

FINAL ENVIRONMENTAL REVIEW
of the
Agreement on the Establishment of a Free Trade
Area Between the Government of the United States
and the Government of the Hashemite Kingdom of
Jordan



Office of the United States Trade Representative

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EXECUTIVE SUMMARY

This environmental review was prepared pursuant to Executive Order 13141 – Environmental Review of Trade Agreements, 64 *Fed. Reg.* 63169 (Nov. 18, 1999), by the Office of the U.S. Trade Representative (USTR) through the Subcommittee on Environment and Natural Resources of the Trade Policy Staff Committee (TPSC). Section 4(a)(ii) of the Order requires reviews of the environmental effects of bilateral or plurilateral free trade agreements, such as the U.S.-Jordan Free Trade Agreement (FTA). The Order states that “[t]rade agreements should contribute to the broader goal of sustainable development,” and that “[e]nvironmental reviews are an important tool to help identify potential environmental effects of trade agreements, both positive and negative, and to help facilitate consideration of appropriate responses to those effects whether in the course of negotiations, through other means, or both.”

This review was conducted under an atypical set of circumstances. These included a compressed negotiating timetable due to foreign policy objectives and minimal economic impacts in the United States.

Through qualitative analysis of 16 sectors selected on the basis of trade flows and industry input¹, and quantitative (partial equilibrium) analysis of three categories of U.S. exports to Jordan², the U.S. International Trade Commission (USITC) found that the FTA would have no measurable impacts on total U.S. imports, total U.S. exports, U.S. production, or U.S. employment.

¹The USITC conducted qualitative analysis on the following 16 sectors: live animals, animal and vegetable oils and fats, cereals (wheat, rice, and corn), electronics, fertilizers, citrus fruit and juices, nuts, iron and steel mill products, jewelry, machinery and transportation equipment, crude petroleum, pharmaceuticals, phosphates, potash, textiles and apparel, and vegetables.

²The USITC conducted quantitative (partial equilibrium) analysis on the following three categories of U.S. exports to Jordan: cereals (other than wheat), electrical machinery, and machinery and transport equipment.

The U.S. Government (USG) expects that the FTA with Jordan will not have any significant environmental effects in the United States. While it is conceivable that there may be instances in which environmental effects are concentrated regionally or sectorally in the United States, the USG could not identify any such instances.

When the USG was determining the scope of the U.S. environmental review, it considered the agreement's potential transboundary and global effects, including on water resources and quality, air pollution, coral reefs, trade in endangered species, migratory birds, and protected areas. Based on a number of considerations, including the Government of Jordan's (GOJ's) commitment to conduct its own review of the environmental effects of the FTA in Jordan and the Middle East region, including on water, air, industrial activity, coral reefs, and environmental laws and regulations, the USG focused on the transboundary and global effects of the FTA on trade in endangered species, migratory birds, and protected areas. The USG is not aware of any evidence that would suggest that the FTA provisions would have a significant negative environmental effect on Jordan's record on trade in endangered species, or on migratory birds or protected areas.

The U.S. review of the FTA included consideration of whether the agreement would affect the ability of the USG to establish and enforce its environmental, health, and safety laws. The review found that the FTA includes provisions that help to maintain the USG's current legal and regulatory discretion in the area of environmental protection. Moreover, the FTA encourages the Parties to improve their environmental protection regimes.

The analysis done in the U.S. and Jordanian review processes, as well as the exchanges between the

environmental negotiators, contributed to the identification of environmental cooperation opportunities. Specifically, outside of the FTA, the Parties concluded a U.S.-Jordan initiative on technical environmental cooperation that will advance the two countries' shared environmental protection goals.

BACKGROUND ON THE FTA AND JORDAN

Objectives of the FTA

On June 6, 2000, President Clinton and Jordan's King Abdullah II announced that the Governments of the United States (USG) and Jordan (GOJ) would enter into negotiations on a bilateral FTA. The USG's decision to enter into FTA negotiations with Jordan was motivated by a desire to bolster the Middle East peace process and to spur economic growth and stability in the Middle East by supporting the economic reforms that King Abdullah II has implemented in Jordan.

Jordan is developing as an emerging market in the Middle East region. Despite regional political uncertainties affecting economic development in Jordanian strategic sectors, the GOJ has been liberalizing and opening its economy. Such liberalization was reflected in the commitments Jordan made in its accession to the World Trade Organization (WTO) in April 2000. Jordan also has a strong record on respect for core labor standards and environmental protection in the context of trade.

The agreement offers the prospect of rapid growth in a relatively small trade relationship. Two-way trade between Jordan and the United States totaled \$287 million in 1999, \$276 million in U.S. exports to Jordan and \$11 million in U.S. imports from Jordan. An analysis by the USITC suggests the potential for growth under the new agreement, showing that if an FTA had been in effect in 1998, U.S. exports of cereals (other than wheat) could have increased by 14 percent, electric machinery exports doubled, and exports of machinery and transport equipment grown by approximately 39 percent.

The agreement builds on other U.S. initiatives in the region, designed to encourage economic

development and regional integration. These include the 1985 U.S.-Israel Free Trade Agreement and its extension to areas administered by the Palestinian Authority in 1996; and the 1996 Qualifying Industrial Zone (QIZ) program.³

In commencing negotiations on a U.S.-Jordan FTA, the Executive Branch received broad bipartisan support from both Houses of Congress, which shared its foreign policy objectives with respect to Jordan and the Middle East. The USG's wish to contribute in the short term to the peace process, and the desire of many members of Congress to conclude the FTA as soon as possible so as to achieve this goal, resulted in an expedited time table both for the negotiation of the agreement and for the development of the environmental review.

After a series of negotiations that took place in both Amman, Jordan, and Washington, D.C., the agreement was signed on October 24, 2000.

Agreement Provisions

The volume of trade between the United States and Jordan is very small, relative to U.S. global trade and the size of the U.S. economy; therefore, the provisions in the FTA are not complex.⁴ The FTA will

³The Qualifying Industrial Zones are areas under joint Israeli-Jordanian customs control whose exports are eligible for duty-free treatment in the United States. The QIZ program was initiated by President Clinton in 1996. The United States has also signed Trade and Investment Framework Agreements (TIFAs) with Turkey (2000), Egypt (1999), Jordan (1999), and Morocco (1985); and encouraged membership in the World Trade Organization for nations in the region, facilitating the recent entries of Jordan and Oman.

⁴In 1999, U.S. goods exports to Jordan were valued at \$276 *million*, compared to U.S. goods exports to the world valued at \$696 *billion*. For the same year, U.S. goods imports from Jordan were valued at \$31 *million*, compared to U.S. goods imports from the world valued at more than \$1.0 *trillion*. Nearly \$19 million of this \$31 million is accounted for by goods – primarily, aircraft parts – that are

eliminate duties and commercial barriers to bilateral trade in goods and services originating in the United States and Jordan. The FTA also includes separate sets of substantive provisions addressing trade and the environment, trade and labor, and electronic commerce. Other provisions address intellectual property rights protection, balance of payments, rules of origin, safeguards and procedural matters such as consultations and dispute settlement. Because the United States already has a Bilateral Investment Treaty with Jordan, the FTA does not include an investment chapter.

Specifically, the agreement will eliminate tariffs on virtually all trade between the two countries within 10 years, in accordance with WTO principles governing the operation of FTAs.⁵ The tariff reductions will take place in four stages: current tariffs of less than 5 percent will be phased out in two years; those that are now between 5 and 10 percent will be eliminated in four years; those between 10 and 20 percent will be eliminated in five years; and those that are currently higher than 20 percent will be eliminated in 10 years. The Parties also commit not to increase any customs duties, except for antidumping or countervailing duties, duties adopted under section 201 of the Trade Act of 1974, user fees, certain duties on agricultural products, and duties on imports that are equivalent to internal taxes imposed on similar domestic goods.

exported from Jordan to the United States, repaired, and then exported back to Jordan.

⁵The average tariff rate for the United States is between 3 and 4 percent. Over 80 percent of U.S. tariff lines have rates between 0 and 10 percent. Less than 5 percent of U.S. tariff lines have rates above 20 percent. The average tariff rate for Jordan is about 15 percent. Jordan's tariffs generally fall within 5 rates between 0 and 30 percent. As part of the commitments Jordan made in its accession to the WTO, the GOJ will phase in lower duties for many products, including by eliminating duties on items covered by the Information Technology Agreement by 2004, and by achieving the 0, 5.5, and 6.5 percent rates provided for by the chemical tariff harmonization initiative. This was a Uruguay Round initiative that now is part of our WTO and Asia Pacific Economic Cooperation forum (APEC) agendas, pursuant to a directive in the Statement of Administrative Action for the *Uruguay Round Agreements Act*.

With respect to trade in services, the commitments between the USG and the GOJ are based on the obligations and concepts of the WTO General Agreement on Trade in Services (GATS). Jordan already enjoys near complete access to the U.S. services market. The FTA will open the Jordanian services market to U.S. companies. Specific liberalization has been achieved in many key sectors, including energy distribution, convention services, printing and publishing, courier services, audiovisual, education, environmental, financial, health services, tourism and transport services. The text ensures that the relevant GATS exceptions (and any future exceptions) and qualifications apply to the Parties' commitments in those areas.

The obligations contained in the intellectual property section of the FTA build upon commitments that Jordan made under the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPS), and on the commitments Jordan made at the time it acceded to the WTO. The FTA commits Jordan, within two years, to ratify the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty, to which the United States is a party, and to implement these treaties by making necessary changes to Jordanian law. These treaties supplement the substantive standards for protection in the TRIPS Agreement and take into account the advent of the Internet.

Jordan and the U.S. have also committed to promoting a liberalized trade environment for electronic commerce. This commitment should encourage investment in new technologies and stimulate the innovative uses of networks to deliver products and services. Both countries agreed to seek to avoid imposing customs duties on electronic transmissions, imposing unnecessary barriers to market access for digitized products, and impeding the ability to deliver services through electronic means.

The agreement also includes substantive provisions on trade and environment and trade and labor. The

United States and Jordan have committed to strive to maintain high levels of environmental protection and to improve their environmental laws, which are defined to include statutes or regulations focused on the protection of the environment or the prevention of a danger to human, animal, or plant life or health. The FTA environmental provisions also focus on effective enforcement of U.S. and Jordanian environmental laws, and the agreement provides for dispute settlement procedures to resolve issues related to enforcement of such laws. Under the FTA, the United States and Jordan also recognized the objective of sustainable development and agreed to avoid relaxing environmental laws to encourage trade.

The United States and Jordan also agreed on an environmental cooperation initiative, which establishes a U.S.-Jordan Joint Forum on Environmental Cooperation for ongoing discussion of environmental priorities, and identifies environmental quality and enforcement areas of initial focus. The environmental elements of the FTA package also include language on transparency and public input (discussed below), and on environmental exceptions. Finally, the FTA includes a “win/win” initiative – an initiative that is good for both business and the environment – by eliminating tariffs on a number of environmental goods and services and technologies and liberalizing Jordanian restrictions on certain environmental services.

The agreement also includes key provisions that reconfirm the relationship between free trade and the protection of workers rights. These include provisions on not lowering labor standards to promote trade, reaffirming the Parties’ support for the core labor standards adopted in the 1998 International Labor Organization Declaration on Fundamental Principles and Rights at Work and its Follow-up, and on the effective enforcement of national labor laws. The Parties agreed to settle disagreements concerning the enforcement of national labor laws through a dispute settlement process. The Parties also agreed in principle to strive to improve their labor standards.

The FTA also provides a bilateral mechanism to safeguard against a surge of imports that cause harm to domestic industry (referred to as a “safeguard mechanism”). This safeguard mechanism allows either Party to return duties on a product to the MFN rate if increased imports of that product, resulting from tariff concessions under the FTA, is a substantial cause of serious injury to a domestic industry. This provision is similar to global safeguards under section 201 of the Trade Act of 1974 and bilateral safeguards under NAFTA. The safeguard measures are available only in the 15-year period following implementation of the FTA, cannot last longer than four years, and cannot be extended or reimposed. The FTA specifies that nothing limits the availability of global safeguard measures under Article XIX of GATT 1994 and the WTO Agreement on Safeguards, except that either Party may exclude the other from a global safeguard measure.

The administration and operation of the FTA will be overseen by the “Joint Committee”, which is composed of the Jordanian minister with primary responsibility for trade matters and the U.S. Trade Representative, or their designees. It is envisaged that the Joint Committee will meet in regular session each year, and at any time agreed upon by the Parties. The Committee is expected to provide a context for consultations on issues arising under the FTA and also will serve as the first stage of dispute settlement.

As for the dispute settlement provisions of the FTA, they stipulate that dispute settlement procedures begin with consultations, which are available to discuss any matter affecting the operation or interpretation of the FTA. Given the close working relationship between the two Governments, and the volume of trade between the two countries, few differences, if any, are expected to arise over interpretation or application of the Agreement. Both the United States and Jordan have agreed to resolve any differences under the Agreement without recourse to formal dispute settlement procedures. In

particular, each Government has stated that it does not expect or intend to apply the procedures to secure each country's rights under the Agreement in a manner that results in blocking trade. In light of the wide range of the bilateral ties and the spirit of collaboration that characterizes the relationship between the United States and Jordan, each Government considers the appropriate measure for resolving any differences would be through bilateral consultations, and other procedures, particularly alternative mechanisms, that will help to secure compliance without recourse to dispute settlement.

However, formal dispute settlement procedures are available for certain issues, namely: (1) questions on interpretation of the agreement; (2) claims that one party failed to carry out its obligations; and (3) claims that a Party severely distorted the balance of benefits or substantially undermined the fundamental objectives of the agreement. The process is initiated by consideration of the dispute by the Joint Committee, and followed, if necessary, by panel proceedings to determine whether a violation of the agreement, or nullification of the terms of the agreement, has occurred. The report of the panel is non-binding. The Joint Committee attempts to resolve the dispute, based on the report of the panel. If there is resolution, the affected Party may take any appropriate and commensurate measure.

A number of elements on transparency and citizen involvement are also included as part of the dispute settlement provisions. Specifically, when a dispute arises between the United States and Jordan over a commitment under the FTA, and this dispute is referred to an FTA dispute settlement panel, the two governments have agreed that: (a) any submission by either Party to the panel shall be made available to the public; (b) any oral presentations before the panel generally shall be open to members of the public; (c) the panel shall accept and consider *amicus curiae* submissions by entities with an interest in the outcome of the dispute; and (d) the panel shall release its report to the public at the earliest possible time. In addition, the United States and Jordan agreed that when a dispute between the United States and Jordan arises over their obligations under WTO Agreements and such dispute is referred to a WTO

panel, the two governments will make their submissions to the WTO panel available to the public and will seek the appointment of panelists who will agree to incorporate into the panel's working procedures the transparency and citizen involvement elements listed above in (b), (c), and (d). In making this commitment, Jordan became the first of the U.S.'s WTO partners to fully endorse the transparency in dispute settlement proposals it has made in the WTO.

In the FTA, the Governments of the United States and Jordan also agreed to solicit and consider the views of members of their respective publics at the consultation stage of a dispute, that is, promptly after requesting or receiving a request for consultations. This commitment was made with respect to dispute settlement consultations under both the U.S.-Jordan FTA and the WTO Agreements. Finally, language is included reaffirming the intent of the two governments to use their respective practices of considering the views of interested members of the public to draw upon a broad range of perspectives in the implementation of the FTA.

Finally, the agreement contains provisions on exceptions from the FTA obligations, including exceptions for the protection of human, animal, or plant life or health; conservation of living and non-living exhaustible natural resources; taxation measures; national security; and other reasons. The FTA exceptions language is based on exceptions language in the NAFTA, Article XX of the General Agreement on Tariffs and Trade (GATT) 1994, and Article XIV of the GATS.

Information on Jordan

(For background on Jordan's geography, environment, and economy, see Annex 1.)

Record on Environment

In 1991, Jordan was the first country in the Middle East to complete a national environmental strategy, which included a detailed assessment of the Jordanian environment and an environmental protection plan. Jordan followed up on the strategy with a five-year national economic and social development plan (1993-1997), which prioritized environmental issues and identified environmental challenges for the 1990s. In 1995, the GOJ published a national environmental action plan that further defined environmental problems and identified specific actions to address these problems.

Jordan's *Environmental Protection Law No. 12*, enacted in 1995, consolidated national environmental protection authority under a new government entity called the General Corporation for Environmental Protection (GCEP), which reports to the Ministry of Municipal and Rural Affairs and the Environment. Pursuant to its environmental protection law, Jordan is drafting environmental "bylaws."⁶ Jordan has promulgated seven of 20 proposed major environmental bylaws, addressing GCEP organization, management, and funding, noise pollution, management and transport of hazardous waste, marine resources and coastline protection, and control of ozone-depleting substances. Thirteen additional bylaws are in progress (*i.e.*, drafted but not yet promulgated), including bylaws addressing soil protection, solid waste management, clean air regulations, national parks and reservations management, greenhouse emissions regulation, water protection regulation, hazardous waste management, pesticide pollution, vehicle emissions regulation, and environment impact assessments for agricultural products. The GOJ recognizes that to ensure the sustainable development of its economy, Jordan must continue to develop its environmental regulatory structure and to strengthen its means for ensuring compliance with and enforcement of its environmental laws and regulations.

⁶Bylaws in Jordan are akin to U.S. regulations.

The GOJ is debating the creation of a new free-standing Ministry of Environment to raise the level of decision-making on environmental policy, remove the environmental protection function from the ministry responsible for municipalities, consolidate and enhance coordination of environmental policy and planning, and improve monitoring and enforcement of environmental standards.

Jordan is a party to almost all key international global environmental agreements, including agreements that pertain to biodiversity, climate change, desertification, endangered species, hazardous wastes, the law of the sea, marine dumping, nuclear test ban, ozone layer protection, and wetlands. (See Annex II for a complete list of international environmental agreements to which Jordan is a party.)

As part of the Middle East peace process, Jordan is a core member of the Working Group on the Environment, which focuses on regional environmental issues. Jordan has entered into an agreement with Israel on “Cooperation in Environmental Protection and Nature Conservation,” as part of the Israel-Jordan peace treaty.

Jordan is also supportive of various non-governmental environmental efforts. For example, Amman was selected to host the International Union for the Conservation of Nature’s Global Congress in October 2000. This conference was the first major conservation event of the new millennium and helped define key conservation goals for the new century. Jordan has a number of environmental non-governmental organizations (NGOs), and the GOJ encourages their active participation in government decision-making. In fact, the presidents of the Royal Society for the Conservation of Nature (a quasi-governmental research body) and three environmental NGOs – the Jordan Environment Society, the Royal Scientific Society, and the Jordanian Society for Combating Desertification and Badia Development -- sit on Jordan’s Environmental Council. The Council, *inter alia*, approves Jordan’s general environmental protection

policies and environmental standards and specifications, and deliberates on all environmental matters.

Jordanian Environmental Review Process

Jordan's *Environmental Law No. 12 of 1995* requires that the GOJ take environmental considerations into account when undertaking economic development activities within the country. The GOJ conducted an environmental review of the FTA, including on its national, regional, and transboundary environmental effects. The GOJ also used its review process to explore environmental issues writ large to inform the development of Jordan's environmental agenda. At the request of the GOJ, the U.S. Agency for International Development provided technical assistance on this review.

The GOJ solicited public input on its environmental review. Through notices published in leading Arabic and English newspapers, including the *Jordan Times*, on July 10 and 12, 2000, the GOJ provided an opportunity for public comment on the environmental aspects of the FTA. On July 13, 2000, the GOJ convened a public consultation meeting that was attended by more than 100 individuals.

SCOPING

The scoping process involves the identification of significant issues to be analyzed in depth in a written environmental review, along with the elimination from detailed study of those issues which are not significant or that have been covered by other reviews.

Public Outreach and Comments

As mentioned above, during the week of June 6, 2000, President Clinton and King Abdullah II decided to enter into negotiations on an FTA. USTR officials immediately contacted the leadership of the Trade and Environment Policy Advisory Committee (TEPAC), as well as representatives of several environmental NGOs, to brief them on the impetus behind the Agreement, and on the Administration's intention to conduct an environmental review of the FTA and to include environmental provisions within its body.

On June 15, 2000, USTR issued a *Federal Register* notice (65 *Fed. Reg.* 37594) to announce the Administration's plan to negotiate an FTA with Jordan and to conduct an environmental review of the agreement. The notice requested public comment by July 17, including on the possible environmental effects of the FTA. On June 28, 2000, USTR issued a second *Federal Register* notice (65 *Fed. Reg.* 37976) announcing the initiation of the environmental review and requesting public comment by July 17 on its scope.

Over the course of the next four months, USG officials, including at the Cabinet level, consulted regularly with environmental and other advisors, representatives of environmental NGOs, members of Congress and their staff, representatives of state governments, and members of the U.S. business community, on the FTA, including on the U.S. environmental review of the agreement. These consultations took the form of briefings, workshops, and other exchanges. On June 30, 2000, USG officials organized a meeting for the Jordanian environmental negotiator with representatives of several U.S. environmental NGOs to facilitate an exchange on the FTA environmental elements, including the Parties' environmental review processes. On September 15, 2000, Jordanian and U.S. officials met with majority and minority staff for the Committee on Ways and Means' Subcommittee on Trade, as well as with other interested congressional

staff, to discuss the environmental aspects of the FTA, including the processes that the USG and the GOJ would use to conduct their respective environmental reviews. While in Jordan, the U.S. Trade Representative discussed the FTA environmental elements, including the Parties' environmental review processes, with representatives of several Jordanian environmental NGOs, including the International Union for the Conservation of Nature, the National Environment and Wildlife Society, the Royal Society for the Conservation of Nature, Friends of the Earth, and the Jordanian Royal Ecological Diving Society.

In response to the July 17, 2000 *Federal Register* notice, USTR received a number of comments on the U.S. review of the environmental effects of the FTA. Several of these noted that the U.S.-Jordan FTA and the environmental review of this agreement would serve as a good trial run of Executive Order 13141. More specifically, regarding the scope of the U.S. review, one set of comments recommended that the scoping phase should begin by canvassing the areas of commerce that could be or are likely to be affected by the FTA; the potential impacts on U.S. and Jordanian environmental statutes and regulations, and other binding obligations; the potential local and regional impacts on air pollution in Jordan and the United States; and the potential impacts on the globally scarce resources of coral reefs due to increased transport in the Gulf of Aqaba and in the Red Sea. One comment recommended that the review not reflect a tendency to emphasize the possible environmental problems from trade agreements, thereby de-emphasizing potential environmental benefits from expanded trade and economic activity. Finally, one comment noted that, given the small amount of trade involved, the review should be simple, without a detailed quantitative assessment.

The draft environmental review was made available to the public for comment on September 28, 2000 (65 *Fed. Reg.* 58342). Three sets of comments were received. These comments are summarized in Annex III.

Effects in the United States

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.” Accordingly, this review considers environmental impacts in the United States from changes in trade flows and commitments that are expected to result from the FTA.

To identify the FTA’s impact in the United States, the USITC prepared qualitative and quantitative analysis of possible economic effects of the FTA on U.S. imports, exports, production, and employment. The USITC’s sector selection process for its qualitative analysis consisted of examination of U.S. trade flows (exports and imports of goods and services) with Jordan and Jordan’s trade flows with the world. USITC industry analysts also provided assessments of whether certain industries merited further examination. Using this input, the USITC selected 16 sectors for more in-depth analysis: live animals, animal and vegetable oils and fats, cereals (wheat, rice, and corn), electronics, fertilizers, citrus fruit and juices, nuts, iron and steel mill products, jewelry, machinery and transportation equipment, crude petroleum, pharmaceuticals, phosphates, potash, textiles and apparel, and vegetables. In its quantitative analysis, the USITC selected three major categories of U.S. exports to Jordan based on data availability to conduct a comparative static, partial equilibrium analysis on the impact of the U.S.-Jordan FTA. These three major categories were cereals (other than wheat), electrical machinery, and machinery and transportation equipment.

The environmental effects analysis described below is derived from the USITC’s economic effects analysis. This final review also considers the environmental legal and regulatory effects of the FTA in the United States.

Global and Transboundary Effects

Section 5(b) of Executive Order 13141 also provides that, “as appropriate and prudent, reviews may also examine global and transboundary impacts.” Whether consideration of global and transboundary impacts is appropriate is a determination made on a case-by-case basis, with due consideration given to environmental, methodological, diplomatic, and other considerations. In this instance, in considering possible global and transboundary impacts, the USG took into consideration a number of factors: the lack of shared borders with Jordan, the significant geographic distance between the two Parties to the FTA, the *de minimis* anticipated environmental effects of the FTA in the United States, the Jordanians’ own commitment to full consideration of environmental effects of the FTA in Jordan and in the Middle East region, and the comments submitted by the TEPAC, environmental NGOs, business interests, and other interested member of the public on the scope of the U.S. environmental review. As stated above, some of the public comments suggested that the USG consider potential effects on the laws and regulations of both countries, water resources and quality issues, and air pollution and coral reefs in both countries and the Middle East region. Federal agency representatives to the TPSC Subcommittee on Environment and Natural Resources also initially identified possible global and transboundary areas of concern, specifically, the effects of the FTA in Jordan and the Middle East region on migratory species, protected areas, endangered species trade, and water.

The GOJ’s environmental review addressed environmental issues, including water, air, and marine resources, including coral reefs in the Gulf of Aqaba; and to cover regional and transboundary effects. In considering air pollution, the Jordanian review process explored potential environmental effects of possible increased industrial activity in the Middle East region. In light of the Jordanian review process, and USG assessment of the relationship between the agreement provisions and the environmental issues

discussed above, it was determined that the scope of the U.S. review with respect to consideration of global and transboundary issues would focus on endangered species trade, migratory birds, and protected areas, which were not covered in the Jordanian review process.

ANALYSIS

Economic Effects in the United States

On June 14, 2000, USTR requested that the USITC provide advice as to the economic impact on the United States of an FTA with Jordan. On July 31, the USITC provided its analytical results for the sectors in the United States that had been identified as potentially experiencing significant economic effects from the FTA. Through qualitative and quantitative analysis, the USITC found that the FTA would have no measurable impacts on total U.S. imports, total U.S. exports, U.S. production, or U.S. employment.

As described above, the USITC's sector selection process for its qualitative analysis consisted of the examination of U.S. trade flows (exports and imports of goods and services) with Jordan and Jordan's global trade flows. USITC industry analysts also provided assessments of whether specific industries merited further examination. Using this input, the USITC selected 16 sectors for more in-depth analysis: live animals, animal and vegetable oils and fats, cereals (wheat, rice, and corn), electronics, fertilizers, citrus fruit and juices, nuts, iron and steel mill products, jewelry, machinery and transportation equipment, crude petroleum, pharmaceuticals, phosphates, potash, textiles and apparel, and vegetables. The USITC's findings indicated that the FTA would have no measurable impacts on total U.S. imports, total U.S. exports, U.S. production, or U.S. employment for these 16 sectors.

The USITC cited only the apparel sector as potentially increasing U.S. bilateral imports from Jordan. Some quantity of fabric that is currently cut in Israel, sewn in Jordan, and then exported back to Israel for duty free export to the United States under the U.S.-Israel FTA may be exported in one form or another to the United States directly from Jordan once the U.S.-Jordan FTA is in place. Though such shifting would increase U.S. *bilateral* imports from Jordan, it would not increase U.S. *global* imports. The USITC's findings therefore showed that while bilateral apparel imports from Jordan may increase, overall U.S. apparel imports in this sector would not measurably change.

In its quantitative analysis, the USITC selected three major categories of U.S. exports to Jordan based on data availability to conduct a comparative static, partial equilibrium analysis on the impact of the U.S.-Jordan FTA. These three categories were cereals (other than wheat), electrical machinery, and machinery and transportation equipment. Although the USITC's findings indicated that exports to Jordan would increase in each of these categories, the increases were extremely small when compared to total U.S. exports in these sectors, and therefore were expected to have no measurable impacts on total U.S. exports, U.S. production, or U.S. employment. For the cereal (other than wheat) category, U.S. exports to Jordan were estimated to increase by 14 percent (\$2.9 million). This increase however accounted for only .04 percent of U.S. 1998 exports in this category (\$6.5 billion). For the electrical machinery category, U.S. exports to Jordan were estimated to roughly double (by \$22.1 million), however, again accounting for a tiny share (.02 percent) of overall exports of this category (\$94.2 billion). For the machinery and transportation equipment category, U.S. exports to Jordan were estimated to increase by 39 percent (\$48.2 million), once more accounting for a tiny share (less than .02 percent) of overall U.S. exports of this category (\$272.6 billion).

The USITC report on the economic impact on the United States of the U.S.-Jordan FTA -- [Economic](#)

Impact on the United States of a U.S.-Jordan Free Trade Agreement (Inv. No. 332-418), USITC

Publication 3340, September 2000 -- is available to the public on the USITC's website --

<ftp://ftp.usitc.gov/pub/reports/studies/pub3340.pdf>.⁷

Environmental Effects

In the United States

When assessing the economic effects of the FTA with Jordan, the USITC found that the FTA would have no measurable impacts on total U.S. imports, total U.S. exports, U.S. production, or U.S. employment.

Therefore the USG expects that the environmental effects in the United States resulting from the changes in trade flows with Jordan as a result of the FTA will be *de minimis*. While it is conceivable that there may be instances in which environmental effects are concentrated regionally or sectorally in the United States, the USG could not identify any such instances. In sum, the USG expects that the FTA with Jordan will not have any significant environmental effects in the United States.

Transboundary and Global

The USG considered possible transboundary and global environmental effects of the U.S.-Jordan FTA on trade in endangered species, migratory birds, and protected areas. Each of these effects is addressed in a widely subscribed multilateral agreement with global coverage to which the United States and Jordan are

⁷The USTR declassified this USITC report following a determination that its release would not compromise U.S. negotiating positions or leverage. The USTR's decisions on classification of such reports requested under section 332(g) of the Tariff Act of 1930 are made on a case-by-case basis, taking into consideration the need to preserve and maximize the USG's present and future negotiating positions and leverage, as well as other national security concerns.

both Parties: the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention), and the Convention Concerning the Protection of World Cultural and Natural Heritage. The USG is not aware of any evidence that illegal trafficking in endangered species has been a problem with Jordan, and concluded that nothing in the Jordan FTA would increase the possibility that such trafficking would become a problem. The USG focused on tourist services provisions in the FTA as possibly relevant to migratory birds and protected areas. As the FTA provisions liberalize such services only with respect to foreign investment in tourist restaurants, the USG is not aware of any evidence that would suggest that these provisions would have a significant environmental effect on migratory birds or protected areas. The FTA's environmental provisions may positively affect migratory birds and protected areas, as well as other environmental issues, *e.g.*, by encouraging the Parties to improve their levels of environmental protection and to effectively enforce their environmental protection laws and regulations.

Legal and Regulatory Effects

The process for developing the FTA provisions and the U.S. environmental review of this agreement included consideration of whether the agreement will affect the ability of the USG to establish and enforce its environmental, health, and safety laws. The agreement text was drafted with attention paid to the need to preserve the USG's ability to maintain strong environmental laws and regulations and an effective process for enforcing them.

Trade obligations relating to sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT) can have particular significance for domestic regulatory practices concerning environment, health, and safety. The FTA does not include SPS or TBT provisions. The Parties did, however, in an exchange

of letters, clarify the procedures used in making SPS equivalence determinations. The FTA therefore is not expected to negatively affect the USG's legal or regulatory authority or practices in that respect.

The FTA environmental principles on maintaining high levels of environmental protection, not lowering environmental standards to promote trade, and each Party's right to establish its own level of domestic environmental protection, help to maintain the USG's legal and regulatory discretion in the area of environmental protection.

The FTA provisions on improving levels of environmental protection and effective enforcement of environmental laws and regulations, and the technical environmental cooperation initiative on priorities such as enforcement of environmental protection laws and regulations, encourage the Parties to improve their environmental protection regimes. Finally, transparency and public participation provisions, such as those included in the FTA, are expected to facilitate effective development and enforcement of environmental laws and regulations.

Environmental Opportunities

The analysis done in the U.S. and Jordan review processes, as well as the exchanges between the environmental negotiators, contributed to the identification of environmental opportunities. Specifically, the Parties established a U.S.-Jordan initiative outside of the FTA on technical environmental cooperation in order to advance the two countries' shared environmental protection goals. This initiative is expected to include specific projects focused on environmental priorities agreed upon by the two governments, including the need to enhance the GOJ's skill, knowledge, and capacity in the area of development and effective enforcement of environmental laws and regulations. In addition to specific projects, the U.S.-

Jordan technical environmental cooperation initiative provides for the establishment of a forum for continuous dialogue between the two governments on agreed upon environmental priorities. This ongoing relationship will provide the means for the United States and Jordan to consider environmental issues as they arise, including those that the governments may not foresee at this time.

CONCLUSION

The environmental review of the effects of the U.S.-Jordan FTA was prepared pursuant to Executive Order 13141 – Environmental Review of Trade Agreements, 64 Fed. Reg. 63,169 (Nov. 18, 1999), by USTR through the TPSC Subcommittee on Environment and Natural Resources. The USG's wish to contribute in the short term to the Middle East peace process through the conclusion of an FTA with the GOJ, and strong Congressional support to conclude the agreement expeditiously to achieve this goal, resulted in an accelerated time table for both the negotiation of the agreement and the development of the environmental review.

The key findings of this review and of the USITC's report on the U.S.-Jordan FTA's impact on the United States concern the economic, environmental, and legal and regulatory effects of this agreement. In determining the scope of this environmental review, the USG considered domestic effects, as well as global and transboundary issues.

On economic effects, through qualitative analysis of 16 sectors selected on the basis of trade flows and industry input, and quantitative (partial equilibrium) analysis of three categories of U.S. exports to Jordan, the USITC found that the FTA would have no measurable impacts on total U.S. imports, total U.S. exports, U.S. production, or U.S. employment.

The USG expects that the FTA will not have any significant environmental effects in the United States. While it is conceivable that there may be instances in which environmental effects are concentrated regionally or sectorally in the United States, the USG could not identify any such instances.

With respect to the FTA's transboundary and global environmental effects, the USG considered the agreement's potential effects on laws and regulations, water resources and quality, air pollution and greenhouse gas emissions, coral reefs, trade in endangered species, migratory birds, and protected areas. Based on a number of considerations, including the GOJ's commitment to cover in its review the environmental effects of the FTA in Jordan and the Middle East region, including on water, air, industrial activity, coral reefs, and environmental laws and regulations, the USG focused on the transboundary and global effects of the FTA on trade in endangered species, migratory birds, and protected areas. The USG is not aware of any evidence that would suggest that the FTA provisions would have a significant negative environmental effect on Jordan's record on trade in endangered species, or on migratory birds or protected areas.

On legal and regulatory effects, the U.S. environmental review process has included consideration of whether the agreement would affect the ability of the USG to establish and enforce its environmental, health, and safety laws. The FTA includes provisions that help to maintain the USG's current legal and regulatory discretion in the area of environmental protection. Moreover, the FTA encourages the Parties to improve their environmental protection regimes.

The analysis done in the U.S. and Jordanian review processes, as well as the exchanges between the environmental negotiators, contributed to the identification of environmental opportunities. Specifically, the Parties concluded a U.S.-Jordan initiative outside of the FTA on technical environmental cooperation to advance the two countries' shared environmental protection goals.

ANNEX I

Background on Jordan's Geography, Environment, and Economy

Geography

Jordan is a small country, located near the northeastern edge of the Arabian peninsula, with an area of 89,213 square kilometers (slightly smaller than Indiana) and a coastline of 26 kilometers along the Gulf of Aqaba. Jordan has a population of approximately five million people. The country is bordered to the north by Syria, to the northeast by Iraq, to the east and south by Saudi Arabia, and to the west by Israel. Jordan has three major geographic zones: the Jordan Rift Valley which runs down the western side of the country and is the main agricultural area; the Mountainous Region, where most of the main towns are located and where 90 percent of Jordan's population resides; and the Eastern Desert (Badia), which stretches east into Syria, Iraq, and Saudi Arabia.

Environment

The most common ecosystems in Jordan are deserts in the east and south, bush steppe in the Mountainous Region and in the northeast Badia, and steppe grasslands and Mediterranean scrub in the Mountainous Region. Juniper and oak woodlands are found at higher elevations in the mountains, as are planted pine forests. Wetlands, some of which are important stopovers for migratory birds, are located in the vicinity of several bodies of water and seasonal marshes throughout the country. The Gulf of Aqaba contains some of the northernmost coral reefs and mangrove stands in the world. The Gulf supports over 1,000 species of fish.

Only about 10 percent of the total land area (primarily in the Jordan Valley and the Mountainous Region)

is cultivable. Most of the intensive fruit and vegetable production depends on irrigation.

The GOJ has identified the following as primary environmental issues: (1) capacity and institution building; (2) water supply; (3) wastewater treatment; (4) air quality; (5) municipal solid waste; (6) industrial and hazardous waste; (7) land resources; (8) coastal and marine resources; and (9) “unique resources,” such as the Dead Sea. In addition to institutional issues, the most pressing environmental issue in Jordan is the lack of adequate water resources.

Economy

Jordan’s economy and population are considerably smaller than those of the United States. Jordan’s Gross Domestic Product (GDP) was \$7.0 billion in 1998, which is less than 1/1000 the size of the U.S. GDP for 1998 at \$8.8 trillion. Jordan’s per capita GDP in 1998 was \$1,594, which is less than 1/20 the amount of U.S. per capita GDP of \$32,377 in 1998.

Jordan’s global goods trade is small when compared to that of the United States. Jordan’s goods trade with the world totaled more than \$5.1 *billion* in 1999 -- \$1.4 billion of exports and approximately \$3.7 billion of imports. U.S. trade with the world was valued at \$1.7 *trillion* in 1999 -- \$695.8 billion of exports and \$1.0 trillion of imports. U.S. bilateral trade with Jordan is extremely small, compared to U.S. world trade. Valued at \$276 million in 1999, U.S. goods exports to Jordan accounted for roughly 0.04 percent of U.S. goods exports to the world.¹ U.S. goods imports from Jordan amounted to \$31 million in

¹The top four 2-digit HS categories for U.S. exports to Jordan in 1999 were: cereal (mostly wheat, rice and corn), \$52.1 million; machinery, \$37.4 million; aircraft parts, \$27.7 million; and edible oils, \$22.8 million. These categories accounted for more than half of U.S. exports to Jordan.

1999, roughly 0.003 percent of U.S. goods imports from the world.² Among U.S. global export markets, Jordan ranked 81st in 1999, and among global sources of imports into the United States, Jordan ranked 131st. In contrast, in 1999, the United States was the second largest exporter to Jordan (behind Iraq), accounting for 9.8 percent of Jordan's imports from the world. The United States is not a major export market for Jordanians goods: in 1999, only 0.9 percent of Jordan's exports to the world went to the United States. In 1999, the EU was the second largest (non-individual country) export market for Jordanian goods, absorbing 12 percent of Jordan's exports valued at \$169 million. The same year, 35 percent of Jordan's imports from the world valued at \$1.4 billion came from the EU, which was the largest (non-individual) country exporter to the Jordanian market.

²Over 60 percent (\$18.5 million) of U.S. imports from Jordan 1999 were in a special category for products sent to the United States for repairs. Of the remaining \$12.5 million of imports, the top four categories for U.S. imports from Jordan in 1999 were as follows: jewelry, \$4.5 million; woven apparel, \$1.8 million; art and antiques, \$0.8 million; and carpets, \$0.7 million.

ANNEX II

Multilateral Environmental Agreements to which Jordan is a Party

(dates of entry into force noted in parentheses)

Constitution of the Food and Agriculture Organization of the United Nations (1/23/1951)

International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended in 1962 and 1969 (8/8/1963)

International Plant Protection Convention (4/24/1970)

Convention of the International Maritime Organization (11/9/1973)

Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (8/30/1975)

Convention Concerning the Protection of the World Cultural and Natural Heritage (12/17/1975)

Convention on Wetlands of International Importance especially as Waterfowl Habitat (5/10/1977)

Amendments to Annexes to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter concerning Incineration at Sea (3/11/1979)

Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES) (3/14/1979)

Amendments to the Annexes to the Convention of the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (3/11/1981)

International Convention for the Safety of Life at Sea (SOLAS) (11/7/1985)

Protocol to amend the Convention on Wetlands of International Importance especially as Waterfowl Habitat (10/1/1986)

Amendment to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (art. XI) (4/13/1987)

Protocol on Substances that Deplete the Ozone Layer (8/30/1989)

Convention for the Protection of the Ozone Layer (8/31/1989)

Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (5/5/1992)

Convention on Biological Diversity (2/10/1994)

Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (2/10/1994)

Framework Convention on Climate Change (3/21/1994)

Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (9/28/1995)

United Nations Convention on the Law of the Sea (11/27/1995)

Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (7/28/1996)

International Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa (12/26/1996)

ANNEX III

Summary of Comments Received on the Draft Environmental Review

Three sets of comments were received in response to the Draft Environmental Review of the proposed FTA with Jordan.

All the comments praised the United States Trade Representative's Office for conducting the environmental review of this agreement, as well as the publication of the draft environmental review.

Two of the comments, however, expressed the view that the analysis provided in the review was cursory and conclusory. These commenters observed that the analysis of the legal and regulatory effects was also too brief, and failed to fully examine options that might be pursued in the negotiations. Two commenters also noted that this section did not discuss the impact of the agreement on the abilities of state and local governments to enforce and establish laws.

Commenters also were particularly concerned with the discussion of global and transboundary effects; specifically, they believed that on these issues the USG is deferring too readily to the Jordanian Government's own environmental review. One of these commenters would have preferred to have seen more information in the U.S. review of the actual Jordanian review; the other commenter would have preferred that the USG develop criteria to determine the adequacy of another country's environmental review, before deciding to defer to it. With regard to the extent of transboundary and global effects, one of the comments noted that these should not be limited by contiguity or distance, and another comment noted that environmental reviews should consider transboundary impacts and extraterritorial impacts in the global commons as well as in other countries.

Two commenters were concerned that the review only focused on increased trade in existing sectors, and did not analyze the effects on the environment of potential growth in new sectors that may arise as a result of the agreement. These commenters suggested that USTR conduct a “follow-up” review in the future to take into account any changed circumstances that may arise.

The comments also highlighted issues that were not included as part of the review, which the commenters contended should be incorporated in review of similar agreements in the future. For instance, two commenters were concerned that more information was not provided about the separate environmental cooperation agreement, and noted that more analysis needed to be done on the effects of this element of the overall negotiations. Another was concerned that the review did not analyze the impacts of the U.S.-Jordan Bilateral Investment Treaty, which, while negotiated at an earlier time, would present a more comprehensive review of the economic relationship with Jordan, and its effects on the environment, as well as its contribution to “sustainable development.” Another commenter would have liked to have seen more information as to whether the agreement’s dispute settlement procedures would apply to the environmental enforcement provisions.

All three commenters were unanimous in their desire to have USTR release negotiating texts as part of the review process. They noted that only with these draft texts could they truly comment upon and assess the adequacy of the environmental review.