



Legislative Bulletin.....July 20, 2006

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H.R. 5684—United States-Oman Free Trade Agreement Implementation Act

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: Less than \$5 million over five years

Effect on Revenue: \$111 million decrease over five years

Total Change in Mandatory Spending: \$5 million increase over five years

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

H.R. 5684—United States-Oman Free Trade Agreement Implementation Act (Boehner, R-OH)

Order of Business: The bill is scheduled to be considered on Thursday, July 20th, subject to a closed rule. Under Trade Promotion Authority (Public Law 107-210), bills implementing trade agreements are not amendable (either in committee or on the House floor).

Summary by Title: H.R. 5684 would approve and implement the United States-Oman Free Trade Agreement, finalized on January 19, 2006, and submitted to Congress on June 26, 2006. Pending compliance by Oman with certain measures in the Agreement, the Agreement would take effect on or after January 1, 2007. The Agreement would reduce and eventually eliminate (over ten years) virtually all barriers to trade in goods and services and to

investment. Goods originating from Oman would have preferential tariff treatment in the United States and vice versa. On the day this Agreement goes into effect, 100% of U.S. consumer and industrial products and 87% of U.S. agricultural exports could enter Oman duty-free.

According to the United States Trade Representative (USTR), U.S. exports to Oman in 2004 totaled \$330 million (and were \$593 million in 2005, according to the Congressional Research Service—CRS), consisting mainly of machinery, automobiles and transport equipment, optic and medical instruments, electrical machinery, vegetable oils, sugars, sweeteners, and beverage bases. Our primary imports from Oman include oil, natural gas, apparel, and miscellaneous manufactures (valued at \$555 million in 2005). The oil and natural gas imports constitute 1% of all U.S. oil and gas imports from the Middle East. Two-way trade, the USTR reports, was roughly \$748 million in 2004 (0.04% of all U.S. trade). U.S. foreign direct investment in Oman in 2003 was \$358 million.

As CRS indicates, Oman ranks 88th among all U.S. trade partners. The U.S., on the other hand, ranks fourth in importance among Oman's trading partners, behind the United Arab Emirates, Japan, and the United Kingdom (for 2004). In 2005, the U.S. had a small trade surplus with Oman.

Highlights of H.R. 5684 are as follows:

Title I—Approval of, and General Provisions Relating to, the Agreement

- Makes U.S. law paramount to any provision in the Agreement that conflicts with U.S. law. States that the Agreement would not modify or limit the authority under any U.S. law.
- A state law that conflicts with any provision in the Agreement could only be declared invalid in an action brought by the United States Government.
- Prevents private legal actions against any provision of the Agreement.
- Provides for 15-day and 60-day layover procedures for certain actions made by presidential proclamation under the Agreement.
- Authorizes “such sums” as may be necessary for the President to establish an office within the Department of Commerce to administer the Agreement.
- Terminates the applicability of this implementing legislation (other than this provision) on the date on which the Agreement might terminate.

Title II—Customs Provisions

- Allows the President to modify any tariffs or tariff-free treatment in the Agreement and to create additional tariffs as necessary (subject to certain limitations).

- Terminates Oman’s status as a beneficiary developing country for trade purposes.
- Defines in detail what an “originating good” is (originating from either the United States or from Oman) and what “originating materials” and “nonoriginating materials” are, as they relate to preferential tariff treatment under the Agreement.
- Excludes packing materials and shipping containers when determining whether a good is an “originating good.”
- Originating goods would be disqualified as such if they undergo further production or any other operation (other than unloading, reloading, or essential preservation operations) outside Oman or the U.S.
- Disregards “indirect materials” (materials used in the production, testing, inspection, maintenance, and operation of the good—but not physically incorporated into the good) for the purposes of determining an “originating good.”
- Allows for certain textiles or apparel goods to be considered an “originating good,” as long as the total weight of all nonoriginating fibers in such a good does not exceed 7% of its total weight (10% of value for textile or apparel goods in sets for retail sale).
- Authorizes the President to proclaim modifications to the Agreement (subject to layover and other requirements).
- Exempts products covered by this trade agreement from customs user fees.
- Authorizes the President to take certain actions while a verification of the originating status of a textile or apparel good is taking place. Such actions include suspending preferential tariff treatment to 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. Other available actions include the detention of applicable goods or the denial of entry into the U.S. of such goods.

Title III—Relief from Imports

- Authorizes the filing (with the U.S. International Trade Commission) by an entity, including a trade association, firm, certified or recognized union, or group of representative workers, of a petition requesting adjustment to the obligations of the United States under the Agreement (and asking for provisional relief). The Commission would then have to investigate whether “a substantial cause of serious injury or threat thereof to [a] domestic industry” is occurring as a result of the U.S.-Oman Free Trade Agreement (subject to certain exceptions).

- If the Commission finds injury or threat of injury, it would then have to recommend the amount of import relief necessary to correct or prevent harm. Further, the Commission would have to facilitate the efforts of the domestic industry to make a “positive adjustment to import competition.”
- The President would not *have* to provide the suggested import relief, if doing so would have greater economic and social costs than benefits.
- Import relief could entail increasing duties or suspending their reductions and would have to occur progressively in intervals if the relief is to last more than one year.
- Import relief could not last more than three years.
- No import relief could be provided for a good that has been given duty-free treatment under the Agreement, and no import relief could be provided ten years after the Agreement enters into force (subject to exception).
- Prohibits the President from releasing information that is submitted in an import relief proceeding and that the President considers to be confidential business information, unless the party submitting the confidential business information had notice at the time of submission that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits such confidential business information to the President, the party would have to submit a non-confidential version of the information in which the confidential business information is summarized or, if necessary, deleted.
- Enacts similar provisions as above for import relief specifically for the textile and apparel industries.

Title IV—Procurement

- Makes Omani products and services eligible for federal government procurement.

Supporting Documents: To read a summary of the U.S.-Oman Free Trade Agreement itself, which provides more details on the Agreements benefits to the telecommunications industry, financial services, and investors, as well as details on patents and property rights, please visit this webpage:

http://www.ustr.gov/assets/Document_Library/Fact_Sheets/2005/asset_upload_file189_8115.pdf.

To read the actual text of the Agreement, please visit this webpage:

http://www.ustr.gov/Trade_Agreements/Bilateral/Oman_FTA/Final_Text/Section_Index.html

For other supporting documents, please visit this webpage:

http://www.ustr.gov/Trade_Agreements/Bilateral/Oman_FTA/Section_Index.html.

Additional Background: The Ways & Means Committee reports that:

Oman and the United States have been allies for over 170 years. In 1980, following the Iranian Islamic revolution, Oman was the first Persian Gulf state to allow U.S. access to Omani military facilities. Oman hosted over 3,500 U.S. personnel during recent U.S. operations in Afghanistan and Iraq, serving as a critical launch point for missions that helped protect U.S. servicemen.

Oman was the first Arab country to establish diplomatic contact with the United States.

Key Issues:

- **Political Reform.** Oman has enacted reforms to increase public participation in government, extending voting rights for its Consultative Council to all citizens over the age of 21, and appointing women to key positions in its government, including three Cabinet members and the first female Ambassador from an Arab country appointed to serve in the United States. On December 26, 1994, Oman became the first Gulf State to host an Israeli Prime Minister. RSC Bonus Fact: the chief lobbyist in Washington, DC, hired by Oman is a Jewish woman.
- **Economic Freedom.** The *Economic Freedom of the World 2005* ranks Oman 17th of the 127 countries on a scale of economic freedom, the second highest ranking among all countries in the proposed Middle East Free Trade Area (MEFTA).
- **Labor Reform.** Oman enacted broad labor reforms in 2003 and has since followed up with a specific commitment to implement worker protections consistent with international standards by October 31, 2006 (more stringent than the non-time-specific commitment from Bahrain before implementation of the U.S.-Bahrain FTA). In fact, Oman already acted on many of these worker protections through a Royal Decree issued on July 7, 2006.
- **Immigration.** This FTA would explicitly not affect U.S. immigration laws.
- **Ports.** This FTA would give Omani nationals no additional control, management, or operational oversight of U.S. ports. A basic obligation of free trade agreements to which the United States is a party is the obligation (subject to specified exceptions) to treat service suppliers and investors of other parties no less favorably at our ports than we treat our own service suppliers and investors (in such respects as cargo loading, ship cleaning, and dock maintenance), and this obligation is maintained in the Oman FTA.
- **Israeli Boycott.** Oman does not participate in the boycott of Israel in any way, as confirmed here: <http://waysandmeans.house.gov/media/pdf/trade/omanboycott.pdf>. Read more details here: <http://waysandmeans.house.gov/media/pdf/trade/omanboycottdoc.pdf>. Oman has also agreed to re-open its Israeli trade office.

- 9-11 Commission. The 9-11 Commission specifically recommended that the U.S. implement free trade agreements with friendly nations in the Middle East, as a way to discourage terrorism in the region.

In the Middle East, the United States currently has bilateral free trade agreements with Israel, Jordan, Morocco, and Bahrain. A bilateral FTA with the United Arab Emirates is forthcoming, as is a regional Middle East Free Trade Area. To check the status of these and other trade agreements, please visit this website:

http://www.ustr.gov/Trade_Agreements/Section_Index.html.

Committee Action: On May 10, 2006, the Ways and Means Committee considered, in an informal markup session, draft legislation to implement the Oman FTA and approved it by a recorded vote of 23 yeas to 11 nays, with three Members voting present, without amendment (amendments are not allowed under Trade Promotion Authority).

Administration Position: Since the Administration negotiated the Agreement, it is strongly supporting this implementing legislation.

Cost to Taxpayers: CBO reports that implementing the U.S.-Oman Free Trade Agreement would reduce revenues by \$15 million in FY2007, by \$111 million over the FY2007-2011 period, and by \$271 million over the FY2007-2016 period. H.R. 5684 also would increase mandatory spending by \$1 million in FY2007, \$5 million over the FY2007-2011 period, and \$10 million over the FY2007-2016 period. Lastly, implementing the FTA would increase discretionary spending by less than \$1 million per year (subject to appropriations).

NOTE: The Budget Committee reports that H.R. 5684, like the implementation bills for other recent FTAs, technically violates section 302 of the Congressional Budget Act by a small amount (\$1 million each year) because it increases mandatory spending by an amount expected to exceed the Ways & Means Committee's allocation in the budget resolution (H.Con.Res. 376) for FY2007. Because this legislation is being considered under Trade Promotion Authority ("fast-track" procedures), the House does not have discretion to modify the legislation to offset the spending. [The increased spending is a result of the provision exempting "originating goods" from U.S. customs user fees. The fees are recorded as offsetting receipts—a credit against mandatory spending—thus, when fees go down, mandatory spending scores as going up.]

Does the Bill Expand the Size and Scope of the Federal Government?: No. This legislation would implement the U.S.-Oman Free Trade Agreement, which would lower and eliminate tariffs (and other barriers to trade) between the two countries, thereby reducing government involvement in the free market.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The Ways & Means Committee, in House Report 109-574, cites constitutional authority in Article I, Section 8, Clause 1 (the congressional power to lay and collect taxes, duties, imposts and excises).

Outside Organizations: The U.S.-Oman FTA is being publicly supported by entities such as the Club for Growth, the Heritage Foundation, the U.S. Chamber of Commerce, the Business Roundtable, the National Association of Manufacturers, and the American Farm Bureau.

The U.S.-Oman FTA is being publicly opposed by entities such as the AFL-CIO, Americans for Democratic Action, the Center for Science in the Public Interest, the International Brotherhood of Teamsters, Public Citizen's Global Trade Watch, and the Sierra Club.

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