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Senate Approves Trade Deal With Oman

By MARTIN VAUGHAN, *National Journal*

The Senate Thursday approved the U.S.-Oman free trade agreement 60-34, after opponents of the pact sought to tap into the deep vein of outrage over port security that earlier this year led Congress to derail the Dubai Ports World deal.

Opponents charged that a provision buried in the agreement would threaten national security by giving Omani investors a right of establishment – enforceable by trade sanctions – to U.S. port facilities.

Supporters of the agreement have said approval of the Oman deal will help with the war on terror by strengthening ties with a key ally in the Middle East.

“The truth is, nothing in the agreement diminishes our right to determine, for ourselves, whether to block or unwind any foreign investment in the United States to protect our national security,” said Senate Finance Chairman Grassley in a statement. “Oman is an important ally in the Middle East. We’ve concluded a very good trade agreement with Oman, and it deserves the strong bipartisan support of the Congress.”

In the end, the agreement garnered 60 votes, including support from 10 Democrats. That outstripped the 54 Senate votes for the Central America Free Trade Agreement last year. But it is well short of the 85 votes garnered by the U.S.-Morocco trade deal in 2004. Six senators did not vote on the U.S.-Oman pact.

Five Republicans joined the majority of Democrats in voting against the deal -- underscoring what may be a more difficult task than expected in keeping GOP votes in line in the House.

GOP senators voting against the deal included Sens. Tom Coburn of Oklahoma, Susan Collins and Olympia Snowe of Maine, and Elizabeth Dole and Richard Burr of North Carolina.

It is difficult to gauge the impact that the allegations about port security had on the debate.

Sen. Charles Schumer, D-N.Y., a leading voice in the Senate against the Dubai Ports World deal, voted against the Oman agreement on the floor despite

having supported it in a Senate Finance Committee markup Wednesday. His office could not be reached for comment Thursday.

A spokeswoman for Dole said she opposed the agreement because of concerns about its impact on U.S. textile and apparel producers.

During Senate floor debate, Sen. Byron Dorgan, D-N.D., charged that while the Bush administration defended the Dubai Ports World deal as not posing any national security concerns, the Oman agreement would obligate the United States to allow an Omani investor to take over the same kind of port operations DP World would have controlled.

“It makes no sense to me that we would hand over our ability to stand up for America’s national security interests in the future and this agreement could lead to that circumstance,” he said.

At issue is a provision in an annex to the services and investment chapters of the U.S.-Oman deal, making clear that U.S. commitments cover certain “landside aspects of port activities.” Those include the loading and unloading of vessels, stevedoring, and operation of maintenance of piers.

That specific provision was also part of CAFTA, the U.S.-Bahrain free trade agreement and other agreements, but was not a part of the U.S.-Singapore free trade agreement.

According to Lori Wallach, director of Public Citizen’s Global Trade Watch, that means that in the case of a U.S. decision to deny investment rights in port operations to an Omani firm, Oman would be able to challenge such a decision in a dispute settlement proceeding.

Also, the firm itself would have standing to seek compensation in its own challenge before an investor rights tribunal.

All U.S. commitments in trade agreements are covered by an exception for national security.

But Wallach said even if a tribunal ultimately sided with the United States, the nation would be stuck with litigation costs and could even be required to hand over sensitive security information to foreign members of the tribunal to justify its decision.

“Instead of -- best case scenario -- having to expose U.S. intelligence information to FTA tribunalists to obtain an Essential Security exception excuse to violate the FTA, why wouldn't Congress insist that the provisions limiting Congress' national security related authority are just snipped out?” Wallach wrote in a memo.