

Bahrain Free Trade Agreement Fact Sheet

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Free Trade With Bahrain
A Model for Trade in the Persian Gulf Region

New Market Access for U.S. Consumer, Industrial, and Agricultural Products

- 100% of bilateral trade in consumer and industrial products will become duty-free immediately upon entry into force of the Agreement. In addition, Bahrain and the United States will provide immediate duty free access on virtually all products in their tariff schedules and will phase out tariffs on the remaining handful of products within ten years.
- Under the Agreement, which covers all agricultural products, Bahrain will provide immediate duty-free access for U.S. agricultural exports in 98% of agricultural tariff lines. Bahrain will phase out tariffs on the remaining products within ten years.
- The United States will provide immediate duty-free access on 100% of Bahrain's current exports of consumer, industrial, and agricultural products to the United States. The United States will phase out remaining tariffs under the Agreement within ten years.
- Textiles and apparel trade will be duty-free immediately, promoting new opportunities for U.S. and Bahraini fiber, yarn, fabric and apparel manufacturing. The Agreement requires qualifying textiles and apparel to contain either U.S. or Bahraini yarn and fabric and contains a temporary transitional allowance for textiles and apparel that do not meet these requirements in order that U.S. and Bahrain producers can develop and expand business contacts.

Broad Commitments to Open Services Markets

- Bahrain will accord substantial market access across its entire services regime, providing among the highest degree of market access of any U.S. free trade agreement negotiated to date. The Agreement uses the so-called "negative list" approach, meaning that all sectors are covered unless specifically excluded.
- Key services sectors covered by the Agreement include audiovisual, express delivery, telecommunications, computer and related services, distribution, healthcare, services incidental to mining, construction, architecture and engineering.
- The Agreement provides benefits for businesses wishing to supply services cross-border (for instance, by electronic means) as well as businesses wishing to establish a presence locally in the other country.
- Strong and detailed disciplines on regulatory transparency supplement the Agreement's crosscutting transparency provisions.

New Opportunities for U.S. Banks, Insurance, Securities and Related Services

- U.S. financial service suppliers will have the right to establish subsidiaries, branches and joint ventures in Bahrain and enjoy the benefits of strong regulatory transparency,

including prior notice and comment and license approval within 120 days.

- For life and medical insurance, Bahrain agreed to allow access upon entry into force of the Agreement, and for non-life insurance will allow access within six months after entry into force of the Agreement.

- Bahrain will allow U.S.-based firms to supply insurance on a cross-border basis (through electronic means) for key markets including reinsurance, reinsurance brokerage upon entry into force of the agreement, and marine, aviation and transport (MAT) insurance and brokerage one year after entry into force of the agreement.

- Bahrain has also committed to approve new insurance products within 60 days.

- Bahrain has agreed that in revising its insurance laws and regulations, it will not discriminate against US insurance suppliers and will allow existing insurance suppliers to continue current business activities.

- Bahrain will allow U.S.-based firms to offer services cross-border to Bahrainis in areas such as financial information and data processing, and financial advisory services. Bahrain will also allow U.S.-based asset managers (including insurance companies) to manage the portfolios of collective investment schemes established in Bahrain.

- The agreement underscores Bahrain's open and developed financial sector, which includes both conventional and Islamic financial services.

An Open and Competitive Telecommunications Market

- Each government commits that users of the telecom network will have reasonable and nondiscriminatory access to the network, thereby preventing local firms from having preferential or "first right" of access to telecom networks.

- U.S. phone companies will have the right to interconnect with former monopoly networks in Bahrain at nondiscriminatory, cost-based rates.

- U.S. firms seeking to build a physical network in Bahrain will have nondiscriminatory access to key facilities, such as telephone switches and submarine cable landing stations.

- U.S. firms will be able to lease elements of Bahraini telecom networks on nondiscriminatory terms and to resell telecom services of Bahraini suppliers to build a customer base.

E-Commerce: Free Trade in the Digital Age

- Each government commits to nondiscriminatory treatment of digital products and agrees not to impose customs duties on digital products.

- For digital products delivered on hard media (such as a DVD or CD), customs duties will be based on the value of the media (for instance, the disc), not on the value of the movie, music or software contained on the disc.

- The e-commerce commitments will help establish Bahrain as a leader in the Gulf Region for the further development of electronic commerce.

Copyrights: Protection for Copyrighted Works in A Digital Economy

- The Agreement ensures that authors, composers and other copyright owners have the exclusive right to make their works available online. The Agreement also ensures that copyright owners have rights to temporary copies of their works on computers, which is important in protecting music, videos, software and text from widespread unauthorized sharing via the Internet.

- Each government commits to protect copyrighted works, including phonograms, for extended terms (e.g., life of the author plus seventy years), consistent with U.S. standards and international trends.

- The Agreement includes strong anti-circumvention provisions, requiring each government to prohibit tampering with technologies (like embedded codes on discs) that are designed to prevent piracy and unauthorized distribution over the Internet.

- Each government commits to using only legitimate computer software, thus setting a positive example for private users.

- The Agreement requires protection for encrypted program-carrying satellite signals (including the signal itself and the programming), to prevent piracy of satellite television programming.

- The Agreement sets out obligations concerning the liability of Internet service providers, reflecting the balance struck in the U.S. Digital Millennium Copyright Act between legitimate ISP activity and the infringement of copyrights.

Patents & Trade Secrets

- Patent terms can be adjusted to compensate for unreasonable delays in granting the original patent, consistent with U.S. practice.

- Grounds for revoking a patent are limited to the same grounds required to originally refuse a patent, thus protecting against arbitrary revocation.

- The Agreement provides protection for newly developed plant varieties.

- Test data and trade secrets submitted to a government for the purpose of product approval will be protected against unfair commercial use for a period of 5 years for pharmaceuticals and 10 years for agricultural chemicals.

- The Agreement ensures that government marketing-approval agencies will not grant approval to patent-infringing pharmaceuticals.

Trademarks: State-of-the-Art Protection in the Digital Age

- The Agreement requires each government to maintain a system to resolve disputes

involving trademarks used in Internet domain names, which is important to prevent "cyber-squatting" with respect to high-value domain names.

- The Agreement applies the principle of "first-in-time, first-in-right" to trademarks and geographical indications, so that the first person who acquires a right to a trademark or geographical indication is the person who has the right to use it.

- Each government will be required to establish transparent procedures for the registration of trademarks, including geographical indications, and to develop an on-line system for the registration and maintenance of trademarks, as well as a searchable database.

IPR Enforcement: Tough Penalties for Piracy and Counterfeiting

- The Agreement requires each government to criminalize end-user piracy, providing strong deterrence against piracy and counterfeiting.

- Each government commits to having and maintaining authority to seize, forfeit and destroy counterfeit and pirated goods and the equipment used to produce them. IPR laws will be enforced against goods-in-transit, to deter violators from using U.S. or Bahraini ports or free-trade zones to traffic in pirated products. Ex officio action may be taken in border and criminal IPR cases, thus providing more effective enforcement.

- The Agreement mandates both statutory and actual damages under Bahraini law for IPR violations, which will deter piracy. Under these provisions, monetary damages can be awarded even if actual economic harm (retail value, profits made by violators) cannot be determined.

Commitments on Sanitary and Phytosanitary Measures and Technical Barriers to Trade

- Bahrain's commitments to a science-based regime and transparency in standard-setting will serve as an excellent example for the rest of the Gulf region.

Strong Government Procurement Disciplines Set Precedent for the Gulf

- The Agreement includes disciplines on procurement by most Bahraini government agencies.

- The Agreement requires that covered Bahraini government purchasers not discriminate against U.S. firms, or in favor of Bahraini firms, when making covered government purchases in excess of agreed monetary thresholds.

- U.S. and Bahraini suppliers will have increased certainty due to strong and transparent disciplines on procurement procedures, such as requiring advance public notice of purchases, as well as timely and effective bid review procedures.

- Each government must maintain criminal and other penalties for bribery in government procurement.

Streamlined and Transparent Customs Procedures

- The Agreement requires transparency and efficiency in customs administration, including publication of laws and regulations on the Internet and procedural certainty and fairness.
- Both governments agree to share information to combat illegal transshipment of goods, and special customs cooperation measures to prevent fraud in the textile and apparel sector. In addition, the Agreement requires customs procedures designed to facilitate the rapid clearance through customs of express delivery shipments.
- Strong but simple rules of origin will ensure that only U.S. and Bahraini goods benefit from the Agreement. Rules are designed to be easy to administer and are consistent with other U.S. free trade agreements in the region.

Commitments and Cooperation to Protect the Environment

- The Agreement fully meets the environmental objectives set out by the Congress in TPA. Environmental obligations are part of the core text of the Agreement.
- Each government will be required to effectively enforce its environmental laws, and this obligation is enforceable through the Agreement's dispute settlement procedures.
- Each government commits to establish high levels of environmental protection, and to not weaken or reduce environmental laws to attract trade or investment.
- The Agreement also promotes a comprehensive approach to environmental protection. Procedural guarantees that ensure fair, equitable and transparent proceedings for the administration and enforcement of environmental laws are married with provisions that promote voluntary, market-based mechanisms to protect the environment.
- As a complement to the Agreement, the governments will sign a Memorandum of Understanding on Environmental Cooperation that will establish a Joint Forum on Environmental Cooperation, develop a plan of action and set priorities for future environment-related projects.
- Priority areas for cooperation include development and implementation of Bahrain's environmental laws and its capacity to conduct environmental impact assessments.

Cooperative Activities to Promote Worker Rights

- The Agreement fully meets the labor objectives set out by the Congress in TPA. Labor obligations are part of the core text of the Agreement.
- Each government reaffirms its obligations as members of the International Labor Organization (ILO), and commits to strive to ensure that its laws provide for labor standards consistent with internationally recognized labor rights. The Agreement makes clear that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment.
- Each government will be required to effectively enforce its labor laws, and this obligation

is enforceable through the Agreement's dispute settlement procedures.

- Procedural guarantees in the Agreement require each government to provide access for workers and employers to fair, equitable and transparent labor tribunals or courts.

- The Agreement includes a cooperative mechanism to promote respect for the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Forms of Child Labor. The labor ministries, together with other appropriate agencies, agree to establish priorities and develop specific cooperative activities. Cooperative activities may include:

- Discussions of legislation, practice and implementation related to the core elements of the ILO Declaration on Fundamental Principles and Rights at Work.

- Development of social safety net programs.

- Discussion of treatment of non-national workers.

- Improving systems for the administration and enforcement of labor laws.

Transparent Rule-Making and Procedural Protections for Traders

- Each government must publish its laws and regulations governing trade, and publish proposed regulations in advance and provide an opportunity for public comment on them.

- Each government commits to apply fair procedures in administrative proceedings covering trade matters directly affecting companies from the other country.

- Each government must ensure that traders from the other country can obtain prompt and fair review of final administrative decisions affecting their interests.

Commitments to Combat Bribery

- The Agreement requires each government to prohibit bribery, including bribery of foreign officials, and establish appropriate criminal penalties to punish violators.

- Each government also commits to adopt or maintain measures protecting whistle-blowers.

Tools to Enforce the Trade Agreement

- All core obligations of the Agreement, including labor and environmental provisions, are subject to the dispute settlement provisions of the Agreement.

- Dispute panel procedures set high standards of openness and transparency:

- Open public hearings;

- Public release of legal submissions by governments;
- Opportunities for interested third parties to submit views.
- Emphasis is on promoting compliance through consultation and trade-enhancing remedies.
- The Agreement includes strong enforcement mechanisms, including the ability to suspend trade concessions or establish monetary assessments.

Implementation of High-Level Commitments

- Separate from the Agreement, we are working with Bahrain on targeted assistance to assist Bahrain in implementing the high level of commitments achieved in the negotiations in areas such as:
 - Modifying Bahrain's current laws and regulations to meet its FTA obligations
 - Expanding trade linkages and business development
 - Exploring retraining programs for textile employees for work in other sectors, and
 - Exploring opportunities for bilateral and regional cooperation concerning tobacco control