the initial period of import relief is less than 3 years, then under section 323(b) the President may extend the effective period of such import relief to a total of no more than 3 years if the President determines that the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition, and that there is evidence that the domestic industry is making a positive adjustment to import competition.

Sec. 324. Articles exempt from relief

This section precludes the President from providing import relief under the textile and apparel safeguard provision with respect to any article for which import relief has already been provided under the textile and apparel safeguard provision after the date on which the Agreement enters into force. Section 324 also precludes the President from providing import relief under the textile and apparel safeguard provision with respect to any article that is already

subject to import relief pursuant to the global safeguard provision set forth in chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. § 2251 et seq.).

Sec. 325. Rate after termination of import relief

This section provides that the duty rate applicable to a textile or apparel article after termination of the import relief shall be the duty rate that would have been in effect, but for the provision of such import relief, on the date on which the relief terminates.

Sec. 326. Termination of relief authority

This section provides that the President's authority to provide import relief with respect to an article under the textile and apparel safeguard provision terminates after the date that is 10 years after the date on which duties on the article are eliminated pursuant to the Agreement.

Sec. 327. Compensation authority

This section authorizes the President, under section 123 of the Trade Act of 1974 (19 U.S.C. § 2133), to grant Bahrain new concessions as compensation for the imposition of import relief pursuant to the textile and apparel safeguard provision, in order to maintain the general level of reciprocal concessions under the Agreement.

Sec. 328. Confidential business information

This section precludes the President from releasing information received in a textile and apparel safeguard proceeding that the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. This section also provides that, to the extent a party submits confidential business information to the President, the party shall also submit a nonconfidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

TITLE IV—PROCUREMENT

Sec. 401. Eligible products

This section amends section 308(4)(A) of the Trade Agreements Act of 1979 (19 U.S.C. § 2518(4)(A)) to implement the government procurement provisions of the Agreement.

F. Vote of the Committee in Reporting the Bill

In compliance with section 133 of the Legislative Reorganization Act of 1946, the Committee states that on November 18, 2005, S. 2027 was ordered favorably reported, without amendment, by recorded vote, 20 ayes, 0 nays, a quorum being present.

II. BUDGETARY IMPACT OF THE BILL

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 29, 2005.

Hon. CHARLES E. GRASSLEY,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2027, a bill to implement the United States-Bahrain Free Trade Agreement.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Emily Schlect.

Sincerely,

DONALD B. MAY
(For Douglas Holtz-Eakin, *Director*).

Enclosure.

S. 2027—United States-Bahrain Free Trade Agreement Implementation Act

Summary: S. 2027 would approve the free trade agreement between the government of the United States and the government of Bahrain that was entered into on September 14, 2004. 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 $20 million in 2006, by $143 million over the 2006–2010 period, and by $341 million over the 2006–2015 period, net of income and payroll tax offsets. CBO estimates that enacting S. 2027 also would increase direct spending by $1 million in 2006, $3 million over the 2006–2010 period, and $6 million over the 2006–2015 period.

CBO has determined that S. 2027 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 S. 2027 over the 2006–2015 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—									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Changes in Revenue										
Changes in Revenue	−20	−28	−30	−32	−34	−35	−37	−39	−42	−45
Changes in Direct Spending										
Estimated Budget Authority	1	1	1	1	1	1	1	1	1	0
Estimated Outlays	1	1	1	1	1	1	1	1	1	0

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

Basis of estimate

Revenues

Under the United States-Bahrain agreement, tariffs on U.S. imports from Bahrain 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 $29 million in customs duties in 2004 on $406 million of imports from Bahrain. Those imports consist largely of various types of apparel articles, oils, aluminum, and chemicals. Based on these data, CBO estimates that phasing out tariff rates at outlined in the U.S.-Bahrain agreement would reduce revenues by $20 million in 2006, by $143 million over the 2006–2010 period, and by $341 million over the 2006–2015 period, net of income and payroll tax offsets.

This estimate includes the effects of increased imports from Bahrain 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 Bahrain 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 Bahrain would displace imports from other countries.

Direct spending

This legislation would exempt certain goods imported from Bahrain from the 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 those countries in 2004, CBO estimates that implementing this provision would reduce fee collections by under $1 million in fiscal year 2006 and in each year through 2014, for a total of $6 million over the 2006–2014 period. There would be no effects in later years because the authority to collect merchandise processing fees expires at the end of 2014.

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 November 22, 2005, CBO transmitted a cost estimate of H.R. 4340, an identically titled bill ordered reported by the House Committee on Ways and Means on November 18, 2005. The two bills are identical, as are CBO's estimates.

Estimate prepared by: Federal Revenues: Emily Schlect. Federal Spending: Mark Grabowicz. 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.

III. REGULATORY IMPACT OF THE BILL AND OTHER MATTERS

Pursuant to the requirements of paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee states that the bill will not significantly regulate any individuals or businesses,

will not affect the personal privacy of individuals, and will result in no significant additional paperwork.

The following information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. No. 104–04). The Committee has reviewed the provisions of S. 2027 as approved by the Committee on November 18, 2005. In accordance with the requirement of Pub. L. No. 104–04, the Committee has determined that the bill contains no intergovernmental mandates, as defined in the UMRA, and would not affect the budgets of State, local, or tribal governments.

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

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, 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 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 II of the United State-Singapore Free Trade Agreement Implementation Act, title II of the United States-Australia Free Trade Agreement Implementation Act, title III of the United States-Morocco Free Trade Agreement Implementation Act, [and] 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.* 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.

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SECTION 308 OF THE TRADE AGREEMENTS ACT OF 1979

SEC. 308. DEFINITIONS.

As used in this title—

(1) * * *

* * * * * * *

(43) ELIGIBLE PRODUCTS.—

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

(i) * * *

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

(iii) a party to a free trade agreement that entered into force with respect to the United States after December 31, 2003, and before January 2, 2005, a product or service of that country or instrumentality which is covered under the free trade agreement for procurement by the United States; **[**or**]**

(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.

* * * * * * *

SECTION 13031 OF THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) * * *

(b) LIMITATIONS ON FEES.—(1) * * *

* * * * * * *

[(13) 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-Singapore 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.**]**

(13) 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-Singapore 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 Customers User Fee Account.

* * * * * * *

[(15) No fee may be charged under subsection (a) (9) or (10) with respect to goods and that qualify as originating goods under secton 203 of the Dominican Republic-Central America-United States 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.]

(15) No fee may be charged under subsection (a) (9) or (10) with respect to goods and that quality as originating goods under section 203 of the Dominican Republic-Central America-United States 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.

(16) No fee may be charged under subsection (a) (9) or (10) with respect to goods and that quality as originating goods under section 203 of the United States-Bahrain 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.

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