

**H.R. XXXX,
THE U.S.-BAHRAIN FREE TRADE AGREEMENT IMPLEMENTATION ACT
SECTION-BY-SECTION SUMMARY
PREPARED BY THE COMMITTEE ON WAYS AND MEANS**

Sections 1-3: Short title, purposes and definitions

TITLE I: APPROVAL AND GENERAL PROVISIONS

Section 101: Approval and Entry into Force

Section 101 states that Congress approves the Agreement and the Statement of Administrative Action and provides that the Agreement enters into force when the President determines that Bahrain is in compliance and has exchanged notes, on or after January 1, 2006.

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

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

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

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

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

Section 104: Consultation and Layover for Proclaimed Actions

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

Section 105: Administration of Dispute Settlement Proceedings

Section 105 authorizes the President to establish an office within the Commerce Department responsible for providing administrative assistance to any panels that may be

established under chapter 19 of the Agreement and authorizes appropriations for the office and for payment of the U.S. share of expenses.

Section 106: Effective Dates; Effect of Termination

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

TITLE II: CUSTOMS PROVISIONS

Section 201: Tariff Modifications

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

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

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

Section 202: Rules of Origin

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

Under the rules in chapter 3.2 and Annex 3-A of the Agreement, an apparel product must generally meet a tariff shift rule that implicitly imposes a "yarn forward" requirement. Thus, to qualify as an originating good imported into the United States from Bahrain, an apparel product must have been cut (or knit to shape) and sewn or otherwise assembled in Bahrain from yarn, or fabric made from yarn, that originates in Bahrain or the United States, or both. However, Article

3.2.9 provides an exception to this general rule allowing access for 65 million square meter equivalents of apparel that does not meet the yarn forward rule of origin for each of the first ten years of the Agreement. Section 202 also includes a de minimis exemption providing that in most cases a textile or apparel good will be considered originating if the total weight of all nonoriginating fibers or yarns is not more than 7 percent of the total weight of the good.

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

Section 203: Customs User Fees

Section 203 states that Customs user fees under the Consolidated Omnibus Reconciliation Act of 1985 shall not be charged with respect to any goods that qualify as originating goods under Section 202 of this bill.

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

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

Section 205: Regulations

Section 205 provides that the Secretary of the Treasury shall issue regulations to carry out provisions of this bill related to rules of origin and Customs user fees.

TITLE III: RELIEF FROM IMPORTS

Section 301: Definitions

Section 301 defines, as used in this title, the terms “Bahraini article,” “Bahraini textile or apparel article,” and “Commission.”

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

Sections 311-316 authorize the President, after an investigation and affirmative determination by the U.S. International Trade Commission (ITC) or a determination that the President may consider to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), to impose specified import relief when, as a result of the reduction or elimination of a duty under the Agreement, a Bahraini product is being imported into the

United States in such increased quantities and under such conditions as to be a substantial cause of serious injury or threat of serious injury to the domestic industry.

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

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

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

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

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

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

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

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

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

Section 316 provides for the treatment of confidential business information.

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

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

Section 322(a) of the Act provides for the President to determine, pursuant to a request by an interested party, whether, as a result of the elimination of a duty provided under the Agreement, 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 as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

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

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

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

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

Section 326 states that the authority to provide safeguard relief under this subtitle expires ten years after the date on which duties on the article are eliminated pursuant to the Agreement. Section 327 of the Act gives authority to the President to provide compensation to Bahrain if he orders relief. Section 328 provides for the treatment of business confidential information.

TITLE IV: PROCUREMENT

Section 401: Eligible Products

Section 401 implements chapter 9 of the Agreement and amends the definition of “eligible product” in section 308 of the Trade Agreements Act of 1979. As amended, section 308(4)(A) will provide that, for a party to 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 his authority under section 301(a) of the Trade Agreement Act will allow procurement of products and services of Bahrain, assuming that the FTA enters into force during the specified time period.