

1 EXECUTIVE COMMITTEE MEETING TO REVIEW AND MAKE  
2 RECOMMENDATIONS ON PROPOSED LEGISLATION IMPLEMENTING THE  
3 U.S.-BAHRAIN FREE TRADE AGREEMENT  
4 WEDNESDAY, NOVEMBER 9, 2005  
5 U.S. Senate,  
6 Committee on Finance,  
7 Washington, DC.

8 The meeting was convened, pursuant to notice, at  
9 10:03 a.m., in room SD-215, Dirksen Senate Office  
10 Building, Hon. Charles E. Grassley (chairman of the  
11 committee) presiding.

12 Also present: Senators Hatch, Lott, Snowe, Kyl,  
13 Thomas, Santorum, Frist, Smith, Bunning, Crapo, Baucus,  
14 Rockefeller, Conrad, Jeffords, Bingaman, Kerry, Lincoln,  
15 and Wyden.

16 Also present: Lewis Karesh, Assistant U.S. Trade  
17 Representative for Labor; Ambassador Shaun Donnelly,  
18 Assistant U.S. Trade Representative for Europe and the  
19 Mediterranean; James Mendenhall, General Counsel, U.S.  
20 Trade Representative.

21 Also present: Kolan Davis, Republican Staff  
22 Director; Russ Sullivan, Democratic Staff Director; Ted  
23 Totman, Deputy Republican Staff Director; Everett  
24 Eissenstat, Republican Chief International Trade Counsel  
25 for Finance; David Johanson, Republican Trade Counsel;

1       Janis Lazda, Democratic Detailee; and Carla Martin,  
2 Chief Clerk.  
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1 OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, CHAIRMAN,  
2 COMMITTEE ON FINANCE

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4 The Chairman. Good morning, everybody. Today the  
5 committee is reviewing and making informal  
6 recommendations on proposed legislation that implements  
7 the U.S.-Bahrain Free Trade Agreement.

8 Before we begin with technical review, let me say a  
9 few words that I feel about the agreement. The U.S.-  
10 Bahrain FTA will benefit U.S. farmers, workers,  
11 manufacturers, and service industries.

12 Under this agreement, 100 percent of trade between  
13 the United States and Bahrain in industrial and consumer  
14 products will become duty-free immediately. Bahrain will  
15 grant duty-free access on day one of the agreement for 98  
16 percent of U.S. tariff lines, and tariffs on the  
17 remaining 2 percent of agricultural tariff lines will be  
18 phased out over 10 years.

19 Bahrain will also provide significant market access  
20 for U.S. service providers. I realize that Bahrain is  
21 not a large market, but the U.S.-Bahrain FTA will indeed  
22 result in real benefits for Americans, including my own  
23 State of Iowa.

24 The HNI Corporation, which used to be known as Hohn  
25 Corporation, is an office furniture manufacturer based in

1 Muscatine, Iowa, and looks forward to increased business  
2 in Bahrain on account of this agreement.

3 Lenex, manufacturers of residential heating and  
4 cooling products in Marshalltown, Iowa has strong  
5 interests in the Bahrain market and anticipates growing  
6 sales there following implementation of the agreement.

7 A small Iowa company that supplies Hillah foods and  
8 food service equipment to restaurants, hotels, and  
9 distributors worldwide, Midamar Corporation of Cedar  
10 Rapids, also stands to gain from this agreement and they  
11 are a very sophisticated company already doing a lot of  
12 business in Muslim worlds.

13 Importantly, the U.S.-Bahrain Free Trade Agreement  
14 will serve as a model for other trade agreements that the  
15 United States will negotiate in the Middle East. In this  
16 way, the U.S.-Bahrain Free Trade Agreement will  
17 ultimately lead to even further liberalization in the  
18 region.

19 Thus, the benefits that the HNI Corporation, Lenex,  
20 Midamar, and other U.S. businesses will receive from this  
21 agreement will be multiplied as other Arab countries  
22 adopt agreements that will be modeled in large part on  
23 this agreement.

24 Today, the committee will be reviewing the  
25 legislation designed to implement the agreement. The

1 committee's informal consideration of the legislation is  
2 part of the consultative process envisioned in trade  
3 promotion authority.

4 It is an informal act which is not required as part  
5 of trade promotion authority. Still, I think it is  
6 important to review this bill in a public forum, provide  
7 an opportunity to comment on the bill, and propose  
8 potential legislative changes.

9 What the committee has befoer it, is a modified  
10 Chairman's mark. The modification includes language in  
11 the proposed Statement of Administrative Action  
12 recognizing the effect of Bahrain to dismantle its  
13 primary boycott of Israel.

14 The modification notes that the administration  
15 intends to monitor and report on the effects of Bahrain  
16 to dismantle this boycott as part of the National Trade  
17 Estimates report, so I applaud Bahrain for taking these  
18 steps. The Arab League boycott of Israel is clearly a  
19 discriminatory trade practice and it has no place in a  
20 free market, modern economy.

21 I understand the administration intends to closely  
22 monitor these efforts and that they have agreed to  
23 include modified language as part of the final Statement  
24 of Administrative Action which will soon be sent to  
25 Congress.

1           At this point, I call upon Ranking Member Senator  
2 Baucus. Following Senator Baucus' remarks, we will have  
3 staff provide a brief oral summary of the implementation  
4 bill. We will then open it for comments and  
5 recommendations from other members.

6           I would like to remind members that we need to have a  
7 quorum to vote on the modified recommendations yet today,  
8 and I understand that an effort will be made to have a  
9 sufficient number of Senators to constitute a quorum,  
10 hopefully at 10:15.

11           As soon as a quorum is present, then without  
12 interrupting Senator Baucus, I would ask that the  
13 committee's recommendations be voted upon.

14           Senator Baucus?

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1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM  
2 MONTANA

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4 Senator Baucus. Thank you, Mr. Chairman. You can  
5 interrupt me at any time if we have a quorum.

6 The Chairman. All right. Thank you.

7 Senator Baucus. Obviously, today's meeting is quite  
8 important in the process of considering the legislation  
9 to implement the U.S.-Bahrain Free Trade Agreement.

10 Under the fast track procedures adopted in the Trade  
11 Act of 2002, this mock mark-up is the first, and it is  
12 the only time, implementing legislation will receive  
13 formal public scrutiny prior to its introduction.

14 Today's mark-up is, without a doubt, significant, but  
15 a mark is neither a beginning or an end. Instead, this  
16 agreement is a milestone and a long road of economic  
17 partnership.

18 The road began in 1999, when the United States and  
19 Bahrain concluded a bilateral investment treaty that  
20 provides important safeguards to investment in both  
21 countries.

22 The road continued in 2002, when Bahrain took steps  
23 to initiate labor market reforms. In the Middle East,  
24 these reforms were truly ground-breaking. They were bold  
25 and showed Bahrain's willingness to better serve its

1 workers.

2 Today, Bahraini unions are growing in size, strength,  
3 and significance, giving the economy a pillar of respect  
4 and productivity and its workers a voice. With this FTA,  
5 we will continue down this road.

6 Bahrain has agreed to eliminate nearly all of its  
7 tariffs on U.S. agriculture exports, exports of wheat,  
8 fruit, and, I trust, Montana beef, are expected to rise  
9 as a result. Bahrain has also committed to maintain  
10 open, transparent, and liberalized markets for goods and  
11 services.

12 On the first day of enactment of the U.S.-Bahrain  
13 Free Trade Agreement, 100 percent of trade in  
14 manufactured goods will be duty-free. That means U.S.  
15 exports of automobiles, auto parts, medical devices, air  
16 conditioning, and other refrigeration equipment will  
17 continue to grow.

18 On services, the agreement's commitments are the most  
19 robust of any agreement the United States has ever  
20 negotiated. Bahrain has promised American companies  
21 doing business in the Kingdom a regime free of barriers,  
22 modern in its regulation, and respectful of intellectual  
23 property rights.

24 We should commend Bahrain for the difficult political  
25 decisions they have made to secure this agreement. Chief



1 among these, was its commitment to forego any further  
2 participation in the Arab League boycott of Israel.

3 While in my view this was a necessary step for any  
4 potential FTA partner, we should nevertheless recognize  
5 the courage to take what is in some quarters an unpopular  
6 step.

7 This agreement is not without some controversy.  
8 During the negotiations, Bahrain committed to make  
9 various further changes to its labor laws beyond those it  
10 made in 2002, but those changes have yet to be made. I  
11 have full confidence that this issue will be addressed  
12 and that the agreement will secure a wide margin of  
13 support in the Congress.

14 I commend Bahrain for what it has accomplished in a  
15 few short years, and I applaud the hard-working staff of  
16 the USTR's office for negotiating what I think is a good  
17 agreement.

18 Bahrain is a strong military ally, an enthusiastic  
19 economic partner, the most open economy in the Middle  
20 East. The U.S.-Bahrain Free Trade Agreement is a good  
21 model for future FTAs in the Middle East, and I look  
22 forward to offering it my full support.

23 Thank you, Mr. Chairman.

24 The Chairman. I thank you very much.

25 I would now ask that David Johanson provide a brief

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1 overview of the agreement. I also want to note that we  
2 have several administration experts with us today to help  
3 answer any questions that members might have: Shaun  
4 Donnelly, Assistant U.S. Trade Representative for Europe  
5 and the Mediterranean, and General Counsel Jim  
6 Mendenhall.

7 Mr. Johanson?

8 Mr. Johanson. Thank you, Chairman Grassley, Ranking  
9 Member Baucus, and members of the committee. I am  
10 pleased to have the opportunity to summarize the  
11 administration's proposed implementing bill for the U.S.-  
12 Bahrain Free Trade Agreement.

13 I will first provide a general overview of the  
14 implementing bill, and I will next highlight specific  
15 provisions of the legislation.

16 First, an overview. The bill is divided into four  
17 titles. Title 1 approves the agreement and establishes a  
18 proclamation authority for the President, and regulatory  
19 authority for the administration, to implement the  
20 agreement.

21 Title 2 contains changes to Customs law that are  
22 necessary or appropriate to implement the agreement.  
23 Title 3 implements in U.S. law the agreement's bilateral  
24 safeguard and textile and apparel safeguard. Title 4  
25 amends U.S. law with regard to government procurement.

1 I will now turn to some specific provisions of the  
2 bill. Within Title 1, Section 101 provides for  
3 Congressional approval of the agreement in the  
4 accompanying Statement of Administrative Action.  
5 Congressional approval of the agreement and the Statement  
6 of Administrative Action is necessary for the bill to  
7 qualify under trade promotion authority procedures.

8 Article 102 of the bill establishes the relationship  
9 of the agreement to Federal and State law. Section 103  
10 provides the authority for new or amended regulations to  
11 be issued, and for the President to proclaim actions  
12 implementing the provisions of the agreement as of the  
13 date the agreement enters into force.

14 Section 104 sets forth consultation and layover steps  
15 that must precede the President's implementation of any  
16 duty modification by proclamation.

17 I will now turn to Title 2 and summarize the Customs  
18 provisions of the proposed bill. Section 201 authorizes  
19 the President to implement by proclamation the  
20 continuation, modification, or elimination of tariffs as  
21 the President determines to be necessary or appropriate  
22 to carry out the terms of the agreement.

23 Remaining sections of Title 2 of the implementing  
24 bill establish rules of origin for goods to qualify for  
25 preferential treatment under the agreement, authorize

1 actions to be taken by the administration to enforce the  
2 textile and apparel rules of origin, and authorize the  
3 Secretary of the Treasury to prescribe regulations as may  
4 be necessary to carry out the tariff-related provisions  
5 of the bill.

6 Title 3 of the bill establishes the bilateral and  
7 textile safeguard provisions of the agreement. Subtitle  
8 A of Title 3 sets forth procedures for the conduct of  
9 bilateral safeguard investigations by the International  
10 Trade Commission, exempts articles from relief if relief  
11 has previously been granted under the bilateral  
12 safeguard, sets a maximum period of relief under the  
13 bilateral safeguard at three years, and authorizes the  
14 President to provide trade compensation when the United  
15 States imposes relief through bilateral safeguard  
16 actions.

17 Subtitle B of Title 3 sets forth procedures for the  
18 application of the agreement's textile and apparel  
19 safeguard measures. Under the textile safeguard,  
20 determinations for relief will be made by the President,  
21 not the International Trade Commission.

22 Subtitle B also provides that the maximum period of  
23 relief under the textile safeguard is three years. It  
24 exempts articles from relief if relief has been  
25 previously granted under this safeguard, or if the

1 article is subject to import relief under the global  
2 safeguard of Section 201 of the Trade Act of 1974, and  
3 authorizes the President to provide compensation when the  
4 United States imposes relief through the textile  
5 safeguard.

6 Title 4 of the bill amends the Trade Agreement Act of  
7 1979 to allow for the non-discriminatory procurement of  
8 products and services of Bahrain.

9 Mr. Chairman, that concludes my summary of the  
10 proposed implementing bill. I would be pleased to answer  
11 any questions that you or other members of the committee  
12 might have. Thank you.

13 Senator Baucus. Mr. Chairman?

14 The Chairman. Senator Baucus? I would remind  
15 everybody, just as soon as we get 11 here, we will  
16 interrupt and move on. But in the meantime, Senator  
17 Baucus?

18 Senator Baucus. Thank you, Mr. Chairman. I commend  
19 you and USTR for its efforts here. I would like, if I  
20 could, to clear up some, perhaps, uncertainty, or at  
21 least add some clarity to the Statement of Administrative  
22 Action that required the administration to monitor  
23 Bahrain's pledge to dismantle its primary boycott of  
24 Israel.

25 It is clear that Bahrain has taken a very bold and

1 courageous step here in its pledge to dismantle the  
2 boycott, and it is in our interests, as well as in  
3 Bahrain's interests, to follow up to make sure that that  
4 happens.

5 I might say, I have worked with you, Mr. Chairman and  
6 Senator Conrad, to develop an appropriate monitoring  
7 mechanism to help assure that. Given the strong interest  
8 in this issue, I would like to request that USTR include  
9 specific information in its report.

10 For example, whether these countries--and that would  
11 be all of the countries concerned, not just Bahrain--are  
12 still attending boycott meetings. That would be number  
13 one. Second, whether they have closed offices for  
14 implementing the boycott.

15 Next, whether they have changed their laws and  
16 procedures to ensure that no aspects of the boycott are  
17 being implemented.

18 It would also be useful to know with respect to  
19 Bahrain, to the extent possible, whether uncertainty  
20 about the status of the boycott has had an impact on the  
21 export of U.S.-made products with Israeli content to  
22 Bahrain, and any changes in trade between Bahrain and  
23 Israel.

24 I am just wondering, Ambassador Donnelly, whether the  
25 USTR would be willing to provide such information in its

1 annual report.

2 Mr. Donnelly. Thank you, Senator Baucus. I heard  
3 both you and Chairman Grassley comment on the desire of  
4 the committee to see aggressive monitoring and reporting  
5 on this. As you may know, we have had a section on the  
6 Arab League boycott in the annual Trade Barriers Report  
7 that USTR prepares.

8 But my understanding is, working with the Commerce  
9 and State Departments, which have resources, and our  
10 embassies in the field, we would like to try and find a  
11 way to agree on language that would give us clear  
12 direction to beef up that reporting in the context of  
13 that annual trade promotion report.

14 I am not sure what specific language is being  
15 proposed, but certainly the general concept of more  
16 reporting in the context of a Trade Barriers Report, as  
17 it relates to Bahrain, but as it relates to other members  
18 of the Arab League, would be something that would be  
19 something that we would --

20 Senator Baucus. Well, I appreciate that. But what  
21 is your reaction to some of the specifics that I have  
22 mentioned, namely whether these countries are still  
23 attending boycott meetings? Is that something that could  
24 be in the report?

25 Mr. Donnelly. I think those are the kinds of things

1 that we would be willing, to the extent we can get that  
2 information, and would be appropriate and would be the  
3 kinds of things we would envision including in the  
4 report. Yes, sir.

5 Senator Baucus. And whether these countries have  
6 closed offices for implementing the boycott.

7 Mr. Donnelly. That also is obviously very  
8 important.

9 Senator Baucus. And the degree to which they have  
10 changed their laws and procedures to ensure that no  
11 aspects of the boycott are being implemented.

12 Mr. Donnelly. Yes, sir.

13 Senator Baucus. Then again, with respect to Bahrain  
14 specifically, the degree to which uncertainty has had an  
15 impact on the export of U.S.-made products to Bahrain  
16 that may have Israeli content. That has caused problems.

17 Mr. Donnelly. Right. That is a little harder and  
18 more interpretive, but it also seems to be the kind of  
19 question we ought to be able to try to address.

20 Senator Baucus. I appreciate that, because this  
21 will go a long way, frankly, to help implement what we  
22 want to implement, to minimize uncertainty, ambiguity,  
23 that is, more clarity.

24 Mr. Donnelly. Right.

25 Senator Baucus. Thank you.



1 Thank you, Mr. Chairman.

2 The Chairman. Thank you.

3 Senator Baucus. Thank you very much, and Senator  
4 Conrad, for jointly working together.

5 The Chairman. I think what I need to have staff do  
6 at this point, is look down the hall and see if we have  
7 got five members on their way here. If we do not, then  
8 we are going to do this off the floor. Would staff check  
9 for me, please?

10 Senator Baucus. I might say, Mr. Chairman, I am a  
11 little embarrassed. I see a good number on your side but  
12 not a lot on this side. We are putting the hook out to  
13 see what we can get.

14 The Chairman. All right.

15 Would you like to have me wait a little longer than  
16 just looking down the hall?

17 Senator Baucus. Well, maybe just a little longer,  
18 but not a lot. I am not saying we are going to be too  
19 successful.

20 The Chairman. If any members have anything that  
21 they want to bring up about the trade issue, we have  
22 time.

23 Senator Bunning. Mr. Chairman, I would just put my  
24 opening statement in the record, please.

25 The Chairman. We accept that.

1           [The prepared statement of Senator Bunning appears in  
2 the appendix.]

3           The Chairman.     Senator Hatch?

4           Senator Hatch.     Mr. Chairman, I will put my opening  
5 statement in the record, too. But I just wanted to  
6 compliment Bahrain for being such a good partner with the  
7 United States of America. These are really good people.  
8 I appreciate our relationship that we have had all these  
9 years, and just want to personally express that publicly.  
10 I am really happy to support this in this matter.

11          The Chairman.     Yes.

12          [The prepared statement of Senator Hatch appears in  
13 the appendix.]

14          The Chairman.     I want to thank the eight people that  
15 showed up at the appropriate time when we were expecting  
16 to have a roll call. I think we have lost two of those  
17 eight.

18          Senator Baucus.    We are not going to make it.

19          The Chairman.     All right. We will meet off the  
20 floor during one of the roll calls today. Thank you all  
21 very much. Meeting recessed.

22          [Whereupon, at 10:22 a.m. the meeting was recessed.]

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1 AFTER RECESS

2 [3:29 p.m.]

3 The Chairman. I now reconvene this meeting of  
4 today's executive session.

5 With a quorum present, without objection, the  
6 Chairman's mark is modified.

7 I now move that the committee approve the committee's  
8 recommendations, as modified, for the proposed  
9 implementing bill for the U.S.-Bahrain Free Trade  
10 Agreement.

11 I ask for the yeas and nays. The Clerk will call the  
12 roll.

13 The Clerk. Mr. Hatch?

14 Senator Hatch. Aye.

15 The Clerk. Mr. Lott?

16 Senator Lott. Aye.

17 The Clerk. Ms. Snowe?

18 Senator Snowe. Aye.

19 The Clerk. Mr. Kyl?

20 Senator Kyl. Aye.

21 The Clerk. Mr. Thomas?

22 Senator Thomas. Aye.

23 The Clerk. Mr. Santorum?

24 Senator Santorum. Aye.

25 The Clerk. Mr. Frist?

1           Senator Frist.    Aye.  
2           The Clerk.    Mr. Smith?  
3           Senator Smith.    Aye.  
4           The Clerk.    Mr. Bunning?  
5           Senator Bunning.    Aye.  
6           The Clerk.    Mr. Crapo?  
7           Senator Crapo.    Aye.  
8           The Clerk.    Mr. Baucus?  
9           Senator Baucus.    Aye.  
10          The Clerk.    Mr. Rockefeller?  
11          Senator Rockefeller.    Aye.  
12          The Clerk.    Mr. Conrad?  
13          Senator Conrad.    Aye.  
14          The Clerk.    Mr. Jeffords?  
15          Senator Jeffords.    Aye.  
16          The Clerk.    Mr. Bingaman?  
17          Senator Bingaman.    Aye.  
18          The Clerk.    Mr. Kerry?  
19          Senator Kerry.    Aye.  
20          The Clerk.    Mrs. Lincoln?  
21          Senator Lincoln.    Aye.  
22          The Clerk.    Mr. Wyden?  
23          Senator Wyden.    Aye.  
24          The Clerk.    Mr. Schumer?  
25          Senator Baucus.    Aye by proxy.

1           The Clerk.    Mr. Chairman?

2           The Chairman.   Aye.

3           The Clerk.    Mr. Chairman, the tally is 20 ayes.

4           The Chairman.   By a vote of 20 ayes, zero nays, the  
5 recommendation, as modified, is approved.

6           I ask unanimous consent that the staff have the  
7 authority to draft necessary technical and conforming  
8 changes to the Chairman's mark.

9           The committee is adjourned.

10          [Whereupon, at 4:12 p.m. the meeting was concluded.]

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I N D E X

PAGE

STATEMENT OF:

THE HONORABLE CHARLES E. GRASSLEY  
A United States Senator  
from the State of Iowa

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THE HONORABLE MAX BAUCUS  
A United States Senator  
from the State of Montana

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**UNITED STATES SENATE  
COMMITTEE ON FINANCE**

**Charles E. Grassley, Chairman**

Wednesday, November 9, 2005

215 Dirksen Senate Office Building

**Agenda for Business Meeting**

To review and make recommendations on proposed  
legislation implementing the U.S.-Bahrain Free Trade  
Agreement



U.S. SENATE COMMITTEE ON

# Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

Opening Statement of Senator Chuck Grassley  
Senate Finance Committee Consultative Consideration of  
the U.S.-Bahrain Free Trade Agreement Implementation Act  
Wednesday, November 9, 2005

Today the committee will be reviewing, and making informal recommendations on, proposed legislation to implement the U.S.-Bahrain Free Trade Agreement. Before we begin with the technical review of the proposed bill, let me say a few words about the agreement. The U.S.-Bahrain Free Trade Agreement will benefit U.S. farmers, workers, manufacturers, and service industries. Under this Agreement, 100 percent of trade between the United States and Bahrain in industrial and consumer products will become duty-free immediately. Bahrain will grant duty-free access on day one of the Agreement for 98 percent of U.S. tariff lines, and tariffs on the remaining 2 percent of agricultural tariff lines will be phased out over ten years. Bahrain will also provide significant market access for U.S. service providers.

I realize that Bahrain is not a large market, but the U.S.-Bahrain Free Trade Agreement will indeed result in real benefits for Americans, including Iowans. The HNI Corporation, an office furniture manufacturer based in Muscatine, Iowa, looks forward to increased business in Bahrain on account of this Agreement. Lennox, which manufactures residential heating and cooling products in Marshalltown, Iowa, has a strong interest in the Bahrain market and anticipates growing sales there following the implementation of the Agreement. A small Iowa company that supplies halal foods and food service equipment to restaurants, hotels, and distributors worldwide – the Midamar Corporation of Cedar Rapids – also stands to gain from this Agreement.

Importantly, the U.S.-Bahrain Free Trade Agreement will serve as a model for other trade agreements that the United States will negotiate in the Middle East. In this way, the U.S.-Bahrain Free Trade Agreement will ultimately lead to even further liberalization in the region. Thus, the benefits that the HNI Corporation, Lennox, and the Midamar Corporation, and other U.S. businesses will receive from this agreement will be multiplied as other Arab countries adopt agreements that will be modeled in large part upon our Agreement with Bahrain. Now, today the Committee will be reviewing legislation designed to implement this trade agreement. The Committee's informal consideration of the legislation is part of the consultative process envisioned in Trade Promotion Authority. It is an informal act that is not required as part of Trade Promotion Authority. Still, I think it is important to review the bill in a public forum, provide an opportunity to comment on the bill, and propose potential legislative changes.

What the committee has before it is a modified chairman's mark. The modification includes language in the proposed Statement of Administrative Action recognizing the efforts of Bahrain to dismantle its primary boycott of Israel. The modification notes that the Administration intends to monitor and report on the efforts of Bahrain to dismantle this boycott as part of its annual National Trade Estimates Report. I applaud Bahrain for taking these steps -- the Arab League boycott of Israel is clearly a discriminatory trade practice that has no place in a modern economy. I understand the Administration intends to closely monitor these efforts and that they have agreed to include the modified language as part of the final Statement of Administrative Action which will soon be sent to the Congress. At this point, we will hear from our Ranking Member, Senator Baucus.



**DESCRIPTION OF THE CHAIRMAN'S MODIFICATION  
TO THE PROVISIONS OF THE DRAFT  
"STATEMENT OF ADMINISTRATIVE ACTION"  
ACCOMPANYING DRAFT LEGISLATION TO IMPLEMENT  
THE U.S.-BAHRAIN FREE TRADE AGREEMENT**

Scheduled for Consultative Consideration  
By the  
SENATE COMMITTEE ON FINANCE  
on November 9, 2005

Prepared by the  
International Trade Staff (Majority)  
of the  
SENATE COMMITTEE ON FINANCE

November 9, 2005

## ADDITIONAL PROVISION

### Description of Change

At an appropriate place in the draft Statement of Administrative Action, insert the following:

“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.”

109TH CONGRESS  
1ST SESSION

S. \_\_\_\_\_

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IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_ introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To implement the United States-Bahrain Free Trade Agreement.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “United States-Bahrain Free Trade Agreement Imple-  
6 mentation Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for  
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

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

- Sec. 101. Approval and entry into force of the Agreement.
- Sec. 102. Relationship of the agreement to United States and State law.
- Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
- Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
- Sec. 105. Administration of dispute settlement proceedings.
- Sec. 106. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

- Sec. 201. Tariff modifications.
- Sec. 202. Rules of origin.
- Sec. 203. Customs user fees.
- Sec. 204. Enforcement relating to trade in textile and apparel goods.
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TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

- Sec. 311. Commencing of action for relief.
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- Sec. 313. Provision of relief.
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- Sec. 315. Compensation authority.
- Sec. 316. Confidential business information.

Subtitle B—Textile and Apparel Safeguard Measures

- Sec. 321. Commencement of action for relief.
- Sec. 322. Determination and provision of relief.
- Sec. 323. Period of relief.
- Sec. 324. Articles exempt from relief.
- Sec. 325. Rate after termination of import relief.
- Sec. 326. Termination of relief authority.
- Sec. 327. Compensation authority.
- Sec. 328. Confidential business information.

TITLE IV—PROCUREMENT

- Sec. 401. Eligible products.

1 SEC. 2. PURPOSES.

2 The purposes of this Act are—

- 3 (1) to approve and implement the Free Trade
- 4 Agreement between the United States and Bahrain
- 5 entered into under the authority of section 2103(b)

1 of the Bipartisan Trade Promotion Authority Act of  
2 2002 (19 U.S.C. 3803(b));

3 (2) to strengthen and develop economic rela-  
4 tions between the United States and Bahrain for  
5 their mutual benefit;

6 (3) to establish free trade between the 2 nations  
7 through the reduction and elimination of barriers to  
8 trade in goods and services; and

9 (4) to lay the foundation for further coopera-  
10 tion to expand and enhance the benefits of such  
11 Agreement.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) **AGREEMENT.**—The term “Agreement”  
15 means the United States-Bahrain Free Trade Agree-  
16 ment approved by Congress under section 101(a)(1).

17 (2) **HTS.**—The term “HTS” means the Har-  
18 monized Tariff Schedule of the United States.

19 (3) **TEXTILE OR APPAREL GOOD.**—The term  
20 “textile or apparel good” means a good listed in the  
21 Annex to the Agreement on Textiles and Clothing  
22 referred to in section 101(d)(4) of the Uruguay  
23 Round Agreements Act (19 U.S.C. 3511(d)(4)).

1 **TITLE I—APPROVAL OF, AND**  
2 **GENERAL PROVISIONS RE-**  
3 **LATING TO, THE AGREEMENT**

4 **SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE**  
5 **AGREEMENT.**

6 (a) APPROVAL OF AGREEMENT AND STATEMENT OF  
7 ADMINISTRATIVE ACTION.—Pursuant to section 2105 of  
8 the Bipartisan Trade Promotion Authority Act of 2002  
9 (19 U.S.C. 3805) and section 151 of the Trade Act of  
10 1974 (19 U.S.C. 2191), Congress approves—

11 (1) the United States-Bahrain Free Trade  
12 Agreement entered into on September 14, 2004,  
13 with Bahrain and submitted to Congress on  
14 [\_\_\_\_\_, 2005]; and

15 (2) the statement of administrative action pro-  
16 posed to implement the Agreement that was sub-  
17 mitted to Congress on [\_\_\_\_\_, 2005].

18 (b) CONDITIONS FOR ENTRY INTO FORCE OF THE  
19 AGREEMENT.—At such time as the President determines  
20 that Bahrain has taken measures necessary to bring it  
21 into compliance with those provisions of the Agreement  
22 that are to take effect on the date on which the Agreement  
23 enters into force, the President is authorized to exchange  
24 notes with the Government of Bahrain providing for the

1 entry into force, on or after January 1, 2006, of the  
2 Agreement with respect to the United States.

3 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**  
4 **STATES AND STATE LAW.**

5 (a) RELATIONSHIP OF AGREEMENT TO UNITED  
6 STATES LAW.—

7 (1) UNITED STATES LAW TO PREVAIL IN CON-  
8 FFLICT.—No provision of the Agreement, nor the ap-  
9 plication of any such provision to any person or cir-  
10 cumstance, which is inconsistent with any law of the  
11 United States shall have effect.

12 (2) CONSTRUCTION.—Nothing in this Act shall  
13 be construed—

14 (A) to amend or modify any law of the  
15 United States; or

16 (B) to limit any authority conferred under  
17 any law of the United States,

18 unless specifically provided for in this Act.

19 (b) RELATIONSHIP OF AGREEMENT TO STATE  
20 LAW.—

21 (1) LEGAL CHALLENGE.—No State law, or the  
22 application thereof, may be declared invalid as to  
23 any person or circumstance on the ground that the  
24 provision or application is inconsistent with the  
25 Agreement, except in an action brought by the

1 United States for the purpose of declaring such law  
2 or application invalid.

3 (2) DEFINITION OF STATE LAW.—For purposes  
4 of this subsection, the term “State law” includes—

5 (A) any law of a political subdivision of a  
6 State; and

7 (B) any State law regulating or taxing the  
8 business of insurance.

9 (c) EFFECT OF AGREEMENT WITH RESPECT TO PRI-  
10 VATE REMEDIES.—No person other than the United  
11 States—

12 (1) shall have any cause of action or defense  
13 under the Agreement or by virtue of congressional  
14 approval thereof; or

15 (2) may challenge, in any action brought under  
16 any provision of law, any action or inaction by any  
17 department, agency, or other instrumentality of the  
18 United States, any State, or any political subdivision  
19 of a State, on the ground that such action or inac-  
20 tion is inconsistent with the Agreement.

21 **SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF**  
22 **ENTRY INTO FORCE AND INITIAL REGULA-**  
23 **TIONS.**

24 (a) IMPLEMENTING ACTIONS.—



1 (1) PROCLAMATION AUTHORITY.—After the  
2 date of the enactment of this Act—

3 (A) the President may proclaim such ac-  
4 tions, and

5 (B) other appropriate officers of the  
6 United States Government may issue such reg-  
7 ulations,

8 as may be necessary to ensure that any provision of  
9 this Act, or amendment made by this Act, that takes  
10 effect on the date on which the Agreement enters  
11 into force is appropriately implemented on such  
12 date, but no such proclamation or regulation may  
13 have an effective date earlier than the date on which  
14 the Agreement enters into force.

15 (2) EFFECTIVE DATE OF CERTAIN PROCLAIMED  
16 ACTIONS.—Any action proclaimed by the President  
17 under the authority of this Act that is not subject  
18 to the consultation and layover provisions under sec-  
19 tion 104 may not take effect before the 15th day  
20 after the date on which the text of the proclamation  
21 is published in the Federal Register.

22 (3) WAIVER OF 15-DAY RESTRICTION.—The 15-  
23 day restriction in paragraph (2) on the taking effect  
24 of proclaimed actions is waived to the extent that  
25 the application of such restriction would prevent the

1 taking effect on the date on which the Agreement  
2 enters into force of any action proclaimed under this  
3 section.

4 (b) INITIAL REGULATIONS.—Initial regulations nec-  
5 essary or appropriate to carry out the actions required by  
6 or authorized under this Act or proposed in the statement  
7 of administrative action submitted under section  
8 101(a)(2) to implement the Agreement shall, to the max-  
9 imum extent feasible, be issued within 1 year after the  
10 date on which the Agreement enters into force. In the case  
11 of any implementing action that takes effect on a date  
12 after the date on which the Agreement enters into force,  
13 initial regulations to carry out that action shall, to the  
14 maximum extent feasible, be issued within 1 year after  
15 such effective date.

16 **SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR,**  
17 **AND EFFECTIVE DATE OF, PROCLAIMED AC-**  
18 **TIONS.**

19 If a provision of this Act provides that the implemen-  
20 tation of an action by the President by proclamation is  
21 subject to the consultation and layover requirements of  
22 this section, such action may be proclaimed only if—

23 (1) the President has obtained advice regarding  
24 the proposed action from—

1 (A) the appropriate advisory committees  
2 established under section 135 of the Trade Act  
3 of 1974 (19 U.S.C. 2155); and

4 (B) the United States International Trade  
5 Commission;

6 (2) the President has submitted to the Com-  
7 mittee on Finance of the Senate and the Committee  
8 on Ways and Means of the House of Representatives  
9 a report that sets forth—

10 (A) the action proposed to be proclaimed  
11 and the reasons therefor; and

12 (B) the advice obtained under paragraph  
13 (1);

14 (3) a period of 60 calendar days, beginning on  
15 the first day on which the requirements set forth in  
16 paragraphs (1) and (2) have been met, has expired;  
17 and

18 (4) the President has consulted with the Com-  
19 mittees referred to in paragraph (2) regarding the  
20 proposed action during the period referred to in  
21 paragraph (3).

22 **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**  
23 **CEEDINGS.**

24 (a) **ESTABLISHMENT OR DESIGNATION OF OFFICE.—**

25 The President is authorized to establish or designate with-

1 in the Department of Commerce an office that shall be  
2 responsible for providing administrative assistance to pan-  
3 els established under chapter 19 of the Agreement. The  
4 office may not be considered to be an agency for purposes  
5 of section 552 of title 5, United States Code.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated for each fiscal year after  
8 fiscal year 2005 to the Department of Commerce such  
9 sums as may be necessary for the establishment and oper-  
10 ations of the office established or designated under sub-  
11 section (a) and for the payment of the United States share  
12 of the expenses of panels established under chapter 19 of  
13 the Agreement.

14 **SEC. 106. EFFECTIVE DATES; EFFECT OF TERMINATION.**

15 (a) EFFECTIVE DATES.—Except as provided in sub-  
16 section (b), the provisions of this Act and the amendments  
17 made by this Act take effect on the date on which the  
18 Agreement enters into force.

19 (b) EXCEPTIONS.—Sections 1 through 3 and this  
20 title take effect on the date of the enactment of this Act.

21 (c) TERMINATION OF THE AGREEMENT.—On the  
22 date on which the Agreement terminates, the provisions  
23 of this Act (other than this subsection) and the amend-  
24 ments made by this Act shall cease to be effective.

1 **TITLE II—CUSTOMS PROVISIONS**

2 **SEC. 201. TARIFF MODIFICATIONS.**

3 (a) TARIFF MODIFICATIONS PROVIDED FOR IN THE  
4 AGREEMENT.—

5 (1) PROCLAMATION AUTHORITY.—The Presi-  
6 dent may proclaim—

7 (A) such modifications or continuation of  
8 any duty,

9 (B) such continuation of duty-free or ex-  
10 cise treatment, or

11 (C) such additional duties,

12 as the President determines to be necessary or ap-  
13 propriate to carry out or apply articles 2.3, 2.5, 2.6,  
14 3.2.8, and 3.2.9, and Annex 2-B of the Agreement.

15 (2) EFFECT ON BAHRAIN GSP STATUS.—Not-  
16 withstanding section 502(a)(1) of the Trade Act of  
17 1974 (19 U.S.C. 2462(a)(1)), the President shall, on  
18 the date on which the Agreement enters into force,  
19 terminate the designation of Bahrain as a bene-  
20 ficiary developing country for purposes of title V of  
21 the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

22 (b) OTHER TARIFF MODIFICATIONS.—Subject to the  
23 consultation and layover provisions of section 104, the  
24 President may proclaim—

1 (1) such modifications or continuation of any  
2 duty,

3 (2) such modifications as the United States  
4 may agree to with Bahrain regarding the staging of  
5 any duty treatment set forth in Annex 2-B of the  
6 Agreement,

7 (3) such continuation of duty-free or excise  
8 treatment, or

9 (4) such additional duties,

10 as the President determines to be necessary or appropriate  
11 to maintain the general level of reciprocal and mutually  
12 advantageous concessions with respect to Bahrain pro-  
13 vided for by the Agreement.

14 (c) **CONVERSION TO AD VALOREM RATES.**—For pur-  
15 poses of subsections (a) and (b), with respect to any good  
16 for which the base rate in the Tariff Schedule of the  
17 United States to Annex 2-B of the Agreement is a specific  
18 or compound rate of duty, the President may substitute  
19 for the base rate an ad valorem rate that the President  
20 determines to be equivalent to the base rate.

21 **SEC. 202. RULES OF ORIGIN.**

22 (a) **APPLICATION AND INTERPRETATION.**—In this  
23 section:

24 (1) **TARIFF CLASSIFICATION.**—The basis for  
25 any tariff classification is the HTS.

1           (2) REFERENCE TO HTS.—Whenever in this  
2 section there is a reference to a heading or sub-  
3 heading, such reference shall be a reference to a  
4 heading or subheading of the HTS.

5 (b) ORIGINATING GOODS.—

6           (1) IN GENERAL.—For purposes of this Act  
7 and for purposes of implementing the preferential  
8 tariff treatment provided for under the Agreement,  
9 a good is an originating good if—

10           (A) the good is imported directly—

11                 (i) from the territory of Bahrain into  
12 the territory of the United States; or

13                 (ii) from the territory of the United  
14 States into the territory of Bahrain; and

15           (B)(i) the good is a good wholly the  
16 growth, product, or manufacture of Bahrain or  
17 the United States, or both;

18                 (ii) the good (other than a good to which  
19 clause (iii) applies) is a new or different article  
20 of commerce that has been grown, produced, or  
21 manufactured in Bahrain or the United States,  
22 or both, and meets the requirements of para-  
23 graph (2); or

24                 (iii)(I) the good is a good covered by  
25 Annex 3-A or 4-A of the Agreement;

1 (II)(aa) each of the nonoriginating mate-  
2 rials used in the production of the good under-  
3 goes an applicable change in tariff classification  
4 specified in such Annex as a result of produc-  
5 tion occurring entirely in the territory of Bah-  
6 rain or the United States, or both; or

7 (bb) the good otherwise satisfies the re-  
8 quirements specified in such Annex; and

9 (III) the good satisfies all other applicable  
10 requirements of this section.

11 (2) REQUIREMENTS.—A good described in  
12 paragraph (1)(B)(ii) is an originating good only if  
13 the sum of—

14 (A) the value of each material produced in  
15 the territory of Bahrain or the United States,  
16 or both, and

17 (B) the direct costs of processing oper-  
18 ations performed in the territory of Bahrain or  
19 the United States, or both,

20 is not less than 35 percent of the appraised value of  
21 the good at the time the good is entered into the ter-  
22 ritory of the United States.

23 (c) CUMULATION.—

24 (1) ORIGINATING GOOD OR MATERIAL INCOR-  
25 PORATED INTO GOODS OF OTHER COUNTRY.—An



1       originating good, or a material produced in the terri-  
2       tory of Bahrain or the United States, or both, that  
3       is incorporated into a good in the territory of the  
4       other country shall be considered to originate in the  
5       territory of the other country.

6               (2) MULTIPLE PRODUCERS.—A good that is  
7       grown, produced, or manufactured in the territory of  
8       Bahrain or the United States, or both, by 1 or more  
9       producers, is an originating good if the good satis-  
10      fies the requirements of subsection (b) and all other  
11      applicable requirements of this section.

12      (d) VALUE OF MATERIALS.—

13              (1) IN GENERAL.—Except as provided in para-  
14      graph (2), the value of a material produced in the  
15      territory of Bahrain or the United States, or both,  
16      includes the following:

17              (A) The price actually paid or payable for  
18      the material by the producer of the good.

19              (B) The freight, insurance, packing, and  
20      all other costs incurred in transporting the ma-  
21      terial to the producer's plant, if such costs are  
22      not included in the price referred to in subpara-  
23      graph (A).

24              (C) The cost of waste or spoilage resulting  
25      from the use of the material in the growth, pro-

1           duction, or manufacture of the good, less the  
2           value of recoverable scrap.

3           (D) Taxes or customs duties imposed on  
4           the material by Bahrain or the United States,  
5           or both, if the taxes or customs duties are not  
6           remitted upon exportation from the territory of  
7           Bahrain or the United States, as the case may  
8           be.

9           (2) EXCEPTION.—If the relationship between  
10          the producer of a good and the seller of a material  
11          influenced the price actually paid or payable for the  
12          material, or if there is no price actually paid or pay-  
13          able by the producer for the material, the value of  
14          the material produced in the territory of Bahrain or  
15          the United States, or both, includes the following:

16               (A) All expenses incurred in the growth,  
17               production, or manufacture of the material, in-  
18               cluding general expenses.

19               (B) A reasonable amount for profit.

20               (C) Freight, insurance, packing, and all  
21               other costs incurred in transporting the mate-  
22               rial to the producer's plant.

23           (e) PACKAGING AND PACKING MATERIALS AND CON-  
24          TAINERS FOR RETAIL SALE AND FOR SHIPMENT.—Pack-  
25          aging and packing materials and containers for retail sale

1 and shipment shall be disregarded in determining whether  
2 a good qualifies as an originating good, except to the ex-  
3 tent that the value of such packaging and packing mate-  
4 rials and containers has been included in meeting the re-  
5 quirements set forth in subsection (b)(2).

6 (f) INDIRECT MATERIALS.—Indirect materials shall  
7 be disregarded in determining whether a good qualifies as  
8 an originating good, except that the cost of such indirect  
9 materials may be included in meeting the requirements set  
10 forth in subsection (b)(2).

11 (g) TRANSIT AND TRANSSHIPMENT.—A good shall  
12 not be considered to meet the requirement of subsection  
13 (b)(1)(A) if, after exportation from the territory of Bah-  
14 rain or the United States, the good undergoes production,  
15 manufacturing, or any other operation outside the terri-  
16 tory of Bahrain or the United States, other than unload-  
17 ing, reloading, or any other operation necessary to pre-  
18 serve the good in good condition or to transport the good  
19 to the territory of Bahrain or the United States.

20 (h) TEXTILE AND APPAREL GOODS.—

21 (1) DE MINIMIS AMOUNTS OF NONORIGINATING  
22 MATERIALS.—

23 (A) IN GENERAL.—Except as provided in  
24 subparagraph (B), a textile or apparel good  
25 that is not an originating good because certain

1 fibers or yarns used in the production of the  
2 component of the good that determines the tar-  
3 iff classification of the good do not undergo an  
4 applicable change in tariff classification set out  
5 in Annex 3-A of the Agreement shall be consid-  
6 ered to be an originating good if the total  
7 weight of all such fibers or yarns in that com-  
8 ponent is not more than 7 percent of the total  
9 weight of that component.

10 (B) CERTAIN TEXTILE OR APPAREL  
11 GOODS.—A textile or apparel good containing  
12 elastomeric yarns in the component of the good  
13 that determines the tariff classification of the  
14 good shall be considered to be an originating  
15 good only if such yarns are wholly formed in  
16 the territory of Bahrain or the United States.

17 (C) YARN, FABRIC, OR GROUP OF FI-  
18 BERS.—For purposes of this paragraph, in the  
19 case of a textile or apparel good that is a yarn,  
20 fabric, or group of fibers, the term “component  
21 of the good that determines the tariff classifica-  
22 tion of the good” means all of the fibers in the  
23 yarn, fabric, or group of fibers.

24 (2) GOODS PUT UP IN SETS FOR RETAIL  
25 SALE.—Notwithstanding the rules set forth in Annex

1 3-A of the Agreement, textile or apparel goods clas-  
2 sifiable as goods put up in sets for retail sale as pro-  
3 vided for in General Rule of Interpretation 3 of the  
4 HTS shall not be considered to be originating goods  
5 unless each of the goods in the set is an originating  
6 good or the total value of the nonoriginating goods  
7 in the set does not exceed 10 percent of the value  
8 of the set determined for purposes of assessing cus-  
9 toms duties.

10 (i) DEFINITIONS.—In this section:

11 (1) DIRECT COSTS OF PROCESSING OPER-  
12 ATIONS.—

13 (A) IN GENERAL.—The term “direct costs  
14 of processing operations”, with respect to a  
15 good, includes, to the extent they are includable  
16 in the appraised value of the good when im-  
17 ported into Bahrain or the United States, as  
18 the case may be, the following:

19 (i) All actual labor costs involved in  
20 the growth, production, or manufacture of  
21 the good, including fringe benefits, on-the-  
22 job training, and the cost of engineering,  
23 supervisory, quality control, and similar  
24 personnel.

1                   (ii) Tools, dies, molds, and other indi-  
2                   rect materials, and depreciation on ma-  
3                   chinery and equipment that are allocable  
4                   to the good.

5                   (iii) Research, development, design,  
6                   engineering, and blueprint costs, to the ex-  
7                   tent that they are allocable to the good.

8                   (iv) Costs of inspecting and testing  
9                   the good.

10                  (v) Costs of packaging the good for  
11                  export to the territory of the other country.

12                  (B) EXCEPTIONS.—The term “direct costs  
13                  of processing operations” does not include costs  
14                  that are not directly attributable to a good or  
15                  are not costs of growth, production, or manu-  
16                  facture of the good, such as—

17                   (i) profit; and

18                   (ii) general expenses of doing business  
19                   that are either not allocable to the good or  
20                   are not related to the growth, production,  
21                   or manufacture of the good, such as ad-  
22                   ministrative salaries, casualty and liability  
23                   insurance, advertising, and sales staff sala-  
24                   ries, commissions, or expenses.

1           (2) GOOD.—The term “good” means any mer-  
2           chandise, product, article, or material.

3           (3) GOOD WHOLLY THE GROWTH, PRODUCT, OR  
4           MANUFACTURE OF BAHRAIN OR THE UNITED  
5           STATES, OR BOTH.—The term “good wholly the  
6           growth, product, or manufacture of Bahrain or the  
7           United States, or both” means—

8           (A) a mineral good extracted in the terri-  
9           tory of Bahrain or the United States, or both;

10          (B) a vegetable good, as such a good is  
11          provided for in the HTS, harvested in the terri-  
12          tory of Bahrain or the United States, or both;

13          (C) a live animal born and raised in the  
14          territory of Bahrain or the United States, or  
15          both;

16          (D) a good obtained from live animals  
17          raised in the territory of Bahrain or the United  
18          States, or both;

19          (E) a good obtained from hunting, trap-  
20          ping, or fishing in the territory of Bahrain or  
21          the United States, or both;

22          (F) a good (fish, shellfish, and other ma-  
23          rine life) taken from the sea by vessels reg-  
24          istered or recorded with Bahrain or the United  
25          States and flying the flag of that country;

1 (G) a good produced from goods referred  
2 to in subparagraph (F) on board factory ships  
3 registered or recorded with Bahrain or the  
4 United States and flying the flag of that coun-  
5 try;

6 (H) a good taken by Bahrain or the  
7 United States or a person of Bahrain or the  
8 United States from the seabed or beneath the  
9 seabed outside territorial waters, if Bahrain or  
10 the United States, as the case may be, has  
11 rights to exploit such seabed;

12 (I) a good taken from outer space, if such  
13 good is obtained by Bahrain or the United  
14 States or a person of Bahrain or the United  
15 States and not processed in the territory of a  
16 country other than Bahrain or the United  
17 States;

18 (J) waste and scrap derived from—

19 (i) production or manufacture in the  
20 territory of Bahrain or the United States,  
21 or both; or

22 (ii) used goods collected in the terri-  
23 tory of Bahrain or the United States, or  
24 both, if such goods are fit only for the re-  
25 covery of raw materials;



1 (K) a recovered good derived in the terri-  
2 tory of Bahrain or the United States from used  
3 goods and utilized in the territory of that coun-  
4 try in the production of remanufactured goods;  
5 and

6 (L) a good produced in the territory of  
7 Bahrain or the United States, or both,  
8 exclusively—

9 (i) from goods referred to in subpara-  
10 graphs (A) through (J), or

11 (ii) from the derivatives of goods re-  
12 ferred to in clause (i),  
13 at any stage of production.

14 (4) INDIRECT MATERIAL.—The term “indirect  
15 material” means a good used in the growth, produc-  
16 tion, manufacture, testing, or inspection of a good  
17 but not physically incorporated into the good, or a  
18 good used in the maintenance of buildings or the op-  
19 eration of equipment associated with the growth,  
20 production, or manufacture of a good, including—

21 (A) fuel and energy;

22 (B) tools, dies, and molds;

23 (C) spare parts and materials used in the  
24 maintenance of equipment and buildings;

1 (D) lubricants, greases, compounding ma-  
2 terials, and other materials used in the growth,  
3 production, or manufacture of a good or used  
4 to operate equipment and buildings;

5 (E) gloves, glasses, footwear, clothing,  
6 safety equipment, and supplies;

7 (F) equipment, devices, and supplies used  
8 for testing or inspecting the good;

9 (G) catalysts and solvents; and

10 (H) any other goods that are not incor-  
11 porated into the good but the use of which in  
12 the growth, production, or manufacture of the  
13 good can reasonably be demonstrated to be a  
14 part of that growth, production, or manufac-  
15 ture.

16 (5) MATERIAL.—The term “material” means a  
17 good, including a part or ingredient, that is used in  
18 the growth, production, or manufacture of another  
19 good that is a new or different article of commerce  
20 that has been grown, produced, or manufactured in  
21 Bahrain or the United States, or both.

22 (6) MATERIAL PRODUCED IN THE TERRITORY  
23 OF BAHRAIN OR THE UNITED STATES, OR BOTH.—  
24 The term “material produced in the territory of  
25 Bahrain or the United States, or both” means a

1 good that is either wholly the growth, product, or  
2 manufacture of Bahrain or the United States, or  
3 both, or a new or different article of commerce that  
4 has been grown, produced, or manufactured in the  
5 territory of Bahrain or the United States, or both.

6 (7) NEW OR DIFFERENT ARTICLE OF COM-  
7 MERCE.—

8 (A) IN GENERAL.—The term “new or dif-  
9 ferent article of commerce” means, except as  
10 provided in subparagraph (B), a good that—

- 11 (i) has been substantially transformed
- 12 from a good or material that is not wholly
- 13 the growth, product, or manufacture of
- 14 Bahrain or the United States, or both; and
- 15 (ii) has a new name, character, or use
- 16 distinct from the good or material from
- 17 which it was transformed.

18 (B) EXCEPTION.—A good shall not be con-  
19 sidered a new or different article of commerce  
20 by virtue of having undergone simple combining  
21 or packaging operations, or mere dilution with  
22 water or another substance that does not mate-  
23 rially alter the characteristics of the good.

1           (8) RECOVERED GOODS.—The term “recovered  
2 goods” means materials in the form of individual  
3 parts that result from—

4           (A) the complete disassembly of used goods  
5 into individual parts; and

6           (B) the cleaning, inspecting, testing, or  
7 other processing of those parts that is necessary  
8 for improvement to sound working condition.

9           (9) REMANUFACTURED GOOD.—The term “re-  
10 manufactured good” means an industrial good that  
11 is assembled in the territory of Bahrain or the  
12 United States and that—

13           (A) is entirely or partially comprised of re-  
14 covered goods;

15           (B) has a similar life expectancy to, and  
16 meets similar performance standards as, a like  
17 good that is new; and

18           (C) enjoys a factory warranty similar to  
19 that of a like good that is new.

20           (10) SIMPLE COMBINING OR PACKAGING OPER-  
21 ATIONS.—The term “simple combining or packaging  
22 operations” means operations such as adding bat-  
23 teries to devices, fitting together a small number of  
24 components by bolting, gluing, or soldering, and re-  
25 packing or packaging components together.

1           (11) SUBSTANTIALLY TRANSFORMED.—The  
2 term “substantially transformed” means, with re-  
3 spect to a good or material, changed as the result  
4 of a manufacturing or processing operation so  
5 that—

6           (A)(i) the good or material is converted  
7 from a good that has multiple uses into a good  
8 or material that has limited uses;

9           (ii) the physical properties of the good or  
10 material are changed to a significant extent; or

11           (iii) the operation undergone by the good  
12 or material is complex by reason of the number  
13 of different processes and materials involved  
14 and the time and level of skill required to per-  
15 form those processes; and

16           (B) the good or material loses its separate  
17 identity in the manufacturing or processing op-  
18 eration.

19 (j) PRESIDENTIAL PROCLAMATION AUTHORITY.—

20           (1) IN GENERAL.—The President is authorized  
21 to proclaim, as part of the HTS—

22           (A) the provisions set forth in Annex 3-A  
23 and Annex 4-A of the Agreement; and

1 (B) any additional subordinate category  
2 that is necessary to carry out this title, con-  
3 sistent with the Agreement.

4 (2) MODIFICATIONS.—

5 (A) IN GENERAL.—Subject to the consulta-  
6 tion and layover provisions of section 104, the  
7 President may proclaim modifications to the  
8 provisions proclaimed under the authority of  
9 paragraph (1)(A), other than provisions of  
10 chapters 50 through 63 of the HTS (as in-  
11 cluded in Annex 3–A of the Agreement).

12 (B) ADDITIONAL PROCLAMATIONS.—Not-  
13 withstanding subparagraph (A), and subject to  
14 the consultation and layover provisions of sec-  
15 tion 104, the President may proclaim—

16 (i) modifications to the provisions pro-  
17 claimed under the authority of paragraph  
18 (1)(A) as are necessary to implement an  
19 agreement with Bahrain pursuant to arti-  
20 cle 3.2.5 of the Agreement; and

21 (ii) before the end of the 1-year period  
22 beginning on the date of the enactment of  
23 this Act, modifications to correct any typo-  
24 graphical, clerical, or other nonsubstantive  
25 technical error regarding the provisions of

1 chapters 50 through 63 of the HTS (as in-  
2 cluded in Annex 3-A of the Agreement).

3 **SEC. 203. CUSTOMS USER FEES.**

4 Section 13031(b) of the Consolidated Omnibus Budg-  
5 et Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is  
6 amended—

7 (1) in each of paragraphs (13) and (15), by  
8 moving the text 2 ems to the left; and

9 (2) by adding after paragraph (15) the fol-  
10 lowing:

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

18 **SEC. 204. ENFORCEMENT RELATING TO TRADE IN TEXTILE**

19 **AND APPAREL GOODS.**

20 (a) **ACTION DURING VERIFICATION.—**

21 (1) **IN GENERAL.—**If the Secretary of the  
22 Treasury requests the Government of Bahrain to  
23 conduct a verification pursuant to article 3.3 of the  
24 Agreement for purposes of making a determination  
25 under paragraph (2), the President may direct the

1 Secretary to take appropriate action described in  
2 subsection (b) while the verification is being con-  
3 ducted.

4 (2) DETERMINATION.—A determination under  
5 this paragraph is a determination—

6 (A) that an exporter or producer in Bah-  
7 rain is complying with applicable customs laws,  
8 regulations, procedures, requirements, or prac-  
9 tices affecting trade in textile or apparel goods;  
10 or

11 (B) that a claim that a textile or apparel  
12 good exported or produced by such exporter or  
13 producer—

14 (i) qualifies as an originating good  
15 under section 202; or

16 (ii) is a good of Bahrain, is accurate.

17 (b) APPROPRIATE ACTION DESCRIBED.—Appropriate  
18 action under subsection (a)(1) includes—

19 (1) suspension of liquidation of the entry of any  
20 textile or apparel good exported or produced by the  
21 person that is the subject of a verification referred  
22 to in subsection (a)(1) regarding compliance de-  
23 scribed in subsection (a)(2)(A), in a case in which  
24 the request for verification was based on a reason-



1       able suspicion of unlawful activity related to such  
2       good; and

3               (2) suspension of liquidation of the entry of a  
4       textile or apparel good for which a claim has been  
5       made that is the subject of a verification referred to  
6       in subsection (a)(1) regarding a claim described in  
7       subsection (a)(2)(B).

8       (c) ACTION WHEN INFORMATION IS INSUFFI-  
9       CIENT.—If the Secretary of the Treasury determines that  
10      the information obtained within 12 months after making  
11      a request for a verification under subsection (a)(1) is in-  
12      sufficient to make a determination under subsection  
13      (a)(2), the President may direct the Secretary to take ap-  
14      propriate action described in subsection (d) until such  
15      time as the Secretary receives information sufficient to  
16      make a determination under subsection (a)(2) or until  
17      such earlier date as the President may direct.

18      (d) APPROPRIATE ACTION DESCRIBED.—Appro-  
19      priate action referred to in subsection (c) includes—

20               (1) publication of the name and address of the  
21      person that is the subject of the verification;

22               (2) denial of preferential tariff treatment under  
23      the Agreement to—

24                       (A) any textile or apparel good exported or  
25                       produced by the person that is the subject of a

1 verification referred to in subsection (a)(1) re-  
2 garding compliance described in subsection  
3 (a)(2)(A); or

4 (B) a textile or apparel good for which a  
5 claim has been made that is the subject of a  
6 verification referred to in subsection (a)(1) re-  
7 garding a claim described in subsection  
8 (a)(2)(B); and

9 (3) denial of entry into the United States of—

10 (A) any textile or apparel good exported or  
11 produced by the person that is the subject of a  
12 verification referred to in subsection (a)(1) re-  
13 garding compliance described in subsection  
14 (a)(2)(A); or

15 (B) a textile or apparel good for which a  
16 claim has been made that is the subject of a  
17 verification referred to in subsection (a)(1) re-  
18 garding a claim described in subsection  
19 (a)(2)(B).

20 **SEC. 205. REGULATIONS.**

21 The Secretary of the Treasury shall prescribe  
22 such regulations as may be necessary to carry out—

23 (1) subsections (a) through (i) of section 202;

24 (2) the amendment made by section 203(2);

25 and

1 (3) proclamations issued under section 202(j).

2 **TITLE III—RELIEF FROM**  
3 **IMPORTS**

4 **SEC. 301. DEFINITIONS.**

5 In this title:

6 (1) **BAHRAINI ARTICLE.**—The term “Bahraini  
7 article” means an article that—

8 (A) qualifies as an originating good under  
9 section 202(b); or

10 (B) receives preferential tariff treatment  
11 under paragraphs 8 through 11 of article 3.2 of  
12 the Agreement.

13 (2) **BAHRAINI TEXTILE OR APPAREL ARTI-**  
14 **CLE.**—The term “Bahraini textile or apparel article”  
15 means an article that—

16 (A) is listed in the Annex to the Agree-  
17 ment on Textiles and Clothing referred to in  
18 section 101(d)(4) of the Uruguay Round Agree-  
19 ments Act (19 U.S.C. 3511(d)(4)); and

20 (B) is a Bahraini article.

21 (3) **COMMISSION.**—The term “Commission”  
22 means the United States International Trade Com-  
23 mission.

1     **Subtitle A—Relief From Imports**  
2     **Benefiting From the Agreement**

3     **SEC. 311. COMMENCING OF ACTION FOR RELIEF.**

4         (a) **FILING OF PETITION.**—A petition requesting ac-  
5 tion under this subtitle for the purpose of adjusting to  
6 the obligations of the United States under the Agreement  
7 may be filed with the Commission by an entity, including  
8 a trade association, firm, certified or recognized union, or  
9 group of workers, that is representative of an industry.  
10 The Commission shall transmit a copy of any petition filed  
11 under this subsection to the United States Trade Rep-  
12 resentative.

13         (b) **INVESTIGATION AND DETERMINATION.**—Upon  
14 the filing of a petition under subsection (a), the Commis-  
15 sion, unless subsection (d) applies, shall promptly initiate  
16 an investigation to determine whether, as a result of the  
17 reduction or elimination of a duty provided for under the  
18 Agreement, a Bahraini article is being imported into the  
19 United States in such increased quantities, in absolute  
20 terms or relative to domestic production, and under such  
21 conditions that imports of the Bahraini article constitute  
22 a substantial cause of serious injury or threat thereof to  
23 the domestic industry producing an article that is like, or  
24 directly competitive with, the imported article.

1 (c) APPLICABLE PROVISIONS.—The following provi-  
2 sions of section 202 of the Trade Act of 1974 (19 U.S.C.  
3 2252) apply with respect to any investigation initiated  
4 under subsection (b):

5 (1) Paragraphs (1)(B) and (3) of subsection  
6 (b).

7 (2) Subsection (c).

8 (3) Subsection (i).

9 (d) ARTICLES EXEMPT FROM INVESTIGATION.—No  
10 investigation may be initiated under this section with re-  
11 spect to any Bahraini article if, after the date on which  
12 the Agreement enters into force with respect to the United  
13 States, import relief has been provided with respect to that  
14 Bahraini article under this subtitle.

15 **SEC. 312. COMMISSION ACTION ON PETITION.**

16 (a) DETERMINATION.—Not later than 120 days after  
17 the date on which an investigation is initiated under sec-  
18 tion 311(b) with respect to a petition, the Commission  
19 shall make the determination required under that section.

20 (b) APPLICABLE PROVISIONS.—For purposes of this  
21 subtitle, the provisions of paragraphs (1), (2), and (3) of  
22 section 330(d) of the Tariff Act of 1930 (19 U.S.C.  
23 1330(d) (1), (2), and (3)) shall be applied with respect  
24 to determinations and findings made under this section

1 as if such determinations and findings were made under  
2 section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

3 (c) ADDITIONAL FINDING AND RECOMMENDATION IF  
4 DETERMINATION AFFIRMATIVE.—

5 (1) IN GENERAL.—If the determination made  
6 by the Commission under subsection (a) with respect  
7 to imports of an article is affirmative, or if the  
8 President may consider a determination of the Com-  
9 mission to be an affirmative determination as pro-  
10 vided for under paragraph (1) of section 330(d) of  
11 the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the  
12 Commission shall find, and recommend to the Presi-  
13 dent in the report required under subsection (d), the  
14 amount of import relief that is necessary to remedy  
15 or prevent the injury found by the Commission in  
16 the determination, and to facilitate the efforts of the  
17 domestic industry to make a positive adjustment to  
18 import competition.

19 (2) LIMITATION ON RELIEF.—The import relief  
20 recommended by the Commission under this sub-  
21 section shall be limited to that described in section  
22 313(e).

23 (3) VOTING; SEPARATE VIEWS.—Only those  
24 members of the Commission who voted in the af-  
25 firmative under subsection (a) are eligible to vote on

1 the proposed action to remedy or prevent the injury  
2 found by the Commission. Members of the Commis-  
3 sion who did not vote in the affirmative may submit,  
4 in the report required under subsection (d), separate  
5 views regarding what action, if any, should be taken  
6 to remedy or prevent the injury.

7 (d) REPORT TO PRESIDENT.—Not later than the  
8 date that is 30 days after the date on which a determina-  
9 tion is made under subsection (a) with respect to an inves-  
10 tigation, the Commission shall submit to the President a  
11 report that includes—

12 (1) the determination made under subsection  
13 (a) and an explanation of the basis for the deter-  
14 mination;

15 (2) if the determination under subsection (a) is  
16 affirmative, any findings and recommendations for  
17 import relief made under subsection (c) and an ex-  
18 planation of the basis for each recommendation; and

19 (3) any dissenting or separate views by mem-  
20 bers of the Commission regarding the determination  
21 and recommendation referred to in paragraphs (1)  
22 and (2).

23 (e) PUBLIC NOTICE.—Upon submitting a report to  
24 the President under subsection (d), the Commission shall  
25 promptly make public such report (with the exception of

1 information which the Commission determines to be con-  
2 fidential) and shall cause a summary thereof to be pub-  
3 lished in the Federal Register.

4 **SEC. 313. PROVISION OF RELIEF.**

5 (a) **IN GENERAL.**—Not later than the date that is  
6 30 days after the date on which the President receives the  
7 report of the Commission in which the Commission's de-  
8 termination under section 312(a) is affirmative, or which  
9 contains a determination under section 312(a) that the  
10 President considers to be affirmative under paragraph (1)  
11 of section 330(d) of the Tariff Act of 1930 (19 U.S.C.  
12 1330(d)(1)), the President, subject to subsection (b), shall  
13 provide relief from imports of the article that is the subject  
14 of such determination to the extent that the President de-  
15 termines necessary to remedy or prevent the injury found  
16 by the Commission and to facilitate the efforts of the do-  
17 mestic industry to make a positive adjustment to import  
18 competition.

19 (b) **EXCEPTION.**—The President is not required to  
20 provide import relief under this section if the President  
21 determines that the provision of the import relief will not  
22 provide greater economic and social benefits than costs.

23 (c) **NATURE OF RELIEF.**—



1 (1) IN GENERAL.—The import relief that the  
2 President is authorized to provide under this section  
3 with respect to imports of an article is as follows:

4 (A) The suspension of any further reduc-  
5 tion provided for under Annex 2-B of the  
6 Agreement in the duty imposed on such article.

7 (B) An increase in the rate of duty im-  
8 posed on such article to a level that does not  
9 exceed the lesser of—

10 (i) the column 1 general rate of duty  
11 imposed under the HTS on like articles at  
12 the time the import relief is provided; or

13 (ii) the column 1 general rate of duty  
14 imposed under the HTS on like articles on  
15 the day before the date on which the  
16 Agreement enters into force.

17 (2) PROGRESSIVE LIBERALIZATION.—If the pe-  
18 riod for which import relief is provided under this  
19 section is greater than 1 year, the President shall  
20 provide for the progressive liberalization of such re-  
21 lief at regular intervals during the period in which  
22 the relief is in effect.

23 (d) PERIOD OF RELIEF.—

24 (1) IN GENERAL.—Subject to paragraph (2),  
25 any import relief that the President provides under

1       this section may not, in the aggregate, be in effect  
2       for more than 3 years.

3           (2) EXTENSION.—

4           (A) IN GENERAL.—If the initial period for  
5       any import relief provided under this section is  
6       less than 3 years, the President, after receiving  
7       a determination from the Commission under  
8       subparagraph (B) that is affirmative, or which  
9       the President considers to be affirmative under  
10      paragraph (1) of section 330(d) of the Tariff  
11      Act of 1930 (19 U.S.C. 1330(d)(1)), may ex-  
12      tend the effective period of any import relief  
13      provided under this section, subject to the limi-  
14      tation under paragraph (1), if the President de-  
15      termines that—

16           (i) the import relief continues to be  
17           necessary to remedy or prevent serious in-  
18           jury and to facilitate adjustment by the do-  
19           mestic industry to import competition; and

20           (ii) there is evidence that the industry  
21           is making a positive adjustment to import  
22           competition.

23           (B) ACTION BY COMMISSION.—

24           (i) INVESTIGATION.—Upon a petition  
25           on behalf of the industry concerned that is

1 filed with the Commission not earlier than  
2 the date which is 9 months, and not later  
3 than the date which is 6 months, before  
4 the date any action taken under subsection  
5 (a) is to terminate, the Commission shall  
6 conduct an investigation to determine  
7 whether action under this section continues  
8 to be necessary to remedy or prevent seri-  
9 ous injury and to facilitate adjustment by  
10 the domestic industry to import competi-  
11 tion and whether there is evidence that the  
12 industry is making a positive adjustment  
13 to import competition.

14 (ii) NOTICE AND HEARING.—The  
15 Commission shall publish notice of the  
16 commencement of any proceeding under  
17 this subparagraph in the Federal Register  
18 and shall, within a reasonable time there-  
19 after, hold a public hearing at which the  
20 Commission shall afford interested parties  
21 and consumers an opportunity to be  
22 present, to present evidence, and to re-  
23 spond to the presentations of other parties  
24 and consumers, and otherwise to be heard.

1 (iii) REPORT.—The Commission shall  
2 transmit to the President a report on its  
3 investigation and determination under this  
4 subparagraph not later than 60 days be-  
5 fore the action under subsection (a) is to  
6 terminate, unless the President specifies a  
7 different date.

8 (e) RATE AFTER TERMINATION OF IMPORT RE-  
9 LIEF.—When import relief under this section is termi-  
10 nated with respect to an article, the rate of duty on that  
11 article shall be the rate that would have been in effect,  
12 but for the provision of such relief, on the date on which  
13 the relief terminates.

14 (f) ARTICLES EXEMPT FROM RELIEF.—No import  
15 relief may be provided under this section on any article  
16 that has been subject to import relief under this subtitle  
17 after the date on which the Agreement enters into force.

18 **SEC. 314. TERMINATION OF RELIEF AUTHORITY.**

19 (a) GENERAL RULE.—Subject to subsection (b), no  
20 import relief may be provided under this subtitle after the  
21 date that is 10 years after the date on which the Agree-  
22 ment enters into force.

23 (b) PRESIDENTIAL DETERMINATION.—Import relief  
24 may be provided under this subtitle in the case of a Bah-  
25 raini article after the date on which such relief would, but

1 for this subsection, terminate under subsection (a), if the  
2 President determines that Bahrain has consented to such  
3 relief.

4 **SEC. 315. COMPENSATION AUTHORITY.**

5 For purposes of section 123 of the Trade Act of 1974  
6 (19 U.S.C. 2133), any import relief provided by the Presi-  
7 dent under section 313 shall be treated as action taken  
8 under chapter 1 of title II of such Act (19 U.S.C. 2251  
9 et seq.).

10 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

11 Section 202(a)(8) of the Trade Act of 1974 (19  
12 U.S.C. 2252(a)(8)) is amended in the first sentence—

13 (1) by striking “and”; and

14 (2) by inserting before the period at the end “,  
15 and title III of the United States-Bahrain Free  
16 Trade Agreement Implementation Act”.

17 **Subtitle B—Textile and Apparel**  
18 **Safeguard Measures**

19 **SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.**

20 (a) IN GENERAL.—A request under this subtitle for  
21 the purpose of adjusting to the obligations of the United  
22 States under the Agreement may be filed with the Presi-  
23 dent by an interested party. Upon the filing of a request,  
24 the President shall review the request to determine, from

1 information presented in the request, whether to com-  
2 mence consideration of the request.

3 (b) PUBLICATION OF REQUEST.—If the President de-  
4 termines that the request under subsection (a) provides  
5 the information necessary for the request to be considered,  
6 the President shall cause to be published in the Federal  
7 Register a notice of commencement of consideration of the  
8 request, and notice seeking public comments regarding the  
9 request. The notice shall include a summary of the request  
10 and the dates by which comments and rebuttals must be  
11 received.

12 **SEC. 322. DETERMINATION AND PROVISION OF RELIEF.**

13 (a) DETERMINATION.—

14 (1) IN GENERAL.—If a positive determination is  
15 made under section 321(b), the President shall de-  
16 termine whether, as a result of the reduction or  
17 elimination of a duty under the Agreement, a Bah-  
18 raini textile or apparel article is being imported into  
19 the United States in such increased quantities, in  
20 absolute terms or relative to the domestic market for  
21 that article, and under such conditions as to cause  
22 serious damage, or actual threat thereof, to a domes-  
23 tic industry producing an article that is like, or di-  
24 rectly competitive with, the imported article.

1           (2) SERIOUS DAMAGE.—In making a deter-  
2           mination under paragraph (1), the President—

3                   (A) shall examine the effect of increased  
4                   imports on the domestic industry, as reflected  
5                   in changes in such relevant economic factors as  
6                   output, productivity, utilization of capacity, in-  
7                   ventories, market share, exports, wages, em-  
8                   ployment, domestic prices, profits, and invest-  
9                   ment, none of which is necessarily decisive; and

10                   (B) shall not consider changes in tech-  
11                   nology or consumer preference as factors sup-  
12                   porting a determination of serious damage or  
13                   actual threat thereof.

14           (b) PROVISION OF RELIEF.—

15                   (1) IN GENERAL.—If a determination under  
16                   subsection (a) is affirmative, the President may pro-  
17                   vide relief from imports of the article that is the  
18                   subject of such determination, as described in para-  
19                   graph (2), to the extent that the President deter-  
20                   mines necessary to remedy or prevent the serious  
21                   damage and to facilitate adjustment by the domestic  
22                   industry to import competition.

23                   (2) NATURE OF RELIEF.—The relief that the  
24                   President is authorized to provide under this sub-  
25                   section with respect to imports of an article is an in-

1       crease in the rate of duty imposed on the article to  
2       a level that does not exceed the lesser of—

3               (A) the column 1 general rate of duty im-  
4       posed under the HTS on like articles at the  
5       time the import relief is provided; or

6               (B) the column 1 general rate of duty im-  
7       posed under the HTS on like articles on the  
8       day before the date on which the Agreement en-  
9       ters into force.

10 **SEC. 323. PERIOD OF RELIEF.**

11       (a) IN GENERAL.—Subject to subsection (b), any im-  
12 port relief that the President provides under subsection  
13 (b) of section 322 may not, in the aggregate, be in effect  
14 for more than 3 years.

15       (b) EXTENSION.—If the initial period for any import  
16 relief provided under section 322 is less than 3 years, the  
17 President may extend the effective period of any import  
18 relief provided under that section, subject to the limitation  
19 set forth in subsection (a), if the President determines  
20 that—

21               (1) the import relief continues to be necessary  
22       to remedy or prevent serious damage and to facili-  
23       tate adjustment by the domestic industry to import  
24       competition; and



1           (2) there is evidence that the industry is mak-  
2           ing a positive adjustment to import competition.

3 **SEC. 324. ARTICLES EXEMPT FROM RELIEF.**

4           The President may not provide import relief under  
5 this subtitle with respect to any article if—

6           (1) the article has been subject to import relief  
7           under this subtitle after the date on which the  
8           Agreement enters into force; or

9           (2) the article is subject to import relief under  
10          chapter 1 of title II of the Trade Act of 1974 (19  
11          U.S.C. 2251 et seq.).

12 **SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.**

13          When import relief under this subtitle is terminated  
14 with respect to an article, the rate of duty on that article  
15 shall be the rate that would have been in effect, but for  
16 the provision of such relief, on the date on which the relief  
17 terminates.

18 **SEC. 326. TERMINATION OF RELIEF AUTHORITY.**

19          No import relief may be provided under this subtitle  
20 with respect to any article after the date that is 10 years  
21 after the date on which duties on the article are eliminated  
22 pursuant to the Agreement.

23 **SEC. 327. COMPENSATION AUTHORITY.**

24          For purposes of section 123 of the Trade Act of 1974  
25 (19 U.S.C. 2133), any import relief provided by the Presi-

1 dent under this subtitle shall be treated as action taken  
2 under chapter 1 of title II of such Act.

3 **SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.**

4 The President may not release information that is  
5 submitted in a proceeding under this subtitle and that the  
6 President considers to be confidential business informa-  
7 tion unless the party submitting the confidential business  
8 information had notice, at the time of submission, that  
9 such information would be released, or such party subse-  
10 quently consents to the release of the information. To the  
11 extent a party submits confidential business information  
12 to the President in a proceeding under this subtitle, the  
13 party shall also submit a nonconfidential version of the  
14 information, in which the confidential business informa-  
15 tion is summarized or, if necessary, deleted.

16 **TITLE IV—PROCUREMENT**

17 **SEC. 401. ELIGIBLE PRODUCTS.**

18 Section 308(4)(A) of the Trade Agreements Act of  
19 1979 (19 U.S.C. 2518(4)(A)) is amended—

20 (1) by striking “or” at the end of clause (iii);

21 (2) by striking the period at the end of clause  
22 (iv) and inserting “; or”; and

23 (3) by adding at the end the following new  
24 clause:

1                   “(v) a party to a free trade agreement  
2                   that entered into force with respect to the  
3                   United States after December 31, 2005,  
4                   and before July 2, 2006, a product or serv-  
5                   ice of that country or instrumentality  
6                   which is covered under the free trade  
7                   agreement for procurement by the United  
8                   States.”.

## THE UNITED STATES-BAHRAIN FREE TRADE AGREEMENT IMPLEMENTATION ACT

### STATEMENT OF ADMINISTRATIVE ACTION

This Statement of Administrative Action is submitted to the Congress in compliance with section 2105(a)(1)(C)(ii) of the Bipartisan Trade Promotion Authority Act of 2002 ("TPA Act") and accompanies the implementing bill for the United States-Bahrain Free Trade Agreement ("Agreement"). The bill approves and makes statutory changes necessary or appropriate to implement the Agreement, which the United States Trade Representative signed on September 14, 2004.

This Statement describes significant administrative actions proposed to implement U.S. obligations under the Agreement.

In addition, incorporated into this Statement are two other statements required under section 2105(a) of the TPA Act: (1) an explanation of how the implementing bill and proposed administrative action will change or affect existing law; and (2) a statement setting forth the reasons why the implementing bill and proposed administrative action are necessary or appropriate to carry out the Agreement. The Agreement does not change the provisions of any agreement the United States has previously negotiated with Bahrain.

For ease of reference, this Statement generally follows the organization of the Agreement, with the exception of grouping the general provisions of the Agreement (Chapters One and Seventeen through Twenty-One) at the beginning of the discussion.

For each chapter of the Agreement, the Statement describes the pertinent provisions of the implementing bill, explaining how the bill changes or affects existing law, and stating why those provisions are necessary or appropriate to implement the Agreement. The Statement then describes the administrative action proposed to implement the particular chapter of the Agreement, explaining how the proposed action changes existing administrative practice or authorizes further action and stating why such actions are necessary or appropriate to implement the Agreement.

It should be noted that this Statement does not, for the most part, discuss those many instances in which U.S. law or administrative practice will remain unchanged under the Agreement. In many cases, U.S. laws and regulations are already in conformity with the obligations assumed under the Agreement.

Finally, references in this Statement to particular sections of U.S. statutes are based on those statutes in effect as of the date this Statement was submitted to the Congress.

**Chapters:**  
**One (Initial Provisions and Definitions)**  
**Seventeen (Transparency)**  
**Eighteen (Administration of the Agreement)**  
**Nineteen (Dispute Settlement)**  
**Twenty (Exceptions)**  
**Twenty-One (Final Provisions)**

**1. Implementing Bill**

**a. Congressional Approval**

Section 101(a) of the implementing bill provides Congressional approval for the Agreement and this Statement, as required by sections 2103(b)(3) and 2105(a)(1) of the TPA Act.

**b. Entry into Force**

Article 21.5 of the Agreement requires the United States and Bahrain to exchange written notifications that their respective internal requirements for the entry into force of the Agreement have been fulfilled. The exchange of notifications is a necessary condition for the Agreement's entry into force. Section 101(b) of the implementing bill authorizes the President to exchange notes with Bahrain to provide for entry into force of the Agreement with respect to the United States on or after January 1, 2006. The exchange of notes is conditioned on a determination by the President that Bahrain has taken measures necessary to comply with those of its obligations that are to take effect at the time the Agreement enters into force.

Certain provisions of the Agreement become effective after the Agreement's entry into force. For example, a rule pertaining to international agreements governing intellectual property rights becomes effective with respect to Bahrain no later than one year after the Agreement enters into force. Other provisions relating to customs administration and financial services become effective with respect to Bahrain no later than two years after the Agreement's entry into force. Finally, the transparency provisions of Chapter Seven (Technical Barriers to Trade) become effective with respect to both countries no later than five years after the Agreement's entry into force.

**c. Relationship to Federal Law**

Section 102(a) of the bill establishes the relationship between the Agreement and U.S. law. The implementing bill, including the authority granted to federal agencies to promulgate implementing regulations, is intended to bring U.S. law fully into compliance with U.S. obligations under the Agreement. The bill accomplishes that objective with respect to federal legislation by amending existing federal statutes that would otherwise be inconsistent with the Agreement and, in certain instances, by creating entirely new provisions of law.

Section 102(a) 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 bill. Section 102(a) will not prevent implementation of federal statutes consistent with the Agreement, where permissible under the terms of such statutes. Rather, the section reflects the Congressional view that necessary changes in federal statutes should be specifically enacted rather than provided for in a blanket preemption of federal statutes by the Agreement.

The Administration has made every effort to include all laws in the implementing bill and to identify all administrative actions in this Statement that must be changed in order to conform with the new U.S. rights and obligations arising from the Agreement. Those include both regulations resulting from statutory changes in the bill itself and changes in laws, regulations, rules, and orders that can be implemented without a change in the underlying U.S. statute.

Accordingly, at this time it is the expectation of the Administration that no changes in existing federal law, rules, regulations, or orders other than those specifically indicated in the implementing bill and this Statement will be required to implement the new international obligations that the United States will assume under the Agreement. This is without prejudice to the President's continuing responsibility and authority to carry out U.S. law and agreements. As experience under the Agreement is gained over time, other or different administrative actions may be taken in accordance with applicable law to implement the Agreement. If additional action is called for, the Administration will seek legislation from Congress or, if a change in regulation is required, follow normal agency procedures for amending regulations.

#### **d. Relationship to State Law**

The Agreement's rules generally cover state and local laws and regulations, as well as those at the federal level. There are a number of exceptions to, or limitations on, this general rule, however, particularly in the areas of government procurement, labor and environment, investment, and cross-border trade in services and financial services.

The Agreement does not automatically "preempt" or invalidate state laws that do not conform to the Agreement's rules, even if a dispute settlement panel were to find a state measure inconsistent with the Agreement. The United States is free under the Agreement to determine how it will conform with the Agreement's rules at the federal and non-federal levels. The Administration is committed to carrying out U.S. obligations under the Agreement, as they apply to the states, through the greatest possible degree of state-federal consultation and cooperation.

Section 102(b)(1) of the bill makes clear that only the United States is entitled to bring an action in court in the event that there is an unresolved conflict between a state law, or the application of a state law, and the Agreement. The authority conferred on the United States under this paragraph is intended to be used only as a last resort, in the unlikely event that efforts to achieve consistency through consultations do not succeed.

The reference in section 102(b)(2) of the bill to the business of insurance is required by virtue of section 2 of the McCarran-Ferguson Act (15 U.S.C. 1012). That section states that no federal statute shall be construed to supersede any state law regulating or taxing the business of insurance unless the federal statute "specifically relates to the business of insurance." Certain provisions of the Agreement (for example, Chapter Eleven, relating to financial services) do apply to state measures regulating the insurance business, although "grandfathering" provisions in Chapter Eleven exempt existing inconsistent (*i.e.*, "non-conforming") measures.

Given the provision of the McCarran-Ferguson Act, the implementing bill must make specific reference to the business of insurance in order for the Agreement's provisions covering the insurance business to be given effect with respect to state insurance law. Insurance is otherwise treated in the same manner under the Agreement and the implementing bill as other financial services under the Agreement.

**e. Private Lawsuits**

Section 102(c) of the implementing bill precludes any private right of action or remedy against a federal, state, or local government, or against a private party, based on the provisions of the Agreement. A private party thus could not sue (or defend a suit against) the United States, a state, or a private party on grounds of consistency (or inconsistency) with the Agreement. The provision also precludes a private right of action attempting to require, preclude, or modify federal or state action on grounds such as an allegation that the government is required to exercise discretionary authority or general "public interest" authority under other provisions of law in conformity with the Agreement.

With respect to the states, section 102(c) represents a determination by the Congress and the Administration that private lawsuits are not an appropriate means for ensuring state compliance with the Agreement. Suits of this nature might interfere with the Administration's conduct of trade and foreign relations and with suitable resolution of disagreements or disputes under the Agreement.

Section 102(c) does not preclude any agency of government from considering, or entertaining argument on, whether its action or proposed action is consistent with the Agreement, although any change in agency action would have to be consistent with domestic law.

**f. Implementing Regulations**

Section 103(a) of the bill provides the authority for new or amended regulations to be issued, and for the President to proclaim actions implementing the provisions of the Agreement, as of the date the Agreement enters into force. Section 103(b) of the bill requires that, whenever possible, all federal regulations required or authorized under the bill and those proposed in this Statement as necessary or appropriate to implement immediately applicable U.S. obligations under the Agreement are to be developed and promulgated within one year of the Agreement's entry into force. In practice, the Administration intends, wherever possible, to amend or issue the other regulations required to implement U.S. obligations under the Agreement at the time the

Agreement enters into force. The process for issuing regulations pursuant to this authority will comply with the requirements of the Administrative Procedures Act, including requirements to provide notice and an opportunity for public comment on such regulations. If issuance of any regulation will occur more than one year after the date provided in section 103(b), the officer responsible for issuing such regulation will notify the relevant committees of both Houses of the delay, the reasons for such delay, and the expected date for issuance of the regulation. Such notice will be provided at least 30 days prior to the end of the one-year period.

**g. Dispute Settlement**

Section 105(a) of the bill authorizes the President to establish within the Department of Commerce an office responsible for providing administrative assistance to dispute settlement panels established under Chapter Nineteen of the Agreement. This provision enables the United States to implement its obligations under Article 19.3 of the Agreement. This office will not be an "agency" within the meaning of 5 U.S.C. 552, consistent with treatment provided under the United States-CAFTA-DR Free Trade Agreement, the United States-Morocco Free Trade Agreement, the United States-Australia Free Trade Agreement, the United States-Chile Free Trade Agreement, the United States-Singapore Free Trade Agreement, the North American Free Trade Agreement ("NAFTA"), and the United States-Canada Free Trade Agreement. Thus, for example, the office will not be subject to the Freedom of Information Act or the Government in the Sunshine Act. Since they are international bodies, panels established under Chapter Nineteen are not subject to those acts.

Section 105(b) of the bill authorizes the appropriation of funds to support the office established pursuant to section 105(a).

**h. Effective Dates**

Section 106(b) of the bill provides that the first three sections of the bill as well as Title I of the bill go into effect when the bill is enacted into law.

Section 106(a) provides that the other provisions of the bill and the amendments to other statutes made by the bill take effect on the date on which the Agreement enters into force. Section 106(c) provides that the provisions of the bill and the amendments to other statutes made by the bill will cease to be effective on the date on which the Agreement terminates.

**2. Administrative Action**

No administrative changes will be necessary to implement Chapters One, Seventeen, Nineteen, Twenty, and Twenty-One.

Article 18.1.1 of the Agreement requires each government to designate a contact point to facilitate bilateral communications regarding the Agreement. The Office of the United States Trade Representative ("USTR") will serve as the U.S. contact point for this purpose. In addition, Article 18.2 establishes a Joint Committee to oversee the implementation of the Agreement and



consider necessary amendments, among other tasks. The United States Trade Representative will represent the United States on the Joint Committee.

## Chapter Two (National Treatment and Market Access for Goods)

### 1. Implementing Bill

#### a. Proclamation Authority

Section 201(a) of the bill grants the President authority to implement by proclamation U.S. rights and obligations under Chapter Two of the Agreement through the application or elimination of customs duties and tariff-rate quotas ("TRQs"). Section 201(a) authorizes the President to:

- modify or continue any duty;
- keep in place duty-free or excise treatment; or
- impose any duty

that 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 of the Agreement.

The proclamation authority with respect to Article 2.3 authorizes the President to provide for the continuation, phase-out, or elimination, according to the Tariff Schedule of the United States to Annex 2-B of the Agreement, of customs duties on imports from Bahrain that meet the Agreement's rules of origin. This proclamation authority also authorizes the President to provide for the implementation and administration of TRQs according to the U.S. Schedule to Annex 2-B of the Agreement.

The proclamation authority with respect to Articles 2.5 and 2.6 authorizes the President to provide for the elimination of duties on particular categories of imports from Bahrain. Article 2.5 pertains to the temporary admission of certain goods, such as commercial samples, goods intended for display at an exhibition, and goods necessary for carrying out the business activity of a person who qualifies for temporary entry into the United States. Article 2.6 pertains to the importation of goods: (1) returned to the United States after undergoing repair or alteration in Bahrain; or (2) sent from Bahrain for repair or alteration in the United States.

The proclamation authority with respect to Articles 3.2.8 and 3.2.9 authorizes the President to provide preferential tariff treatment to certain textile and apparel goods that do not qualify as "originating goods" (*i.e.*, goods that satisfy the Agreement's rules of origin). However, this treatment may be applied only up to annual quantitative limits set forth in those Articles for such goods. While goods subject to this provision may receive preferential tariff treatment, they will remain subject to the U.S. merchandise processing fee when they are

imported. (See item (b) in this section.)

Section 201(a)(2) of the implementing bill requires the President to withdraw beneficiary status under the Generalized System of Preferences program from Bahrain once the Agreement enters into force.

Section 201(b) of the bill authorizes the President, subject to the consultation and layover provisions of section 104 of the bill (described below), to:

- modify or continue any duty;
- modify the staging of any duty elimination under the Agreement pursuant to an agreement with Bahrain under Annex 2-B (e.g., to accelerate the elimination of tariffs under the Agreement);
- keep in place duty-free or excise treatment; or
- impose any duty

by proclamation whenever the President determines it to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Bahrain provided by the Agreement.

Section 104 of the bill sets forth consultation and layover steps that must precede the President's implementation of any duty modification by proclamation. This would include, for example, modifications of duties under section 201(b) of the bill. Under the consultation and layover provisions, the President must obtain the advice of the private sector advisory committees (pursuant to section 135 of the Trade Act of 1974) and the U.S. International Trade Commission ("ITC") on the proposed action. The President must submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate ("Trade Committees") setting forth the action proposed, the reasons for the proposed action, and the advice of the private sector and the ITC. The bill sets aside a 60-day period following the date of transmittal of the report for the President to consult with the Trade Committees on the action. Following the expiration of the 60-day period, the President may proclaim the action.

The President may initiate the consultation and layover process under section 104 of the bill on enactment of the bill. However, under section 103(a), any modifying proclamation cannot take effect until the Agreement enters into force. In addition to modifications of customs duties, these provisions apply to other Presidential proclamation authority provided in the bill that is subject to consultation and layover, such as authority to implement a proposal to modify the Agreement's specific rules of origin pursuant to an agreement with Bahrain under Article 3.2.3 of the Agreement.

Section 201(c) of the bill provides for the conversion of existing specific or compound

rates of duty for various goods to *ad valorem* rates for purposes of implementing the Agreement's customs duty reductions. (A compound rate of duty for a good would be a rate of duty stated, for example, as the sum of X dollars per kilogram plus Y percent of the value of the good.)

**b. Customs User Fees**

Section 203 of the bill implements U.S. commitments under Article 2.9.4 of the Agreement, regarding customs user fees on originating goods, by amending section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)). The amendment provides for the immediate elimination of the merchandise processing fee for goods qualifying as originating goods under Chapter Four of the Agreement. Customs processing for goods qualifying as originating goods under the Agreement will be financed by money from the General Fund of the Treasury. This is necessary to ensure that the United States complies with obligations under the General Agreement on Tariffs and Trade 1994 by limiting fees charged for the processing of non-originating imports to amounts commensurate with the processing services provided. That is, fees charged on non-originating imports will not be used to finance customs processing for originating imports.

**2. Administrative Action**

As discussed above, section 201(a) of the bill authorizes the President to proclaim duty-free treatment for certain goods to carry out Article 2.5 (temporary admission of certain goods) and Article 2.6 (repair or alteration of certain goods) of the Agreement. The Secretary of the Treasury will issue regulations to implement the proclamation.

**Chapter Three (Textiles and Apparel)**

**1. Implementing Bill**

**a. Enforcement of Textile and Apparel Rules of Origin**

In addition to lowering barriers to bilateral trade in textile and apparel goods, the Agreement includes anti-circumvention provisions designed to ensure the accuracy of claims of origin and to prevent circumvention of laws, regulations, and procedures affecting such trade. Article 3.3 of the Agreement provides for facility inspections, examinations of records, and other forms of verification to determine the accuracy of claims of origin for textile and apparel goods and to determine that exporters and producers are complying with applicable laws, regulations, and procedures regarding trade in textile and apparel goods.

Under Articles 3.3.2 and 3.3.3, the United States may request that Bahrain conduct a verification, allow the United States to conduct a verification, or collaborate with the United States in conducting a verification with respect to a Bahraini exporter or producer. The object of a verification under Article 3.3.2 is to determine that a claim of origin for a textile or apparel

good is accurate. The object of a verification under Article 3.3.3 is to determine that an exporter or producer is complying with applicable customs laws, regulations, and procedures and that claims of origin for textile or apparel goods exported or produced by that person are accurate.

Under Article 3.3.6 of the Agreement, the United States may take appropriate action during a verification, including suspending the application of preferential tariff treatment to textile or apparel goods exported or produced by the person subject to the verification. Under Article 3.3.8, the United States also may take appropriate action if, after 12 months, it is unable to make the requisite determination. In general, there are two situations in which the United States would be unable to make the required determination. One would involve a lack of cooperation on the part of the exporter or producer. The second would occur when the United States has sufficient information, and based on that information determines that: (1) a claim of origin is not accurate; or (2) an exporter or producer is not complying with applicable customs laws, regulations, and procedures, and therefore that claims of origin for textile and apparel goods produced by that person are not accurate.

Under current law, the Secretary of the Treasury may request that Bahraini authorities conduct a verification, allow the United States to conduct a verification, or collaborate with the United States in conducting a verification under Article 3.3 of the Agreement. Section 204(a) authorizes the President to direct the Secretary of the Treasury to take "appropriate action" while a verification requested by the Secretary is being conducted. The purpose of such verification is to determine compliance with applicable customs law or to determine the accuracy of a claim that a particular good is an originating good or a "good of Bahrain." Under section 204(b), such action may include, but is not limited to, suspension of liquidation of entries of textile and apparel goods exported or produced by the person that is the subject of the verification.

Under section 204(c), if the Secretary is unable to confirm within 12 months of making a verification request that a claim of origin for a good is accurate or, more generally, that a Bahraini exporter or producer is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods, the President may determine what further "appropriate action" to take. Under section 204(d), such further action may include publishing the name and address of the person subject to the verification and, in the case of a verification under Article 3.3.3 of the Agreement, denying preferential tariff treatment under the Agreement to any textile and apparel goods exported or produced by the person subject to the verification, and denying entry of such goods into the United States. In the case of a verification under Article 3.3.2 of the Agreement, the further action referred to in section 204(d) of the bill may include denying preferential tariff treatment to a textile or apparel good for which a claim has been made that is the subject of the verification and denying entry of such a good into the United States. Such further appropriate action may remain in effect until the Secretary receives information sufficient to make a determination under section 204(a) or until such earlier date as the President may direct.

**b. Textile and Apparel Safeguard**

Article 3.1 of the Agreement establishes a special procedure and makes remedies available to domestic textile and apparel industries that have sustained or are threatened by serious damage from imports of textile or apparel goods that receive preferential tariff treatment under the Agreement. The Administration does not anticipate that the Agreement will result in damaging increases in textile or apparel imports from Bahrain. Nevertheless, the Agreement's textile and apparel safeguard procedure will ensure that relief is available, if needed.

The safeguard mechanism applies when, as a result of the elimination of a customs duty under the Agreement, textile or apparel goods from Bahrain that receive preferential tariff treatment are being imported into the United States in such increased quantities, in absolute or relative terms, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing like or directly competitive goods. In these circumstances, Article 3.1 permits the United States to increase duties on the imported goods to a level that does not exceed the lesser of the prevailing U.S. normal trade relations (most-favored-nation) ("NTR (MFN)") duty rate for the good or the U.S. NTR (MFN) duty rate in effect on the day before the Agreement entered into force.

Section 301(2) of the bill defines the term "Bahraini textile or apparel article" as an article listed in the Annex to the WTO Agreement on Textiles and Clothing that is also a Bahraini article, as defined in section 301(1).

Subtitle B of Title III of the bill (sections 321 through 328) implements the Agreement's textile and apparel safeguard provisions.

Section 321(a) of the bill provides that an interested party may file with the President a request for a textile or apparel safeguard measure. The President is to review a request initially to determine whether to commence consideration of the request on its merits.

Under section 321(b), if the President determines that the request contains information necessary to warrant consideration on the merits, the President must provide notice in the *Federal Register* stating that the request will be considered and seeking public comments on the request. The notice will contain a summary of the request itself and the dates by which comments and rebuttals must be received. Subject to protection of business confidential information, if any, the full text of the request will be made available on the Department of Commerce, International Trade Administration's website.

If the President determines under section 321 that a request contains the information necessary for it to be considered, then section 322 sets out the procedures to be followed in considering the request. Section 322(a)(1) of the bill provides for the President to determine whether, as a result of the elimination of a duty provided for under the Agreement, a Bahraini textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions that imports of the article are causing serious damage, or actual threat thereof, to a domestic industry

producing an article that is like, or directly competitive with, the imported article. This determination corresponds to the determination required under Article 3.1.1 of the Agreement. Section 322(a)(2) of the bill includes criteria for determining serious damage or actual threat thereof, consistent with Article 3.1.2 of the Agreement.

Section 322(b) of the bill identifies the relief that the President may provide to a U.S. industry that the President determines is facing serious damage or actual threat thereof. Such relief may consist of an increase in duties to the lower of: (1) the NTR (MFN) duty rate in place for the textile or apparel article at the time the relief is granted; or (2) the NTR (MFN) duty rate for that article on the day before the Agreement enters into force.

Section 323 of the bill provides that the maximum period of relief under the textile and apparel safeguard is three years. However, if the initial period of import relief is less than three years, the President may extend the relief (to a maximum aggregate period of three years) if the President determines that continuation is necessary to remedy or prevent serious damage and to facilitate adjustment, and that the domestic industry is, in fact, adjusting to import competition.

Section 324 of the bill provides that relief may not be granted to an article under the textile and apparel safeguard if: (1) relief previously has been granted to that article under the textile and apparel safeguard; or (2) the article is subject, or becomes subject, to a safeguard measure under chapter 1 of title II of the Trade Act of 1974.

Section 325 of the bill provides that on the date of termination of import relief, imports of the textile or apparel article that was subject to the safeguard action will be subject to the rate of duty that would have been in effect on that date in the absence of the relief.

Section 326 of the bill provides that authority to provide relief under the textile and apparel safeguard with respect to any Bahraini article will expire 10 years after duties on the article are eliminated.

Under Article 3.1.6 of the Agreement, if the United States provides relief to a domestic industry under the textile and apparel safeguard, it must provide Bahrain "mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the emergency action." If the United States and Bahrain are unable to agree on trade liberalizing compensation, Bahrain may increase customs duties equivalently on U.S. goods. The obligation to provide compensation terminates upon termination of the safeguard relief.

Section 123 of the Trade Act of 1974 (19 U.S.C. 2133), as amended, authorizes the President to provide trade compensation for global safeguard measures taken pursuant to chapter 1 of title II of the Trade Act of 1974. Section 327 of the implementing bill extends that authority to measures taken pursuant to the Agreement's textile and apparel safeguard provisions.

Finally, section 328 of the bill provides that business confidential information submitted in the course of consideration of a request for a textile or apparel safeguard may not be released

absent the consent of the party providing the information. It also provides that a party submitting business confidential information in a textile or apparel safeguard proceeding must submit a non-confidential version of the information or a summary of the information.

2. **Administrative Action**

a. **Enforcement of Textile and Apparel Rules of Origin**

Section 204 of the bill governs situations in which U.S. customs officials request that Bahrain initiate verifications regarding enforcement of textile and apparel rules of origin. Following a U.S. request for a verification, the Committee for the Implementation of Textile Agreements ("CITA"), an interagency entity created by Executive Order 11651 that carries out certain textile trade policies for the United States by delegation of authority from the President, may direct U.S. officials to take appropriate action described in section 204(b) of the bill while the verification is being conducted. U.S. customs officials will determine whether the exporter or producer that is subject to the verification is complying with applicable customs rules, and whether statements regarding the origin of textile or apparel goods exported or produced by that firm are accurate. If U.S. customs officials determine that an exporter or producer is not complying with applicable customs rules or that it is making false statements regarding the origin of textile or apparel goods, they will report their findings to CITA. Similarly, if U.S. customs officials are unable to make the necessary determination (e.g., due to lack of cooperation by the exporter or producer), they will report that fact to CITA. CITA may direct U.S. officials to take appropriate action described in section 204(d) in the case of an adverse determination or a report that customs officials are unable to make the necessary determination. If the appropriate action includes denial of preferential tariff treatment or denial of entry, CITA will issue an appropriate directive.

Section 204 of the bill provides the exclusive basis in U.S. law for CITA to direct appropriate action implementing Article 3.3 of the Agreement.

b. **Textile and Apparel Safeguard**

The function of receiving requests for textile and apparel safeguard measures under section 321 of the bill, making determinations of serious damage or actual threat thereof under section 322(a), and providing relief under section 322(b) will be performed by CITA, pursuant to a delegation of the President's authority under the bill. CITA will issue procedures for requesting such safeguard measures, for making its determinations under section 322(a), and for providing relief under section 322(b).

## Chapter Four (Rules of Origin)

### 1. Implementing Bill

#### a. General

Section 202 of the implementing bill codifies the general rules of origin set forth in Chapter Four of the Agreement. These rules apply only for the purposes of this bill and for the purposes of implementing the customs duty treatment provided under the Agreement. An originating good of Bahrain for the purposes of this bill would not necessarily be a good of, or import from, Bahrain for the purposes of other U.S. laws or regulations.

For a good entering the United States to qualify as an originating good, it must be imported directly from Bahrain. Additionally, it 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." The term "good wholly the growth, product, or manufacture of Bahrain or the United States, or both" is defined in section 202(i)(3) of the bill and includes, for example, minerals extracted in either country, animals born and raised in either country, and waste and scrap derived from production of goods that takes place in the territory of either or both countries.

The term "good wholly the growth, product, or manufacture of Bahrain or the United States, or both" includes "recovered goods." These are parts resulting from the disassembly of used goods, which are brought into good working condition, in order to be combined with other recovered goods and other materials to form a "remanufactured good." The term "remanufactured good" is separately defined in section 202(i)(9) to mean an industrial good assembled in the territory of Bahrain or the United States that: (1) is entirely or partially comprised of recovered goods; (2) has a similar life expectancy to, and meets similar performance standards as, a like good that is new; and (3) enjoys a factory warranty similar to that of a like good that is new.

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. Under this category, the sum of: (1) the value of the materials produced in Bahrain or the United States, or both; and (2) 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 it is entered into the territory of either country. This category does not apply to goods specified in Annex 3-A or Annex 4-A of the Agreement.

This second category incorporates two defined terms. The term "new or different article of commerce" is defined under section 202(i)(7) of the bill as "a good [ ] that has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of Bahrain or the United States, or both; and [that] has a new name, character, or use distinct from the good or material from which it was transformed." The term "direct costs of processing operations," defined in section 202(i)(1) of the bill, refers to costs directly incurred in,



or that can be reasonably allocated to, the growth, production, or manufacture of a good. It includes a variety of types of costs, such as labor costs, depreciation on machinery or equipment, research and development, inspection costs, and packaging costs, among others.

Third, a good is an "originating good" if it meets the product-specific rules set out in Annex 3-A or Annex 4-A of the Agreement and satisfies all other applicable requirements of section 202. In general, Annex 3-A and Annex 4-A of the Agreement require that non-originating materials used in the production of a good undergo a change in tariff classification, as specified in each Annex, as a result of production occurring entirely in the territory of Bahrain or the United States, or both.

The remainder of section 202 of the implementing bill sets forth specific rules that supplement the rules for qualifying under the second and third categories just described. For example, section 202(e) provides that "[p]ackaging and packing materials and containers for retail sale and shipment shall be disregarded in determining whether a good qualifies as an originating good, except to the extent that the value of such packaging and packing materials and containers has been included in meeting the requirements set forth in subsection (b)(2)." Other provisions in section 202 address valuation of materials and rules regarding indirect materials, transit and transshipment, and a variety of other matters.

#### **b. Proclamation Authority**

Section 202(j)(1) of the bill authorizes the President to proclaim the specific rules of origin in Annex 3-A and Annex 4-A of the Agreement, as well as any additional subordinate rules necessary to carry out the customs duty provisions of the bill consistent with the Agreement. In addition, section 202(j)(2) gives authority to the President to modify certain of the Agreement's specific origin rules by proclamation, subject to the consultation and layover provisions of section 104 of the bill. (*See discussion under item 1.a of Chapter Two, above.*)

Various provisions of the Agreement expressly contemplate modifications to the rules of origin. For example, Article 3.2.3 calls for the United States and Bahrain to consult at either country's request to consider whether rules of origin for particular textile or apparel goods should be revised in light of the availability of fibers, yarns, or fabrics in their respective territories. In addition, Article 4.13 provides that, at an appropriate time, the United States and Bahrain will 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 may be counted for purposes of satisfying the Agreement's rules of origin.

Section 202(j)(2) of the bill expressly limits the President's authority to modify by proclamation specific rules of origin pertaining to textile or apparel goods (listed in Chapters 50 through 63 of the HTS and identified in Annex 3-A of the Agreement). Those rules of origin may be modified by proclamation in only two circumstances: (1) to implement an agreement with Bahrain pursuant to Article 3.2.5 of the Agreement to address the commercial availability of particular fibers, yarns, or fabrics; and (2) to correct typographical, clerical, or other non-substantive technical errors within one year of enactment of the implementing bill.

2. **Administrative Action**

The rules of origin in Chapter Four of the Agreement are intended to direct the benefits of customs duty elimination under the Agreement principally to firms producing or manufacturing goods in Bahrain and the United States. For this reason, the rules ensure that, in general, a good is eligible for benefits under the Agreement only if it: (1) is wholly grown, produced, or manufactured in one or both countries; (2) has been substantially transformed from a good or material that is not wholly grown, produced, or manufactured in one or both countries; or (3) meets specific "tariff shift" rules identified for particular products.

a. **Claims for Preferential Tariff Treatment**

Section 205 of the bill authorizes the Secretary of the Treasury to prescribe regulations necessary to carry out the tariff-related provisions of the bill, including the rule of origin provisions. The Department of the Treasury will use this authority in part to promulgate any regulations necessary to implement the Agreement's provisions governing claims for preferential tariff treatment. Under Article 4.10(a) of the Agreement, an importer claiming preferential tariff treatment is deemed to have certified that the good qualifies for such treatment. Under Article 4.10(b), an importer may be requested to explain in a detailed declaration the basis for such a claim. Article 4.11.1 requires that a claim for preferential tariff treatment be granted unless customs officials have information indicating that the importer's claim fails to comply with the Agreement's rules of origin. Article 4.11.3 requires customs officials to provide a written determination, with factual and legal findings, if they deny a claim.

b. **Verification**

Under Article 4.11.2, customs officials may verify claims that goods imported from Bahrain satisfy the Agreement's rules of origin. Article 3.3 sets out special procedures for verifying claims that textile or apparel goods imported from Bahrain meet the Agreement's origin rules. U.S. officials will carry out verifications under Articles 4.11.2 and 3.3 of the Agreement pursuant to authorities under current law. For example, section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) provides authority to examine records and issue summonses to determine liability for duty and ensure compliance with U.S. customs laws.

**Chapter Five (Customs Administration)**

1. **Implementing Bill**

No statutory changes will be required to implement Chapter Five.

2. **Administrative Action**

a. **Inquiry Point**

Article 5.1.2 of the Agreement requires each country to designate an inquiry point for inquiries from interested persons on customs matters. The U.S. Bureau of Customs and Border Protection ("BCBP") will serve as the U.S. inquiry point for this purpose. Consistent with Article 5.1.2, the BCBP will post information on the Internet at "www.cbp.gov" concerning how interested persons can make customs-related inquiries.

**b. Advance Rulings**

Treasury regulations for advance rulings under Article 5.10 of the Agreement (on classification, valuation, duty drawback, qualification as an "originating good," and duty-free treatment of goods returned to the United States after repair or alteration in Bahrain) will parallel in most respects existing regulations in Part 177 of the Customs Regulations for obtaining advance rulings. Consistent with Article 5.10.2 of the Agreement, advance rulings will be required to be issued within 150 days of receipt by customs officials of all information reasonably required to process the application for the ruling.

**Chapter Six (Sanitary and Phytosanitary Measures)**

No statutory or administrative changes will be required to implement Chapter Six.

**Chapter Seven (Technical Barriers to Trade)**

**1. Implementing Bill**

No statutory changes will be required to implement Chapter Seven.

**2. Administrative Action**

Article 7.7 of the Agreement calls for each government to designate an official to coordinate with interested parties in its territory on bilateral issues and initiatives regarding technical barriers to trade ("TBT"), and to communicate with the other government on such matters. A USTR official responsible for TBT matters or trade relations with Bahrain will serve as the U.S. TBT Chapter Coordinator.

**Chapter Eight (Safeguards)**

**1. Implementing Bill**

Subtitle A of Title III of the bill implements in U.S. law the bilateral safeguard provisions set out in Chapter Eight of the Agreement. (As discussed under Chapter Three (Textiles and

Apparel), above, Subtitle B of Title III of the bill implements the textile and apparel safeguard provisions of the Agreement.)

Sections 311 through 316 of the bill authorize the President to suspend duty reductions or impose duties temporarily at NTR (MFN) rates on a "Bahraini article" when, after an investigation, the ITC determines that as a result of the reduction or elimination of a duty under the Agreement, the article is being imported into the United States in such increased quantities and under such conditions, as to be a substantial cause of serious injury or threat of serious injury to a domestic industry that produces a like or directly competitive good. The standards and procedures set out in these provisions closely parallel the procedures set out in sections 201 through 204 of the Trade Act of 1974.

Section 301(1) defines the term "Bahraini article" for purposes of the safeguard provisions to mean a good qualifying as an "originating good" under section 202(b) of the bill or a textile or apparel good containing non-originating fabric or yarn that receives preferential tariff treatment under Articles 3.2.8 and 3.2.9 of the Agreement.

Section 311 provides for the filing of petitions with the ITC and for the ITC to conduct bilateral safeguard investigations. Section 311(a) provides that a petition requesting a bilateral safeguard action may be filed by an entity that is "representative of an industry." As under section 202(a)(1) of the Trade Act of 1974, the term "entity" includes a trade association, firm, certified or recognized union, or a group of workers.

Section 311(b) sets out the standard to be used by the ITC in undertaking an investigation and making a determination in bilateral safeguard proceedings.

Section 311(c) makes applicable by reference several provisions of the Trade Act of 1974. These are the definition of "substantial cause" in section 202(b)(1)(B), the factors listed in section 202(c) applied in making determinations, the hearing requirement of section 202(b)(3), and the provisions of section 202(i) permitting confidential business information to be made available under protective order to authorized representatives of parties to a safeguard investigation.

Section 311(d) exempts from investigation under this section a Bahraini article that has been subject to a safeguard measure under Subtitle A of Title III of the bill after the Agreement's entry into force. In other words, a safeguard measure under Subtitle A of Title III of the bill may be applied only once for a particular good.

Section 312(a) establishes deadlines for ITC determinations following an investigation under section 311(b). The ITC must make its injury determination within 120 days of the date on which it initiates an investigation.

Section 312(b) makes applicable the provisions of section 330(d) of the Tariff Act of 1930, which will apply when the ITC Commissioners are equally divided on the question of injury or remedy.

Under section 312(c), if the ITC makes an affirmative injury determination, or a determination that the President may consider to be an affirmative determination under section 312(b), it must find and recommend to the President the amount of import relief that is necessary to remedy or prevent the serious injury and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The relief that may be recommended by the ITC is limited to that authorized in section 313(c). Similar to procedures under the global safeguards provisions in current law, section 312(c) of the bill provides that only those members of the ITC who agreed to the affirmative determination under section 312(a) may vote on the recommendation of relief under section 312(c).

Under section 312(d), the ITC is required to transmit a report to the President not later than 30 days after making its injury determination. The ITC's report must include: (1) the ITC's determination under section 312(a) and the reasons supporting it; (2) if the determination under section 312(a) is affirmative or may be considered to be affirmative by the President, any findings and recommendations for import relief and an explanation of the basis for each recommendation; and (3) any dissenting or separate views of ITC Commissioners. Section 312(e) requires the ITC to publish its report promptly and to publish a summary of the report in the *Federal Register*.

Under section 313(a) of the bill, the President is directed, subject to section 313(b), to take action not later than 30 days after receiving a report from the ITC containing an affirmative determination or a determination that the President may consider to be an affirmative determination. The President must provide import relief to the extent that the President determines is necessary to remedy or prevent the injury found by the ITC and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. Under section 313(b), the President is not required to provide import relief if the President determines that the relief will not provide greater economic and social benefits than costs.

Section 313(c)(1) sets forth the nature of the relief that the President may provide. In general, the President may take action in the form of:

- a suspension of further reductions in the rate of duty to be applied to the articles in question; or
- an increase in the rate of duty on the articles in question to a level that does not exceed the lesser of the existing NTR (MFN) rate or the NTR (MFN) rate of duty imposed on the day before the Agreement entered into force.

Under section 313(c)(2), if the relief the President provides has a duration greater than one year, the relief must be subject to progressive liberalization at regular intervals over the course of its application.

Section 313(d) of the bill provides that the maximum period of import relief under the bilateral safeguard is three years. However, if the initial period of import relief is less than three years, the President may extend the relief (to a maximum aggregate period of three years) if the President determines that continuation of relief is necessary to remedy or prevent serious injury and to facilitate adjustment to import competition, and that there is evidence that the industry is making a positive adjustment to import competition. That determination must follow an affirmative determination by the ITC to the same effect, or a determination that the President may consider to be an affirmative determination.

Section 313(e) specifies the duty rate to be applied to Bahraini articles after termination of a bilateral safeguard action. On the termination of relief, the rate of duty on that article is the rate that would have been in effect, but for the provision of such relief, on the date the relief terminates.

Section 313(f) exempts from relief a Bahraini article that already has been subject to a safeguard measure under Subtitle A of Title III of the bill. In other words, a safeguard measure under Subtitle A may be applied only once for a particular good.

Section 314 provides that the President's authority to take action under the bilateral safeguard provision expires 10 years after the date on which the Agreement enters into force. The President may take action under the bilateral safeguard provision after that period, but only if the President determines that the Government of Bahrain consents.

Section 315 allows the President to provide trade compensation to Bahrain, as required under Article 8.3 of the Agreement, when the United States imposes relief through a bilateral safeguard action. Section 315 provides that for purposes of section 123 of the Trade Act of 1974, which allows the President to provide compensation for global safeguards, any relief provided under section 313 will be treated as an action taken under the global safeguard provisions of U.S. law (sections 201 through 204 of the Trade Act of 1974).

Section 316 amends section 202(a) of the Trade Act of 1974 to provide that the procedures in section 332(g) of the Tariff Act of 1930 with respect to the release of confidential business information are to apply to bilateral safeguard investigations.

The Administration has not provided classified information to the ITC in past safeguard proceedings and does not expect to provide such information in future proceedings. In the unlikely event that the Administration provides classified information to the ITC in such proceedings, that information would be protected from publication in accordance with Executive Order 12958.

## 2. Administrative Action

No administrative changes will be required to implement Chapter Eight.

## Chapter Nine (Government Procurement)

### 1. Implementing Bill

In order to comply with its obligations under Chapter Nine, the United States must waive the application of certain laws, regulations, procedures, and practices that ordinarily treat foreign goods and services and suppliers of such goods and services less favorably than U.S. goods, services, and suppliers. Section 301(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2511(a)) authorizes the President to waive the application of such laws, regulations, procedures, and practices with respect to "eligible products" of a foreign country designated under section 301(b) of that Act. The President has delegated this authority to the United States Trade Representative. Section 401 of the implementing bill amends the definition of "eligible product" in section 308(4)(A) of the Trade Agreements Act. As amended, section 308(4)(A) will provide that, for a party to a free trade agreement that entered into force for the United States after December 31, 2005 and prior to July 2, 2006, an "eligible product" means "a product or service of that country or instrumentality which is covered under the free trade agreement for procurement by the United States." This amended definition, coupled with the President's exercise of authority under section 301(a) of the Trade Agreements Act as delegated to the United States Trade Representative, will allow for non-discriminatory procurement of products and services of Bahrain and other Parties to free trade agreements that entered into force during the specified time period.

### 2. Administrative Action

Annex 9-A-1 of the Agreement establishes dollar thresholds for procurements above which U.S. government procuring entities must allow Bahraini suppliers to bid in accordance with the rules set forth in Chapter Nine. USTR will notify the Federal Acquisition Regulation ("FAR") Council of the thresholds that pertain to Bahrain under the Agreement. The FAR Council will then incorporate those thresholds into the FAR.

## Chapter Ten (Cross-Border Trade in Services)

No statutory or administrative changes will be required to implement Chapter Ten.

## Chapter Eleven (Financial Services)

No statutory or administrative changes will be required to implement Chapter Eleven.

## Chapter Twelve (Telecommunications)

No statutory or administrative changes will be required to implement Chapter Twelve.

### **Chapter Thirteen (Electronic Commerce)**

No statutory or administrative changes will be required to implement Chapter Thirteen.

### **Chapter Fourteen (Intellectual Property Rights)**

No statutory or administrative changes will be required to implement Chapter Fourteen.

### **Chapter Fifteen (Labor)**

#### **1. Implementing Bill**

No statutory changes will be required to implement Chapter Fifteen.

#### **2. Administrative Action**

Article 15.4.2 of the Agreement calls for each country to designate an office to serve as the contact point for implementing the Agreement's labor provisions. The Department of Labor's Bureau of International Labor Affairs will serve as the U.S. contact point for this purpose.

### **Chapter Sixteen (Environment)**

#### **1. Implementing Bill**

No statutory changes will be required to implement Chapter Sixteen.

#### **2. Administrative Action**

Article 16.8.1 of the Agreement provides that either Party may request consultations with the other concerning any matter arising under the Chapter and contemplates that each Party will designate a contact point to receive such requests. USTR's Office of Environment and Natural Resources will serve as the U.S. contact point for this purpose.



**Opening Statement of Charles E. Grassley, Senate Finance Committee  
Consultative Consideration of the U.S.-Bahrain Free Trade Agreement  
Implementation Act November 9, 2005**

Good morning. Today the Committee will be reviewing, and making informal recommendations on, proposed legislation to implement the U.S.-Bahrain Free Trade Agreement.

Before we begin with the technical review of the proposed bill, let me say a few words about the agreement.

The U.S.-Bahrain Free Trade Agreement will benefit U.S. farmers, workers, manufacturers, and service industries. Under this Agreement, 100 percent of trade between the United States and Bahrain in industrial and consumer products will become duty-free immediately. Bahrain will grant duty-free access on day one of the Agreement for 98 percent of U.S. tariff lines, and tariffs on the remaining 2 percent of agricultural tariff lines will be phased out over ten years. Bahrain will also provide significant market access for U.S. service providers.

I realize that Bahrain is not a large market, but the U.S.-Bahrain Free Trade Agreement will indeed result in real benefits for Americans, including Iowans. The HNI Corporation, an office furniture manufacturer based in Muscatine, Iowa, looks forward to increased business in Bahrain on account of this Agreement. Lennox, which manufactures residential heating and cooling products in Marshalltown, Iowa, has a strong interest in the Bahrain market and anticipates growing sales there following the implementation of the Agreement. A small Iowa company that supplies halal foods and food service equipment to restaurants, hotels, and distributors worldwide – the Midamar Corporation of Cedar Rapids – also stands to gain from this Agreement.

Importantly, the U.S.-Bahrain Free Trade Agreement will serve as a model for other trade agreements that the United States will negotiate in the Middle East. In this way, the U.S.-Bahrain Free Trade Agreement will ultimately lead to even further liberalization in the region. Thus, the benefits that the HNI Corporation, Lennox, and the Midamar Corporation, and other U.S. businesses will receive from this agreement will be multiplied as other Arab countries adopt agreements that will be modeled in large part upon our Agreement with Bahrain.

Now, today the Committee will be reviewing legislation designed to implement this trade agreement. The Committee's informal consideration of the legislation is part of the consultative process envisioned in Trade Promotion Authority. It is an informal act which is not required as part of Trade Promotion Authority. Still, I think it is important

to review the bill in a public forum, provide an opportunity to comment on the bill, and propose potential legislative changes.

What the committee has before it is a modified chairman's mark. The modification includes language in the proposed Statement of Administrative Action recognizing the efforts of Bahrain to dismantle its primary boycott of Israel. The modification notes that the Administration intends to monitor and report on the efforts of Bahrain to dismantle this boycott as part of its annual National Trade Estimates Report.

I applaud Bahrain for taking these steps - the Arab League boycott of Israel is clearly a discriminatory trade practice that has no place in a modern economy. I understand the Administration intends to closely monitor these efforts and that they have agreed to include the modified language as part of the final Statement of Administrative Action which will soon be sent to the Congress.

At this point, we will hear from our Ranking Member Senator Baucus. Following Senator Baucus' remarks we will have staff provide a brief oral summary of the implementing bill. We'll then open it up for comments and recommendations.

Let me remind Members that we need to have a quorum to vote out the Committee's modified recommendations today. I understand that an effort will be made to have a sufficient number of Senators to constitute a quorum at 10:15 this morning. As soon as a quorum is present, I will ask that the Committee vote on the Committee's recommendations as modified.

Senator Baucus?

AFTER SENATOR BAUCUS AND OTHER MEMBERS SPEAK:

We'll now have David Johanson provide a brief overview of the Agreement. I'll note that we also have several administration experts with us today to help answer your questions, including Shaun Donnelly, Assistant United States Trade Representative for Europe and the Mediterranean, and General Counsel Jim Mendenhall.

Thank you all for being here.

Mr. Johanson?

AFTER DAVID JOHANSON SPEAKS:

We will now open the bill up to discussion.

**STATEMENT FOR SENATOR BUNNING  
SENATE COMMITTEE ON FINANCE  
U.S. Bilateral Free Trade Agreements with Bahrain  
9 November 2005**

THANK YOU, MR. CHAIRMAN.

I BELIEVE THIS AGREEMENT IS VERY IMPORTANT AND I WOULD LIKE TO  
COMMEND THE GOVERNMENT OF BAHRAIN FOR TAKING THIS IMPORTANT STEP WITH  
US.

THIS AGREEMENT HAS MANY STRONG FEATURES: FROM THE WIDE ACCESS TO  
THE FINANCIAL SECTOR AND SERVICE INDUSTRIES, TO THE NEAR-TOTAL REMOVAL  
OF TARIFFS.

BUT I WOULD LIKE EVERYONE TO RECOGNIZE AS WE MOVE FORWARD WITH  
OTHER TRADE NEGOTIATIONS THAT THERE ARE AREAS WHERE THIS AGREEMENT  
FALLS SHORT.

THE SPECIAL TREATMENT OF TOBACCO AND ALCOHOL WITH A 10-YEAR  
"CLIFF" ELIMINATION OF TARIFFS AND REGULATIONS IS NOT ACCEPTABLE.

I DO UNDERSTAND THE CULTURAL CONCERNS AT ISSUE HERE; WHICH IS WHY  
I WILL SUPPORT THIS AGREEMENT AND TOLERATE THESE PROVISIONS.

BUT I WOULD LIKE TO BE VERY CLEAR: 10 YEARS IS TOO LONG TO WAIT TO  
ELIMINATE TOBACCO AND ALCOHOL TARIFFS.

I WILL BE WATCHING FUTURE NEGOTIATIONS CAREFULLY TO MAKE SURE TOBACCO AND ALCOHOL RECEIVE EQUAL TREATMENT TO OTHER PRODUCTS.

THIS CONCERN ASIDE, I BELIEVE THIS AGREEMENT CEMENTS A STRONG RELATIONSHIP WITH BAHRAIN AND OPENS OPPORTUNITIES TO BOTH OF OUR NATIONS.

THANK YOU.

**Statement of Senator Mike Crapo**  
**Senate Finance Committee**  
**November 9, 2005**

Thank you, Chairman Grassley and Senator Baucus, for holding this hearing on the U.S. – Bahrain Free Trade Agreement (FTA).

I believe in free trade and I applaud the outreach being made by the Administration to the Middle East. Middle Eastern countries are normally net importers of U.S. agricultural products, industrial goods, and services. Given this fact, I understand that this agreement, as with the Jordan FTA, has been relatively free of controversy for our industry and agricultural sectors.

I am pleased that this agreement provides for immediate duty-free access for 98 percent of U.S. agricultural products. I am hopeful that this increased market access will expand opportunities for U.S. producers.

I appreciate the work done to strengthen and expand the chapters for Services and Intellectual Property Rights, and I hope to see these pursued in the same manner in following FTAs.

I support this agreement and look forward to its passage by Congress.

Thank you, Mr. Chairman.



**STATEMENT OF CASS JOHNSON, PRESIDENT  
NATIONAL COUNCIL OF TEXTILE ORGANIZATIONS**

**STATEMENT  
THE FULL COMMITTEE  
of the  
SENATE COMMITTEE ON FINANCE**

**Hearing to Review and Make Recommendations on Proposed Legislation Implementing the  
U.S.-Bahrain Free Trade Agreement**

**November 9, 2005**

On behalf of the U.S. textile industry, the National Council of Textile Organizations (NCTO) submits this written statement in reference to the hearing held on the United States-Bahrain Free Trade Agreement before the United State Senate Committee on Finance on November 9, 2005.

The NCTO was recently established to represent the entire unified spectrum of the U.S. textile sector, from fibers to finished products, including yarn, fabric, man-made fibers, cotton, textile machinery and chemicals and others concerned with the prosperity and survival of the U.S. textile industry. NCTO is more broadly based than any previous domestic textile organization and we are very interested in the details of all potential and proposed FTAs, including the one recently negotiated between the U.S. and Bahrain.

Despite massive layoffs in recent years, the U.S. textile and apparel industry still employs more than 650,000 workers nationwide and continues to be one of the largest manufacturing sectors in the U.S. It is important to note, however, that in the last five years, the textile and apparel industry has lost more than 434,000 jobs, almost 40 percent of its entire workforce, and almost 300 plants have closed during this same time period. It is against this backdrop of layoffs and plant closings, due mainly to an unrelenting wave of unfairly traded and heavily subsidized imports from China and other Asian countries, that we must evaluate each new proposed FTA.

Our industry has vigorously sought to develop trading partnerships with apparel producers in the Caribbean and other nations with which we have a preferential trading arrangement. Such arrangements which promote the use of U.S. yarns and fabrics present tremendous export opportunities for U.S. textile manufacturers. For example, as a result of the Caribbean Basin Trade Partnership Act (CBTPA), which grants duty-free treatment to garments made in the region of U.S. yarns and fabrics, our industry has been able to significantly expand our exports to CBTPA countries. We are also optimistic that some of the partnerships that have developed in the region as a result of CBTPA will be further enhanced by the recently passed U.S.-Dominican Republic/Central American Free Trade Agreement.

The unified textile industry has consistently urged that the benefits of free trade agreements must accrue only to those countries which are actual parties to the agreement. In a simple phrase, there must be no third party "free riders" who realize benefits without making sacrifices of their own. Viewed in this light, we are very concerned that, while the U.S.-Bahrain FTA contains a yarn-forward rule of origin, this requirement is negated by tariff preference levels (TPLs) that are overly generous and unnecessary in fostering trade between the U.S. and Bahrain.

By granting Bahrain the ability to utilize as much as 65 million square meter equivalents (SMEs) annually of third country textile inputs, the United States' negotiators have seriously undermined the benefits of a yarn forward rule. In 2004, Bahrain shipped 82.3 million SMEs worth of textile and apparel goods to the U.S. Therefore, a 65 million SME gift to 3<sup>rd</sup> country textile producers represents more than 78 percent of the amount of total imports from Bahrain last year. The U.S. textile industry is already struggling to survive against heavily-subsidized imports from China and against which U.S. duty-rates are our first-line of defense now that quotas have been removed. It is unfathomable that this agreement provides China and other Asian producers with duty-free access to the U.S. market as a result of the TPL loophole.

An FTA allowing Bahrain garment makers to utilize yarn and fabric from China, India, Pakistan, Bangladesh, Vietnam and other low-cost Asian producers will only exacerbate job losses in the U.S. textile industry, as well as displace textile and apparel imports from Mexico, Canada, Caribbean Basin, and CAFTA regions, which are important U.S. export markets for yarns and fabrics.

NCTO appreciates the opportunity to make our views known on this issue, and we strongly encourage the U.S. government to reevaluate its inclusion of third-party loopholes such as TPLs in future FTAs. FTAs, if modeled after the recently-passed U.S.-Australia bilateral agreement, which adhered to a yarn-forward rule of origin and contained no third-party benefits, would very likely generate broad textile industry support.