



The Bahrain-United States Free Trade Agreement

Introduction

Early stages of the Bahrain-US free trade negotiations go back to the year 1999, with the signing of the Bilateral Investment Treaty (BIT), which entered into force May 30th, 2001. It is the first such treaty signed between the United States and a member of the GCC and is aimed at stimulating the flow of private investment between the two countries. Both parties agreed that a stable framework for investment would maximize effective utilization of economic resources and improve living standards.

One year later, the Trade and Investment Framework Agreement (TIFA) was signed on June 18th, 2002, representing the prelude for the FTA negotiations. The TIFA was designed as a forum for an ongoing bilateral dialogue on economic reform and trade liberalization.

The TIFA established the “United States-Bahrain Council on Trade and Investment.” Main objectives of the Council include identifying opportunities for expanding trade and investment and working towards the removal of impediments to trade and investment flows.

The Council met on October 3rd, 2002 and April 10th, 2003. Talks were focused on economic and financial cooperation as well as trade and joint investment. In addition, the Council discussed the business environment in the Kingdom of Bahrain, particularly with regard to banking, insurance, healthcare, education and training, and tourism.

Negotiating a Free Trade Agreement (FTA) with the United States constitutes the next step towards the further strengthening of this economic partnership and the creation of new areas of cooperation that are of mutual benefit. The FTA is aimed at promoting economic growth in the Kingdom of Bahrain by liberalizing trade in goods and services, facilitating free market competition, stimulating the inward flow of investment and expansion in key manufacturing and services sectors, encouraging the exchange of expertise, and creating employment opportunities.

The Negotiation Process

The Kingdom of Bahrain and the United States announced their intention to negotiate a Free Trade Agreement (FTA) on May 21st, 2003. H.H. the Crown Prince Sheikh Salman Bin Hamad Al-Khalifa and Ambassador Robert Zoellick, United States Trade Representative, then discussed the preparatory steps for the launch of Free Trade Negotiations. On August 4th, 2003, Ambassador Zoellick formally notified the U.S. Congress of the Administration's intent to initiate FTA negotiations with Bahrain.

The first round of FTA negotiations was launched on January 26th, 2004 in Manama, followed by a second round of negotiations in Washington, D.C. on March 1st – 5th. An interim round of technical discussions was held in London on April 19th – 22nd. On May 27th, 2004 the Minister of Finance & National Economy, H.E. Abdulla Hassan Saif, and Ambassador Zoellick announced in Washington D.C. the successful conclusion of the negotiations.

The Government of Bahrain negotiation team was led by the Minister of Finance and National Economy, Abdullah H. Saif, and The U.S. team was led by Assistant United States Trade Representative for Europe and the Mediterranean, Ms. Catherine Novelli. Specific chapters of the Free Trade Agreement were negotiated by individual negotiation committees, which are comprised of representatives of all the Ministries and Government Agencies concerned.

Negotiation Committees

Market Access for Goods
Textiles and Apparel
Customs and Rules of Origin
Technical Barriers to Trade
Sanitary and Phytosanitary Measures
Government Procurement
Cross Border Trade in Services
Financial Services
Telecommunications and E-Commerce
Intellectual Property Rights
Labor
Environment
Legal

Overview of the Agreement

The Free Trade Agreement aims at achieving extensive liberalization across a wide spectrum of trade issues, both in terms of goods and services.

Following are some of the highlights of the US-Bahrain Free Trade Agreement:

Liberalization of Trade in Goods

- 96% of Bahrain industrial and agricultural products will receive immediate duty-free access to the US markets upon entry to force of the Agreement.
- Tariffs on the remaining products, which are not currently produced in Bahrain, will be phased-out according to the following staging categories:
 - Category A: Immediate duty-free access (96% of industrial and agricultural products).
 - Category B: Duties will be eliminated in 10 equal annual stages (1% of industrial and agricultural products).
 - Category C: Goods that are already duty free and will continue to receive duty-free treatment.
 - Category D: Duties will be eliminated in 5 equal annual stages. (3% of industrial and agricultural products).
- All U.S. industrial and agricultural products will receive duty-free access, except 80 products of which the duties will be phased-out over 10 years.

Textiles and Apparel

- Textiles and apparel products will receive immediate duty-free access upon entry to force of the agreement, as long as they meet the rules of origin requirement (Yarn-Forward Rule).
- The Agreement provides for a 10-year transition period, during which Bahrain's production of textiles and apparel that do not meet the rules of origin requirement will be exported to the U.S. duty free (Limited to 65 Million Square Meters).

Customs Administration

- The Agreement includes commitments to ensure transparent and efficient customs administration, including the publication of laws and regulations on the Internet and establishing prompt customs clearance procedures.
- Both Governments agree to share information to combat the illegal transshipment of goods and implement special customs cooperation measures to prevent fraud.

Rules of Origin

- The Agreement lays out specific rules of origin to ensure that only Bahrain and US goods benefit from the preferential duty treatment of the Agreement.

- Two types of goods produced in Bahrain will receive the benefits of the Agreement:
 - Goods originating in Bahrain
 - Goods that underwent a substantial transformation with at least 35% value added.

Commitments on Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Measures (SPS)

- The Agreement ensures that policies and regulations on food labeling, biotechnology, and shelf-life standards are transparent, science-based, and are in accordance with international standards.
- Reaffirms Bahrain's WTO commitment on TBT and SPS measures and ensures that technical regulations, standards, and conformity assessment procedures are not an impediment to trade.

Government Procurement

- The Agreement reinforces rules of fairness, transparency, and predictability of government procurement procedures, such as advance public notice of purchases and timely and transparent bid decision-making and review procedures.
- Bahraini suppliers will be granted National Treatment and non-discriminatory access to bid on contracts from various U.S. Central Government entities and Government-owned enterprises. Similarly, US suppliers will be granted access on a non-discriminatory basis to bid on contracts from various Bahrain Government entities.

Services and Cross-Border Services

- Service providers from each country will enjoy substantial market access to the services market of the other country and will be accorded National or Most-Favored Nation Treatment.
- The Agreement uses the "Negative List" approach, meaning that all sectors are covered unless specifically excluded.
- Key services sectors covered by the Agreement include telecommunications, computer and related services, healthcare, education, advertising, tourism, transportation, engineering, construction, audiovisual, and express delivery services.
- The Agreement provides benefits for businesses wishing to supply services cross-border (e.g. electronically), as well as businesses wishing to establish local presence in the other party's territory

- All policies and measures affecting services trade will be applied in a fair, objective, and non-discriminatory manner.

Financial Services

- The chapter covers traditional as well as Islamic financial services.
- Financial service providers from each party will enjoy access to the other party's financial services markets and be accorded National or Most Favored Nation Treatment, except when excluded by a Non-Conforming Measure.
- Liberalization of the Bahrain Stock Exchange.
- Liberalization of Bahrain's insurance market.
- Commitment to reaffirming legislative and procedural transparency in the financial services sector.

Telecommunications

- Telecommunications service providers from each country will have access to the telecommunications market of the other country.
- No restrictions on the type of technology used.
- Each government commits that users of the telecommunications network will have reasonable and nondiscriminatory access to the network.
- Firms of each party seeking to build a physical network in the other party's territory will have nondiscriminatory access to facilities.
- The Agreement includes a dispute settlement mechanism in accordance with the Bahrain Telecommunications Law.

Electronic Commerce

- The Agreement promotes a liberalized, non-discriminatory trade environment for E-Commerce.
- Each government commits to non-discriminatory 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 develop Bahrain's E-Commerce infrastructure and promote Bahrain an E-Commerce leader in the Gulf Region.

Intellectual Property Rights

- The Agreement covers the most updated international standards for copyrights, patents, and trademark-related commitments to lock-in intellectual property protections and enforcement to deter counterfeiting and piracy.
- Builds on the WTO Agreement on Trade -Related Aspects of Intellectual Property (TRIPS) and others such as the World Intellectual Property Organization (WIPO) Copyright Treaty, the WIPO Performances and Phonograms Treaty, and the Patent Cooperation Treaty.
- Includes commitments to strengthen Bahrain's enforcement procedures, provides for compensation of rights holders for infringements, and provides for criminal penalties for violators under Bahraini law.

Labor Rights

- Each government reaffirms its obligations as members of the International Labor Organization (ILO), and commits to strive to ensure that its laws provide for the highest labor standards.
- Each government will be required to effectively enforce its labor laws. The Agreement makes clear that is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment.
- Procedural guarantees to ensure workers and employers access to fair, equitable, and transparent labor tribunals or courts.
- A Labor Cooperation Mechanism is established to promote higher labor standards and to further advance common commitments, including the principles embodied in the June 1998 Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Form of Child Labor.

Environment

- Each government is required to effectively enforce its environmental laws.
- Each government commits to establish high levels of environmental protection, and to not weaken or reduce environmental laws to attract trade or investment.

- 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.
- Parallel to the Agreement, a Memorandum of Understanding was signed that will establish a Joint Forum on Environmental Cooperation to strengthen Bahrain's capacity to protect the environment through the promotion of sustainable development

Transparency

- The Agreement requires that trade-related laws and regulations are published and that proposed regulations are, to the extent possible, published in advance and are open to public commentary.
- Each government is required to apply fair procedures in administrative proceedings covering trade and to ensure that traders from the other country can obtain prompt and fair review of final administrative decisions affecting their interests.
- Commitment to prohibiting corrupt practices, such as bribery, enforce such prohibitions, enforce penalties for violators, and adopt or maintain measures protecting whistle -blowers.

Enforcement of the Agreement

- The Agreement emphasizes compliance through consultation and trade-enhancing remedies.
- The Agreement provides for mechanisms of state-to-state consultations and dispute settlement procedures.
- Commitment to efficient and transparent dispute panel procedure, including open hearings, public release of legal submissions by governments, and opportunities for interested third parties to provide their input.

Technical Assistance

- Parallel to the Agreement, the US has committed itself to providing technical assistance to the Kingdom of Bahrain in order to facilitate the implementation and effective administration of its FTA commitments
- Technical Assistance takes various forms, including market studies, business development programs, training of personnel, development of electronic

systems, assistance in the development of policy manuals, and legislative and procedural assistance

Expected Economic Impacts of the FTA:

Possible economic impacts of the Free Trade Agreement include:

1. Expanding the market for Bahraini goods and services and increasing export opportunities.
2. Increasing comparative advantage of Bahraini exports of goods and services to the markets of the U.S. and U.S. FTA partners, relative to exports of other countries.
3. Expanding the manufacturing sector, especially since manufacturers from the surrounding region are able to establish ventures in Bahrain and add 35% domestic content in order to qualify for duty-free treatment.
4. Creating employment opportunities for educated and highly skilled workers.
5. Increasing Bahrain's competitive advantage in terms of attracting inward investment. Coupled with the BIT, the FTA will further enable American investors to enjoy current advantages and incentives and expand sector-specific benefits available to entrepreneurs wishing to locate in Bahrain.
6. Expanding Bahrain's services sector, as the Agreement provides substantial market access and benefits for Bahrain businesses wishing to supply cross-border services as well as businesses wishing to establish presence in the U.S.
7. Expanding Bahrain's financial services sector, especially in emerging key service areas such as insurance and Islamic Banking.
8. Strengthening the Bahraini private sector and increase its contribution to the national economy.
9. Reinforcing Bahrain's position as a gateway to the surrounding region.
10. Growth of the retail sector in Bahrain, which contributes to 13% of GDP.
11. Facilitating the exchange of technology and expertise.
12. Stimulating the ITC and E-Commerce activities in Bahrain.
13. Promoting economic growth and further diversification of Bahrain's economy as a result of the expansion in trade and the increased foreign direct investment in the various manufacturing and services sectors.
14. Reinforcing and further strengthening the practices of transparency and openness