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# Can Bilateral Free Trade Agreements be a Catalyst for Widespread Economic Change: Analyzing the Successes and Failures of the US-Omani FTA

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*SIT Study Abroad*

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# Can Bilateral Free Trade Agreements be a Catalyst for Widespread Economic Change

*Analyzing the Successes and Failures of the US-Omani FTA*

by Demic Eugene Tipitino

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SIT Oman, Political Culture and Economic Development 2010

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## **Introduction**

Diversification, a buzzword in the Middle East for much of the past two decades can only be likened to the phrase “dependence on foreign oil” used by American politicians during US elections. And indeed much like the latter has been mentioned by every president since Richard Nixon, it seems as if diversification is being sung in a round by kings presidents and sultans throughout the oil producing nations of the world, but still to no avail. Oman has been trumpeting diversification in five-year plan after five-year plan of which they are currently in their seventh (2006 - 2010) with an eighth on the way (2011-2015). In concert with many new programs being explored by the US government throughout the Middle East and North Africa (MENA) after the attacks of September 11<sup>th</sup>, former US President Bush laid out in a speech in 2003 his desire for a Middle East Free Trade Agreement (MEFTA), and in January of 2009 the US-Oman FTA took effect. This paper seeks to explore if the free trade agreement (FTA) was successful in changing domestic Omani economic policy, and moreover if those policy changes were implemented.

Although under the right circumstances the population explosion can be a “demographic gift”, with unemployment in the MENA region near 25%, Oman’s unemployment at over 15% (CIA, 2010) 70% of its population under 35 (Ministry of National Economy, 2010), and Oman’s oil prospects falling, it is important to address its need for export led growth to provide jobs. Over the past forty years

since Sultan Qaboos came to power there have been rapid changes in development. Oman's GDP has risen consistently at near 5% over the last twenty years and because its oil reserves stand at only 5 billion barrels, it has developed on a semi-sustainable trajectory, not following the lavish model employed in neighboring UAE. Oman has operated a budget surplus this decade except for 2009, although inflation is a little on the high end owing to their US pegged exchange rate, this usually falls between 3%-7%, however it was much higher in 2009 (Ministry of National Economy, 2010). 50% of its GDP comes directly from petroleum activities, and this is a base number because 77% of public financing comes from oil and gas revenue (Ministry of National Economy, August 2010), meaning that most government expenditure in the economy also is based on petroleum.

Petroleum Development Oman (PDO) estimates show that at the current recovery ratio oil is expected to no longer be a major source of revenue after twenty years. This, coupled with the age of the beloved Sultan spell out a volatile future for this young economy and its 2 million residents and 1 million expatriates. The GDP per capita stood in 2009 at \$17,731 adjusted for market prices, down from over \$23,000 the year before, and much is expected from this newly educated population.

Exports to the United States have not been a huge factor in the past, and are only 3.7%, with imports from the US accounting for even less of a percentage, Thus the US is barely one of Oman's notable trading partners, but unlike many other countries who have slowed trade in recent years, the US has been pressing into the

market, and the recent free trade agreement which took effect on January 1<sup>st</sup> of 2009 is a sign of that cooperation.

As the US continues to negotiate these agreements throughout the region, it needs to be investigated what the immediate and long term effects are on the economy's they seek to help. My attention turns to the latter. Many economists most notably, professor Robert Lawrence of Harvard University have written extensively of the potential for MEFTA to not only help economically short term, but to act as a catalyst for political change inside the country (Galal, 2003) (Lawrence, 2006). This study seeks to answer has the Omani-US FTA been a catalyst like many academics, as well as notable American politicians such as Congressman Paul Ryan (Ryan, 2009) claim it can be? Has there been a freeing of investment rules, a drive for privatization, increases in labor rights protection, and most importantly a streamlining of the bureaucracy process as is supposed to come along with the detailed FTA's drafted by the United States?

I conclude that the American FTA has done much to institutionalize changes that should have been made under their WTO accession, but also enacted new rules governing the economy most notably in areas of intellectual property, labor rights, investment regulation, and customs law. However this is not without qualification. Many instances occur where the US has failed to enforce, and Oman has failed to implement agreement protocols. The biggest gap in the process has occurred between the ministerial level and the action on the ground Additionally there are

certain areas not covered by the FTA which would be a boon to future agreements. A large debate has erupted in the US over whether FTAs can be used as policy tools, or whether they should remain purely reactionary, rewarding countries with good records. This paper I believe settles that issue.

Section two presents a critical review of the arguments behind signing the agreement in the first place, from theoretical and quantitative arguments for trade, to the mindset behind MEFTA. Following this is a brief explanation of methodology. Section four is an analysis of the FTA itself, and what laws were enacted as a result of the FTA and its negotiations. I attempt to show what the possible outcomes of these changes will be. Section five is a review of the implementation of the agreement; what are the successes, and what are the failures. Finally section six will offer policy proposals to both the Omani and US governments going forward. This FTA is a new breed for the US, as it's impetus is almost entirely geopolitical for the United States, thus if the US is to succeed in its mission throughout MENA, getting these agreements up and running fast is of the utmost importance.

### **What is the basis for this study?**

#### *Theoretical arguments for economic integration:*

The foundation of modern economics was in fact started as a drive for free trade. Adam Smith's argumentation against Mercantilist policies was an argument against protectionism and for free flows of goods. Later arguments such as those



made by (Hayek, 1944) (Rand, 1966), (deSoto, 2000) (Bernstein, 2005), all use a theoretical approach to reason the benefits of free trade in the global economy. Critics of these writers assert they based their theories on assumptions that are hard to measure at best, and plain wrong at worst (often their arguments assume free information, and perfect competition). However in the 90's Paul Krugman in debating "new trade theory" laid out an analysis showing the benefits to free trade even if it is not perato efficient (Krugman, 1993). He furthered the advocates of free trade by stating that international trade, although possible to be made better under intervention, undoubtedly will not be, and thus countries risk loosing the "good" in search for the "perfect" by entering into a prisoner's dilemma.

Milton Freidman, known in economic circles for his statistical analysis of monetary policy, represents the high point in free trade argumentation. In 1980 he produced a show widely viewed called *Free to Choose*, and it was his support of free trade for which he is most well known outside of academia. And despite poignant opposition to trade through all generations, the case for free flows of goods has seemed to disseminate to nearly all corners of the world today. As of this writing there are over 470 free trade agreements.

An important theoretical note here is that free trade in the context of this paper does not mean a loosening of accepted regulations traditionally deemed as useful. I do not propose getting rid of customs agents, or investment monitors to watch hot capital inflows. When I argue along with those cited above for market

integration, I acknowledge it is only useful with proper regulations, namely those outlined by (Freidman, 1962) which put emphasis on both the rule of law, and enforceable property rights. To further this point with regard to capital market integration, which has been a part of most FTA's; a recent study showed there was statistical significance concerning the impact of both private property protection and legal structures in determining FDI (James Gwartney, 2006). The study covered 94 countries worldwide and showed strong institutions not only increased FDI, but efficiency with that FDI in general.

More specifically though, in recent years a focus on the Middle East has provided a forum, and more importantly funding, for projects into understanding the gulf and Middle East and North African economies. (Galal, 2003) discusses the success of the EU as opposed to the lackluster progress in the Middle East in developing what he calls an Arab Economic Integration Area, whose movement started at roughly the same time. He speculates small gains to be had from trade in the past stymied any attempts at integration, however the shape of the Middle East has changed adding, "times are ripe for an expansion of MENA free trade".

Basic economic principle would argue that if a region is under trading both within its member countries, and with the rest of the world there is inefficiency somewhere, and in fact this is supported by (Lawrence R. Z., 2006, p. 27). Additionally (Bernard Hoekman, 2005) notes that although tariffs have decreased over the past two decades within the region, when non-tariff barriers are taken into

account, it is the most protected region on earth. So then it would make sense that policies, which remove some of these barriers, could contribute to an increase in integration, and thus output. The study above by Hoekman shows the possibility of this.

In Oman's lead up to accession into the WTO it came to the IMF and World Bank for help in assessing what targets should be set for the near and long term. The World Bank responded (World Bank, 1994) by suggesting that Oman's significant investment in the economy including labor market, investment, financing, and regulatory regimes were inefficient. They recommended that the government limit itself to traditional areas of the economy. As it turns out, Oman partly took their advice and came up with Vision 2020, which is a long-term goal. Notably included in the vision were three new attributes: opening the economy to trade, lifting controls on foreign investment, and encouraging vocational training to help the domestic market (Ministry of Information). (Looney, 2009) argues that the recent progress in Oman's economic development is in large part due to its increase in economic freedom. The Economic Freedom of the World index has ranked Oman 20, up 9 spots from 2005, which was the start of negotiations with the United States and 19 spots from 2000 when it entered the WTO. This is not a coincidence. But still as Looney points out, the slow advance of their privatization program and rules regarding land ownership for foreigners has limited FDI. There is a clear theoretical support for free trade, and not just in general but even specifically in Oman's relations. Looney confirms this by finishing off his argument saying, "with regard to

all important trade freedom there are significant non tariff barriers to trade, but a free trade agreement signed with the United States in 2006 should lead to easing of these restrictions.” (Looney, 2009, p. 19)

*Quantitative arguments for free trade:*

**“Although it cannot be shown that every individual is made better off by the introduction of trade, it can be shown that through trade every individual could [by resort to lump-sum taxes and subsidies] be made better off (or in the limiting case, no worse off). In other words, if a unanimous decision were required in order for trade to be permitted, it would always be possible for those who desired trade to buy off those opposed to trade, with the result that all could be made better off”**

(Samuelson, 1939)

Whereas theoretical argumentation was first found in Adam Smith’s *The Wealth of Nations*, The first attempt to model free trade was done by David Ricardo, and ultimately culminated in the principle of Comparative Advantage. In the post World War II era, not only was theoretical argumentation thrown behind the drive for a freer more integrated economy as we have seen above, but there was an expansion of empirical evidence and studies developed to support free trade *paribus*.

It has been shown time and time again from prominent economists such as (Kemp, 1962) who empirically expanded on Samuelsson’s assertion that restricted trade is better than no trade, and free trade better than the later, and (Bhagwati,

1968) (Krugman, 1993), to more recent studies such as (Jeffrey Frankel, 1999) (James Gwartney R. L., 2001) and (Jeffery Sachs, 1995) that trade integration is good for all parties involved. Sachs and Warner in particular point out that open economies observed growth in all cases, and this was after controlling for variables like education and rule of law. In fact a review of their study points out growth even in the African economies that marginally liberalized. Furthermore Frenkel and Romer show that for every increase in trade of 1%, per capita income increased 2% over the period of time in their study.

In addition to the demonstrated economic benefits of free trade as static, there is growing research that these benefits may be underestimating the true positive effects on GDP growth as a result of trade, particularly in developing countries FDI. For example, trade increase has a tendency to increase GDP in its own right, but an importation of capital goods is also an increase in investment, which has a multiplier effect. In many cases the effect on R&D in the medium run, causes long run growth prospects. Thus trade should be treated as dynamic in this sense (Baldwin, 1992). Over the last decade those who have decried globalization, and thus free trade, have argued the expansion of free trade has immiserized the developing countries. However (Barry Eichengreen, 1998) points out that FDI in developing countries has doubled since 1970, from 20% of total FDI to 40% increasing long term prospects.

Conversely, there is the possibility that the lack of trade will actually have multiple negative effects, as we see in (Romer, 1994), where he outlines the welfare costs from protectionism. If we turn this on its head, we can use the same study to suppose that an easing of restrictions will entice new goods into the market, which is mathematically difficult to otherwise model. In a real world application of this principle (Lawrence R. Z., 2006) points out that the biggest affect from the US-Jordan FTA has been the appearance of new industries for export in Jordan. In fact the balance of trade has changed from a Jordanian deficit of \$239 million in 2000 to a \$650 million surplus in 2005. This dynamic change was not predicted before the agreement was signed.

Unfortunately there is to date no empirical analysis on free trade expansion in the Sultanate of Oman, and very limited data on the Middle East as a whole. The studies by Gwartney, Sachs, and Frenkel cited above included MENA countries in their study, and indeed showed the positive effects of trade on developing countries as a whole so we can use this as a foundation. However the region is unique and is characterized by large rents from oil, and firm governments, thus this paper hopes to assess the effects of liberalizing trade in that context, seen through the experience of Oman in implementing the US-Omani FTA.

Some statistics though offer a clue to MENA as a whole on the possibility of benefits from freer trade in the region. The region's trade is severely limited within itself, as well as strategic trading partners. And a study at the IMF, (Soderling, 2005),

points out that not only is MENA underutilizing Europe, by far its closest large trading market, but that there are sizable gains from trade to be had by exploiting the US market. The paper goes on to acknowledge that in the case of Jordan this has been corrected recently [presumably because of increased trade reported earlier], and that the MEFTA initiative shows “promise.”

But there remains many issues to be resolved before these trade deficits can be corrected; notably in regulation. The World Bank compiles statistics on dimensions of governance and MENA is consistently outperformed by most of the world (Daniel Kaufman, 2009). To be fair, Oman is at or near the top of the MENA pack and only is really lacking in one area, that of regulatory quality. For instance in the number of signatures required to import, it ranks in the 36<sup>th</sup> percentile. This is not attractive for business, which is a major component of the diversification it has as a stated goal.

The countries in the GCC particularly have all expressed a need for diversification. Their economies remain dependent on oil, and thus price shocks and instability. With the small size of their domestic market (Oman included) export led growth is the best choice for future economic success, and thus implementing trade is a central issue to the gulf economies. It has also been shown that diversification leads to productivity growth, (Feenstra, 1999), another area MENA countries are in need of improvement.

*Commentary on a Middle Eastern Free Trade Agreement:*

As a foundation for the desirability of free trade both in general and within the region has been discussed above, I now turn to a review of the progress along that route under the George W Bush administration. In 2003, then President Bush outlined MEFTA, an initiative to widely expand trade to the region. The agreement is being done bottom up, with a six step process: WTO membership, Generalized System of Preferences, Trade and Investment Framework Agreements (TIFAs), Bilateral Investment Treaties, FTA's, and finally Middle East Partnership Initiatives. This last aspect is a fund so that partner countries can receive assistance in restructuring legal frameworks and other issues that come with opening an economy. So far the US has five FTAs in MENA, with TIFAs signed in 13 countries.

Although the reasons for joining an FTA for Middle Eastern economies, with high unemployment, and volatile oil prices, are clear, I would be remiss to say the US hopes to gain large sums economically from the agreements including that of the FTA with Oman. MEFTA was initiated within the backdrop of 9/11, and as it stands trade between the US and MENA is low. Only about 6% of MENA imports and 8% of exports go to and from the US (USITC, 2009). The fact that US interests are primarily geopolitical is outlined deeper in (Lawrence R. Z., 2006).

Statistically, there is a clear need for change. The Middle East despite GAFTA, the Gulf Area Free Trade Agreement, and Agidar, do not even trade fully within themselves. In fact despite all the economic gains the Middle East has seen over the



past two decades these gains have been because of macroeconomic stabilization, and in the areas of trade and business environment MENA is simply not up to par (Dipak Dasgupta, 2004). Exports to other MENA countries for instance in 2006 were only 9% of exports, where as 30% went to Europe. The problem is that the region as stated above suffers from heavy bureaucracy problems, and many regulations western businesses, and investors simply don't want to deal with, such as agency requirements, and restricted property rights. But as (Lawrence R. Z., 2006) points out, the nature of recent US agreements has been geared toward this. I should note here that I disagree with his analysis that these political changes are impossible to measure. We can see that if this agreement succeeds in changing the situation on the ground, where others have failed, then it is at least a limited success in that respect. Implementation then is the largest challenge for the MEFTA, and thus by relation, for the Omani-US FTA.

One critique in this process has been that bilateral, as opposed to regional FTA's simply divert trade to cheaper sources. This causes inefficiency, which is ironic given one main reason for free trade is to rid economies of this same facet. On this point it is worth noting that although this is true for many agreements, there are little direct gains from trade to be had, and that the major reasons for this agreement, as stated above, are geopolitical and secondary gains from trade such as increased in investment due to new property protections. It is possible then to structure an agreement which helps a young economy develop fundamentally, is politically popular, and does not take away from efficiency.

The first of this new breed of agreement was Jordan. Although much shorter (only around 20 pages) than the 200 page document that is the Oman FTA, it was the first to try and use domestic policy, and included in it a requirement that Jordan sign WIPO (Rosen, 2004). The Israeli and West Bank/ Gaza agreements are also in this new breed in that they represent very little sums of trade, but are huge politically.

On the surface the Oman trade agreement makes all manufactured goods duty free, and gets rid of all remaining tariffs within ten years (United States Trade Representative, 2005). But there is more to this agreement. It included labor, environmental, and agency regulations not present in other agreements. And possibly more importantly is gives them access to MEPI grants to help reform their regulatory system. Recall that (James Gwartney R. H., 2006) found a positive impact on FDI from liberalization, the same sort of liberalization that occurred in Oman's financial markets just prior to signing the FTA with the United States But they listed one caveat; legal structure and security of property rights were statistically significant at the 1% level.

In sum, although free trade is overwhelmingly favored and the foundation has been laid for an expansion into the Middle East, there is work to be done. In order for the US to achieve its geopolitical goals, it must make these agreements a success, which often seems an un-compelling goal because the US stands to gain

little from them economically. But there are immense benefits to be gained in the Middle East from integration both within itself and without, however these will remain only possibilities until the US gets the formula right. As they say, the devil is in the details.

## **Methodology**

### *Limitations:*

This study presented many challenges, most obvious is the language barrier. My knowledge of local language helped me when speaking to ministries, however legal documents are too advanced for me level of comprehension. I thus relied on interpretations and translations from members of Sultan Qaboos University, Ministry of Legal Affairs, and SIT World Learning.

The second limitation was in communication. This came in two distinct ways from both public and private entities. First it was very difficult to get in touch with American businessmen in Oman, and often, local managers or affiliates did not have the information I was after. Secondly, the ministries often guarded information that was both vital, and non-sensitive. Meeting with the Tender Board for instance I was told they did not have authority to speak on changes to their rules during 2008, only to have a friend of mine translate the same thing, which was readily published in Arabic for all to see. This mentality, that information is not public, is something no FTA can change but is a hamper to both knowledge and as we will see, business as well.

*Method:*

My research was broken into two parts. The first stage involved a simplifying of FTA components into distinct interest areas, and paring them with domestic laws that were relevant. For instance, if there were a section in the agreement about requiring a Surgeons General warning on tobacco products (which Oman already has, this is hypothetical) I would then look through the Sultani Decrees for laws relating to this issue, additionally I would interview an official from the Ministry of Health to go over any Ministerial Decrees that may have been promulgated. After establishing this link in different areas as we will see, the second phase was to research the implementation of the above.

This proved to be more difficult. My method here was two pronged. First, I would consult ministries for examples of their implementation. Often they were guarded with this information. Then I sought outside opinion from a list of American investors. The list was obtained through the Ministry of Commerce and Industry. I contacted a total of 30 businesses through email, gaining responses from only 11. Additionally I talked to 4 businesses I met on my own. This process seems highly likely to have a response bias, thus I qualified their answers to my survey with a check.

Using anecdotal evidence I sought to verify what I had been told by the survey. Because of the business environment here, all foreign investors operate

their initial investment through consultation with local, although usually international, law firms. Using their testimony on issues such as investment, intellectual property, and ease of doing business I often reaffirmed my answers.

*Validity and Reliability:*

As I stated above there is a clear possibility of a response bias, and had conclusions not been very much one sided, this would have been problematic. However precision is not needed here, with most respondents of both the sample, and the professional testimony agreeing on the majority of issues, even with the larger margin of error I believe the results and recommendations are reliable. The testimony I was given by experts was always given with the possibility of anonymity. For this reason many of the remarks below are anonymous. I believe this enhanced the reliability of claims given, as respondents were not afraid to tell the truth.

However because of the language gap there is an issue with validity. Aside from expert testimony, this paper examines investments and opinions of mostly Americans, and even if the subjects are not Americans they are most likely of western origin. Conversely though, many of Oman's trading partners are not from a western system, or school of thought. So it can be argued that by gauging and seeking the opinion of the distinct set of people I did, there is a risk that even if the findings hold true for the sample, they may not be valid for the economy as a whole. I believe this is not the case. As most business is done in English, and even when not

conducted in English, the customs and strategies are most certainly western. I feel safe that I have not committed this mistake and my sample is representative of the entire business community on the issues that matter.

### **So what did the FTA do?**

#### *Overview:*

Paramount to understanding how the FTA has affected domestic policy is that the FTA *is* domestic policy. Unlike the United States, Oman is under a civil law system, not common law. Thus when Sultani Decree 109/2006 ratified the FTA with America, it became law; no more regulations were needed, and in many cases none were given. This is both a gift and a curse. As the US Trade Representative negotiated the agreement with H.E.Maqbool bin Ali Sultan it gave the US large amounts of sway in the final drafts of what amounts to be direct Omani legislation, but because no new laws are required, often times implementation is lacking as some ministries fail to use the FTA as actual law. (Hansen, 2010) explained to me that international treaties can amend or even repeal provisions of domestic laws without ever changing the text of those laws. One then simply must be aware of the laws which, when stored in two or more different areas of the legal code, often makes the process convoluted.

However many times in an effort to clear up this confusion, supplementary Sultani, or ministerial decrees were given. The following sections are a systematic analysis of FTA components and what I have deemed, to the best of my knowledge,

to be direct results from Omani attempts at implementing the FTA. As stated above, where quotes are given with no citations, it is done at the request of those interviewed.

*Customs:*

The most basic part of an FTA is customs law. Every agreement the US has drafted has this component, and in some respects what makes Oman's case special is all of the other aspects. Still it is a good place to begin.

The tariff schedule between the parties effectively makes all goods duty-free within ten years. 89% of goods were duty-free as of January 1, 2009. But Oman through the GCC common market already only had a 5% tariff (often lower) on most US goods, and through the Generalized System of Preferences, many of Oman's exported goods were duty-free when entering the US market. Still this act is self-enforcing, and no new regulations are needed.

The real long term prospects for growth in the Omani economy come from a simplified system of customs procedure implemented under the agreement. The agreement sought to harmonize Omani customs procedures with international standards. Article 5.1 for instance addresses publication of rules and regulations.

- a. "Each Party shall publish, including on the Internet, its customs laws, regulations, and administrative procedures."
- b. "Each Party shall designate one or more inquiry points to address inquiries from interested persons concerning customs matters and shall make available on the

Internet information concerning procedures for making such inquiries.”

A second customs issue concerns the release of goods. The FTA covers this in Article

5.2. It stipulates Oman shall:

- a. “adopt or maintain procedures providing for the release of goods within a period no greater than that required to ensure compliance with its customs laws and, to the extent possible, within 48 hours of arrival;
- b. “adopt or maintain procedures allowing goods to be released at the point of arrival, without interim transfer to warehouses or other facilities;”
- c. “adopt or maintain procedures allowing the release of goods prior to, and without prejudice to, the final determination by its customs authority of the applicable customs duties, taxes, and fees, and as part of such procedures may require an importer to provide sufficient guarantee in the form of a surety or other appropriate instrument to ensure payment of any customs duties, taxes, and fees that may ultimately be assessed;”

And Article 5.7 follows:

1. “The United States shall endeavor to provide Oman with technical advice and assistance for the purpose of improving risk assessment techniques, simplifying and expediting customs procedures, advancing technical skills, and enhancing the use of technologies that can lead to improved compliance with laws and regulations governing importation.”

Computer assistance, and new technology can help Oman answer needed questions from foreign investors, and cut down on lost goods, thus making the market more attractive. It will also help Oman join the international community in its fight against black market goods, and terrorism, clearly boons for the United States. Additionally, on hands support from US customs agents can help transition issues. USTR official James Buntin commented at a recent meeting that US customs



official's cooperation in the UAE has been invaluable to streamlining importation procedures.

*Government Procurement:*

Oman's government is the largest single sector in the economy whose public expenditure last year totaled 7.5 billion Omani Rials (Ministry of National Economy, Invest 2010), out of the total GDP of about 30 billion. Thus government contracts represent large areas of business for foreign companies. The FTA sought to address this area leveling the playing field for US companies, but regulations put in place should also help all foreign companies navigate the tendering process in Oman. Before the FTA there was one regulation on tenders from 1984, but there has been a lot of change. In 2007 Royal Decree 105 restructured the board and following that, two rulings were issued: The Tender Law of Royal Decree 36/2008, and regulations from Ministerial Decision 29/2010.

The FTA stipulates national treatment in Article 9.2

- a. "With respect to any measure covered by this Chapter, each Party, including its procuring entities, shall accord unconditionally to the goods and services of the other Party and to the suppliers of the other Party offering the goods or services of a Party, treatment no less favorable than the most favorable treatment the Party or the procuring entity accords to domestic goods, services, and suppliers."

And this measure is again self-enforcing. This should lead to an increase in tenders awarded to US companies, as they no longer have a 10% price protection to

overcome. However much like with customs regulations, it is the clarity afforded to a once intimidating process that should create long-term growth.

For all companies of foreign origin Royal Decree 36/2008 takes away price preference for the largest of Omani contracts. It states, “Preference is to be made in bids for national products for small and medium industries that satisfy conditions and specifications and this preference limited to 10%”. This decree also goes on to add Internet as a legally viable place to publish tenders. Utilizing the Internet, and publishing both in Arabic and English helps simplify the process for foreign companies.

There are also several instances where regulations stipulated in the FTA have appeared in Ministerial Regulations. One glaring instance is that under the FTA Article 9.6, rules are outlined for what must be public information for a tender. This regulation appears word for word in Ministerial Decision 29/2010 Article 18. Article 9.9 outlines proper publication of awards, stipulating that the bids must be made public within 60 days of the decision. Article 58 of the Ministerial Decision states exactly the same thing.

One very notable addition to Omani practice is that because of the FTA, regulations were promulgated in Oman assuring losing bidders a right to know why they were disqualified from a contract. This should help improve the accountability of a ministry often shielded from public opinion.

*Intellectual Property:*

Surging up intellectual property rights is a good first step to making a market attractive to FDI. In some respects the FTA with Oman was a trial run for the US. No other FTA besides Bahrain, deals with this issue as in-depth, and there are extensive changes required by the agreement. This is a clear case where the US, rather than waiting for Oman to act, and rewarding with an FTA, has used the agreement as a way to enforce what it wants.

Oman was required to ratify a large share of the IP agreements in force today. Madrid Protocol (Trademarks); the Patent Law Treaty (Patents); the World Intellectual Property Organization Copyright Treaty (Copyright); the Paris Convention (Industrial Property); the Berne Convention (Literary and Artistic Works); the Budapest Treaty (Deposit of Micro-Organisms); and the Trademark Law Treaty, 1994 (Trademarks), All mandated by the FTA and ratified by Royal Decree 37/2007.

Furthermore in 2008 a new IP law was passed consolidating all other previous laws which coincidentally mirrors the FTA. Additionally, published in Royal Decrees 65,67, are copyright and industrial property laws, followed by Ministerial Decrees 103,105/2008 implementing them respectively. Royal Decree 65 protects copyrights, and protects works for 70 years, going further than WTO agreements

which protect for only 50; another clear nod at the FTA. In fact, an anonymous source familiar with the original drafting of the Omani regulations mentioned that, “the legislation was written by the Americans, we were under intense pressure by the Sultan himself to make it happen.”

Under Article 15.2 of the FTA each party shall provide:

- a. “an electronic means for applying for, processing, registering, and maintaining trademarks; and”
- b. “a publicly available electronic database, including an online database, of trademark applications and registrations.”

This process would simplify registration making it accessible to all citizens, and foreign companies.

In an even larger extrapolation of the consequences on local laws, because of Oman and Bahrain’s commitments under their respective FTAs the current negotiations within the GCC for a common trademark law will undoubtedly fall inline with US expectation.

Again, the most important thing to note here is how a US FTA has the ability to bring domestic Omani laws in line with international standards, thus protecting IP for companies from all countries not simply the US.

*Telecommunications:*

As I will discuss more later, the Oman Telecommunication Regulatory Authority (TRA) set up because of Oman's entrance to the WTO by Royal Decree 32/2002 served as a precursor for the changes we see under the FTA. This was listed as a key area of negotiation by both Oman and the US going into the negotiations. One person familiar with the agreement described the new changes as, "part of the vision of Sultan Qaboos implemented with the expertise of hundreds of years of law experience," [presumably that of the United States]. There were some significant points in the FTA.

First off the FTA laid out definitions for all the terms internationally accepted in IT circles. Royal Decree 64/2007 added these definitions to the Telecom Act, helping Oman come in line with international norms. This makes arbitration in disputes far easier and clearer. In fact the largest complaint by businesses I talked to was the differing understandings of definitions, or regulations.

Furthermore Article 13.7 of the FTA deals with competition stating in sections one and two respectively:

"Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications services. To this end, each Party shall ensure that its telecommunications regulatory body does not hold a financial interest or maintain an operating role in any such supplier." and

"Each Party shall ensure that the decisions and procedures of its telecommunications regulatory body are impartial with respect to all interested persons."

And in Royal Decree 64/2007 article 40 of the Telecom Act is amended to read:

“The [TRA] shall not perform any conduct, take an action or omit to take an action that could prevent or restrict competition in relation to any commercial activity connected to telecommunications,”

These competitive initiatives might seem trivial, but take for instance the creation of competition between Nawras and Omantel. This has yielded giant gains in the mobile service industry. Costs have decreased every year since the inclusion of Nawras (Cormack, 2008). It would be a boon to the system if these gains could be replicated in all areas on an even keel. To this end the agreement adds in 13.4;

“Each Party shall maintain the absence of or eliminate as soon as feasible national government ownership in any supplier of public telecommunications services.”

Thus completing the privatization of a major industry. Oman has sought to adapt a privatization stance through the economy. This would provide a needed excuse to move a large industry in that direction.”

On a more technical level, two regulations that were in the FTA [13.4], mandating the unbundling of components (making it possible for different services from outside companies to pay only for the infrastructure they use), and Article 13.3.2, mandating the right to resale of services along fair lines created two large changes in TRA law.

And although not covered directly in the telecommunications section, the argument can be made that there may exist large technical barriers to trade in an industry such as IT. Article 7.5 states;

“The Parties shall intensify their joint work in the field of standards, technical regulations, and conformity assessment procedures with a view to facilitating access to each other’s markets.”

*Labor:*

Labor is an oft-cited barrier to approval of US free trade agreements in congress. And although there are many competing theories as to the validity of these arguments, this paper simply notes the dispute exists, and thus looks at the fallout from the labor section in the American-Omani agreement. Oman’s labor code was established in 2003 by Royal Decree, and there were many amendments to it over the course of the negotiations. One person involved in the negotiations explained to me that, “without labor, the agreement would not move forward, powerful people in the United States had an interest in moving this section forward, and in fact we were required to demonstrate more than any other ministry, our progress.”

The FTA outlines definitions for terms that were ambiguous in the Sultanate’s previous responsibilities. Article 16.7 declares international labor rights as:

- (a) “the right of association;
- (b) “the right to organize and bargain collectively; “
- (c) “a prohibition on the use of any form of forced or compulsory labor;”

- (d) “labor protections for children and young people, including a minimum age for employment of children and the prohibition and elimination of the worst forms of child labor”
- (e) “acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; “

Thus in effect mandating the allowance of Unions, and their right to strike. Royal Decree 74/2006 implemented this, amending labor law to include in part 9 Article 108:

“Laborers may form (among them) labor trade unions aimed at serving their interests, defending their rights, improving their material and social conditions and representing them in all matters of their concern.”

And the decree goes on to add in Article 110:

“No termination punishment or any other punishment is allowed on Trade Union members or members of General Federation for practicing their union activities according to this law”

Furthermore a second decree was issued, number 379/2006 stating:

“The employer must reinstate the dismissed worker to his work if it is confirmed that the dismissal was due to the exercise of his trade unionist”

These clarifications, mandated by FTA negotiators, and implemented as a step to ratification cleared the way for the growth in Trade Unions we have seen today.

In addition to simply writing new laws, the FTA put in several instances where cooperation should be encouraged, specifically FTA Article 16.5, which lays out a committee to continue assistance between the two countries. A result of this cooperation has been Ministerial Decree 294/2006 which outlines the rules for



bargaining, and responsibilities of both entities. These structural ideas, common in the US, put down in Omani law should contribute to the safety of laborers.

Aside from Unions, two other significant changes were made before the FTA could be ratified in the US. Royal Decrees 123 and 126/2008 issued the organization of a human rights commission, and a ban on human trafficking respectively; The commission being charged with enforcement and awareness of this issue. Along these same lines a memo was circulated throughout the ministries by the Minister of Manpower stating:

“The passport shall be considered as a property of the State which has issued it and the employers do not have the right to withhold the passports of their laborers, unless in execution of a court decision.”

Addressing the long time issue in Oman where employers will seize passports in effect forcing workers into labor for longer than the agreed upon time.

*Business Environment:*

This area is a bit ambiguous, as it truly encompasses everything I have addressed thus far. Still, there are issues that have not been brought up and it seems as good a title as any to lump them under. On the surface the most obvious boon to trade relations is national treatment. The agreement insures US entrepreneurs are given rights to own 100% of the companies they start in Oman, and rights over sending the wealth home with very limited capital requirements. An added bonus is Ministerial Decision 108/2008, which gives American companies rights to establish branches in Oman without government approval, and only \$50k (20k OR) in capital.

This has the obvious benefits of creating a larger incentive for investing. Something Oman desperately needs. One issue in Oman as has been mentioned is the governments share of investment even in the private sector. With oil revenues unsustainable, this balance will need to flow in the direction of FDI, creating a sustainable future for Oman. This should be a good first step.

The FTA however did not change rules for investment or starting a company for any other countries, a notable difference, because many other section in the FTA have been able to cause large changes in Omani law for all companies. Not so with investment and ownership. In fact in 2010, Oman actually lost ground in the ease of starting a business category at the World Bank (World Bank, 2010). It should be noted Oman still ranks 57<sup>th</sup> over all, among the highest in the MENA region.

But this does not mean investment prospects are necessarily hurt, even for countries outside the US. Everything in this report has a job in shoring up the structure of Oman's economy for investment. One other interesting area is in its commitment to end technical barriers to trade. This would help all multinational companies and is outlined in Article 7.5:

“The Parties shall intensify their joint work in the field of standards, technical regulations, and conformity assessment procedures with a view to facilitating access to each other's markets.”

Conformity assessments have the basic task of making sure there is ease of entry for goods as well as trade in services. For instance if one were to get a degree in hotel management in England, a company hiring him in Oman would know his

qualifications. Or if a consumer needs to know a good is appropriate for the job, a conformity assessment acts as verification of this. These assessments often involve outside companies, which test, inspect, or assess the implementation of a good or system.

Finally there has been a lot of work on tax law, long one of Oman's business draws. In 2010 a new law was promulgated giving all companies, not just GCC companies a 12 percent tax. The affects of this described by one American businessman will be, "unimaginable."

### **So is it working?**

#### *Customs:*

As I stated at the beginning of the last section the most obvious part of the customs agreement was the tariff schedule, and this is straight forward and is being implemented. Although more econometric analysis is needed the easy answer is that in fiscal year 2009, Oman saw a 493% increase in exports to the United States, by contrast the second largest increase was about 80% to the UAE. (Ministry of National Economy, August 2010) Conversely although on the surface Oman's imports from the US decreased, we should note this was during a recession, and was consistent with other data in the set. The important statistic is market share, which actually saw the US increase from 5% to 6%. Comparatively the British exports to Oman fell in market share. (Ministry of National Economy, 2010)

The more important long term issues though are if the FTA has been able to help streamline import/export rules and regulations. And here there is a mixed bag of results. While the US has held up parts of its commitment stated above, they have funded through MEPI, the Middle East Partnership Initiative, a new system of customs technology for Oman, they have also failed to send on site help for customs issues as was promised.

Additionally Oman has successfully implemented its requirement to streamline importations procedures as statistics from the World Bank, (World Bank, 2011) confirm, with most goods being released in under 24 hours. But goods are often stored after clearing customs for days on end, averaging at 72 hours on location. The continuation of cooperation between the United States and Oman is needed.

Oman continues to move up the ladder in its rank in ease of trade, (World Bank, 2011), moving in 2010 from 101<sup>st</sup> to 88<sup>th</sup> in just one year. It has cut down on the days to entry in total for foreign goods, from 23 in 2009 to 17 in 2010, a welcome announcement that has a lot to do with these new regulations put in place since the FTA. One point to note however is that documentation in Oman is still behind that of even other GCC countries. It takes 9 different documents to import, compared to only 5 in Saudi Arabia, or 4 in the UAE. This was not covered in the FTA but should be looked at in further negotiations.

And some other areas have fallen through the cracks as well. On my visit to the Salalah Free Zone, another initiative at diversification in the Sultanate, one senior manager expressed that there has been large gains from trade in the form of re-exports to the US, by changing country of origin documentation. There is supposed to be a mechanism under article 3 to prevent this, however from what I understand this mechanism was never set up. These types of issues will neither hinder Omani growth, nor constitute large losses for the United States as they are only diversion of trade, however institutionalizing a process to stop this leads to a more efficient and trusted system. Something many people liken to intangibles, which incidentally often have tangible results.

There has also been a formal complaint by Oman, that importation through the UAE and into Oman by ground is evading stipulations in the agreement. Because there is a GCC common market, once you enter one country duty free then you are able to move your goods across borders. Oman has a system to reimburse American companies for this, however UAE officials are not charging many companies an entry fee. Thus US companies are being reimbursed by Oman for a cost they did not incur.

*Government Procurement:*

Government procurement is a much hidden process in Oman, so much that I was not even given details of what percentages of contracts were foreign, even after

an official request. However there have been notable changes resulting from the FTA. An important extrapolation is that when FTA covered regulations get adapted to a ministry they often are expanded to cover all countries. The last example I stated in the previous section was on the rights American companies are afforded to hear why they were disqualified from a government contract. However when Ministerial Decision 29/2010 was put out, it stripped all language of American corporations, and made the law applicable to all foreign bids. This advance of transparency will contribute to Oman's tendering process being seen as fair and equitable.

This same mentality serves for the website. Oman's Tender board website was completely redone. Now granted, it is impossible to link this directly to a foreign trade agreement. But given the timing of it, and the aspects that were added making the process clear and transparent it is not unlikely that the two are related.

There have been issues raised in recent months, as a report filed by the USTR states, "the U.S. business community has reported that bidders' costs can sometimes increase dramatically when award decisions are delayed, sometimes for years, or the bidding is reopened with modified specifications and, typically, short deadlines" (United States Trade Representative's Office). And for all other countries there is still a 10% price preference for domestic bidders, which hinders efficiency.

But as Oman is seeking membership in the WTO's Government Procurement Agreement (GPA), the requirements to bring Oman on par with the United States, already a member, should help make their case. Government procurement changes show that while there is work to be done, the FTA has been used a catalyst to move Oman forward. When asked if he thought the new procurement regulations were good for Oman the Economic Expert for the Directorate of Organization and Commercial Relations at the Ministry of Trade and Commerce, Mr. Al-Riyami stated, "Adherence to these principles makes Oman's government procurement more efficient and cost-effective, thus benefiting the Omani economy as a whole" (Al-Riyami, 2010).

*Intellectual Property:*

The easy answer is that yes IP has been fixed in Oman, however most answers, as is true with this, are more complicated.

For instance taking one walk through the local souk reveals that not much has changed. Countries don't enforce IP, party's do. So if my book is being copied, it is not the government's job to know that and point it out, it is my job. The FTA only brought the process of dealing with complaints up to international standards. But what if these complaints are never filed? In the souks here you can find "Nike" clothes for dirt cheap, and "PlayStation" games selling for less than three US dollars. The problem is that Oman does not have the presence of these content owners, they and costs are too high for the large multinationals to worry about such a small

market. Thus without a government enforcement mechanism (which no country really has) the treaties are not actually implemented. One interesting point is that as Oman uses censorship it has tools that in the west governments do not have. It could use this to ban sites that say, pirate music.

One representative from the Ministry of Legal Affairs explained to me that it is about an attitude in Oman. “Oman does not really produce anything, we do not understand intellectual property.” He added, “at the end of the day Omanis lose because we will never get our own videogame or video production company.”

On FTA enforcement issues, there are also some problems. The database that was supposed to be established under the FTA, has never been set up, online, or in private. All the parties I consulted blamed each-other. Still there have been signs that this is changing. Oman instituted an IP day in 2009, and it has inserted a section on IP in all new courses taught in high school hoping to combat the issue. Additionally in 2008 the US hosted a property rights workshop for Omani students and businesses. However very little has been done on this since.

#### *Telecommunications:*

The TRA was established arguably with the task of liberalizing the industry under the mandate of WTO membership. The TRA granted a waiver in 2004 for a



second provider, Q-tel, to enter the market under the brand Nawras, and immediately gains were seen. There was an expansion in the market density for cell phones by 65% within one year (Telecommunications Regulatory Authority, 2005), and furthermore after only 3 years Nawras had 43% market share (Cormack, 2008). However this addition did not occur through a competitive channel, or institutionalized process. This process, which is in place today, was a result of the FTA. One need only look to the over 100 amendments to the Telecom Act between 2006 and 2009 to see there was much Oman did to come into compliance with its obligations.

There are a lot of success stories. For one, because of the intricate nature of IT the TRA is one of the most open parts of government in Oman, even now having a public forum on its website where it publishes new laws ahead of their passage for comment. And with regards to competition, although Omantel (the largest provider in Oman) is majority owned by the government, there are very few instances that it has been treated favorably stifling competition. So the TRA is holding to its obligations under the FTA. In fact there have been complaints by Omantel that they have not been granted the same level of internet license that rival Nawras operates under.

The TRA has made a habit out of asking for help when it needs it, and in fact with regard to the 100% ISP ownership by Omantel, it is not because of favoritism, but scarcity in infrastructure that stifles competition. The TRA recently put out a

consultation paper calling for bids on an internet exchange in which it would offer ISP service to an outside company (Telecommunication Regulation Authority, 2009). And although the TRA has failed to progress significantly in unbundling which could lure significant FDI, it has also circulated a paper asking for input in this area.

There has also been the approval of three licenses for resale providers, two of which are already on the market. These are Renne, and Freindi both of which have grabbed a small, but significant share of the mobile market. Often resales can attract certain clientele and contribute ideas, which will later be picked up by the larger market benefiting consumers.

Still it is expected that the government should give up its share in Omantel in the near future, and there are major issues in telecommunications that need to be fixed, but many of these were not covered in the FTA and thus their only relation to this paper is that their inclusion could have made the system better. Oman retained the right for example to censor content online, however there have been widespread instances of sites being blocked, and the appeal process taking longer than a month. One businessman I talked to mentioned that Gmail has been blocked several times as an “accident” limiting the productivity of business.

There is also fear that the TRA has used licensing requirements as a non-tariff barrier to trade. The popular internet-phone service Skype is blocked because

of license requirements. Oman's market is too small for Skype to go through the process of fighting for a license, however consumers (mostly western businesses I have talked to) lose out on the free service. This constitutes a trade barrier in that there are access restrictions strictly forbidden under the FTA.

*Labor:*

Labor is another instance where the affect of the FTA is clear. Although WTO membership came with certain stipulations, they were neither enforced, nor implemented. Thus the FTA has offered tangible results on the labor front. There has been a huge increase in unions in Oman, 87 as of this writing. And as I showed above, many ministerial decisions were made regarding the new laws. Dr Ali Al-Abdwani, a senior official within the labor department, explained to me that they now print workers rights brochures in 13 languages, distributed to anyone who receives a workers visa to enter Oman, and there is a 24 hotline to report abuses.

However there have been some issue. The committee set up to monitor unions in Royal Decree 76/2007 is government run. And although its bylaws stress neutrality, there is a clear power dynamic. And passports are still rampantly taken from servants in the country as a form of control, even within the government there exists the practice. In 2008 an expat was told to hand over his passport, and had his wife not been a law professor familiar with the law, he surely would have. An upper-

class expatriate is hardly in any danger, however the point stands that it remains common practice even after the 2006 ruling.

Still, the largest issue in the labor market here has been the failure to address Omanization. Omanization, a practice where industries have quotas for the number of workers of Omani origin contributes to the largest share of complaints from business I surveyed. It is economically inefficient as a common practice companies undertake is simply to hire more Omani's who do nothing, in order to be allowed one more expatriate with the skill the company needs for their project. There is also rampant forging by business, and deals made whereby if company A needs another worker, it will hire it through company B and give company B a small check in compensation. Oman has attempted to address this through Royal Decree 63/2009, however there is no signs the practice will stop.

*Business Environment:*

This has shown early signs of attracting foreign direct investment. During the negotiation period, and the period before ratification (2005-2008) American FDI increased from 7.2% of Omani FDI to 20.6% of the market (Ministry of National Economy, 2010). I obtained a list of all registered American investments over the last 30 years, and the results are even more striking. In the twenty years preceding the FTA, American investments by quantity totaled just 200, however in the two years (2009-2010) following the agreement, there were 167 new investments (Ministry of Trade and Industry, 2010).

Unfortunately the 2009 statistics on investment will not be published by the ministries until January, however the trend for non-American businesses is not good. Nearly every segment of the doing business database at the World Bank saw Oman slip at least a few places. That except trade, where Oman convincingly gained 14. The regulatory environment is difficult to understand, and as a researcher here, it was often hard for me, working sometimes 10 hours a day, to understand the process. A consultant at a company charged with helping businesses navigate the environment put it to me this way.

“If I cannot do this after 5 years, then businesses cant, despite all the ‘one stop shop’ mantra that is out there, when companies have to pay law firms 4000 OR to get the paperwork correct, that is a barrier to trade, end of story.”

The one issue that seems to come up is publication. And while talking to ministry officials who insist that Oman has been publishing their laws for decades, there is, I think, a gap in American and Omani expectations from publication.

Publication cannot simply mean publishing a law in Arabic, when your goal is foreign investment. It cannot mean publishing a law which even local ministries do not understand. I spoke to an American businesswoman from Salalah who when trying to register her own company after the FTA, was denied and forced to fly over 1000 kilometers to the ministry to find someone who knew of the new rules granting her permission to license without an Omani partner. This is not publication. If Oman wants to attract business transparency is needed. From every businessperson I surveyed this point was brought up.

### **What advice is there moving forward?**

This free trade agreement has unlocked many areas of the Omani economy, but the question was never *if* free trade would do this, as discussed in the literature review, but how fast this potential could be unleashed. And to that end, both sides have a lot to learn.

#### *For Oman:*

For Oman the largest issue is the systems complexity. Although the FTA helped bring Oman in line with many international norms that will surely help, these new changes are not effectively shared with the population. And changes that are made to Omani law are not effectively shared with outsiders. This cannot be understated. Oman must localize a resource for FTA issues within the Ministry of Commerce and Industry, who is fluent in English, and understands all of the issues. Some one that can handle difficult cases, which are outside of the proverbial “box.”

Relating to investment opportunities three areas strike out as points of sluggishness in the economy. First off, extending privileges given to American business to those outside the GCC will increase domestic FDI, a long stated Omani goal. Second, land rules need to be changed. There have been concerns that opening

land up to foreign real-estate markets will spur inflation. But large companies, given the rights to invest in land, long known as the surest of investments, would contribute a great deal to the economy. Along these lines, many foreigners I spoke with were unhappy they were not allowed to own land personally when working in country. One of the biggest draws to Dubai has been property rights, something Oman has yet to catch onto.

Lastly, Omanization. This practice is in need of revision. Huge inconsistencies are created in the labor market by setting quotas sometimes as high as 90%. Although idealistic, it was brought up along with concerns of property rights in most interviews I conducted. Companies often hire on extra Omani's to unproductive activities in order to gain room for another person qualified for the job. But Oman must be free to direct its economy toward Omani employment. This is why I propose a graduated tax system, whereby companies would be taxed for additional expatriates. This gives them the right to hire on needed workers for short periods of time, while not discouraging FDI in the short run.

Another large area of need is in social capital. Many issues, such as the failure of intellectual property controls, despite new wide ranging laws, spur from the deficiency in social capital. Although rich in culture in their own right, Omani's do not understand things like property rights by and large, and only education of the subject and an endearing of respect can change this. This same facet seems to be missing from labor rights. Although Oman has climbed leaps and bounds in recent

years, violations are still pervasive but they are beyond the reach of law. Adding education on human rights into classroom content can head off long term issues relating to this.

On the top of education, Oman's ministries often know and understand new laws that move through them and into the economy, but enforcement of these, such as customs regulations, are not done simply on the ministerial level. There have been widespread complaints of new laws being unfairly unenforced. In the near future it is conceivable that Oman will continue on its path of liberalization, and this requires a better education of its workers on these issues.

Finally as hard as it is to do, Oman must decrease its government investment in its economy. It not only is crowding out other investment, but serves as a disincentive for Omani companies to seek foreign capital, which undoubtedly would come with more externalities, such as education and technology transfer. Increasing the government's savings rate would go a long way in shoring up the future after oil as well.

*For The United States:*

The most glaring problem was the diversification of responsibility. Having one person to follow up on rules and regulations in need of implementation would go a long way. The United States would gain more from having one less negotiator



for the FTA in the first place, and hiring one extra person to follow implementation. For starters, the American government has admitted the agreement was mostly political for the US. Then it should see fit that it is implemented correctly. The department of commerce often has a commercial officer in an embassy, but only if there are substantial amounts of trade between countries. If Oman, and eventually MEFTA are a high US priority, it should see that this officer is more needed in countries navigating into the open market. A company trying to start a business in France has plenty of people to go to for help; and American company in Oman does not.

The US has also promised substantial aid for transition, and although some has been given, such as MEPI grants, human training is by far the area most lacking. A US customs team would do wonders helping the Omani teams. US judges could operate exchanges with Omani judges to work on arbitration law, and there should be a growing partnership between the two countries chamber of commerce.

Translation is essential for western companies in this globalized world. Although much of the onus falls on Oman in this regard, there is also the possibility that with the lacking of the Omani government in this area, the US could contribute assistance in translating relevant regulations. For a small embassy it is continually important to think outside the box. Pairing with US agencies, and NGOs is a good idea. It saves money, and offers experience to both sides.

Finally in order to help developing economies create a successful business environment more attention needs to be paid in the FTA negotiations to starting a business. The approach taken to customs, adapted to business formation would show significant improvements in the business environment in Oman, which has declined in recent years as stated above by the World Bank. For instance, although a process was laid out for e-tendering in English as a result of the FTA, licensing agreements for business are still only in Arabic. Incorporating this into the FTA would solve a major complaint of western businesses. This, followed by more attention on conformity issues which contribute a lot to non tariff barriers to trade (NTBT) must be included in future agreements. MEPI assistance on this front would also yield a profitable result for Oman's business environment.

## **Conclusions**

At the beginning I mentioned a study (James Gwartney R. L., 2001) where they concluded strong institutions were needed for FDI. This paper has shown that as processes, and thus by extension institutions have become predictable in Oman, FDI has indeed increased. I have also shown that professor Lawrence was right in thinking that a MEFTA could act as a catalyst for domestic change (Lawrence R. Z., 2006). The biggest implication of this paper lies in countries like Egypt. The US has so far been cautious, as a debate rages between whether FTAs should reward good

behavior, or whether they can be used as policy tools in themselves. If this paper shows anything, it shows the later is true.

I have also shown that the FTA can be used to decrease NTBT such as conformity assessments, which as stated in the introduction by (Bernard Hoekman, 2005) constitute the largest issue within the MENA region. However *unlike* many other areas, NTBT are not properly enforced. And there is clear evidence FTA regulations caused both IP change, and sweeping labor regulatory changes.

But more research needs to be done. An econometric study of each of these areas looking at investment increases, business registration increases, and trade across borders controlling for things like rule of law, and the 2009 recession, as well as developing a model specific for the this region would shed some light on the real mathematical differences from an FTA structured how the Oman-US FTA has been structured. But still I think the director for OCIPED, the Oman Center for Investment Promotion and Export Development, Mr. Salim al-Kathri said it best at a recent dinner I attended. "If I were to do what we as a country needed to do through the normal process it would take me three lifetimes, maybe more, but being forced through international agreements [the WTO and FTA] made it easy."

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