



## **INTERIM ENVIRONMENTAL REVIEW OF THE U.S.-UNITED ARAB EMIRATES FREE TRADE AGREEMENT**

**May 2005**

### **Executive Summary**

Pursuant to authority delegated by the President in Executive Order 13277 (67 *Fed. Reg.* 70305, November 21, 2002) and Executive Order 13141 (64 *Fed. Reg.* 63169, November 18, 1999), the United States Trade Representative (USTR), through the Trade Policy Staff Committee (TPSC), submits this Interim Environmental Review of the prospective U.S.-United Arab Emirates (UAE) Free Trade Agreement (FTA).

Following the guidelines for environmental reviews (65 *Fed. Reg.* 79442, December 19, 2000), this Interim Review identifies possible environmental effects that may be associated with the FTA. To determine the scope for the review and to identify possible environmental effects, the Administration requested public comments through a notice in the *Federal Register* (69 *Fed. Reg.* 76828, December 22, 2004) and sought the advice of all agencies with relevant expertise. In preparing this Interim Review, the Administration relied on the expertise of these agencies as well as a variety of other sources of information, including published reports.

This interim review provides provisional conclusions and identifies areas for further attention in the course of the ongoing negotiations and in the review of the final agreement. The Administration welcomes public comment on these preliminary conclusions:

- Based on existing patterns of trade and investment and changes likely to result from provisions of the FTA, the impact of the FTA on total U.S. production appears likely to be very small. As a result, the FTA is not expected to have significant direct effects on the U.S. environment.
- Based on an analysis of comparable provisions of previous FTAs, the U.S.-UAE FTA is not expected to have a negative impact on the ability of U.S. government authorities to enforce or maintain U.S. environmental laws or regulations.
- The FTA may have positive environmental consequences in the UAE by reinforcing efforts to effectively enforce environmental laws, accelerating economic growth and development through trade and investment and disseminating environmentally beneficial technologies.
- The FTA provides a context for reinforcing and extending existing cooperation activities to address both trade-related and other environmental issues.

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## **I. Background**

### **A. Legal and Policy Framework**

On November 15, 2004, in accordance with section 2104(a)(1) of the Trade Act of 2002 (the Trade Act), the U.S. Trade Representative, Ambassador Robert B. Zoellick, notified the Congress of the President's intent to enter into negotiations for a free trade agreement with the United Arab Emirates (UAE). The formal launch of negotiations took place on March 8, 2005. The two governments are seeking to conclude the negotiations in 2005.

The framework for conducting environmental reviews of trade agreements under the Trade Act is provided by Executive Order 13141, *Environmental Review of Trade Agreements* (64 *Fed. Reg.* 63169) and the Guidelines for Implementation of Executive Order 13141 (65 *Fed. Reg.* 79442). The Order and Guidelines are available at [http://www.ustr.gov/Trade\\_Sectors/Environment/Section\\_Index.html](http://www.ustr.gov/Trade_Sectors/Environment/Section_Index.html).

The purpose of environmental reviews is to ensure that policymakers and the public are informed about reasonably foreseeable environmental impacts of trade agreements (both positive and negative), to identify complementarities between trade and environmental objectives and to help shape appropriate responses if environmental impacts are identified. 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, "but [a]s appropriate and prudent, reviews may also examine global and transboundary impacts." Reviews are intended to be one tool, among others, for integrating environmental information and analysis into the fluid, dynamic process of trade negotiations. The Office of the U.S. Trade Representative (USTR) and the Council on Environmental Quality (CEQ) jointly oversee implementation of the Order and Guidelines. USTR, through the Trade Policy Staff Committee (TPSC), is responsible for conducting the individual reviews.

Generally, reviews address two types of questions: (1) the extent to which positive and negative environmental impacts may flow from economic changes estimated to result from the prospective agreement; and (2) the extent to which proposed agreement provisions may affect U.S. environmental laws and regulations (including, as appropriate, the ability of state, local and tribal authorities to regulate with respect to environmental matters).

### **B. Environment and Economy in the United Arab Emirates**

The United Arab Emirates is a small, upper-income nation bordering the Gulf of Oman and the Arabian Gulf, between Oman and Saudi Arabia. The UAE has a population of approximately 4 million, with an estimated 85 percent foreign nationals. The United Arab Emirates is a loose federation of seven emirates: Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al-Quawain, Fujairah, and Ras Al-Khaimah. The federal structure of the UAE, like that of the United States, reserves certain powers for the federal government, while ceding others to the individual emirates.

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However, in all cases, including environmental protection, federal laws are enforced throughout the seven emirates by both local and federal authorities. Abu Dhabi is the wealthiest emirate with 90% of the proven oil and gas reserves, while Dubai is the commercial center. The country's land area, about 82 thousand square kilometers (approximately the size of Maine), includes a flat, coastal plain merging into rolling sand dunes of the desert with mountains in the east. About 0.6 percent of the land area is arable. The UAE's Jebel Ali port is world's fifth busiest harbor and the country is a regional shipping and business hub.

*Environment:* Protection of the environment is an important policy objective in the UAE. Former UAE President Sheikh Zayed, who died in November 2004, demonstrated a personal commitment to the environment by promoting forestry and preserving wildlife. Continued, high-level attention to the environment has been maintained by Sheikh Zayed's successor, his son Sheikh Khalifa bin Zayed Al Nahayan.

The Federal Environmental Agency (FEA) has primary responsibility for drafting environmental laws and regulations and serves as the point of contact for international environmental conventions. A comprehensive Federal Environmental Law in 1999 stipulated that all new construction projects implemented in the UAE must complete environmental impact assessments, and these assessments must be reviewed and certified by emirate-level enforcement authorities. In addition to the FEA, other federal ministries have environmental responsibilities in specific areas. The Ministry of Agriculture and Fisheries promulgates laws relating to agriculture, pesticides and marine resources. The Ministry for Presidential Affairs oversees forestry and agriculture programs and funds groundwater research.

Each of the emirates is responsible for enforcing environmental laws through its own local environmental regulatory authority. The emirate of Abu Dhabi established the Environmental Research and Wildlife Development Agency (ERWDA), which is the largest and most proactive of the local authorities in the UAE. Abu Dhabi designated ERWDA as the "competent authority" for environmental and wildlife issues in the Emirate of Abu Dhabi in November 2000, and it serves as the primary scientific and environmental research institution in the UAE, as well as the scientific authority for UAE for the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES).

Outside of the government, interest in and attention to environmental issues is growing. The Emirates Environmental Group (EEG), a Dubai-based NGO, was the first environmental NGO in the UAE. Founded in 1991, EEG is now one of the most proactive NGOs in the UAE and focuses on protecting the environment through education, action programs and community involvement.

The UAE is committed to preserving wildlife through nature reserves and breeding programs for endangered species. In particular, the UAE has been actively involved in breeding programs throughout the Middle East and Central Asia to maintain populations of the CITES-listed Houbara bustard (*Chlamydotis undulata*), a bird hunted in the traditional sport of falconry. In

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addition, UAE has invested significant resources in maintaining healthy populations of falcons, gazelle and oryx. UAE's commitment to protection of wildlife also is reflected in their participation in regional environmental cooperation among Gulf Cooperation Council (GCC) countries to protect Arabian Gulf fisheries, water resource development and cross-border wildlife preservation.<sup>1</sup>

Five species of sea turtles, all of which are CITES-listed, have been recorded in the UAE: green (*Chelonia mydas*); hawksbill (*Eretmochelys imbricata*); loggerhead (*Caretta caretta*); olive ridley (*Lepidochelys olivacea*); and leatherback (*Dermochelys coriacea*). The UAE also has populations of CITES-listed dugongs (*Dugong dugon*), which are marine mammals similar to manatees. The green turtle, the most common sea turtle species found in the UAE, utilizes coastal waters as habitat for development, foraging and breeding, with females migrating to nesting beaches elsewhere in the Arabian Gulf. Green turtles occur in highest numbers off the Ras Al Khaimah coast where sea turtles foraging on seagrass meadows are frequently incidentally captured by fishermen utilizing beach seines, which are trawled onto the shore. Dugongs are primarily found off the Western coast of Abu Dhabi, but population numbers are declining due to the use of gill nets, habitat loss, and collisions with boats. The UAE has developed conservation plans for protection of marine wildlife, including habitat protection and other measures (such as oil spill contingency plans) to protect endangered sea turtles and dugongs along the coast. But despite these measures, these species face ongoing threats.

Maintaining ground water reserves and adequate supplies of fresh water are arguably the most pressing environmental concerns for the UAE. The UAE has the third highest per capita consumption of water in the world (after the U.S. and Canada). The majority of water consumed in the UAE is desalinated sea water. Management of the ground water resources is complicated by the involvement of 11 different entities and the lack of one clear administrator. Major sources of stress on water reserves include agriculture, forestry and residential use. The UAE is working to phase out subsidies to agriculture to discourage uneconomic farming and is studying the sustainability of the forestry program.

The UAE faces a number of other serious environmental challenges including high levels of per capita energy consumption, overfishing of marine stocks, wildlife preservation, shortage of freshwater resources and damage to coastal areas resulting from dredging, oil spills and other discharges from refineries and oil distribution. All of these concerns remain key environmental priorities for the UAE as well as remaining engaged on effective environmental enforcement, consistently applied throughout each emirate.

Another ongoing environmental concern is urban and coastal development. Four large offshore projects are planned or under construction in Dubai and include the creation of man-made islands for hotels, luxury housing, shopping centers and resorts. The Palm Island Jumeirah, a billion

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<sup>1</sup> Other areas of environmental cooperation among the GCC Member States include environmental assessment and waste management. See <http://library.gcc-sg.org/English/gcc011.htm> for additional information.

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dollar artificial island, is reported to have reduced visibility, affected underwater fauna and altered water flows in its vicinity, leading to increased beach erosion on the mainland. While the FEA has assured the United States that environmental impact assessments have been performed and certified for these development projects, concerns about their long term environmental impacts remain. The United States and the UAE have identified environmental impact assessment and integrated coastal and marine management as target areas for cooperation.

The inclusion in the FTA of environment-related commitments, as well as broader commitments to bolster transparency and public participation in the UAE, are expected to further increase awareness of environmental issues in the UAE and help support the UAE's environmental priorities. For example, the basic elements of environmental law are in place in the UAE, although there is room for strengthening mechanisms to secure consistent enforcement and working relationships under various ministries and emirates which share responsibility over the environment.

*Economy:* In 2003, UAE's gross domestic product (GDP) was \$80.4 billion (approximately \$19,900 per capita). Services account for more than 40% of GDP (43 percent in 2003). Trade is especially important to UAE's economy: exports of goods and services accounted for more than 79 percent of GDP in 2003. Oil and natural gas are the UAE's primary resources and a significant source of wealth. However, the investment, telecommunications and petrochemical sectors provide considerable sources of income for the country. UAE is also diversifying its economy into trade, tourism, re-export commerce, aviation, agriculture, aluminum and high technology industries.

#### C. United States-United Arab Emirates Trade

Two-way trade between the UAE and the United States totaled \$5.2 billion in 2004 (see table 1). U.S. exports to the UAE were \$4.1 billion and U.S. imports were \$1.1 billion. The UAE is America's third largest export market in the Middle East, behind Israel and Saudi Arabia. In addition, there are approximately 500 U.S. firms with operations in the country. Machinery, vehicles, electrical machinery, precious stones and metal, optic and medical instruments, and agricultural products such as livestock and tree nuts account for the majority of U.S. exports to the UAE. Crude oil, textiles and apparel, organic chemicals, aluminum and miscellaneous manufactures account for the majority of U.S. imports from the UAE. With the exception of footwear and textiles and apparel, average U.S. tariffs on most imports from the UAE are already relatively low (see table 2).

#### D. U.S. Objectives in the Proposed Free Trade Agreement

A U.S.-UAE FTA will build on existing FTAs with Israel, Jordan and Morocco and the recently signed FTA with Bahrain and will promote the President's initiative to advance economic reforms and openness in the Middle East and the Arabian Gulf, moving us closer to the creation of a Middle East Free Trade Area (MEFTA). An FTA will support UAE's commitment to

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transparency, openness, and the rule of law, thereby enhancing environmental protection. The FTA is also expected to encourage other members of the GCC to adopt standards that promote trade, investment and openness, thereby enhancing opportunities for the United States in these markets. In addition, the United Arab Emirates is an important strategic partner on a broad array of foreign policy and national security issues.

An FTA with the UAE is expected to provide direct benefit to the United States by reducing and eliminating barriers to trade and generating export opportunities for U.S. businesses. An FTA with the UAE can be expected to boost U.S. trade and investment with other Gulf countries as well, facilitating greater regional economic integration and creating economic opportunities for people across the Middle East.

The agreement will build upon a strong foundation of economic cooperation. In 2004, the United States and the UAE entered into a Trade and Investment Framework Agreement (TIFA). A U.S.-UAE FTA also will help advance the market-opening commitments that the United States is pursuing in global trade negotiations.

Specific U.S. negotiating objectives for the FTA were outlined in notification letters sent to Congress prior to the start of negotiations. The full text of these letters is available at [http://www.ustr.gov/Document\\_Library/Press\\_Releases/2004/November/U.S. Announces Intent to Negotiate FTAs with UAE Oman.html](http://www.ustr.gov/Document_Library/Press_Releases/2004/November/U.S._Announces_Intent_to_Negotiate_FTAs_with_UAE_Oman.html).

## **II. Scope of the Environmental review**

### **A. Public and Advisory Committee Comments**

To determine the scope of this environmental review, the Administration sought the advice and input of the public, USTR's advisory committee on trade and environment issues, the Trade and Environment Policy Advisory Committee (TEPAC) and input from environmental, trade and investment experts within federal agencies. In addition to providing guidance on the scope of the environmental review, all relevant information, analysis, and insights available from these sources are being taken into account throughout the negotiating process and are considered in developing U.S. negotiating positions. As envisaged by the Guidelines, environmental reviews are an ongoing process to examine environmental issues and inform the negotiating process.

In a *Federal Register* notice dated December 22, 2004 (69 *Fed. Reg.* 76828), USTR, through the TPSC, initiated an environmental review of the proposed FTA. The *Federal Register* notice requested written comments from the public on what should be included in the scope of the environmental review, including the potential environmental effects that might flow from the FTA and the potential implications for U.S. environmental laws and regulations. The notice also invited public views on appropriate methodologies and sources of data for conducting the review. No public comments have been received to date.

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TEPAC provides broad-scale advice on trade and trade policy, including approaches to conducting environmental reviews and enhancing public participation in the process. To date, the TEPAC has not provided specific comments to USTR on the environmental review of the proposed U.S.-UAE FTA.

### B. Potential Economically Driven Environmental Impacts of the U.S.-UAE FTA

Consistent with Executive Order 13141 and the Guidelines, the primary task of this review is to identify the possible environmental effects of the proposed FTA on the United States. Based on existing patterns of trade and investment, the small size of the UAE economy and changes in U.S. trade likely to result from provisions of the FTA, the impact of the FTA on total U.S. production through changes in U.S. exports appears likely to be very small.<sup>2</sup> Therefore, it appears very unlikely that there will be any significant economically-driven environmental effects in the United States as a result of the U.S.-UAE FTA. The Administration welcomes public comments on this preliminary determination of *de minimis* environmental impacts.

### C. Transboundary and Global Issues

The guidelines for environmental reviews encourage consideration, as appropriate, of potential transboundary and global environmental consequences that may flow from the prospective trade agreement. In examining these issues, the Administration took into consideration a number of factors, including the geographic distance between the United States and the United Arab Emirates and the *de minimis* anticipated environmental effects of the FTA in the United States.

As compared to its effect in the United States, the FTA is expected to have relatively greater effects on the economy of the UAE, especially in supporting efforts to restructure and diversify its economy. TPSC agencies examined a variety of possible environmental issues that might be associated with the FTA, but did not identify any significant transboundary or global effects of the FTA.

For example, there is relatively little trade between the United States and the UAE in wild flora and fauna, including species that are regulated under CITES. The UAE is a Party to CITES and has recently improved its domestic legislation to implement CITES.<sup>3</sup> Although the UAE has experienced challenges with CITES compliance in the past, more recently they have exhibited political will to effectively implement CITES. In addition, they have taken other positive steps to conserve and protect wildlife. As discussed in Section I.B, the UAE has funded conservation programs for CITES-listed species within its borders, in particular for green turtles (*Chelonia*

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<sup>2</sup> In 2004, U.S. exports to the UAE accounted for less than 0.6% of U.S. total goods exports. Measured by gross domestic product, the size of UAE's economy in 2003 was approximately 0.7% of the U.S. economy.

<sup>3</sup> In the context of the CITES National Legislation Project, the CITES Secretariat has proposed a category 1 designation for the UAE. This is the designation for a country with national legislation that meets all requirements for effective implementation of CITES. See: <http://www.cites.org/eng/com/SC/53/E53-31.pdf> for additional information.



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*mydas*) and the Houbara bustard (*Chlamydotis undulate*), a species of game bird favored by traditional Bedouin sport hunting. The United States and the UAE have identified endangered species as an initial priority area for enhanced cooperation associated with the FTA (see section III).

The FTA may have positive environmental consequences in the UAE by reinforcing efforts to effectively enforce environmental laws, accelerating economic growth and development through increased trade and investment and disseminating environmentally beneficial technologies. The FTA provides a context for reinforcing and extending existing cooperation activities to address both trade-related and other environmental issues.

Implementation of the FTA could also positively affect the UAE's environment through FTA provisions requiring each country to effectively enforce its environmental laws, ensure that its environmental laws and policies provide for high levels of environmental protection, and not to weaken environmental laws to attract trade and investment.

The Administration welcomes public comment on these preliminary conclusions.

#### D. Potential Regulatory Impacts

Consistent with Executive Order 13141 and the Guidelines, this review includes consideration of the extent to which the FTA might affect U.S. environmental laws, regulations, policies and/or international commitments. FTA negotiators are aware of the need to preserve the U.S. Government's ability to maintain strong environmental laws and regulations and an effective process for enforcing them. As the FTA negotiations proceed, negotiators will continue to ensure that this important objective is met.

FTA obligations related to investment, services, sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT) can have particular significance for domestic regulatory practices concerning the environment, health, and safety. Previous environmental reviews, including the preliminary and final reviews for the Chile, Singapore and Morocco FTAs, and interim reviews for FTAs with Central America (CAFTA) and Bahrain, have considered potential impacts on the U.S. regulatory regime of FTA obligations in all of these areas and concluded that the respective trade agreements were not likely to negatively affect U.S. legal or regulatory authority or practices. Furthermore, in all cases, the reviews noted the potentially positive impact that the FTAs could have on the U.S. environmental regulatory regime as a result of FTA commitments to effectively enforce U.S. environmental laws, not to weaken U.S. environmental laws to attract trade or investment and to ensure that U.S. environmental laws and policies provide for high levels of environmental protection.

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Based on this previous analysis and our expectation that the core obligations in these areas will be similar to those undertaken in prior FTAs,<sup>4</sup> the Administration does not expect that the U.S.-UAE FTA will have a negative impact on the ability of U.S. government authorities to enforce or maintain U.S. environmental laws or regulations. We welcome public comment on this preliminary determination.

Previous interim and final environmental reviews are available at [http://www.ustr.gov/Trade\\_Sectors/Environment/Section\\_Index.html](http://www.ustr.gov/Trade_Sectors/Environment/Section_Index.html).

### **III. Environmental Cooperation**

The Trade Act establishes that a principal negotiating objective of the United States is to strengthen the capacity of our trading partners to protect the environment through the promotion of sustainable development. In addition, the Trade Act instructs negotiators to seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science. Environmental cooperation is expected to be an important complement to the environmental provisions of the FTA.

Since 1991, the U.S. Geological Survey (USGS) has been operating a water quality program in Al-Ain Municipality (in the emirate of Abu Dhabi). This program focuses on maintaining wells and collecting and analyzing data on fresh water ground reserves. USGS work directly under the President's Office and through the National Drilling Company (a partner company of the Abu Dhabi National Oil Company), with a mandate only for the emirate of Abu Dhabi. Several other environmental cooperation activities will take place in 2005 between the U.S. and countries in North Africa and the Middle East, including the United Arab Emirates. Through funding from the Department of State, Bureau of Near Eastern Affairs, Office of the Middle East Partnership Initiative, the U.S. Environmental Protection Agency will deliver workshops on the Principles of Environmental Laws and Enforcement, Principles of Environmental Impact Assessment, and Pollution Prevention and Cleaner Production.

The UAE and the United States plan to establish a cooperative action plan through a Memorandum of Understanding on Environmental Cooperation which is under discussion, and have already identified several priority areas for cooperation. These include: protection and management of water resources and coastal zones; protection of endangered species; and effective environmental law enforcement. The Administration invites public comment on specific ideas for environmental cooperation to inform these discussions. Comment is particularly invited on ways in which non-governmental organizations or business groups might become involved in cooperative efforts through public-private partnerships.

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<sup>4</sup> Texts of the prior agreements are available at: <http://www.ustr.gov>.

**IV. Data Tables**

**Table 1—U.S. goods trade with the UAE (total exports and total imports), 2000-2004<sup>1</sup>**

	2000	2001	2002	2003	2004
	<i>Million U.S. dollars</i>				
U.S. total exports	2,291	2,640	3,598	3,510	4,064
U.S. total imports	972	1,194	937	1,129	1,142
U.S. goods trade balance	1,319	1,446	2,661	2,381	2,922

<sup>1</sup> Customs value.

Source: Compiled from official statistics of the U.S. Department of Commerce.

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**Table 2**

**Selected U.S. imports from United Arab Emirates by major industry/commodity sectors, 2004**

Sector	U.S. imports for consumption <sup>1</sup>	Dutiable imports	Calculated duties collected	Share of U.S. imports for consumption represented by dutiable imports	Average calculated duty collected on dutiable imports
	----- Thousand U.S. dollars -----			----- Percent -----	
Agricultural products .....	30,354	3,825	153	12.6	4.0
Forest products .....	8,551	124	6	1.4	4.7
Chemicals and related products.....	209,074	130,256	7,063	62.3	5.4
Energy-related products.....	153,244	95,032	515	62.0	0.5
Textiles and apparel.....	260,665	260,141	36,823	99.8	14.2
Footwear .....	19	18	6	98.1	31.1
Minerals and metals .....	253,710	16,183	922	6.4	5.7
Machinery .....	7,220	3,363	106	46.6	3.2
Transportation equipment .....	3,312	1,947	49	58.8	2.5
Electronic products.....	13,153	1,810	81	13.8	4.5
Miscellaneous manufactures.....	9,092	3,719	140	40.9	3.8
Special provisions <sup>2</sup> .....	174,071	3,112	57	1.8	1.8
Total.....	1,122,465	519,531	45,920	46.3	8.8

<sup>1</sup>Customs value.

<sup>2</sup>Trade under special provisions includes exports under chapter 98 of the Schedule B and imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States (HTS). All other product sectors listed are from chapters 1-97 of the Schedule B and HTS.

Note.—Calculations based on unrounded data.

Source: Compiled from official statistics of the U.S. Department of Commerce.