



INTERIM ENVIRONMENTAL REVIEW OF THE U.S.- OMAN FREE TRADE AGREEMENT

April 2005

Executive Summary

Pursuant to authority delegated by the President in Executive Order 13277 (67 *Fed. Reg.* 70305, November 21, 2002) and Executive Order 13141 (64 *Fed. Reg.* 63169, November 18, 1999), the United States Trade Representative (USTR), through the Trade Policy Staff Committee (TPSC), submits this Interim Environmental Review of the prospective U.S.-Oman Free Trade Agreement (FTA).

Following the guidelines for environmental reviews (65 *Fed. Reg.* 79442, December 19, 2000), this Interim Review identifies possible environmental effects that may be associated with the FTA. To determine the scope for the review and to identify possible environmental effects, the Administration requested public comments through a notice in the *Federal Register* (69 *Fed. Reg.* 76827, December 22, 2004) and sought the advice of all agencies with relevant expertise. In preparing this Interim Review, the Administration relied on the expertise of these agencies as well as a variety of other sources of information, including published reports.

This interim review provides provisional conclusions and identifies areas for further attention in the course of the ongoing negotiations and in the review of the final agreement. The Administration welcomes public comment on these preliminary conclusions:

- Based on existing patterns of trade and investment and changes likely to result from provisions of the FTA, the impact of the FTA on total U.S. production appears likely to be very small. As a result, the FTA is not expected to have significant direct effects on the U.S. environment.
- Based on an analysis of comparable provisions of previous FTAs, the U.S.-Oman FTA is not expected to have a negative impact on the ability of U.S. government authorities to enforce or maintain U.S. environmental laws or regulations.
- The FTA may have positive environmental consequences in Oman by reinforcing efforts to effectively enforce environmental laws, accelerating economic growth and development through trade and investment and disseminating environmentally beneficial technologies.
- The FTA provides a context for reinforcing and extending existing cooperation activities to address both trade-related and other environmental issues.

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I. Background

A. Legal and Policy Framework

On November 15, 2004, in accordance with section 2104(a)(1) of the Trade Act of 2002 (the Trade Act), the U.S. Trade Representative, Ambassador Robert B. Zoellick, notified the Congress of the President's intent to enter into negotiations for a free trade agreement with Oman. The formal launch of negotiations took place on March 12, 2005. The two governments are seeking to conclude the negotiations in 2005.

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

The purpose of environmental reviews is to ensure that policymakers and the public are informed about reasonably foreseeable environmental impacts of trade agreements (both positive and negative), to identify complementarities between trade and environmental objectives and to help shape appropriate responses if environmental impacts are identified. Section 5(b) of Executive Order 13141 provides that, as a general matter, the focus of environmental reviews will be impacts in the United States, "but [a]s appropriate and prudent, reviews may also examine global and transboundary impacts." Reviews are intended to be one tool, among others, for integrating environmental information and analysis into the fluid, dynamic process of trade negotiations. The Office of the U.S. Trade Representative (USTR) and the Council on Environmental Quality (CEQ) jointly oversee implementation of the Order and Guidelines. USTR, through the Trade Policy Staff Committee (TPSC), is responsible for conducting the individual reviews.

Generally, reviews address two types of questions: (1) the extent to which positive and negative environmental impacts may flow from economic changes estimated to result from the prospective agreement; and (2) the extent to which proposed agreement provisions may affect U.S. environmental laws and regulations (including, as appropriate, the ability of state, local and tribal authorities to regulate with respect to environmental matters).

B. Environment and Economy in Oman

Oman is a small, upper-middle-income nation located on the Gulf of Oman and the Arabian Sea, bordering Yemen, Saudi Arabia and the United Arab Emirates. Oman has a population of almost 2.4 million, including half a million foreign nationals. The country's land area, about 212 thousand square kilometers (approximately the size of Kansas), includes a central desert plain with rugged mountains in the north and south. About 0.1 percent of the land area is arable.

Environment: Oman is dedicated to the protection of the environment. The Sultan of Oman has demonstrated a personal commitment to protecting the environment and preserving rare and endangered species, including a variety of turtles and the Arabian Oryx. The Ministry of Regional Municipalities, Environment and Water Resources (MRMEWR) is the primary body responsible for environmental regulation and enforcement, including administering protected areas, managing groundwater resources, promoting environmental awareness and evaluating environmental impact assessments of all major public and private projects. Oman has a sound record of environmental law enforcement, including through penalties such as fines and imprisonment.

Despite a scarcity of water, Oman has a varied environment including considerable variety of flora and fauna. However, Oman also faces environmental challenges common to many Middle Eastern countries: periodic drought; damage to coastal areas resulting from dredging, oil spills and other discharges from refineries and oil distribution; and a severe shortage of freshwater resources. Marine and coastal pollution is a particular concern because Oman borders the Strait of Hormuz and is vulnerable to oil spills and subsequent damage to marine resources and beaches. Saline intrusion of aquifers is common in the northwestern Batinah coastal region due to irrigation-intensive agriculture. Overgrazing and resulting desertification also is a growing problem in the south.

The Environmental Society of Oman (ESO), the first officially registered environmental NGO in Oman, is dedicated to research and protection of the environment and includes government officials as well as members of the royal family. The NGO registration process in Oman is time-consuming, but more groups are seeking such registration and their influence is growing.

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

Economy: In 2003, Oman's gross domestic product (GDP) was \$21.6 billion (approximately \$7,400 per capita). Services account for less than half of GDP (44 percent in 2003). Trade is especially important to Oman's economy: exports of goods and services accounted for more than 80 percent of GDP in 2002. Oil is a primary resource and source of wealth and Oman is making efforts to diversify in the process of opening its economy.

C. U.S.-Oman Trade

Two-way trade between Oman and the United States totaled \$748 million in 2004 (see table 1). U.S. exports to Oman were \$330 million and imports were \$418 million. The U.S. merchandise trade deficit with Oman declined in 2004 to less than \$100 million, compared to a deficit of over \$300 million in 2003 (see table 1). Machinery, vehicles, optical and medical instruments, precious stones and iron/steel products account for the majority of U.S. exports to Oman. Crude oil, textiles and apparel and miscellaneous manufactures account for the majority of U.S. imports

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from Oman. With the exception of textiles and apparel and some agricultural products, average U.S. tariffs on most imports from Oman are already relatively low (see table 2).

D. U.S. Objectives in the Proposed Free Trade Agreement

A U.S.-Oman FTA will build on existing FTAs with Israel, Jordan and Morocco and the recently signed FTA with Bahrain and will promote the President's initiative to advance economic reforms and openness in the Middle East and the Persian Gulf, moving us closer to the creation of a Middle East Free Trade Area (MEFTA). An FTA will also support Oman's commitment to transparency, openness, and the rule of law, thereby enhancing respect for environmental protection. The FTA is also expected to encourage other members of the Gulf Cooperation Council (GCC) to adopt standards that promote trade, investment and openness, thereby enhancing opportunities for the United States in these markets. In addition, Oman is an important strategic partner on a broad array of foreign policy and national security issues.

An FTA with Oman is expected to provide direct benefit to the United States by reducing and eliminating barriers to trade and generating export opportunities for U.S. businesses. An FTA with Oman can be expected to boost U.S. trade and investment with other Gulf countries as well, facilitating greater regional economic integration and creating economic opportunities for people across the Middle East.

The agreement will be built on a strong foundation of economic cooperation. In 2004, the United States and Oman entered into a Trade and Investment Framework Agreement (TIFA). Since signing the TIFA, Oman has demonstrated a commitment to trade and opening its economy, for example by advancing the privatization of the electricity and telecommunications sectors. A U.S.-Oman FTA also will help advance the market-opening commitments that the United States is pursuing in global trade negotiations.

Specific U.S. negotiating objectives for the FTA were outlined in notification letters sent to Congress prior to the start of negotiations. The full text of these letters is available at [http://www.ustr.gov/Document_Library/Press_Releases/2004/November/U.S. Announces Intent to Negotiate FTAs with UAE Oman.html](http://www.ustr.gov/Document_Library/Press_Releases/2004/November/U.S._Announces_Intent_to_Negotiate_FTAs_with_UAE_Oman.html).

II. Scope of the Environmental review

A. Public and Advisory Committee Comments

To determine the scope of this environmental review, the Administration sought the advice and input of the public, USTR's advisory committee on trade and environment issues, the Trade and Environment Policy Advisory Committee (TEPAC) and input from environmental, trade and investment experts within federal agencies. In addition to providing guidance on the scope of the environmental review, all relevant information, analysis, and insights available from these sources are being taken into account throughout the negotiating process and are considered in

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developing U.S. negotiating positions. As envisaged by the Guidelines, environmental reviews are an ongoing process to examine environmental issues and inform the negotiating process.

In a *Federal Register* notice dated December 22, 2004 (69 *Fed. Reg.* 76827), USTR, through the TPSC, initiated an environmental review of the proposed FTA. The *Federal Register* notice requested written comments from the public on what should be included in the scope of the environmental review, including the potential environmental effects that might flow from the FTA and the potential implications for U.S. environmental laws and regulations. The notice also invited public views on appropriate methodologies and sources of data for conducting the review. No public comments have been received to date.

TEPAC provides broad-scale advice on trade and trade policy, including approaches to conducting environmental reviews and enhancing public participation in the process. To date, the TEPAC has not provided specific comments to USTR on the environmental review of the proposed U.S.-Oman FTA.

B. Potential Economically Driven Environmental Impacts of the U.S.-Oman FTA

Consistent with Executive Order 13141 and the Guidelines, the primary task of this review is to identify the possible environmental effects of the proposed FTA on the United States. Based on existing patterns of trade and investment, the small size of the Oman economy and changes in U.S. trade likely to result from provisions of the FTA, the impact of the FTA on total U.S. production through changes in U.S. exports appears likely to be very small.¹ Therefore, it appears very unlikely that there will be any significant economically driven environmental effects in the United States as a result of the U.S.-Oman FTA. The Administration welcomes public comments on this preliminary determination of *de minimis* environmental impacts.

C. Transboundary and Global Issues

The guidelines for environmental reviews encourage consideration, as appropriate, of potential transboundary and global environmental consequences that may flow from the prospective trade agreement. In examining these issues, the Administration took into consideration a number of factors, including the geographic distance between the United States and Oman and the *de minimis* anticipated environmental effects of the FTA in the United States.

As compared to its effect in the United States, the FTA is expected to have relatively greater effects on the economy of Oman, especially in supporting efforts to restructure and diversify its economy. See table 2 for information on recent U.S. imports from Oman, dutiable imports and duties collected. TPSC agencies examined a variety of possible environmental issues that might

¹ In 2004, U.S. exports to Oman accounted for less than 0.05% of U.S. total goods exports. Measured by gross domestic product, the size of Oman's economy in 2003 was approximately 0.2% of the U.S. economy.

be associated with the FTA, but did not identify any significant transboundary or global effects of the FTA.

For example, there is relatively little trade between the United States and Oman in wild flora and fauna, including species that are regulated under the Convention on International Trade in Endangered Species (CITES). Oman provides for documentation of trade in wildlife comparable to that which is required under CITES, but has not ratified CITES.² Oman's trade in the horn of the rhinoceros, a highly endangered species for which commercial trade is banned under Appendix I of CITES, is a concern to the United States. The United States and Oman have identified endangered species as a priority area for enhanced cooperation associated with the FTA (see section III).

Oman provides critical habitat to two species of marine turtles, loggerhead and green turtles, both of which are protected under the U.S. Endangered Species Act. Trade in loggerhead and green turtles is prohibited under CITES. Although Oman is not a party to CITES, Oman is a signatory to the Memorandum of Understanding on the Conservation and Management of Marine Turtles and Their Habitats of the Indian Ocean and South-East, concluded under the Convention on the Conservation of Migratory Species of Wild Animals. Oman's commitment to protection of wildlife also is reflected in their environmental laws and in their participation in regional environmental cooperation among GCC countries.³ The United States and Oman have cooperated on wildlife management including on management of threatened and endangered species (see section III).

The FTA may have positive environmental consequences in Oman by reinforcing efforts to effectively enforce environmental laws, accelerating economic growth and development through increased trade and investment and disseminating environmentally beneficial technologies. The FTA provides a context for reinforcing and extending existing cooperation activities to address both trade-related and other environmental issues.

Implementation of the FTA could also positively affect Oman's environment through FTA provisions requiring each country to effectively enforce its environmental laws, ensure that its environmental laws and policies provide for high levels of environmental protection, and not to weaken environmental laws to attract trade and investment.

The Administration welcomes public comment on these preliminary conclusions.

² Oman has stated that their ratification of CITES is imminent.

³ Areas of environmental cooperation among the GCC Member States include environmental assessment, waste management, and protection of wildlife. See <http://library.gcc-sg.org/English/gcc011.htm> for additional information.

D. Potential Regulatory Impacts

Consistent with Executive Order 13141 and the Guidelines, this review includes consideration of the extent to which the FTA might affect U.S. environmental laws, regulations, policies and/or international commitments. FTA negotiators are aware of the need to preserve the U.S. Government's ability to maintain strong environmental laws and regulations and an effective process for enforcing them. As the FTA negotiations proceed, negotiators will continue to ensure that this important objective is met.

FTA obligations related to investment, services, sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT) can have particular significance for domestic regulatory practices concerning the environment, health, and safety. Previous environmental reviews, including the preliminary and final reviews for the Chile, Singapore and Morocco FTAs, and interim reviews for FTAs with Central America (CAFTA) and Bahrain, have considered potential impacts on the U.S. regulatory regime of FTA obligations in all of these areas and concluded that the respective trade agreements were not likely to negatively affect U.S. legal or regulatory authority or practices. Further, in all cases, the reviews noted the potentially positive impact that the FTAs could have on the U.S. environmental regulatory regime as a result of FTA commitments to effectively enforce U.S. environmental laws, not to weaken U.S. environmental laws to attract trade or investment and to ensure that U.S. environmental laws and policies provide for high levels of environmental protection.

Based on this previous analysis and our expectation that the core obligations in these areas will be similar to those undertaken in prior FTAs,⁴ the Administration does not expect that the U.S.-Oman FTA will have a negative impact on the ability of U.S. government authorities to enforce or maintain U.S. environmental laws or regulations. We welcome public comment on this preliminary determination.

Previous interim and final environmental reviews are available at http://www.ustr.gov/Trade_Sectors/Environment/Section_Index.html.

III. Environmental Cooperation

The Trade Act establishes that a principal negotiating objective of the United States is to strengthen the capacity of our trading partners to protect the environment through the promotion of sustainable development. In addition, the Trade Act instructs negotiators to seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science. Environmental cooperation is expected to be an important complement to the environmental provisions of the FTA.

⁴ Texts of the prior agreements are available at: <http://www.ustr.gov>.

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The United States and Oman already cooperate to address shared environmental concerns. Examples of such cooperation include a U.S. Fish and Wildlife Service survey of turtle nesting sites in Oman, technical and financial assistance for Environment Ministry turtle-preserve rangers under the Marine Turtle Conservation Act, a National Science Foundation-supported joint workshop on living marine resources and a USAID-funded project to treat wastewater and replenish a local aquifer.

Oman and the United States plan to establish a cooperative action plan through a Memorandum of Understanding on Environmental Cooperation which is under discussion, and have already identified several priority areas for cooperation. These include: protection and management of water resources and coastal zones; management of endangered species and protected areas; and addressing oil spills and other environmental disasters. The Administration invites public comment on specific ideas for environmental cooperation to inform these discussions. Comment is particularly invited on ways in which non-governmental organizations or business groups might become involved in cooperative efforts through public-private partnerships.

IV. Data Tables

Table 1—U.S. goods trade with Oman (total exports and total imports), 2000-2004¹

	2000	2001	2002	2003	2004
	<i>Million U.S. dollars</i>				
U.S. total exports	200	306	356	322	330
U.S. total imports	276	420	401	695	418
U.S. goods trade balance	-76	-114	-45	-373	-88

¹ Customs value.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 2—Selected U.S. imports from Oman by major industry/commodity sectors, 2004

Sector	U.S. imports for consumption ¹	Dutiable imports	Calculated duties collected	Share of U.S. imports for consumption represented by dutiable imports	Average calculated duty collected on dutiable imports
	<i>Thousand U.S. dollars</i>			<i>Percent</i>	
Agricultural products	9,590	1,338	138	14.0	10.3
Forest products	0	0	0	0.0	0.0
Chemicals and related products	1,805	126	4	7.0	3.5
Energy-related products	211,838	117,060	269	55.3	0.2
Textiles and apparel	126,288	126,279	20,105	100.0	15.9
Footwear	0	0	0	0.0	0.0
Minerals and metals	19,587	109	5	0.6	4.3
Machinery	27	0	0	0.0	0.0
Transportation equipment	8	0	0	0.0	0.0
Electronic products	67	8	(2)	12.4	2.9
Miscellaneous manufactures	46,115	39	2	0.1	6.1
Special provisions ²	7,138	891	1	12.5	0.1
Total	422,463	245,851	20,526	58.2	8.3

¹Customs value.

²Less than \$500,000.

³Trade under special provisions includes exports under chapter 98 of the Schedule B and imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States (HTS). All other product sectors listed are from chapters 1-97 of the Schedule B and HTS.

Note.—Calculations based on unrounded data.

Source: Compiled from official statistics of the U.S. Department of Commerce.