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IMPLEMENTATION OF U.S. BILATERAL FREE TRADE AGREEMENT WITH SINGAPORE AND CHILE

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

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IMPLEMENTATION OF U.S. BILATERAL FREE TRADE AGREEMENT WITH SINGAPORE AND CHILE

TUESDAY, JUNE 17, 2003

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:05 a.m. in room SD–215, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

Also present: Senator Baucus.

OPENING STATEMENT OF HON. CRAIG THOMAS, A U.S. SENATOR FROM WYOMING

Senator THOMAS. The committee will come to order, please.

I am glad to have you all here. I suspect we will have some more Senators as time goes by. This is my first time to preside here as subcommittee chairman. The chairman has asked me to do that, so it is a new experience for me. I am inclined to start on time, so we have already missed that a little bit.

At any rate, welcome to all of you. I think this is an important issue. Of course, trade is critical to our long-term growth. We are the largest trading nation in the world. A large percent of our domestic production goes there, agriculture and other ways, so we need, of course, to continue to work at developing relationships with other countries to develop the kinds of trade agreements that are good for all of us.

We are pleased to have the opportunity today to discuss the Singapore-Chile FTA agreements. These probably are less controversial than some, but they in fact get us on the way, of dealing with not only all the Americas but I think even the Pacific and the Pacific Rim. So it is particularly a good one.

The EU recently signed a FTA with Chile. The agreement took effect in February. Since that time, exports from Chile have increased; U.S. exports to Chile have decreased. They have increased from the EU. So, certainly it is time to do some things there.

In the broad sense, I hope that some of the folks in the panels will talk a little bit about Singapore, for example, and how we deal with the fact that many of the products there just simply go through Singapore, where they originate. How does that work with? I think that is one of the questions we all will be interested in.

I would be interested also in some comments as to the fact that our trade deficit with Chile has increased substantially over the last several years, and what this might do to that. There are a number of questions certainly on all of it.

We are very pleased to have three panels this morning. The first one consists of the Ambassador, Deputy U.S. Trade Representative, Peter Allgeier. And, Mr. Ambassador, we are happy to have you here, sir. And if you would please go ahead.

STATEMENT OF HON. PETER ALLGEIER, DEPUTY U.S. TRADE REPRESENTATIVE, WASHINGTON, DC

Mr. ALLGEIER. Thank you very much, Senator Thomas. And thank you for the opportunity to testify today, and for your continued guidance and support as we seek to open additional markets for U.S. manufacturers, service providers, workers, farmers and ranchers. We appreciate your leadership and greatly value the close cooperation that we have had on trade issues with the Congress and particularly with this committee and your subcommittee.

I have a longer statement that I would request be entered as part of the formal record.

Senator THOMAS. It will be included in full.

[The prepared statement of Mr. Allgeier appears in the appendix.]

Mr. ALLGEIER. Thank you.

During the past 2 years we have worked to re-energize the U.S. trade agenda. Of course, passage of the Trade Act of 2002, including the trade promotion authority, was a major turning point in that effort and has enabled us to complete these two negotiations and to proceed with other important trade negotiations. We are confident that these agreements and the other ones that we negotiated will lead to economic benefits for all Americans and also for many others around the world.

I welcome this opportunity in particular to review the accomplishments of the first agreements that will be submitted under trade promotion authority, that is, the free trade agreements with Chile and with Singapore, and to present the administration's request for favorable consideration of legislation implementing these free trade agreements.

These two agreements reflect a bipartisan effort to conclude trade agreements with two important trading partners. Both agreements were launched under the Clinton Administration and concluded under the Bush Administration. So there are two unique distinctions to these agreements. Obviously the first is that they are the first ones concluded under the Bush Administration, and they are the first agreements concluded by the United States in Asia and in our own southern hemisphere.

We believe that these agreements provide commercial and political benefits for the United States and also for our two new FTA partners.

I would like to stress two messages that come from these agreements. One is that the agreements are examples of comprehensive state-of-the-art free trade agreements. And by that I mean that they are responsive to the technological advances that we have seen. They are responsive to the world in which there is global

sourcing, and they are responsive to the fact that knowledge is a key factor of competitive advantage for the United States.

The second message coming from these is that they are attentive to the full range of U.S. interest, that is, agriculture, industry, services, but also consumers, small business people, labor and environment, and due process.

The U.S.-Singapore free trade agreement will enhance an already strong and thriving commercial relationship, more than $40 billion in 2-day trade in goods and services.

As I said, it is comprehensive in scope, covers aspects of trade in goods, agriculture, services, investment, government procurement, protection of intellectual property, competition policy, the relationship between trade and labor, and environment.

It can serve as the foundation for other possible free trade agreements in Southeast Asia. This was envisaged by President Bush when he announced his Enterprise for ASEAN Initiative last October.

Similarly, the Chile free trade agreement is a state-of-the-art agreement. It sets the stage for further integration in this hemisphere.

It makes sound economic sense for the United States to have a free trade agreement with Chile. First of all, Chile has one of the fastest growing economies in the world and we should be part of that growth. Second, the U.S.-Chile free trade agreement help to spur progress in the free trade area of the Americas. It will send a positive message throughout the world, but particularly in this hemisphere; that we are prepared to work in partnership with those who are committed to open markets.

And third, the U.S.-Chile free trade agreement will help U.S. manufacturers, service suppliers, farmers, workers, and investors achieve a level playing field.

As you know, Senator, Chile already has free trade agreements with Mexico, Canada, Mercosur and, since February, with the European Union. As a result of its trade agreements with these economies, American companies have been disadvantaged. We have not enjoyed the same preferential access that these other partners have. And we have seen that the share of Chilean imports, the U.S. share of Chilean imports, has dropped from 23 percent in 1998 to 16 percent in 2002.

Getting to your point, Senator, about the trade deficit, the National Association of Manufacturers has estimated that the lack of a free trade agreement with Chile has cost our companies approximately $1 billion in exports, more than enough to reverse the trade deficit, frankly.

We believe that with this FTA we can ensure that we enjoy the same market access in treatment and protection that our competitors have in that market.

Since this is the first set of agreements being submitted under the trade promotion authority, I would just like to take a minute to talk about the process that we have used in negotiating these agreements and the consultation that we have pursued.

We have held public hearings, consulted at least 240 times with members of Congress and staff. We have held more than 100 meetings with public sector advisors of which there are more than 700.

We have also sought public comment as we proceeded with the negotiations. Before offering proposals to the Chileans or the Singaporeans, we made the proposed text available to Members of Congress and their staff and to public sector advisors.

Upon conclusion of the agreements of the negotiations in December of last year, we have provided the full drafts of these FTAs to Congress and staff and to our private sector advisors. At that time we put up on our website detailed summaries of these agreements for the public. And then once we finished the legal scrubbing of the agreements we have put the agreements themselves up on our web site for all to see.

As you know, our private sector advisors are required to submit reports to the President, to the Congress, and to us, providing their assessment of the extent to which these agreements achieve the objectives, policies and priorities set out in the Trade Act. There have been 31 such committee reports. Thirty of the 31 have given favorable recommendations on the agreements.

These agreements, as I have mentioned, will act as catalyst for our efforts to expand trade in Asia and the Southern Hemisphere.

I have already mentioned the Enterprise for ASEAN Initiative. The Chile FTA is providing momentum to the free trade area of the Americas, which is the centerpiece of our trade policy toward this hemisphere.

We maintain our strong commitment to the negotiation of a broad and rebust free trade area of the Americas by January of 2005. Both the Chile agreement, and we expect the Central American agreement that we are negotiating now, will serve as building blocks to the free trade area of the Americas.

In conclusion, these two agreements are the most comprehensive and up-to-date trade agreements the United States has concluded. They command very wide spread support by the private sector, and they make progress in achieving their relevant objectives in trade promotion authority.

With the continued guidance and support of Congress, we are pursuing an ambituiys abd cinoregebsuve trade policy. We are negotiating bilaterally and globally. We look forward to working with this committee and the full Congress in enacting legislation necessary to implement the agreements as we negotiate them.

So, I would like to thank you, Mr. Chairman, for the opportunity to testify this morning. And I would be happy to respond to any questions that you or any other members of the committee who might come in would have.

Senator THOMAS. Thank you, Mr. Ambassador. Thank you very much. I appreciate it.

What would you guess would be the next focus of negotiations?

Mr. ALLGEIER. We currently have four other negotiations of such free trade agreements in process. One is, as I have mentioned, is the Central American free trade agreement, which we hope to complete this year. We have a negotiation with Morocco. We would also like to complete that this year. We have begun a negotiation with the five countries that are members of the South African Customs Union, and we have an ongoing negotiation with Australia. This, of course, at the same time as we are negotiating the free trade of the Americas and negotiating the multilateral negotiations in the

World Trade Organization. Senator Thomas. It is a full agenda. Mr. Allgeier. Very full, sir.

Senator THOMAS. You stated the agreements contain groundbreaking provisions in Customs procedure and rules origin. Could you elaborate just a little on why you think these are groundbreaking and can they be used and will they be used in future negotiations?

Mr. ALLGEIER. Yes.

First of all, there is a very—well, of course, we have had the benefit of previous negotiations in fashioning the rules of origin for both of these agreements. And we feel that these rules of origin are, on the one hand, they will be very effective in confining the benefits to the countries with whom we have negotiated agreements, but on the other hand, we have taken into account the experience of our business communities in previous agreements, such as the NAFTA, and we believe that these rules of origin will be easier to operate both for governments and for businesses than some of the previous rules of origin that we have had.

In terms of Customs procedures, openness of Customs procedures is very important that we have strong provisions on that, and also very strong cooperation between our respective Customs services to make sure that there is not transshipment or other violations of these agreements.

Senator THOMAS. I see. Good.

U.S. companies generally are perceived at least to lose millions of dollars to illegal use of patented products, such as biotechnology and so on. Do these provisions with Chile and so on help address this problem?

Mr. ALLGEIER. Yes. Actually among the strongest components of these agreements are the chapters on intellectual property. And within the patent area, we have very strong provisions for protection of patents, for protection of data that is provided for approvals of patented products. Data exclusivity it is called. And also enforcement.

In the area of biotechnology there are provisions that will allow the patenting of new plants and animal forms.

Senator THOMAS. Good. I have a couple more questions, but I want to welcome the ranking member to the full committee, as well as the subcommittee, Senator Baucus.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA

Senator BAUCUS. Thank you, Mr. Chairman.

This is a somewhat historic hearing in the sense that we are proceeding with two free trade agreements modeled somewhat, or at least grew out of the TPA, the Trade Preferences Act. And it is working. And we are very pleased, at least I am personally pleased, that it is working and it is working quite well.

They are the first to be completed since the passage of that Trade Act, the first to be held to the new and progressive standards included in the renewal of trade promotion authority. And by and large, I think these agreements stack up pretty well with some of the concerns of Congress. And we are working I think quite well together with the administration, and the Congress, and with the

private sector to get and establish much more trade and freer trade that is mutually advantageous to the United States as well as in one case Singapore, in another case, Chile.

I have visited both countries actually. I took a trade delegation to both countries. And it is very clear to me that the more we do that, take delegations and meet with our counterparts in other countries, along with the government officials, the embassies, and the trade sections, and the commercial sections and the embassies, as well as the people in the private sector, more like it is that we are going to get in a small way to be able to move toward agreements like this. And it opens the doors. It is very, very satisfying.

I might say too, Mr. Chairman, even before we passed TPA last year I did introduce legislation to grant fast track specifically for Chile and for Singapore. And I am glad that we are now seeing the fruits, a portion of that work. I worked on it hard, as has many others, to bring these agreements before us.

I know that a lot of American farmers, ranchers, workers, companies are eager to compete in these two countries. These agreements will give them a level playing field to help them compete. For example, just last month Chile issued a decree granting reciprocal recognition of U.S. meat inspections. As I know on the panel, a rancher, Keith Schott, from Broadview, Montana, will be testifying. I think he is going to be pretty happy about that. And with this important development, Montana's world class ranchers are going to have access to Chile's corn market that they deserve.

The agreement also eliminates the artificial disadvantage that American wheat growers now face when competing with Canadian growers for sales in Chile.

I know when I was down in Chile not too long ago I was just kind of stunned, frankly, when I learned that because the Canadians had an agreement with Chile and we Americans did not, that we were at about I think a 10 percent tariff, or 11 percent tariff disadvantage. That is, the Chileans imposed a tariff on our products and did not impose the same tariff on Canadian products, because Canada and the FTA were Chile, and we did not, and we are just being shut out of the market. It was very clear to me at that point, hey, we have got to get going. We have got to get an agreement with Chile too. And I am very glad, again, that we are here.

These two agreements also break new ground on a host of important areas: intellectual property, services, e-commerce, labor, environmental standards. And I think they promise to usher in the new era of enhanced economic tides between the United States and each FTA partner.

United States banks, who also for the first time, have accessed to Singapore's extensive ATM network. Starbucks Coffee will soon be opening up a store in Santiago, Chile. Think of that. The first in South America. U.S. automakers will be able to sell cars in Chile without facing a prohibitive luxury tax.

So for these and many other reasons, many people have described the Singapore and Chile FTA as a model or as a template for what the United States hopes to achieve in the future free trade negotiations. I certainly agree with that. I think that these two agreements do set up a new standard, one that I personally am

proud of. But that does not mean we should view these agreements as a ceiling or as a one size fits all solution for every country.

There is always room for improvement in trade agreements, which have not hesitated to push for a Chile and Singapore plus as we pursue FTA negotiations with new partners. And we should always be adapting our agreement I think to the conditions in different partner countries.

I have done it before and I will do it again. I want to very solemnly congratulate Ambassador Zoellick for his fine work, and you, Mr. Ambassador, for your very fine work too. It is not easy. I know that resources are a little bit think in your shop, and some of us are developing ideas to try to help solve that problem for you, which you have done a great job. And we thank you very much for your hard work. Congratulations to you all.

Mr. ALLGEIER. Thank you, Senator.

Senator BAUCUS. Well, now the ball is in our court here in Congress. These agreements will be the first test of the updated fast track procedure adopted in the Trade Act. More importantly, they are the first tests of the consensus of working together that has made it possible to renew TPA.

I want to see these two agreements passed by both bodies with large majorities on both sides of the aisle. I see that as entirely achievable. But to do it we must continue to work together on a true basis, all interested people, to draft implementing legislation to that accurately reflects the agreements.

We must also make sure that we have a meaningful and transparent legislative process.

I know Chairman Grassley is committed to that. I know that the chairman of the subcommittee, Senator Thomas, is as well.

I am hopeful that some of the consensus that is developing in this committee, and some of you in the Senate, at least on the Medicare prescription drug legislation, will also carry over to this FTA. In fact, I think the FTA has an even better chance of passing with a much larger bipartisan majority than even the Medicare bill.

The main point is that we are all working together. I think this is good. We are here to do the people's business. We are here not to make rhetorical statements. People want solutions. They just do not want speeches. And we are working together with the administration. And I thank you.

Senator THOMAS. Thank you, Senator.

Mr. ALLGEIER. Thank you.

Senator, if I could just say a word of thanks.

Senator BAUCUS. Sure.

Mr. ALLGEIER. First of all, I very much appreciate your kind comments about our work on these agreements and our work more generally, and also thank you very much for your support and guidance throughout this process.

I think those missions by Congressional delegations are extremely helpful in highlighting for our negotiating partners what is really important for us, what our priorities are. And they gain a much better understanding of what it is going to take to complete a negotiation with the United States as a result of those contacts with Members of Congress and the Senate.

Senator BAUCUS. Thank you.

Senator THOMAS. Thank you, Senator.

As we have more pharmaceuticals available it will be easier for us to agree.

Let me be a little parochial. Even though the U.S. and Chile are not exporters of sugar as you use this as the basis for negotiating with other countries that will be. We don't want to run into another situation like the letter in Mexico. How is the language in this one with regard to that kind of assertive provisions? How will that apply to other places?

Mr. ALLGEIER. Well, first of all, we believe that the provisions in this agreement on sugar are crystal clear, that is to say the schedule for reducing the tariffs is the longest possible schedule. But more importantly, Chile cannot take advantage of that unless it is a net exporter of sugar and it is quite clear how that would be calculated. And, frankly, we do not expect that to happen in the foreseeable future. We believe that that is an appropriate way to deal with this issue.

Senator THOMAS. All right.

Also parochial, I am pleased at what you have been able to do with soda ash and lemonade. There is an 80 percent tariff on that in this agreement. Certainly we will be continuing to talk with you in that area.

One of the current issues, of course, is hoof and mouth disease. Chile is designated as being free, however, Argentina, their neighbor, is not. I guess there is always the question about the through shipment from one country to another. Would that beef then become an origin of Chile and be able to go around the restrictions that are on Argentina?

Mr. ALLGEIER. Well, there are two protections against that. First of all, Chile itself has a very high incentive to keep foot and mouth disease out of its own market. And so Chile has very strict rules about that of any livestock, any cattle, moving into Chile.

Then we have maintained our full protections against foot and mouth disease in the United States. And the fact that anything is coming from a free trade area does not reduce at all that level of protection and that scrutiny. So, we have got basically two levels of protection, the Chilean's sanitary and finasanitary rules and our own, and we are confident that there will not be any transshipment of beef from Argentina or any other areas that have foot and mouth.

Senator THOMAS. I see.

I had someone mention to me last week in Wyoming—this is totally off the topic—we are a little concerned with respect to Canada. If we would lift our restrictions in other countries where they do some exporting did not, it would not be a healthy thing for it. We would have a whole surge of imports. That is kind of an interesting thought.

Mr. ALLGEIER. You are talking specifically about beef again? Senator Thomas. Beef. Yes, beef.

Mr. ALLGEIER. Well, obviously, we acted very quickly in that instance with Canada. And to be fair, the Canadians I think moved very quickly to notify us. And so there is very good cooperation between us. We want to be very careful that we do not open our bor-

der to Canada unless we are sure that there will not be any problem because that could adversely affect our ability to export our beef products in turn to important markets Asia.

Senator THOMAS. His point was, if we raised ours before some other countries did there would be more of an influx because they would close out other places.

Mr. ALLGEIER. We will not open ours until our people are really satisfied that there is no threat to our livestock and beef interest.

Senator THOMAS. Thank you.

Further questions, Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman.

Just a couple of questions on the agriculture provisions in the agreement with Chile.

I know Senator Grassley is as pleased as am I in seeing progress on the need for equivalency standards. And as I understand, that you are able to secure that, and that Chile will now recognize both grading and inspection standards for beef, pork and lamb. Could you just expand a bit on that, please? Or what is the agreement?

Mr. ALLEGIER. Yes. I would be happy to.

On June 3rd, the Chileans have put into effect recognition of meat that comes from U.S. plants that have been certified by U.S. authorities. So there is a recognition of our certification and that goes into effect immediately.

With respect to recognizing U.S. grading and cuts, that is something that will be done but it will be done in the context of their implementation bill.

Senator BAUCUS. Do you have any concerns there or do you think that will work out?

Mr. ALLEGIER. They have understood rather clearly from Senator Grassley and from you the importance of this, and our sense is that they are moving forward on this very conscientiously.

Senator BAUCUS. Could you also address the reform that you have been able to achieve with respect to Chile's price ban system?

Mr. ALLEGIER. Yes. That is an important innovation in this agreement, and, frankly, it is one that was not included in any of the other agreements that Chile concluded. And the price ban system in Chile applies to a number of important crops for us. It is basically a variable levy, so that as world prices on a particular commodity fell they would add a premium onto the tariff basically. And they resisted that, as I said, on other trade agreements. They have agreed in this agreement to phase those out, at least for the United States. No promises for others.

Senator BAUCUS. Which also address the integrated source initiative, because there is some concern. That is a little loose and needs to be tightened up.

Mr. ALLEGIER. Right. That, of course, is in the Singapore agreement.

Senator BAUCUS. Right.

Mr. ALLEGIER. What it is, there is a given list of products, information technology products and high end medical products, that already are MFN-free into the United States, MFN-free into Singapore. These are products that then often are used in its components in other electronics products.

What the ISI does is it says that if one of the products on this list is brought into Singapore it then can be shipped either by itself or as part of another products to the United States. And it will be, of course, treated duty free.

What the ISI does is it enables these products to move into Singapore without a certificate of origin because they are duty free, whether into Singapore or the United States, and they are exempt from paying our merchandise processing fee, which all products coming in under the Free Trade Agreement are exempt from.

So, what this does, it does not give these products, let's say, from Indonesia, any new access in the sense of giving them tariff treatment that they would not ordinarily have if they were exported directly from Indonesia. What it does it reduces some of the paperwork for the companies and it does eliminate the merchandise processing fee. It is not of general applicability of cross products. Just for this given list.

Senator BAUCUS. Could you also address a concern that I have. Senator McCain and I have introduced legislation to create a trade preference program for Middle East countries, somewhat similar to the trade preference program that already exists for sub-Sahara African countries. Its argument being that opening up trade in the Middle East could help generally with some of the concerns and problems that not only the United States but most countries in the world have just trying to achieve peace. The progress towards peace, as you know, is based upon economic advancements.

So, does it make sense for us to start pushing toward, or why shouldn't we be pushing toward a trade preference marry in the Middle East, in addition to the sort of single shots and FTAs, the type of Bob Raines have in other countries, and has certain benefits. But it just seems to me that if we work on trying to get a trade preference program in the Middle East that that would be even more helpful, would get more bang for our buck.

Mr. ALLGEIER. Well, we certainly agree with you that it is important to engage these countries more fully in a trade relationship with the United States; also to assist those that are not members of the WTO to get involved internationally. And there are a number of ways to do that.

One of the ways certainly is through a preference program that goes beyond the GSP. And that can also be used in combination with other things. There is nothing incompatible about, on the one hand, having a preference program and, on the other hand, negotiating free trade agreements with those countries that are ready. I mean, it can be a staged process.

And so we would like to work closely with you to fashion an overall cohesive approach to the Middle East that will draw them into a tighter relationship with the United States, that will provide economic opportunity to them, and it will also encourage them to take on various reforms in their trading system that will be beneficial for both of us.

Senator BAUCUS. I appreciate that, Mr. Ambassador. I just think it would help a lot if we were to concentrate a little more than we have in trying to get a preference program set up.

Mr. ALLGEIER. Well, we would like to work with you and your colleagues to find the most effective way to do that.

Senator BAUCUS. Good.

This question is kind of a little bit off the wall. I have read that more human diseases are potentially coming from animals, whether it is SARS, or whatever. There is a whole long list. What implication does that have for trade and agricultural products? Have you given a lot of thought to that? Obviously, we want to encourage trade.

Mr. ALLGEIER. Yes.

Senator BAUCUS. And my concern is that if there are more diseases being developed on account of transmission from animals to human beings that we want to deal with that earlier rather than later to get ahead of the curve.

Mr. ALLGEIER. Right.

Senator BAUCUS. So we do not shut down trade in agriculture, particularly animals and animal products.

How can we begin to get ahead of that if it develops?

Mr. ALLGEIER. Well, I think we certainly need to be working with the people who do the animal and plant inspection, and just to review whether our procedures are tight enough without inhibiting trade.

My sense is—most people read it in the newspaper—it says, a lot of the transmission is from the proximity of humans to animals as pets, which are not ordinarily pets. And I do not know whether that is a trade issue. But I think that just given the way we see these diseases transmitted we need to be vigilant and be asking ourselves, are we taking the proper approaches, especially with respect to animal products, or live animals into the United States. And that is something that we are prepared to work with you and others and the appropriate authorities at the Department of Agriculture to ensure that we are being as vigilant as we can.

Senator BAUCUS. When it comes down to trust and confidence that the products are good and health, that might mean a little more science. And it also avoids potential barriers to trade based not on science. But ostensibly science but not science.

Mr. ALLGEIER. Right.

Well, you know that we are very attentive to that, to policies of other countries that waver from that principle of science.

Senator BAUCUS. Right.

Well, I think you are doing a great job. I just think that you should go for it. And as I said, you have got limited staff and I also said that we are trying to do something about that, too.

Mr. ALLGEIER. Thank you very much, Senator.

Senator BAUCUS. Good luck.

Mr. ALLGEIER. Thank you.

Senator THOMAS. Thank you.

One final question. I was chairman of the Pacific Rim area when I was in Foreign Relations, so I have spent some time in Singapore. Obviously, most of the goods that run through there come from other countries. Now, this integrated sourcing initiative, is that what is designed to deal with products that come from countries that we do not have agreements with, through Singapore? How do you deal with that question?

Mr. ALLGEIER. Well, our basic premise is that countries that are not part of a free trade area should not benefit from an agreement

to which they are not a party. And in the case of Singapore, I did mention that we have established in this agreement strengthened cooperation between our Customs Services, primarily to avoid the transshipment problem. We have got cooperation, generally, but we have also highlighted a few particular areas. Textiles is an example and intellectual property is another example, where they are particularly vulnerable to transshipment.

So, we feel that the Singaporean officials have been very responsible in recognizing the increased vigilance and cooperation that we need to have in this area of transshipment.

And as far as the ISI, the ISI is limited to a precise list of products, so it is not something that is generally available across the spectrum of merchandise.

Senator THOMAS. Well, thank you, Mr. Ambassador. We appreciate it very much.

Mr. ALLGEIER. Thank you, Senator.

Senator THOMAS. I have statements from chairman Grassley and Senator Bunning that will be included in the record. We will keep the record open until Monday, so if there are any questions that you need to write about, or other members of the panel, we would like to have those right away.

So, we will bring on the next panel then.

Mr. ALLGEIER. Thank you.

[The prepared statements of Senators Grassley and Bunning appear in the appendix.]

Senator THOMAS. On this panel we will have Mr. Norman Sorensen, President of Principal International, Incorporated, from Des Moines, Iowa; Mr. James Jarrett, Vice President, on behalf of the Business Software Alliance and the High-Tech Trade Coalition; Mr. Jeffrey Shafer, Managing Director for Citigroup, Washington, D.C., on behalf of the U.S.-Singapore Free Trade Agreement Business Coalition; and Ms. Sandra Polaski, Senior Associated, Carnegie Endowment for International Peace. So, we welcome all of you.

Again, we want to move along with the process. Although I said Monday, actually the record will be open until 5:00 p.m. tomorrow because we want to get this on the floor and move it.

Your total statements will be put in the record. And if you have an impulse to make them a little shorter, why pursue it recklessly, please.

Mr. Sorensen, would you begin, please?

STATEMENT OF NORMAN R. SORENSEN, PRESIDENT, PRINCIPAL INTERNATIONAL, INC.

Mr. SORENSEN. Thank you, Mr. Chairman. Good morning.

Thank you for inviting me to testify this morning. I am Norman Sorensen, President of Principal International. We are a member of the Principal Financial Group of Companies, headquartered in Des Moines, Iowa.

I appear this morning on behalf of both the Principal Group and the U.S. Coalition of Service Industries as a member of its board and chairman of its Financial Services Group.

We strongly endorse the pending free trade agreements between the United States and Chile and between the United States and Singapore, and we urge Congress to promptly approve them.

These two bilateral trade pacts, in our opinion, will significantly benefit the trade and investment opportunities for the Principal and for other Coalition of Service Industries' members in Chile and Singapore. They are of considerable importance to the U.S. balance of trade. They will strengthen America's global competitive advantage in services. They are a solid foundation upon which the United States can negotiate other bilateral and multilateral pacts, especially, as was mentioned earlier, the proposed free trade of the Americas, the U.S.-Australia free trade agreement, and with particular interest on the WTO DOHA development agenda trade negotiations.

My written statement, Mr. Chairman, addresses the impact of numerous U.S. services and I comment it to your attention. I will highlight just a few of them.

First, both agreements permit a wide range of cross border financial services offered by American financial institutions. Singapore commits to market access and full foreign ownership of financial entities, including for the first time insurance companies. Chile locks in its commitments to liberalizing trade in banking, securities, asset management and insurance.

Second, Singapore is a key operation of principal global investors, our institutional asset management company. This free trade agreement confirms that U.S. firms like ours can compete for asset management mandates from the Singapore Investment Corporation, which by itself manages over $100 billion in assets, among other government entities, including monetary authority of Singapore, MAS. That is again for the first time.

Third, the Chile agreement gives American firms the right by March 1, 2005 to compete equally with Chilean firms in managing the voluntary portion of Chile's highly successful national pension system, which is multibillion dollars in assets. It also allows U.S. mutual funds established in Chile to provide offshore portfolio management services to Chilean funds on a cross-border basis.

Fourth, both agreements embrace key elements of the U.S., European Union, Canada and Japan model insurance schedule to structure commitments for market access, national treatment and regulatory best practices. They both commit to recognizing the importance of developing structures of regulatory procedures to expedite the offering of insurance services by licensed suppliers. Quote, unquote. That is part of the model.

On balance, Mr. Chairman, and certainly members of the committee, these two trade agreements, especially the U.S.-Chile free trade agreement, which is over 2 years in the making, represent sound trade policy, in our opinion. They are in the best interests of American Services Companies. They remove trade barriers, permit greater gross-border trade in services, and will help to further expand our contribution to America's balance of trade.

Finally, I would like to, Mr. Chairman, with your permission, submit the model insurance schedule as part of the exhibits for the committee's review. It is a well written piece of insurance best practices.

Thank you for your consideration of our views. I will be pleased to respond to your questions at the appropriate time, sir. Thank you.

Senator THOMAS. Thank you very much.

If the panel does not mind, Senator Bond is here, and I know that he has other obligations. So, Senator, if you would like to go ahead and make your statement, we would be happy to have it.

[The prepared statement of Mr. Sorensen appears in the appendix.]

STATEMENT OF HON. CHRISTOPHER S. BOND, A U.S. SENATOR FROM MISSOURI

Senator BOND. Mr. Chairman and members of the committee, thank you for giving me this opportunity to testify. There are many experts here today. I will submit my full testimony for the record, but I do appreciate the opportunity to come before the committee to add my strong support to the Singapore FTA and urge the members of this committee to give approval in the full Senate to support the agreement. I happen to think that it is a very forward looking agreement that increases and strengthens our ties to a very important friend in an important part of the world.

I would add that I have visited the Asean region each year for the last 12 years. Because of the tremendous importance that this region has to the United States, economically, certainly, but in terms of national security, in terms of international peace, in terms of trade and culture, we have great interest in the region, and Singapore is I think one of the key elements to assuring our strong relationships in that region. And I think that this FTA is a great means of assuring that we build upon those great relationships.

The agreement will be a great benefit to our economy, it will contribute to the security of our country, and it sends a very strong signal to a good friend that we are committed to Southeast Asia, and it sends a strong signal that we appreciate Singapore, its people and the friendship the country has shown the United States.

Trade is not always a matter of pure dollars and cents, in this case, we get far more from this agreement than its significant economic benefit. So I do urge the committee to give favorable consideration to it.

We have many, many American businesses who are very active in Singapore. More than 1300 companies have a presence. About 330 of these have made Singapore their regional business headquarters for Asia. U.S. exports to Singapore total $18 billion in trade between the United States and Singapore. Our eleventh largest export market totaled $33 billion in 2001. And I think that strengthening our relationship with Singapore will also enhance our National security. As a member of the United Nations' Security Council, Singapore helped secure passage of Resolution 1441. At the conclusion of the war, Singapore contributed valuable assistance to the Iraqi rebuilding effort. Singapore has welcomed our ships and sailors at their state of the art Chunyi Naval Base. We have a close defense relationship and engage in joint military exercises.

We have seen tragic events throughout the region. We know that the terrorist threat remains grave in that region, and Singapore is a vital allay in combating that.

Finally, the agreement breaks new ground in our relations with the countries in the region of Southeast Asia, also known as the ASEAN, the Association of Southeast Asian nations.

You are probably well aware that last fall the President launched the Interprise for Asea on Initiative, which is an important new economic initiative with the nations of Southeast Asia. And the initiative recognizes the economic benefits and the security benefits offered by a strong U.S. presence in Southeast Asia, and it will be pursued through increased trade.

This region is home to more than 500 million people. It has countries with stunning rates of economic growth in the early and mid-90's, and the countries are returning to days of solid economic growth.

We have picked a good partner in Singapore to begin the President's Interprise for Asean Initiative. It builds a foundation to making the Aeasn market a prosperous market for Americans. And I think that a stable and productive region with good strong United States presence is vital for our country and for progress in the world.

I appreciate your time. I look forward to a successful conclusion of the agreement, and I am sure that the others testifying here will add far more detail and technical expertise, but I wanted you and the committee to know of my very strong personal support. And I assure you that I will be available on the floor if there are any questions that are raised about it. I will try to be helpful to the committee in getting this passed by the full Senate.

Senator THOMAS. Thank you very much, Senator. I appreciate you being here.

Senator BOND. Thank you very much, Mr. Chairman. And my thanks and apologies to the other panel members.

Senator THOMAS. Mr. Jarrett.

[The prepared statement of Senator Bond appears in the appendix.]

STATEMENT OF JAMES JARRETT, VICE PRESIDENT, WORLDWIDE GOVERNMENT AFFAIRS FOR INTEL CORPORATION, SANTA CLARA, CALIFORNIA, ON BEHALF OF THE BUSINESS SOFTWARE ALLIANCE AND THE HIGH-TECH TRADE COALITION

Mr. JARRETT. Mr. Chairman, thank you for the opportunity to appear before you today. My name is Jim Jarrett. I am Vice President of Worldwide Government Affairs for the Intel Corporation. I am pleased to testify today on behalf of Intel and the Business Software Alliance, an association of leading developers of commercial software, hardware and e-commerce technologies. I am also here to testify on behalf of the High Tech Trade Coalition, a group of leading high-tech trade associations representing America's technology companies.

I appreciate the opportunity to testify today on the significance of the Singapore and Chile Free Trade Agreements. Information Technology Industries is one of the leading contributors to the U.S.

balance of trade, last year generating a trade surpluse of $24 billion. As a leading engine of global economic growth, the industry contributed $1 trillion to the global economy in 2002. In the United States alone, Information Technologies contributed $400 billion to the U.S. economy, 2.6 million jobs, and $342 billion in tax revenues. And over 50 percent of revenues for most of the leading U.S. high technology companies are generated outside of the United States. In the case of Intel, it is actually 70 percent outside the United States.

For to continue these positive contributions, free trade agreements must establish open trading environments to promote strong IT protection, protection for IT services, promotion of barrier-free e-commerce and tariff liberalization.

We are pleased to really support the agreements that are being considered on behalf of Intel, BSA and the High Tech Trade Coalition, and we really urge every member of Congress to vote in favor of these agreements.

These agreements significantly advance the establishment of strong intellectual property protection and trade liberalization.

Mr. Chairman, I would like to highlight for you some of the key provisions in the agreements from our point of view and submit my written statement for the record.

In terms of intellectual property provisions in these agreements, Information Technology Industry really depends on IP. It is the life blood of our industry. And it is particularly important, if we look at software piracy, for example. Last year, software piracy cost the industry $13 billion worldwide. And high rates of software piracy are often the biggest trade barrier that we face around the world. In Singapore and Chile, last year we estimate that we lost about $77 million in terms of software piracy. So promoting strong IP in this kind of digital environment that we live in is really critical for us.

Our trading partners are willing to establish a high level of IP protection. It complies with the WTO's TRIPS agreement and the WIPO Copyright Treaty. And the Singapore and Chile agreements really meet this objective. In addition, both agreements requires strong civil and criminal enforcement regimes, which are critical elements in fighting against piracy.

As the landscape of international copyright policy evolves a relatively new issue as it merged that could could have an impact on U.S. high-tech exports, some countries are imposing levies or surcharges on hardware and software products, which by some estimates, could cost up to $1 billion a year, hurting both exports and the profitability of our industry. And we hope that these levies will be dealt with in future trade agreements.

Let me take a moment to discuss a few key elements of the provisions on IT services, another key negotiating objective for the United States.

In the past decade, a vast array of new information technology services has proliferated, including data storage in management, web hosting and software implementation services.

Technology users are increasingly purchasing IT solutions as a combination of goods and services. So, as a result, attaining full liberalization in the area of IT services is more important than ever.

Both the Singapore and Chile agreements provide full market access and national treatment on IT services and we strongly commend this result.

Let me turn also to e-commerce. Over 500 million people are using the internet worldwide, and we think that by 2005, two-thirds of the software that is sold in the world will be distributed on line. So, promoting barrier-free cross-boder e-commerce is critical to us. The e-commerce chapters in both of these free trade agreements recognize for the first time the concept of digital products, specifically physical copies of software and downloaded software are both entitled to exactly the same benefits under trade laws. This safeguard assures that software delivered on line will not face new barriers and will have the same ease of access as boxed software.

Turning now to tariff measures. High tariffs on technology products continue to persist among our trading partners, raising cost on the very technology needed to be competitive in a digital economy. In both of these free trade agreements, the countries have agreed to liberalize trade barriers and sets a good precedent for further agreements to come.

In conclusion, U.S. free trade agreements with Singapore and Chile mark critical milestones in progress. New baselines have been set, which should open markets for the U.S. technology industry in the years to come. We commend the achievements made in both agreements and we strongly support their passage in Congress. Thank you.

Senator THOMAS. Thank you, Mr. Jarrett.

Mr. Shafer.

[The prepared statement of Mr. Jarrett appears in the appendix.]

STATEMENT OF JEFFREY SHAFER, MANAGING DIRECTOR FOR CITIGROUP, WASHINGTON, D.C., ON BEHALF OF THE U.S.-SINGAPORE FREE TRADE AGREEMENT BUSINESS COALITION

Mr. SHAFER. Chairman Thomas, thank you for the opportunity to appear today on behalf of both Citigroup and the U.S. Singapore FTA Business Coalition. My name is Jeffrey Shafer and I am a managing director of Citigroup Global Markets. Prior to joining Citigroup, I served for 4 years as Assistant Treasury Secretary and then Undersecretary of Treasury at the Department of Treasury, where, among other issues, I was responsible for financial services negotiations.

The U.S. Singapore Coalition, which consists of companies and business organizations from across America, is actively working to support the passage of the U.S.-Singapore Free Trade Agreement. The Coalition has a broad membership of business groups, which is included in my full testimony.

While the coalition's focus has been Singapore, I also want to express strong support for the U.S.-Chile Free Trade Agreement, which in most ways mirrors the Singapore FTA. Just as the Singapore agreement will create new opportunities in Asia, the Chile agreement will help us to re-establish momentum in Latin America. Citigroup has been a strong supporter of this initiative working with the Council on the Americas.

Both Singapore and the Child agreements incorporate deep and broad commitments that break new ground in sectors, including financial services, telecommunications, intellectual property rights and e-commerce. Both agreements maximize liberalization in goods and services, and should serve as models for future bilateral, regional and multilateral negotiations.

In recent years, the United States has fallen behind the rest of the world, which has experienced a proliferation of free trade agreements and bilateral investment treaties. There are now an estimated 130 FTAs in force, of which the United States is a signatory of only four.

These agreements can restore momentum towards obtaining for U.S. goods and services the kind of enhanced market access that others are increasingly getting.

Because I come from the financial services world, and because our coalition is focused on Singapore, let me use those areas to provide a few detailed examples of the new benefits that U.S. companies can gain through increased trade.

In banking, the U.S.-Singapore Agreement requires Singapore to lift its current ban on new licenses for full-service banks within 18 months. After 2 years the Agreement allows licensed banks to operate in an unlimited number of locations.

One of the most significant provisions of the Agreement concerns access to local ATM networks. When a bank enters a new market, the ability to access local ATM networks is an absolutely vital element of market access. Under the U.S.-Singapore FTA, locally incorporated subsidiaries of U.S. banks can apply for access to local ATMs within two and a half years. Branches of U.S. banks will get this access to the ATM network in 4 years. Obviously, liberalization can always occur more quickly, but with the right kind of implementation this is a significant step forward.

Another important area of the Agreement concerns the new ability of U.S. banks to offer asset and portfolio management services in Singapore.

The Agreement's handling of the issue of capital controls is also worth highlighting. This was a contentious area for negotiators and I want to commend both sides for arriving at what I believe is a balanced solution.

On the one hand, foreign investors absolutely need the assurance that they have the freedom to repatriate their capital. At the same time, governments have legitimate concerns about the negative effects of rapid withdrawal of capitals in times of crisis, concerns which came to the forefront in the financial crisis in Asia in 1997.

The Agreement prohibits capital controls and even makes them subject to investor lawsuits. But at the same time, it establishes guidelines which have the effect of limiting the specific instances of potential liability. This is a balance that acknowledges concerns on both side and could well serve as a model for other countries.

In discussing international investments, I should mention the importance of access to international arbitration. Access to arbitration guaranteed by Free Trade Agreements or Bilateral Investment Treaties is critical. Citigroup is strongly opposed to proposals that would limit our access, and others, to international arbitration.

The U.S.-Chile Agreement also provides important new opportunities for the U.S. financial service industry. It will ensure the absence of discrimination and provide most-favored nation treatment. It will permit U.S. banks and insurance companies to establish branches and subsidiaries in Chile with very limited exceptions.

Of particular significance is the liberalization of foreign investment by managers of funds for Chile's pension program.

Financial services, obviously, is not the only sector to benefit from the new agreements. New and expanded trading opportunities are created for sectors, including express delivery, healthcare, telecommunications, information technology, transportation, travel, and tourism.

With regard to intellectual property rights protection, the Singapore and Chile FTAs break new ground and shore up standards that the Ameircan high technology industry deems essential for marketing its products abroad.

The precedent that these agreements set for future bilateral and multilateral trade agreements in IPR protection warrants our support.

Both the Singapore and Chile FTAS also contain an e-commerce chapter that is truly pioneering. But I want to highlight one general aspect of these agreements, and that is transparency. Transparency is not the type of issue that typically wins much attention, but it is vital to being able to do business on a level playing field. Under the new bilateral's regulatory authorities must use open and transparent administrative procedures. We hope to see this approach taken forward into the WTO.

As you can see from this brief overview, there are many reasons that both Citigroup and the U.S.-Singapore FTA Business Coalition to support these agreements. Their adoption by Congress will send an important signal to our trading partners that we intend to lead the world in rules-based, comprehensive trade liberalizing agreements.

Thank you, Mr. Chairman.

Senator THOMAS. Thank you, sir.

Ms. Polaski.

[The prepared statement of Mr. Shafer appears in the appendix.]

STATEMENT OF SANDRA POLASKI, SENIOR ASSOCIATE, CARNEGIT ENDOWMENT FOR INTERNATIONAL PEACE, WASHINGTON, DC

Ms. POLASKI. Thank you, Mr. Chairman.

My name is Sandra Polaski. I am a senior associate at the Carnegie Endowment for International Peace. Previously I was the special representative for International Labor Affairs at the U.S. Department of State where I had the pleasure to serve both Secretary Albright and Secretary Powell. In that capacity I negotiated the labor issues in the U.S.-Jordan Free Trade Agreement.

Thank you for the opportunity to comment on the labor provisions now in the U.S.-Singapore and U.S.-Chile FTAs.

I believe that the appropriate basis for evaluating labor provisions of trade agreements is whether those provisions are likely to be affected in protecting labor rights in the specific countries par-

ties to the agreement. They should not be evaluated in terms of whether they form a precedent or a template for other negotiations.

The important differences in labor practices between our many trading partners make it unlikely that any single model could be useful and effective in all situations.

The approach taken in these two agreements, as you know, is that the countries make a binding commitment to effectively enforce their own labor laws. This approach can protect and reinforce labor rights and be a meaningful trade discipline where, and only where, the country's labor laws are already adequate. Otherwise, we risk accepting and even locking in low labor standards through our trade agreements.

My evaluation is that on balance the labor provisions of both the U.S.-Singapore and U.S.-Chile FTAs. constitute an acceptable approach to protecting labor rights in these two countries. I come to that conclusion based on a familiarity with the labor laws and practices of both countries.

Both Singapore and Chile have labor laws that, while not perfect by any means, gives protection to workers' basic rights that is roughly comparable to U.S. levels of protection. At the same time, both Singapore and Chile enforce their labor laws with reasonable vigor. And finally, both Singapore and Chile are societies that function under the rule of law, with administrative mechanisms and backup judicial enforcement system if primary enforcement fails.

This is critically important in distinguishing between these two agreements and the one that is currently being negotiated between the U.S. and five Central American countries, for example. In the countries involved in the CAFTA talks, there are serious flaws in the labor laws that effectively deny workers there one or more of their most basic internationally recognized labor rights. In the majority of those countries labor law is not effectively enforced and the judicial systems are ineffectual or corrupt in several of the countries. An approach like that taken with Singapore and with Chile would not protect labor rights in Central America in any meaningful way.

I urge this committee to insure that the Administration makes the meaningful reports that are required under the Trade Act of 2002 on the very differing labor situations in the countries that are chosen for free trade talks, and that you urge USTR to make appropriate distinctions between countries and then to negotiate suitable labor terms that provide real protection of labor rights based on the reality in each country.

Let me mention very briefly two other aspects of these agreements that I think deserve attention, and they are developed further in my written testimony and we would be happy to address in the question period.

First, I think that the decision of U.S. negotiators to limit the availability of dispute settlement solely to the commitment to effectively enforce labor laws was a mistake. In the U.S.-Jordan FTA, we intentionally made all aspects of the labor chapter subject to dispute settlement. I think the limitation in the Singapore and Chile agreements is a weakness that is not suitable as a precedent for future U.S. trade agreements.

I hope that the members of this committee will revisit this issue and I urge the Administration to use the Jordan approach in future agreements, including CAFT, by making all provisions of the labor chapter like every other chapter of our trade agreements subject to dispute settlement.

Finally, I would point out that in the U.S.-Singapore FTA the integrated sourcing initiative has significant labor ramifications. Third party countries that benefit from this provision take on none of the obligations of the agreement, including those like labor rights that embody a carefully forged consensus on trade policy in the U.S. This is not a theoretical problem.

In the export processing zones of Bintan and Batam Islands in Indonesia, that will be beneficiaries, there have been widespread violations of basic labor rights reported both by the State Department and by local organizations there.

The ISI could extend access to U.S. markets to countries with even worst labor problems, such as Burma and Meimar. The ISI is a bad idea that weakens U.S. trade policy by allowing investors, based on their production and sourcing decisions, to decide which countries will gain advantages with the U.S. without those countries taking on any of the obligations of those trade agreements.

I urge members of the committee to use the implementing legislation to close this loophole created by the ISI, and also to press the Administration not to replicate this approach in any future trade agreement.

Thank you very much, Mr. Chairman.

Senator THOMAS. Thank you.

[The prepared statement of Ms. Polaski appears in the appendix.]

Senator THOMAS. Ms. Polaski, do you support the creation of the Labor Affairs Council in the Chile agreement?

Ms. POLASKI. Absolutely. I think that the cooperative mechanisms that were created in both agreements are very helpful and are likely to produce good results.

Senator THOMAS. All right. Thank you.

Mr. Shafer, how significant are the provisions in Singapore liberalizing trade and banking services? Are these temporary entry provisions agreeably important to your companies?

Mr. SHAFER. They are important to the banking companies. The right of establishment and giving them new licenses is, of course, not as important to Citigroup because we are there. But it certainly will be potentially to other U.S. banks. And certainly the provisions to allow freer branching and the access to the ATM network are vitally important to our firm as well.

Senator THOMAS. Mr. Jarrett, sometimes you hear that in the high tech business as we work with other countries there is an inclination then to export much of our manufacturing and so on to other places. How do you react to that?

Mr. JARRETT. Well, I can——

Senator THOMAS. Do we lose then our business from here to go somewhere else?

Mr. JARRETT. Well, to some extent you will see companies putting facilities around the world to serve markets around the world. You really cannot expect to have 50 to 70 percent of your sales overseas and not have any manufacturing facilities overseas. But

I think in the case of Intel, for example, what we are seeking is a real balance between that and domestic production.

We have spent about $6 billion here in the last few years on new factories, and most of them have been in the United States, in Arizona, New Mexico, and Oregon. We are also expanding in Ireland. So, it is a balance that you want to achieve so that U.S. companies can effectively reach a world market because that is how they are going to be really competitive for the long term if they can reach those markets and be competitive and provide jobs for people back here as well as overseas. Senator THOMAS. Good.

Mr. Sorensen, apparently without FTA exports to Chile have declined over the last 3 years. How have the trade services fared in that in Chile recently?

Mr. SORENSEN. The trend has been flat. I think the free trade agreements, Mr. Chairman, will help services become much more of a force with regard to the Chilean balance in services. Just as an example, all of the pension and asset management and mutual fund regulations which existed and exist in Chile prior to the enactment of this agreement, 70 to 80 percent of those non-trade barriers, if you will, will disappear. So that fund management companies, American asset management companies, pension companies such as the principal will be unable to achieve a return on par. So, without speaking to what numbers we might expect that flatness in that service balance would certainly improve.

Senator THOMAS. Thank you all very much for being here. We appreciate your input and hope that we can move forward from here. Thank you.

We will now ask our third panel to come forward. Larry Leibenow, President and CEO of the Quaker Fabric Corporation, on behalf of the U.S. Chamber of Commerce; Jon Caspers, from Iowa, on behalf of the National Pork Producers Council; Keith Schott, Bar Four F Ranch, Broadview, Montana; David Johnson, Executive Vice President and General Counsel, Warner Music Group, on behalf of the Entertainment Industry Coalition for Free Trade; and Paul Joffe, Senior Director for International Affairs for the National Wildlife Federation.

Mr. Caspers, why don't we begin with you, sir.

STATEMENT OF JON CASPERS, PLEASANT VALLEY PORK CORPORATION, SWALEDALE, IOWA, ON BEHALF OF THE NATIONAL PORK PRODUCERS COUNCIL

Mr. CASPERS. Thank you, Mr. Chairman. I am Jon Caspers, President of the National Pork Producers Council and a pork producer from Swaledale, Iowa. I operate a nursery-to-finish operation, marketing 18,000 hogs per year.

In 2002, U.S. pork exports set another export record. Much of the growth in U.S. pork exports is directly attributable to a new and expanded market access through recent trade agreements. However, as the benefits of the Uruguay Round and the North American Free Trade Agreement begin to diminish, the negotiation of new trade agreements becomes paramount to the continued growth and profitability of U.S. pork producers. While the WTO negotiations clearly offer the single largest opportunity to increase exports,

the bilateral and regional negotiations also offer significant opportunity.

We are pleased that the U.S.-Chile Free Trade Agreement is now signed and we support that agreement. The U.S.-Chile Free Trade Agreement will bring great opportunities to U.S. pork producers.

Mr. Chairman, I want to thank Senator Grassley for his personal involvement in helping pork producers achieve this great resolve, and, Mr. Chairman, I also want to thank yourself, Senator Baucus and other members of this committee who have worked to make market access for U.S. meat in Chile a reality. I also want to thank U.S. Trade Representative, Robert Zoellick, U.S.T.R. Chief Agriculture Trade Negotiator, Allen Johnson, Secretary of Agriculture, Ann Veneman, and their staffs for their tireless efforts on our behalf.

Mr. Chairman, as you and other Members of this committee recognize, when U.S. pork producers are given fair access to foreign markets it is a win-win situation. Our producers win because we have a new market in which to sell our product. Prices rise in the short term while jobs are created and value is added in the industry in the long term. Consumers in foreign markets win because they have a safe, high-quality, and affordable alternative to the status quo. We could not have had a better outcome in Chile. All tariffs on pork and pork products will immediately be eliminated up implementation of this agreement. And equally, if not more important, the sanitary issues that restricted U.S. pork exports to Chile were resolved. A Sanitary-Phytosanitary working group of U.S. and Chilean SPS officials was established to handle the non-tariff issues. As a result of the work of the SPS group, Chile now recognizes USDA's meat inspection system as equivalent to its own, and pork can now be exported to Chile from any USDA-approved facility.

This important precedent of taking great care to ensure that non-tariff measures are discussed and resolved alongside of tariff negotiations, is a precedent that I hope will be followed in all the other ongoing bilateral and regional trade negotiations. Whether the issue is equivalence of the meat inspection system, or non-scientific claims about the transmission of animal disease through meat imports, or problems in the transparency of the import system, or any of the multitude of other measures, these non-tariff trade barriers can be just as stifling and restrictive as a high tariff. Put differently, a free trade agreement that lowers tariffs to zero but does not remove other non-tariff impediments, impediments to trade is of no use to U.S. producers. We need real market access and that is what we are getting in the Chile agreement.

In Chile, our two top global competitors, Canada and the European Union, already have agreements that provide them with preferential tariff rates on pork. Every day that goes by provides these countries another opportunity to export pork and hundreds of other products to Chile with the advantage of a reduced tariff. The sooner that the U.S. Congress is able to approve this agreement the better.

Mr. Chairman, I thank you fox the opportunity to present this statement.

Senator THOMAS. Thank you, sir.

Mr. Schott, please proceed.

[The prepared statement of Mr. Caspers appears in the appendix.]

STATEMENT OF KEITH SCHOTT, BAR FOUR F RANCH, INC., BROADVIEW, MONTANA

Mr. SCHOTT. Mr. Chairman and Members of the committee, thank you for the opportunity to provide testimony on the Free Trade Agreement with Chile. I farm and ranch near Broadview, Montana, located in the southeastern part of the state. My wife and I operate a diversified operation consisting of approximately 3,000 acres of spring wheat, winter wheat, barley, millet, hay and sunflowers. In addition, we run approximately 150 head of beef cattle in a cow/calf operation. I currently serve as the treasurer of the Montana Grain Growers Association, the primary commodity organization representing wheat and barley producers in the state. My testimony today is on behalf of that organization, as well as the Montana Stockgrowers Association.

Agriculture is Montana's number one industry, with cattle, wheat and barley representing nearly $2 billion of income in the state's economy. Agricultural producers in our state, and in turn the entire economy, are very dependent upon exports. In the case of wheat, over 80 percent of Montana's crop is exported, traditionally to Pacific Rim countries. That translates into a third of a billion dollars of income to the state. We are always searching to expand our markets, knowing full well that we operate in a world economy with many competitors. Whether or not we agree with the concept of free trade, it is here to stay. What we need is access to expanding markets through a level playing field. Chile offers one of those expanding markets for Montana and U.S. agricultural products.

I would like to touch on several provisions of the Free Trade Agreement with Chile that have particular benefits for producers in my state.

First, both barley and durum wheat tariffs would immediately go to zero once the agreement is ratified by both countries. In the case of durum, Montana is the number two producers in the United States, with sales valued at over $50 million per year. Canada has traditionally been the primary suppliers of North American durum to Chile. This agreement would put U.S. durum in a very strong competitive position versus Canada. In the case of barley, Montana production is number three in the nation and growing quickly. Barley production is worth over $100 million to the state's economy.

Second, duties on other classes of wheat would be phased down to zero over the next 12 years. The elimination of this duty will make U.S. wheat producers very competitive to sell into Chile. In Montana, we raise four of the six classes of wheat grown in the United States: hard red winter, hard red spring, hard white and durum. As I mentioned earlier, our wheat producers are familiar with selling into export markets and we know how to deliver high quality products to our end use customers. Montana wheat farmers have a lot to offer our Chilean customers.

The third aspect of the agreement that directly affects wheat is the provision that the U.S. will always be on equal footing with

other countries relative to customs duties. If Chile were to sign a free trade agreement with another country, the U.S. customs duties shall be at the same level or less. We obviously feel this is a very important piece of the agreement and represents the "fair playing field" for American agriculture that I have referenced before.

In my opening comments I mentioned that I am also a beef producer. I believe this agreement provides potential benefits for that segment of my operation as well. Chile is the ninth largest importer of beef, purchased almost entirely from its South American neighbors. High quality beef raised in Montana could fill an important niche in the high-end, higher value Chilean beef market.

Perhaps the most important beef provision allows immediate recognition of each other's grading and inspection systems. This reciprocity should greatly reduce the complexity of livestock trade between our two countries.

The agreement also calls for a scheduled reduction of beef tariffs over 4 years, with complete elimination at the end of the period.

Mr. Chairman and Members of the committee, we need to do everything possible to make U.S. farmers and ranchers competitive in the global economy. One of the most important tools is free and fair access to expanding markets. The Free Trade Agreement with Chile will do just that.

Thank you for allowing me to share my comments. I will be happy to answer questions at the appropriate time.

Senator THOMAS. Thank you.

Mr. Johnson.

STATEMENT OF DAVID JOHNSON, EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, WARNER MUSIC GROUP, NEW YORK, NY, ON BEHALF OF THE ENTERTAINMENT INDUSTRY COALITION FOR FREE TRADE

Mr. JOHNSON. Mr. Chairman, on behalf of AOL, Time Warner, the Warner Music Group and the Entertainment Industry Coalition for Free Trade, I appreciate the opportunity to testify about the benefits of the U.S.-Chile and the U.S.-Singapore Free Trade Agreements to America's entertainment industries. Our Coalition represents the interests of Americans who produce, distribute and exhibit creative expressions, including theatrical motion pictures, television programming, home video entertainment, recorded music, and video games. Our members include multi-channel programmers and cinema owners, producers and distributors, guilds and unions, trade association and individual companies.

International markets are vital to our companies and workers, however, Americas creative industries are under attack from piracy. Last year along, the copyright industries lost $9 billion in trade due to piracy. Market access barriers also plague our industries. Both the Chile and Singapore agreements include commitments vital to our Coalition. I will provide some specific examples from the Chile agreement of what makes that agreement so important to our industry.

First, the FTA will help us better protect our intellectual property in Chile while setting critical essential precedence for future free trade agreements. The Chile agreement, like the Singapore agreement, creates clear and binding rules for the protection of in-

tellectual property and the digital economy. It ensures that copyright holders have the exclusive right to control the digital transmission of their works in sound recordings.

As you may know, the record industry is ongoing a seismic change in the manner in which recorded music is, and will be, delivered to the consumer. Ensuring that record companies and performers have an adequate legislative basis for the licensing of music services, and that such rights are enforceable in law and practice, will determine whether the digital revolution in communications technologies will advance, or erode, the production and distribution of recorded music. Much is at stake here, for my company, for copyright industries generally, and for all members of society interested in having access to the many products of cultural expression that will only exist if copyright protection is respected and investments in cultural, educational and other creative endeavors rewarded.

Strong enforcement provisions are essential to intellectual property protection, and the Chilean agreement, again like the Singapore agreement, contains important advances.

The Chile agreement, as with the Singapore agreement, ensures that U.S. audiovisual services will enjoy MFN and national treatment with only limited reservations. Chile's commitments are excellent on audiovisual services where U.S. commercial interests are strongest.

Both the Chile and Singapore agreements offer groundbreaking provisions with respect to the treatment of digital products. Among other things, Singapore and Chile committed to nondiscriminatory treatment of digital products and agreed not to impose customs duties on such products. The Chile agreement, like the Singapore agreement, requires that valuation of content-based products like films, videos or music CDs be based on the value of the carrier media, not on an artificial projection of revenues.

Finally, ETC members seek tariff reductions on the physical products created by our industry and zero duties for the inputs used by industries. Like the Singapore agreement, Chile reduces tariffs to zero on all products essential to our industry. Therefore, on behalf of the Entertainment Industry Coalition we call for Congressional approval of both the Chile and Singapore Free Trade Agreements. Thank you.

Senator THOMAS. Thank you.

Mr. Joffe.

STATEMENT OF PAUL JOFFE, SENIOR DIRECTOR FOR INTERNATIONAL AFFAIRS, NATIONAL WILDLIFE FEDERATION, WASHINGTON, DC

Mr. JOFFE. Mr. Chairman, I am Paul Joffe. I direct the international programs at the National Wildlife Federation. And I appreciate this opportunity to speak to the committee on behalf of the Federation with our members all across the country.

As we look at the Chile and Singapore agreements, we believe that there has been progress in the discussion on trade and the environment, and we appreciate the bipartisan efforts of this committee to move in that direction.

The discussion on these issues now routinely recognizes that trade and environmental safeguards must go forward together. And we also believe that we are on the same page with the committee in believing that the discussion now needs to move from the vocabulary in legislation to results.

To guide this, we offer three principles: reform the rules, include the public, build global consensus to ensure results. And despite some progress on all of those in the Singapore and Chile agreements, we believe that they do fall short on each of those, and therefore, that they should not be a model for the other trade agreements that are on the horizon.

The details on the first two of those points, reform the rules and include the public, are in our written testimony. I would only stress here that we, and highlight, that we believe that the investment provisions in the agreements still need substantial work to correct the flaws in the NAFTA agreement that have been carried forward, and that there is a serious drawback in the agreements in that they do not contain citizen complaint procedures, very modest procedures that were included in NAFTA.

But I would like to focus my remarks today on the third point, how we can build a global consensus for sustainable development and a framework to achieve results.

This committee faces a great opportunity because the need is so great, and yet the tools required to take this on are within reach, on what we think is really a bipartisan and very workable basis.

It is time to recognize that sustainable development is not a luxury for any country on the planet, whether less developed or industrialized. Developing countries have no interest in poisoning their own citizens, and the future of industrialized countries will remain precarious as the global tide of environmental degradation and poverty continue to rise.

For decades, there has been a deadlock on sustainable development with many in developing countries saying they do not have the resources to invest in substainability and with many in industrialized countries saying it is somebody else's responsibility.

The responsibility to break this deadlock does not fall exclusively on any one party. But it is equally true that American leadership is indispensable.

So, we propose that the United States lead the world to a new global compact in which progress on development and environment proceed together. And, Mr. Chairman, we believe that this will make it easier to move trade expansion liberalization forward, because it will gain the confidence of the American public and of the world public.

And so we propose the following steps, which are detailed on page 5 of my testimony.

The United States should promote consensus between the global north and south on trade on investment in the environment through capacity-building, environmental cooperation and technology transfer.

Now, what we have in the Chile and Singapore agreements is a rough draft and a partial draft. Instead of a rough draft what we need is a systematic approach to ensure results. Not the somewhat random projects that the committee has been presented with, but

a systematic threat analysis and a work plan to address those threats.

The Congress would not accept random projects from the Defense Department on how to address the global threats. What we need is a systematic analysis.

And so what we propose here, listed in more detail in the written testimony, is an environmental performance program where trade agreements would be accompanied by a systematic program with specific goals, time tables and funding. Permanent cooperative institutions, technology transfer, which has worked into those plans, adequate funding.

And let me conclude with maybe the most important, which this committee and the Congress are very familiar with, and that is, reporting from the Administration to show what progress has been made and what recommendations are needed for further steps to fill the gaps.

Our laws and policies are beginning to speak the language that recognizes the connection between trade and the environment. We appreciate that. It is now time to move from rhetoric to results. Reasonable and workable steps are available. And we are eager to work with the committee in a bipartisan way to make that a reality.

Thank you, Mr. Chairman.

Senator THOMAS. Thank you.

Mr. Leibenow, welcome.

STATEMENT OF LARRY LEIBENOW, PRESIDENT AND CEO, QUAKER FABRIC CORPORATION, FALL RIVER, MASSACHUSETTS, ON BEHALF OF THE U.S. CHAMBER OF COMMERCE

Mr. LEIBENOW. Thank you for inviting me to appear before you today.

I am Larry Leibenow, President and CEO of Quaker Fabric Corporation. I am also serving as the Chairman of the Executive Committee of the U.S. Chamber of Commerce, and it is on the Chamber's behalf that I am testifying this morning.

The Chamber strongly supports the recently-signed U.S. Free Trade Agreements with Chile and Singapore, and as a businessperson and an individual, so do I.

The U.S. Chamber of Commerce represents nearly 3 million companies of every size, sector and region, and for nearly a century the Chamber has aggressively supported the economic growth of communities throughout the United States. International trade plays a vital part in the expansion of economic opportunities for our members and provide increased job opportunities and better consumer alternatives in cities and towns throughout America. As such, the U.S. Chamber of Commerce is an active and ardent proponent of the expansion of commercially viable free trade agreements with our trading partners around the world.

My company, Quaker Fabric, is a textile manufacturer headquartered in Fall River, Massachusetts, and from its beginnings in 1945 as a small family-owned fabric mill, Quaker has grown to become one of the largest producers of upholstery fabric in the world. International sales, in particular, have helped transform my company from a $95 million company with less than 1000

employees in 1990 to a company with $365 million in sales last year and nearly 3000 employees today,

We decided to build a strong export business at Quaker because 96 percent of the world's consumers live outside of the United States. The conditions in many countries make it harder for companies like mine to sell to those consumers, limiting our opportunities to further increase employment.

The Chile and Singapore Free Trade Agreements will do much for companies like mine to slash barriers to our exports and to enable us to create additional jobs to help keep America strong.

While Chile and Singapore are relatively new markets for Quaker, we are optimistic about our prospects for expanded market share in both countries, assuming that these trade agreements are passed expeditiously.

The agreements will strengthen our position and make Quaker more competitive in the global economy.

Quaker's recent experience in Chile is a case in point, and it is particularly illustrative of the dangers to American business of being left behind in the global trade liberalization process.

In 2001, Quaker was just beginning to make inroads in the Chilean market with over half a million dollars in export sales there of that year. Those sales, however, virtually disappeared in 2002 while we were essentially displaced from the Chilean market amid doubts about the United States' ability to conclude and implement a free trade agreement with Chile. These doubts, coupled with Chile's rapid progress for its implementation of free trade agreements with the European Union and other key U.S. competitors, meant that Quaker began losing market share because we could not compete on an even ground with competitors whose nations were about to benefit from preferential trade agreements with Chile.

Fortunately, conclusion of the U.S.-Chile Free Trade Agreement in December, 2002, has enabled Quaker to begin to recapture growth in its business in Chile, progress that would likely be lost should Congress now fail to approve the agreement.

In a similar story we told in Singapore, where Quaker has been competitive and sees significant growth potential, passage and implementation of the U.S.-Chile and the U.S.-Singapore Free Trade Agreements will allow us to expand our market share in these new and exciting markets more rapidly.

Most of the 42 countries that Quaker sells to are already committed to reasonably open markets. Otherwise, we could not have sold our products there. But the main point of trade agreements is to improve our trade opportunities. This includes lower tariffs and non-tariff barriers to trade, fewer trade restrictions, stronger protection of property rights, including intellectual property rights, which are a critical issue for my business and countless other businesses like mine, expanded trade and services in electronic commerce, and greater flexibility for movement of professional personnel.

The Chile and Singapore agreements include a number of provisions that will be of great value to companies like mine. And these benefits are summarized in the written statement that I have presented to you.

By implementing these agreements, Congress will send an important message that goes beyond Chile and Singapore. This message will say to the world that we are back in business and committed to reaching fair trade agreements that benefit U.S. business and U.S. workers.

The Chile and Singapore agreements are important steps in our Nation's continuing journey toward increased trade, jobs and prosperity. They serve as important examples for other countries and regions with which we share these goals. They will also enable our trade negotiators to hang tough with other countries as we push for them to open up their markets. Therefore, I urge the Congress to approve legislation to implement these agreements as soon as possible.

Thank you very much.

[The prepared statement of Mr. Leibenow appears in the appendix.]

Senator THOMAS. Thank you, sir. I am glad you were able to be here.

It is interesting I think, when you talk about trade-off and agriculture and fabric fiber are the ones that seem most concerned often. And it is kind of interesting.

Mr. Joffe, as you know, there are no amendments to this. The Congress either accepts it or does not. Do you think we would have achieved agreement to the projects that you talked about had we not entered into a free trade agreement with Chile? Did we make some progress because of this agreement, even though you are not quite satisfied with the extent?

Mr. JOFFE. Well, we think that more progress could have been made. Some of the progress that has been made might have been made without a trade agreement. But we are glad that——

Senator THOMAS. That it had not been made.

Mr. JOFFE. Excuse me.

Senator THOMAS. It had not been made, however. Is that correct?

Mr. JOFFE. Well, this has been an opportunity to make some additional progress. We are glad of that.

Senator THOMAS. I guess my question is, what progress was made in your area prior to having a trade agreement?

Mr. JOFFE. Well, Chile is a signatory on various international environmental agreements.

Senator THOMAS. I see.

Mr. JOFFE. The U.S. has relations with Chile on the environment outside of the context of trade agreements. But I am not disagreeing with the Chairman that this has added a peace.

We do believe that the issues that we have raised can be addressed even in the context of a no amendment scenario by providing guidance to the Administration and also through separate pieces of legislation.

Senator THOMAS. All right. Thank you.

Mr. Johnson, in your written testimony you state that enforcement is essential, of course, to the meaningful intellectual property protection. How do you view the enforcement provisions in these agreements?

Mr. JOFFE. Very positively. In our industry it is enforcement in two areas. It is the physical goods and the on line transmission

world. And in both areas there are solid enforcement provisions. As I said earlier in the on line world, you have expanded copyright protection. It is making clear the exclusive rights of copyright holders. And both types of enforcement, physical and on line, have mechanisms in this legislation.

Senator THOMAS. I see. Good.

Mr. Schott, as you move livestock and so on with mad cow and these other kinds of things, is country of origin defining that and labeling that going to make an impact on movement of, for instance, beef from the United States?

Mr. SCHOTT. Yes, I believe it would, Mr. Chairman.

Senator THOMAS. So, do you favor that?

Mr. SCHOTT. Yes, I do.

Senator THOMAS. It is interesting, particularly since I come from an agricultural state also. And because of the law, I guess we talk about free trade. What does free trade mean as opposed to all the regulations that go in trade? Is free trade sort of a definition that confuse people a little? Mr. Schott. I don't know if it would be a definition as more as it reduces tariffs. So it gives us better accessibility to markets. It puts us on, as stated in my testimony, the idea of playing on a level playing field.

Senator THOMAS. I agree with that. I just think that sometimes the term is a little bit misleading, in that when you say "free" that sounds that nothing is involved in terms of regulations or in terms of things you have to do, which has not exactly been the case.

Mr. SCHOTT. Right. Exactly. But I guess the main point is that we are now level with our other countries, or with the other countries going into Chile.

Senator THOMAS. Level is a different word. I had gotten in some trouble with that in the newspaper because I was talking about the free trade agreement and they wanted a fair trade agreement and so on. At any rate, it is interesting.

Mr. Caspers, does this remove the non-tariff restrictions as well? I mean, are there still non-tariff restrictions in terms of your products?

Mr. CASPERS. I think one of our key concerns—and I commented on this in my written testimony—in a lot of trade agreements, and especially with some difficulties we have seen in some of the other countries within Mexico on pork products and pork, for example, where you can have other barriers to trade that become thrown up. And as we see tariffs come down in free trade agreements, generally, by some scheduled or phase in period, you see more and more attempts to restrict access to those markets by other means. And that is a great concern.

Now, in the Chilean Free Trade Agreement, certainly the simultaneous negotiation of sanitary provisions affecting this, the agreement up front that they will accept our inspection system, as equivalent I think is paramount to making sure that we have free and open access to that market. It is extremely important. I think it sets a good precedence that we negotiate those things alongside the tariff negotiations that go on in the free trade agreement. Certainly, that is positive for our industry.

Senator THOMAS. Just for information, what is the condition of pork products? I mean, are they retail cuts? Are they on the rack? How do they move?

Mr. CASPERS. Well., all of those things vary phenomenally from market to market across the country. A lot of what is actually traded for products varies from certainly prices of different products relative to prices for those same products in other countries. Some products are held at higher values in one country than another. Certainly there is a lot of trade back and forth that occurs before that.

Senator THOMAS. But are they shipped as carcasses ox are they shipped as retail cuts? What condition are pork products in?

Mr. CASPERS. Generally, all of the above.

Senator THOMAS. Really?

Mr. CASPERS. Really.

Mexico, one of our closest and major markets here we ship some carcasses, but in recent time have shipped a lot of hams. Ham is probably the largest market. A lot of that moves to Mexico.

Senator THOMAS. So, some of it is processed here.

Mr. CASPERS. Well, more fresh hams and things like that. But we are very competitive in that market and there is a significant demand down there for that product.

Senator THOMAS. Good.

Mr. Leibenow, we have been at a competitive disadvantage, as you indicate, with Europe and others because of the European Union and so on. How quickly do you anticipate a turnaround when this is put into place?

Mr. LEIBENOW. Well, I think in the case of Chile what we saw was that the adverse turnaround happened even before the agreement with Europe was put in place, as our customers in Chile began to understand that the United States, because of the lack of TPA fast track, was not going to be able to move forward with this agreement, and meanwhile there were clear indications that the Europeans were definitely moving forward. And so what happened, given that product that is purchased today in our industry is usually sold for a number of years. There was a transfer of purchases to suppliers out of Europe that took place prior to the implementations agreement with Europe. And, conversely, we are already seeing, now that there is widespread expectation in Chile, that there will be the free trade agreement with Chile. And I just returned a couple of weeks ago from a visit to Chile.

What we are seeing already is that our customers are now moving back to us because we do have, I believe, a superior product and a superior service capability to the Chilean market. We have a person on the ground that is covering both Argentina and Chile, as well as a staff in Sao Palo. So we are there at hand. And we believe that we are already beginning to see the benefits of the anticipated agreement with Chile and, therefore, I think that the turnaround factor will be very quick.

Senator THOMAS. Interesting.

One of the groups that we hear from the most on trade are the fabric simply because of the cost of labor, apparently, particularly in the Carolinas and so on. So, it is interesting that you have been able to export and to compete.

Mr. LEIBENOW. Well, I think it is not different from any other segment of U.S. industry. I think that what happened, unfortunately, in the textile industry is that the industry was so significantly protected for such a long period of time that the reality of being forced to compete in the global marketplace came more recently, in general, to the textile industry than it came to most U.S. industry.

And the keys are really the same. We have to offer something that is a differentiated product, the reason for people to buy it, that goes beyond just the cost of labor. And we can do that. We cannot make a commodity product and expect to compete with low cost producers in other parts of the world. And we moved increasingly away from that and forced ourselves from about the beginning of 1990 to be present in the international market. And we have offices around the world, and are absolutely committed that the most significant part of our growth is going to have to come from the international market because that is where the consumers are. And it is our job to figure how to do that. And we can do it with the help of the kinds of agreements that we are talking about here with Chile and Singapore. NAFTA has been extraordinarily beneficial to us. The Free Trade Area of the Americas is something else that would also be extraordinarily beneficial to us in terms of having good equal access to important marketers.

Senator THOMAS. Thank you.

Well, I think it is very important, not only because of these two arrangements that will be made. But certainly it has something to do with what we do in Asia in the future ASEAN and all those countries, as well as the Free America things. So this is sort of a patchwork for direction that we will be taking I think in many others.

I would just remind the panel that the record will remain open until 5:00 o'clock tomorrow. If the witnesses have any response to anything they would like to add they can do that.

I particularly want to thank you for being here. I know this is a tough time for ranchers and farmers to be away from home, and we appreciate that. And I hope you are getting some moisture in Montana.

This committee also has jurisdiction, as you know, over the health care and the pharmaceuticals, and I think that most of our Members are on the floor today as this is the first day for real debate on that bill.

So, thank you all for being here. We appreciate it very much. The hearing is adjourned.

[Whereupon, at 11:54 a.m., the hearing was concluded.]

APPENDIX

PREPARED STATEMENT OF HON. PETER F. ALLGEIER

INTRODUCTION

Mr. Chairman, Mr. Baucus, and Members of the Committee, thank you for the opportunity to testify today and for your continued guidance and support. Ambassador Zoellick and I greatly appreciate your leadership on trade issues, Mr. Chairman and Mr. Baucus, and we value our partnership with the Congress on these important matters.

Without the help of the Members of this Committee and excellent staff, I would not have the privilege of testifying here today on the U.S.-Singapore and U.S.-Chile Free Trade Agreements (FTAs). During the past two years, we have worked together to reenergize the U.S. trade agenda. Passage of the Trade Act of 2002 (Trade Act), including Trade Promotion Authority (TPA), was a major turning point in that effort, which will lead to economic benefits for all Americans and many others around the world.

The Administration has used TPA to launch major new trade initiatives designed to expand trade and open markets globally, regionally and bilaterally. We initiated new WTO negotiations in Doha and have since presented bold proposals in agriculture, industrial products and services. We have FTA negotiations underway with Australia, Central America (CAFTA), Morocco, and the South African Customs Union (SACU). We have announced our intent to begin negotiations on an FTA with Bahrain early next year. We have also launched the President's Enterprise for ASEAN Initiative and a Middle East trade initiative. We will not stop there.

I welcome this opportunity to review the accomplishments of the FTA and present the Administration's request for favorable consideration of legislation needed to implement the FTA later this year. Attached to my testimony are summaries of the main provisions of each agreement.

The U.S.-Singapore and U.S.-Chile FTAs reflect a bipartisan effort to conclude trade agreements with two important trading partners. Both agreements were launched under the Clinton Administration—with Singapore in November 2000 and with Chile in December 2000—and concluded under the Bush Administration. President Bush and Singaporean Prime Minister Goh signed the U.S.-Singapore FTA on May 6, 2003, at the White House. Ambassador Zoellick and Chilean Foreign Minister Alvear signed the U.S.-Chile FTA on June 6, 2003, at the Vizcaya Mansion in Miami.

U.S.-SINGAPORE FTA

The U.S.-Singapore FTA is a solid agreement. It is the first FTA President Bush has signed with any country and our first with an Asian nation. This Agreement provides commercial and political benefits for both the United States and Singapore. Strengthening economic ties helps secure strong political interests.

The U.S.-Singapore FTA will enhance further an already strong and thriving commercial relationship. Singapore was our 12th largest trading partner last year. Annual two-way trade of goods and services between our nations exceeded $40 billion. Expanding this trade will benefit workers, consumers, industry and farmers. Independent analyses found significant economic gains will result from the FTA for the United States and Singapore.

The FTA is comprehensive in scope and covers aspects of trade in goods, services, investment, government procurement, protection of intellectual property, competition policy and the relationship between trade and labor and environment. This FTA builds upon the basic foundation of the NAFTA and WTO agreements and improves upon them in a number of ways. The U.S.-Singapore FTA can serve as the founda-

tion for other possible FTAs in Southeast Asia. President Bush envisaged this prospect when he announced his Enterprise for ASEAN Initiative (EAI) last year.

The Administration looks forward to working with Congress on the legislation needed to implement this FTA. We hope to be in a position to submit this legislation after further work with the Congress.

U.S.-CHILE FTA

The U.S.-Chile Free Trade Agreement is a state-of-the-art agreement, setting the stage for further trade integration in the hemisphere.

It makes sound economic sense for the United States to have a free trade agreement with Chile. Although Chile was only our 36th largest trading partner in goods in 2002 (with $2.6 billion in exports and $3.8 billion in imports), Chile has one of the fastest growing economies in the world. Its sound economic policies are reflected in its investment grade capital market ratings, unique in South America. Over the past 15–20 years, Chile has established a vigorous democracy, a thriving and open economy built on trade, and a free market society. A U.S.-Chile FTA will help Chile continue its impressive record of growth, development and poverty alleviation. It will help spur progress in the Free Trade Area of the Americas, and will send a positive message throughout the world, particularly in the Western Hemisphere, that we will work in partnership with those who are committed to free markets.

SUPPORTING OUR EFFORTS TO EXPAND TRADE WORLDWIDE

Last October, President Bush announced the Enterprise for ASEAN Initiative (EAI) in recognition of this important region. The EAI offers the prospect of FTAs with individual ASEAN nations, leading to a network of FTAs in the region. The U.S.-Singapore FTA can serve as the foundation for these other possible FTAs. The ASEAN includes the largest Muslim country in the world—Indonesia—as well as other countries with large Muslim populations, including Malaysia, the Philippines and Brunei.

The President is committed to making progress under the EAI as a framework for deepening our trade and investment relationship with ASEAN. The United States expects a potential FTA partner to be a member of the WTO and to have a Trade and Investment Framework Agreement (TIFA) with the United States. Since announcement of this initiative, the United States has signed TIFAs with Thailand and Brunei. The trade ministers of these countries, as well as Philippines and Indonesia, with which the United States already has TIFAs, have met regularly to address specific bilateral issues and coordinate on regional and multilateral issues.

Likewise, the conclusion and signing of the Chile FTA has provided momentum to other hemispheric and global trade liberalization efforts by breaking ground on new issues and demonstrating what a 21st century trade agreement should be. We continue to move forward with the centerpiece of our hemispheric integration strategy, the Free Trade Area of the Americas (FTAA). We maintain our strong commitment to the negotiation of a broad and robust FTAA by January of 2005.

The U.S.-Chile FTA and the Central American Free Trade Agreement (CAFTA) will serve as building blocks for the FTAA. They will give both sides greater access to each other's markets at an earlier date than is possible under the FTAA. At the same time, these bilateral FTAs strengthen ties and integration, demonstrating the additional benefits available through the FTAA.

CONCLUSION

The U.S.-Singapore and U.S.-Chile FTAs are the most comprehensive and up-to-date trade agreements the United States has concluded. These FTAs command widespread support in the private sector and makes progress in achieving each of the relevant objectives, purposes, policies and priorities that the Congress identified in the Trade Act.

With continued Congressional guidance and support, this Administration is pursuing an ambitious and comprehensive trade policy. We will continue to move forward bilaterally, regionally, and globally. Together, we can show the world the power of free trade to strengthen democracy and promote prosperity.

The Administration looks forward to working with this Committee and the full Congress in enacting the legislation necessary to implement these Agreements. Thank you, Mr. Chairman. I would be pleased to respond to questions.

Market Access for Services

Singapore is one of the world's most sophisticated services economies, and a services hub for the fast-growing Southeast Asian region. The U.S.-Singapore FTA will accord substantial market access to U.S. firms across the entire spectrum of services, subject to very few exceptions. The FTA uses a so-called "negative list" approach, in which all service sectors are liberalized unless a specific reservation is taken in the Agreement. This technique, which we successfully used in the NAFTA, provides for maximum liberalization of services markets.

Singapore will treat U.S. services suppliers as well as its own suppliers or other foreign suppliers, and U.S. services firms will enjoy fair and non-discriminatory treatment. Such nondiscrimination will be achieved through strong disciplines on both cross-border supply of services (such as those delivered electronically, or through the travel of services professionals across borders) as well as the right to invest and establish a local services presence.

Importantly, services market access is supplemented in this FTA by strong and detailed disciplines on regulatory transparency. U.S. services suppliers have found that market access commitments may be less meaningful without parallel commitments by trading partners to regulatory transparency. Under the FTA, Singaporean services regulators must use open and transparent administrative procedures, consult with interested parties before issuing regulations, provide advance notice and comment periods for proposed rules, and publish all regulations.

New market access commitments apply across a broad range of sectors, including, but not limited to, banking, insurance, securities and related services; computer and related services; direct selling; telecommunications services; audiovisual services; construction and engineering; tourism; advertising; express delivery; professional services (architects, engineers, accountants, etc.); distribution services, such as wholesaling, retailing and franchising; adult education and training services; environmental services; and energy services. U.S. firms also have the ability to own equity stakes in entities that may be created if Singapore chooses to privatize certain government-owned services.

Some achievements of the FTA in certain services sectors are highlighted below.

Banking: The financial services chapter includes core obligations of non-discrimination, most-favored nation treatment, and additional market access obligations. Singapore's current ban on new licenses for full-service banks will be lifted within 18 months, and lifted within three years for "wholesale" banks that serve only large transactions. Licensed full-service banks will be able to offer all their services in Singapore at up to 30 locations in the first year that the agreement is in effect, and at an unlimited number of locations within two years. Locally incorporated subsidiaries of U.S. banks can apply for access to the local Automated Teller Machine (ATM) network within two-and-a-half years, and branches of U.S. banks get access to the ATM network in four years.

Insurance: Under the FTA, U.S. insurance firms will be able to establish subsidiaries, branches or joint ventures. Singapore is expanding the cross-border insurance services it allows, and U.S. firms will be able to sell marine, aviation and transport (MAT) insurance, reinsurance, to provide insurance brokerage of reinsurance and MAT insurance, and to provide insurance auxiliary services. A new principle of expedited availability of insurance services in the FTA means that prior regulatory product approval will not be required for all insurance products other than life insurance, Central Provident Fund related products, and investment-linked products sold to the business community. Expedited procedures will be available in other cases when prior product approval is necessary. The FTA specifies that U.S. financial institutions may offer financial services to citizens participating in Singapore's privatized social security system under more liberal requirements.

Securities and Related Financial Services: The FTA specifies that U.S. firms may provide asset/portfolio management and securities services in Singapore through the establishment of a local office, or by acquisition of local firms. In addition, U.S. firms may supply pension services under Singapore's privatized social security system, with liberalized requirements regarding the number of portfolio managers that must be located in Singapore. And U.S.-based firms may sell portfolio management services via a related institution in Singapore. Under the FTA, Singapore will treat U.S. firms the same as local firms for the cross-border supply of financial information, advisory and data processing services.

Express Delivery Services: The FTA contains important provisions relating to express delivery services. It provides for liberalization of express delivery

services and other related services (that are part of an integrated express delivery system) that will allow a more efficient and expedited express delivery business in Singapore. Singapore also commits that it will not allow its postal service to cross-subsidize express letters in an anti-competitive manner with revenues from its monopoly services.

Professional Services: The FTA specifies that Singapore will ease restrictions on U.S. firms creating joint law ventures to practice in Singapore, and will recognize degrees earned from certain U.S. law schools for admission to the Singapore bar. Singapore will reduce onerous requirements on the make-up of boards of directors for architectural and engineering firms. And capital ownership requirements for land surveying services will be eliminated. In addition, the FTA liberalizes the requirements for registration and certification of patent agents. Provisions of the FTA also call for cooperation in developing standards and criteria for licensing and certification of other professional services providers.

Telecommunications: The FTA contains a full range of market access commitments on telecommunications services, consistent with the regulatory regimes of the U.S. and Singapore. For example, users of the public telecommunications network are guaranteed reasonable and non-discriminatory access to the network. This prevents local firms from having preferential or "first right" of access to telecommunications networks. The FTA also provides U.S. phone companies with the right to interconnect with networks in Singapore in a timely fashion, on terms, conditions, and cost-oriented rates that are transparent and reasonable. And the FTA grants U.S. firms seeking to build a physical network in Singapore non-discriminatory access to buildings that contain telephone switches and submarine cable heads. U.S. firms will be able to lease lines on nondiscriminatory terms and to re-sell telecom services of Singaporean suppliers to build a customer base. Importantly, the FTA includes transparency requirements for the rulemaking procedures of Singapore's telecom regulatory authority, and requires publication of inter-connections agreements and service rates. Singapore commits that when competition emerges in a telecom sector, that area will be deregulated. The agreement also specifies that companies, not governments, will make technology choices, particularly for mobile wireless services, thus allowing firms to compete on the basis of technology and innovation, not on government-mandated standards.

Trade in Goods and Agriculture: Tariffs Eliminated

U.S. tariffs on 92% of Singapore's exports of goods will be eliminated immediately upon entry into force of the Agreement, with remaining tariffs phased out over 4–10 years. Singapore guarantees zero tariffs immediately on all U.S. products.

Textiles and apparel will be duty-free immediately if they meet the Agreement's "yarn-forward" rule of origin, which will promote new opportunities for U.S. and Singaporean fiber, yarn, fabric and apparel manufacturing industries. A limited yearly amount of textiles and apparel containing non-U.S. or non-Singaporean yarns, fibers or fabrics may also qualify for duty-free treatment.

Extensive monitoring and anti-circumvention commitments—such as reporting, licensing, and unannounced factory checks—will ensure that only Singaporean textiles and apparel receive tariff preferences under the Agreement.

Electronic Commerce: Free Trade in the Digital Age

No previous U.S. free trade agreement contains such cutting-edge provisions on digital trade as the proposed FTA with Singapore. The United States and Singapore agreed to provisions on electronic commerce that reflect the issue's importance in global trade, and the principle of avoiding barriers that impede the use of electronic commerce.

For example, the Agreement establishes explicit guarantees that the principle of nondiscrimination applies to digital products delivered electronically, such as software, music, images, videos, or text. This will provide fair treatment and protection to U.S. firms that deliver such digital products via the Internet. The FTA also establishes a binding prohibition on customs duties charged on digital products delivered electronically. For digital products delivered on hard media (such as a DVD or a CD–ROM), customs duties will be based on the value of the media (e.g., the disc), not on the value of the movie, music or software contained on the disc.

The FTA also affirms that any commitments made related to services also extend to the electronic delivery of such services, such as financial services delivered over the Internet. This sets a very good precedent for U.S. services liberalization efforts in the WTO and in other FTAs.

Investment: Important Protections for U.S. Investors

The Agreement will improve the bilateral investment climate and provide important protections for investors, and is also consistent with the objectives regarding investor-state dispute settlement in the Trade Act. Given the large stock of U.S. investment in Singapore, the protections of the FTA are extremely important and provide assurances for the future growth of two-way investment.

The FTA will provide a secure, predictable legal framework for U.S. investors operating in Singapore. All forms of investment are protected under the Agreement. The Agreement guarantees U.S. investors treatment no less favorable than Singaporean investors or any other foreign investor, except in certain sectors that are specifically exempted. This so-called "negative list" approach is the most comprehensive way to protect the interests of U.S. investors in Singapore.

Among the rights afforded to U.S. investors under the Agreement are the right to make international transfers related to an investment, protections related to expropriation and due process that are consistent with U.S. law, and freedom from certain performance-related restrictions and requirements.

The investor protections are backed by an effective, impartial procedure for dispute settlement that is fully transparent. Submissions to arbitral panels and arbitral hearings will be open to the public, and interested parties will have the opportunity to submit their views.

Intellectual Property Rights (IPR): Setting New High Standards

The U.S.-Singapore FTA provides for a very high level of IPR protection, including state-of-the-art protections for trademarks and digital copyrights, as well as expanded protection for patents and undisclosed information. These are supported by tough penalties for piracy and counterfeiting, including procedures for seizure and destruction of counterfeit products, the equipment used to produce counterfeit products, and the establishment of statutory and actual damages for violations. Singapore will accede to international Internet treaties, extend the term of protection for copyrighted works, and maintain criminal penalties for circumvention of technology protection measures and for trade in counterfeit goods.

The rising global level of trade in counterfeit goods calls for strong provisions to combat such illegal trade. The FTA gives effect to the trademark law treaty and the joint recommendation on protection of well-known marks, ensuring that all trademarks can be registered in Singapore and that licensees will no longer have to register their trademark licenses to assert their rights in a trademark. More specific information on the Agreement's IPR provisions is below.

Trademarks: The FTA ensures government involvement in resolving disputes between trademarks and Internet domain names, which is important to prevent "cyber-squatting" of trademarked domain names. It applies the important principle of "first-in-time, first-in-right" to trademarks and geographical indicators (place-names) applied to products. This means that the first to file for a trademark is granted the first right to use that name, phrase or geographical place-name. Furthermore, the FTA streamlines the trademark filing process by allowing applicants to use their own national patent/trademark offices for filing trademark applications.

Copyrights: The FTA contains provisions designed to ensure that only authors and other copyright owners have the right the make their works available online. Copyright owners maintain rights to temporary copies of their works on computers, which is important in protecting music, videos, software and text from widespread unauthorized sharing via the Internet. The FTA provides that copyrighted works and phonograms are protected for extended terms, consistent with U.S. standards and international trends. And strong anticircumvention provisions will help to limit tampering with technologies (like embedded codes on discs) that are designed to prevent piracy and unauthorized distribution over the Internet.

The FTA requires that governments only use legitimate computer software, thus setting a positive example for private users. Singapore agrees to prohibit the production of optical discs (CDs, DVDs or software) without a source identification code, unless the copyright holder authorizes (in writing) such production. And the agreement provides for protection for encrypted program-carrying satellite signals as well as the programming, thus preventing piracy of satellite television programming.

The FTA provides for limited liability for Internet Service Providers (ISPs), reflecting the balance struck in the U.S. Digital Millennium Copyright Act between legitimate ISP activity and the infringement of copyrights.

Patents & Undisclosed Information: Under the provisions of the FTA, a patent term can be extended to compensate for up-front administrative or regu-

latory delays in granting the original patent, consistent with U.S. practice. The grounds for revoking a patent in Singapore are limited to the same grounds required to originally refuse a patent, thus protecting against arbitrary revocation. The FTA provides new protections for patents covering biotech plants and animals, and it protects against imports of pharmaceutical products without patent-holder's consent by allowing lawsuits when contracts are breached. Test data and other information submitted to a government for the purpose of product approval will be protected against disclosure or unfair commercial use for a period of 5 years for pharmaceuticals and 10 years for agricultural chemicals. Finally, the FTA contains provisions designed to ensure that government marketing-approval agencies will not grant approval to products that infringe patents.

IPR Enforcement: Singapore has agreed to establish criminal penalties for companies that make pirated copies from legitimate products, and the Singaporean government guarantees in the FTA that it has authority to seize, forfeit and destroy counterfeit and pirated goods and the equipment used to produce them. Under the FTA, IPR laws will be enforced against traded goods, including trans-shipments, to deter violators from using U.S. or Singaporean ports or free-trade zones to traffic in pirated products. Enforcement officials may act on their own authority in border and criminal IPR cases without waiting for the filing of a formal complaint, thus providing more effective enforcement.

The agreement mandates both statutory and actual damages under Singaporean law for IPR violations. This serves as a deterrent against piracy, and provides that monetary damages can be awarded even if actual economic harm (retail value, profits made by violators) cannot be determined.

Competition Policy: Protection Against Anticompetitive Business Conduct, Designated Monopolies and Government Enterprises

The FTA contains provisions to protect U.S. firms against possible anti-competitive behavior. Singapore commits to enact laws proscribing anti-competitive conduct and to create a competition authority commission by January 2005.

Especially important in the case of Singapore is the commitment that Government-Linked-Corporations (GLC's) will operate on a commercial and nondiscriminatory basis. As GLC's account for a significant percentage of Singapore's economic activity, it was important for the U.S. to secure this non-discrimination commitment, and to back it up through dispute settlement provisions. Singapore also agrees to provide annual information on government enterprises with substantial revenues or assets.

Government Procurement: Strong Disciplines

Both Singapore and the United States are members of the WTO Agreement on Government Procurement, but the U.S.-Singapore FTA goes beyond existing WTO obligations. For example, the FTA lowers the monetary thresholds for coverage under government procurement commitments, thereby increasing the number of contracts on which U.S. firms may bid in a manner that is covered by transparent procurement disciplines. In addition, under the FTA Singapore broadens its commitments to non-discrimination in government services procurement and reinforces its WTO commitments to strong and transparent disciplines on procurement procedures.

As in the services and investment provisions of the Agreement, the government procurement chapter uses a "negative list" approach in which U.S. firms gain nondiscriminatory access unless a sector is specifically excluded in the Agreement.

Customs Procedures and Rules of Origin: Ground-Breaking Provisions

The U.S.-Singapore FTA is one of the first U.S. trade agreements with specific, concrete obligations on how customs procedures are to be applied. Specifically, the Agreement requires transparency and efficiency in customs administration, with commitments on publishing laws and regulations on the Internet, and ensuring procedural certainty and fairness. The Agreement also seeks to facilitate the clearance of express delivery shipments through customs.

Under the FTA, both Parties agree to share information to combat illegal transshipment of goods. In addition, the Agreement contains specific language designed to facilitate the clearance through customs of express delivery shipments. Strong but simple rules of origin will ensure that only U.S. and Singaporean goods benefit from the Agreement.

Temporary Entry of Personnel

The Agreement contains provisions for the temporary entry of business visitors, including intracompany transferees and professionals. The Administration believes

that the temporary entry provisions strike a careful balance between the needs of the U.S. service industry to provide competitive services while preserving the right of Congress to legislate on immigration policy. Under these provisions, a professional visa category would be established.

Environmental Provisions-Cooperation to Protect the Environment

The FTA fully meets the environmental objectives set out by Congress in TPA. Significantly, environmental obligations are part of the core text of the trade agreement. Both parties commit to ensure that their domestic environmental laws provide for high levels of environmental protection and shall strive to continue to improve such laws. The agreement's text makes clear that it is inappropriate to weaken or reduce domestic environmental protections to encourage trade or investment. A related agreement on environmental cooperation will enhance demand for environmental goods and services.

Reflecting the bipartisan compromise struck in the Trade Act, the FTA requires that Parties shall effectively enforce their own domestic environmental laws, and this obligation is enforceable through the Agreement's dispute settlement procedures.

Labor Provisions: Promotion of Worker Rights

Significantly, labor obligations are part of the core text of the trade agreement. Both parties reaffirm their obligations as members of the International Labor Organization (ILO), and shall strive to ensure that their domestic laws provide for labor standards that are consistent with internationally recognized labor principles. The Agreement makes clear that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment.

Reflecting the bipartisan compromise struck in the Trade Act, the Agreement requires that Parties shall effectively enforce their own domestic labor laws, and this obligation is enforceable through the Agreement's dispute settlement procedures.

Dispute Settlement: Innovative New Tools

All core obligations of the Agreement, including labor and environmental provisions, are subject to the dispute settlement provisions of the Agreement. The procedures for dispute panel procedures set new and higher standards of openness and transparency, reflecting the guidance from the Congress in the Trade Act. For example, the Agreement envisions that dispute settlement proceedings will be open to the public, that legal submissions by parties to a dispute will be released to the public, and that interested third parties will have the ability to submit their views to dispute settlement panels.

Dispute settlement procedures in the FTA promote compliance through consultation and trade-enhancing remedies, rather than relying solely on trade sanctions. The FTA dispute settlement procedures also provide for "equivalent" remedies for commercial and labor/environmental disputes. The FTA does this through an innovative new enforcement mechanism that involves the use of monetary assessments to enforce commercial, labor, and environmental obligations of the trade agreement. Suspension of preferential tariff benefits under the Agreement is also available for all disputes, but the mechanism is designed in all cases to seek remedies that will enhance compliance with the obligations of the Agreement, rather than restricting trade and harming "innocent bystanders."

SUMMARY OF THE U.S.-CHILE FTA

Market Access for Goods

More than 87% of U.S.-Chilean bilateral trade in consumer and industrial products would become duty-free immediately upon entry into force of the Agreement, with most remaining tariffs eliminated within four years. Key U.S. export sectors would gain immediate duty-free access to Chile, such as agricultural and construction equipment, autos and auto parts, computers and other information technology products, medical equipment, and paper products. Chile's "luxury tax" on automobiles will be phased out over 4 years. In the meantime, the number of vehicles to which this tax applies will be sharply reduced as soon as the Agreement takes effect.

Textiles and apparel will be duty-free immediately if they meet the Agreement's rule of origin, promoting new opportunities for U.S. and Chilean fiber, yarn, fabric and apparel manufacturing industries. A limited yearly amount of textiles and apparel containing non-U.S. or non-Chilean yarns, fibers or fabrics may also qualify for duty-free treatment.

Our key concern was to level the playing field to ensure that U.S. access to Chile would be as good as that of the EU or Canada, both of which have FTAs with Chile.

Immediately following the ratification of the EU-Chile FTA, the EU saw a 27% increase in trade with Chile. Through the U.S.-Chile agreement we ensure that U.S. firms will not be left behind.

Expanded Markets for U.S. Farmers and Ranchers

More than three-quarters of U.S. farm goods will enter Chile duty-free within 4 years, and all duties on U.S. products will be phased out over 12 years. Key U.S. farm products will benefit from improved market access, including pork and pork products, beef and beef products, soybeans and soybean meal, durum wheat, feed grains, potatoes, and processed food products such as pasta, distilled spirits, and breakfast cereals. Tariffs on U.S. and Chilean wines will first be equalized at low U.S. rates and then eliminated.

U.S. farmers will have access to Chile that is as good as or better than the European Union or Canada, both of which already have FTAs with Chile. Chilean price bands, under which import duties on the same product may vary according to price level, will be phased out. During the phase out, producers of these products will be treated as good as or better than their competitors with other countries. Elimination of price bands was not part of the EU or Canada FTAs with Chile. The Agreement eliminates the use of export subsidies on U.S.-Chilean farm trade, but preserves the right to respond if third countries use export subsidies to displace U.S. products in the Chilean market. An agricultural safeguard provision will help protect U.S. farmers and ranchers from sudden surges in imports from Chile.

Both parties to the Agreement renew their commitment to continue the work on resolving important sanitary and phytosanitary issues, such as meat and dairy inspection and meat grading, that are inhibiting access to consumers in both markets.

Access to a Fast-Growing Chilean Services Market

The commitments of the Agreement in services cover both cross-border supply of services (such as services supplied through electronic means, or through the travel of nationals) as well as the right to invest and establish a local services presence.

Traditional market access to services is supplemented by strong and detailed disciplines on regulatory transparency. Regulatory authorities must use open and transparent administrative procedures, consult with interested parties before issuing regulations, provide advance notice and comment periods for proposed rules, and publish all regulations.

Chile will accord substantial market access across its entire services regime, subject to very few exceptions, a so-called "negative list" approach. This establishes market access commitments across a wide range of sectors of interest to the United States, including but not limited to: Computer and related services; telecommunications services; audiovisual services; construction and engineering; tourism; advertising; express delivery; professional services (architects, engineers, accountants, etc.); distribution services (wholesaling, retailing and franchising); adult education and training services; and environmental services. The express delivery commitment includes an important and expansive definition of the integrated nature of express services, and affirms existing competitive opportunities.

Some of the key services commitments are spelled out in more detail below:

Financial Services: This chapter includes core obligations of non-discrimination, most-favored nation treatment, and additional market access obligations. U.S. insurance firms would gain full rights to establish subsidiaries or joint ventures for all insurance sectors (life, non-life, reinsurance, brokerage) with limited exceptions. Chile has committed to phase in insurance branching rights. Chile further has committed to modify its legislation to allow cross-border supply of key insurance sectors such as marine, aviation and transport (MAT) insurance, insurance brokerage of reinsurance and MAT insurance, and has confirmed existing rights for reinsurance. A new principle of expedited availability of insurance services means that the parties recognize the importance of developing and maintaining regulatory procedures to expedite the offering of insurance services by licensed suppliers.

U.S. banks and securities firms may establish branches and subsidiaries and may invest in local firms without restriction, except in very limited circumstances, and U.S. financial institutions may offer financial services to citizens participating in Chile's highly successful privatized voluntary savings plans. U.S. firms also gain some increased ability to offer such products through Chile's mandatory social security system. Chile also will allow U.S.-based firms to offer services cross-border to Chileans in areas such as financial information and data processing, and financial advisory services with a limited exception. Chilean mutual funds may use foreign-based portfolio managers.

Telecommunications: Under the Agreement, users of the public telecommunications network are guaranteed reasonable and non-discriminatory access to the network. This prevents local firms from having preferential or "first right" of access to telecommunications networks. The FTA also provides U.S. phone companies with the right to interconnect with networks in Chile at non-discriminatory, cost-based rates. U.S. firms seeking to build a physical network in Chile are also granted non-discriminatory access to facilities, such as telephone switches and submarine cable landing stations. And U.S. firms will be able to lease lines on Chilean telecom networks on nondiscriminatory terms, and to re-sell telecom services of Chilean suppliers to build a customer base.

Electronic Commerce: Free Trade in the Digital Age

The Electronic Commerce text in the FTA identifies Chile as a leader in Latin America for the further development of digital trade, as both countries agreed to provisions on electronic commerce that reflect the issue's importance in global trade.

In the FTA, Chile and the United States committed to non-discriminatory treatment of digital products, agreed not to impose customs duties on such products, and affirmed that commitments made related to services also extend to the electronic delivery of such services. For digital products delivered on hard media (e.g., a DVD or CD), customs duties will be based on the value of the media (e.g., the disc), not on the value of the movie, music or software contained on the disc. Finally, both countries agreed to cooperate in numerous policy areas related to electronic commerce, including on the maintenance of cross-border flows of information.

Investment: Important Protections for U.S. Investors

The Agreement will establish a secure, predictable legal framework for U.S. investors operating in Chile, and is consistent with the objectives regarding investor-state dispute settlement contained in the Trade Act of 2002. All forms of U.S. investment in Chile are protected under the Agreement, including enterprises, debt, concessions, contracts and intellectual property. U.S. investors enjoy in almost all circumstances the right to establish, acquire, and operate investments in Chile on an equal footing with Chilean investors, and with investors of other countries. The Agreement prohibits and removes certain restrictions on U.S. investors, such as requirements to buy Chilean rather than U.S. inputs.

Pursuant to U.S. Trade Promotion Authority, the Agreement draws from U.S. legal principles and practices, to provide U.S. investors a basic set of substantive protections that Chilean investors currently enjoy under the U.S. legal system. Among the rights afforded to U.S. investors (consistent with those found in U.S. law) are due process protections and the right to receive a fair market value for property in the event of expropriation. These investor rights are backed by an effective, impartial procedure for dispute settlement that is fully transparent. Submissions to dispute panels and panel hearings will be open to the public, and interested parties will have the opportunity to submit their views.

Intellectual Property Rights (IPR): Expanded Protections and Enforcement

Protection of copyrights, patents, trademarks, and undisclosed trade information in the U.S.Chile FTA is state-of-the-art, with protections that go beyond previous U.S. free-trade agreements. Enforcement of intellectual property rights is also enhanced under the Agreement. Some specific aspects of the Agreement's protections for IPR are listed below.

Trademarks: The Agreement contains language to ensure that there is government involvement in resolving disputes between trademarks and Internet domain names, which is important to prevent "cyber-squatting" of trademarked domain names. The trademark section of the Agreement also applies the principle of "first-in-time, first-in-right" to trademarks and geographical indicators (place-names) applied to products. This means that the first to file for a trademark is granted the first right to use that name, phrase, or geographical placename.

Copyrights: The Agreement's copyright language will ensure that only authors and other copyright owners have the right to make their works available online. Copyright owners maintain all rights to even temporary copies of their works on computers, which is important in protecting music, videos, software, and text from widespread unauthorized sharing via the Internet. Under the Agreement, copyrighted works and phonograms are protected for extended terms, consistent with U.S. standards and international trends. Strong anticircumvention provisions prohibit tampering with technologies (like embedded codes on discs) that are designed to prevent piracy and unauthorized distribution over the Internet. The FTA also provides that governments will only

use legitimate computer software, thus setting a positive example for private users.

Patents and Trade Information: The Agreement provides that a patent term can be extended to compensate for up-front administrative or regulatory delays in granting the original patent, consistent with U.S. practice. The FTA specifies that grounds for revoking a patent are limited to the same grounds required to originally refuse a patent, which helps to protect against arbitrary revocation. And test data and other information submitted to a government for the purpose of product approval will be protected against disclosure or unfair commercial use for a period of 5 years for pharmaceuticals and 10 years for agricultural chemicals. Finally, the IPR provisions ensure that government marketing-approval agencies will not grant approval to products that infringe patents.

IPR Enforcement: The FTA contains commitments that party governments will criminalize end-user piracy, thus providing a strong deterrence against piracy and counterfeiting. The Chilean government guarantees that it has authority to seize, forfeit, and destroy counterfeit and pirated goods and the equipment used to produce them. The Agreement specifies that IPR laws will be enforced against goods-in-transit, to deter violators from using U.S. or Chilean ports or free-trade zones to traffic in pirated products. Enforcement officials may act on their own authority in border and criminal IPR cases without waiting for the filing of a formal complaint, thus providing more effective enforcement. Finally, the Agreement mandates both statutory and actual damages under Chilean law for IPR violations. This will serve as a deterrent against piracy, and provide that monetary damages can be awarded even if actual economic harm (retail value, profits made by violators) cannot be determined.

Competition Policy: Protections Against Anticompetitive Behavior

The U.S.-Chile FTA commits Chile to maintain competition laws that prohibit anti-competitive business conduct, and a competition agency to enforce those laws. The Chilean laws already promote economic efficiency and consumer welfare, making clear the appropriate objective of competition laws.

The Agreement also requires that Chile control state enterprises and officially designated monopolies so that such firms do not abuse their official status to harm the interests of U.S. companies or discriminate in the sale of goods or services.

Government Procurement: Setting a Precedent for the Hemisphere

The FTA requires that covered Chilean ministries, as well as regional and municipal governments, not discriminate against U.S. firms, or in favor of Chilean firms, when making government purchases in excess of agreed monetary thresholds. It furthermore imposes strong and transparent disciplines on government procurement procedures, such as requiring advance public notice of purchases, as well as timely and effective bid review procedures.

The FTA covers the purchases of most Chilean central government agencies, and covers 13 regional governments, 10 ports and all airports that are property of the state or dependents of the Direccion de Aeronautica Civil, and more than 350 municipalities in Chile.

Importantly, the FTA ensures that bribery in government procurement is specified as a criminal offense under Chilean and U.S. laws. This furthers the anti-corruption goals set out by hemispheric leaders at the Summit of the Americas in Quebec City in 2001.

Ground-Breaking Customs Procedures

The U.S.-Chile FTA is one of the first U.S. trade agreements with specific, concrete obligations on how customs procedures are to be applied. The Agreement requires transparency and efficiency in customs administration, with commitments on publishing laws and regulations on the Internet, and ensuring procedural certainty and fairness. Both parties agree to share information to combat illegal trans-shipment of goods. In addition, the Agreement contains specific language designed to facilitate the clearance through customs of express delivery shipments.

Strong but simple rules of origin will ensure that only U.S. and Chilean goods benefit from the Agreement. The rules are specific to individual products, but are designed to be easier to administer than NAFTA rules of origin.

Temporary Entry of Personnel

The Agreement contains provisions for the temporary entry of business visitors, including intracompany transferees and professionals. The Administration believes that the temporary entry provisions strike a careful balance between the needs of the U.S. service industry to provide competitive services while preserving the right

of Congress to legislate on immigration policy. Under these provisions, a professional visa category would be established.

Environmental Provisions: Cooperation to Protect the Environment

The FTA fully meets the environmental objectives set out by Congress in the Trade Act of 2002. Significantly, environmental obligations are part of the core text of the Trade Agreement. Both parties commit to ensure that their domestic environmental laws provide for high levels of environmental protection and shall strive to continue to improve such laws. The Agreement's text makes clear that it is inappropriate to weaken or reduce domestic environmental protections to encourage trade or investment.

Reflecting the bipartisan compromise struck in the Trade Act, the FTA requires that Parties shall effectively enforce their own domestic environmental laws, and this obligation is enforceable through the Agreement's dispute settlement procedures.

In addition, the Agreement contains an annex identifying a number of important cooperative projects that will promote environmental protection. Projects include:

- Building capacity for wildlife protection and resource management in Latin America through collaboration with wildlife managers, universities, and local communities.
- A project to develop and implement effective alternatives to methyl bromide, a chemical that Chile and the United States have committed to phase out under international environmental agreements.
- Development of a Pollutant Release and Transfer Register (PRTR) in Chile, similar to the successful Toxic Release Inventory in the United States. The PRTR is a publicly available database of chemicals that have been released by industrial facilities into the environment.

Labor Provisions: Promotion of Worker Rights

Significantly, labor obligations are part of the core text of the Trade Agreement. Both parties reaffirm their obligations as members of the International Labor Organization (ILO), and shall strive to ensure that their domestic laws provide for labor standards that are consistent with internationally recognized labor principles. The Agreement makes clear that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment.

Reflecting the bipartisan compromise struck in the Trade Act, the Agreement requires that Parties shall effectively enforce their own domestic labor laws, and this obligation is enforceable through the Agreement's dispute settlement procedures.

The Agreement also contains a cooperative labor mechanism to promote respect for the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Forms of Child Labor. Cooperative activities may include:

- Discussions of legislation, practice, and implementation of the core elements of the ILO Declaration on Fundamental Principles and Rights at Work.
- Improving systems for the administration and enforcement of labor laws.

Dispute Settlement: Innovative New Tools

All core obligations of the Agreement, including labor and environmental provisions, are subject to the dispute settlement provisions of the Agreement. The procedures for dispute panel procedures set new and higher standards of openness and transparency, reflecting the guidance from Congress in the Trade Act. For example, the Agreement provides that dispute settlement proceedings will be open to the public, that legal submissions by parties to a dispute will be released to the public, and that interested third parties will have an opportunity to submit their views to dispute settlement panels.

Dispute settlement procedures in the FTA promote compliance through consultation and trade-enhancing remedies, rather than relying solely on trade sanctions. The FTA dispute settlement procedures also provide for "equivalent" remedies for commercial and labor/environmental disputes. The FTA achieves this through an innovative new enforcement mechanism that involves the use of monetary assessments to enforce commercial, labor, and environmental obligations of the Trade Agreement. Suspension of preferential tariff benefits under the Agreement is also available for all disputes, but the mechanism is designed in all cases to seek remedies that will enhance compliance with the obligations of the Agreement, rather than restricting trade and harming "innocent bystanders."

RESPONSES TO QUESTIONS FROM SENATOR BUNNING

Question 1. I understand that Singapore imposes high excise taxes on a number of products—including tobacco and distilled spirits. Could you please address how the excise taxes on U.S. tobacco and distilled spirits imported into Singapore will be affected by this agreement?

Answer. With respect to excise taxes on tobacco, the FTA has no effect. With respect to excise taxes on distilled spirits, Singapore maintained a two tier tax system. One category of spirits, which were primarily domestically produced, attracted a lower rate of duty than spirits that were primarily imported. As part of the FTA, Singapore agreed to harmonize its excise duties on imported and domestically produced distilled spirits. Singapore is implementing the duty changes in stages, which will be completed by 2005.

Question 2. Could you please address the impact the Singapore agreement is likely to have on the U.S. textile and apparel industry? I understand that the agreement generally follows the "yarn forward" rule of NAFTA. Could you also address how that rule has played out and the impact of NAFTA on the textile and apparel industry in the U.S.?

Answer. The International Trade Commission in its recent report ("U.S.-Singapore Free Trade Agreement: Potential Economy wide and Selected Sectoral Effects" June 2003) found that: "In the short run, according to industry analysis, the U.S.-Singapore FTA will result in no measurable increase in total U.S. imports of textiles and apparel from Singapore, resulting most likely in no measurable effect on production or employment in the U.S. textile and apparel industries." (p.73)

The NAFTA does contain a "yarn-forward" rule of origin, requiring, with limited exceptions, qualifying apparel to contain yarn and fabric created in the NAFTA countries and for the dyeing, finishing, and assembly to occur in the NAFTA countries. This "yarn-forward" rule is stricter than the rule of origin for any other industrial product. Under this "yarn-forward" rule, Mexico has become the second largest supplier of apparel to the United States and Canada has become the 22nd largest supplier of apparel. Canada and Mexico have become the first and third largest export markets for U.S. yarn producers. Mexico has become the largest export market and Canada the second largest export market for U.S. fabric producers.

Question 3. With a number of manufacturing facilities in Kentucky, I am very concerned about the international competitiveness of our U.S. factories. As you know, the duty drawback program is the last remaining export promotion program to help U.S. companies compete in the global marketplace against trading partners that have significantly lower costs of production. Could you please comment for me on this program and how it is addressed in these agreements?

Answer. The United States and other countries have traditionally sought elimination or curtailment of duty drawback and deferral programs under free trade agreements (FTAs) because these programs undermine one of the primary goals of FTAs, which is to encourage regional economic integration. Phasing out duty drawback in an FTA helps to ensure that the benefits of market access flow primarily to the parties to the agreement.

By refunding or deferring duties paid on goods produced from inputs sourced from anywhere in the world and exported to the FTA partner, duty drawback programs create an artificial incentive to source inputs from outside the FTA partners. In the absence of negotiated restrictions, duty drawback programs can lead to the creation of "manufacturing platforms" that extend FTA benefits to goods produced in an FTA partner from third-country inputs. Phasing out drawback programs is necessary to boost the true economic integration intended to result from an FTA.

Because U.S. tariffs are lower and our market is larger than most of our FTA partners, the United States is more likely to be disadvantaged by duty drawback programs than our FTA partners.

During the North American Free Trade Agreement (NAFTA) negotiations, most members of the Congress and U.S. labor unions sent a strong message that failure to curtail Mexico's use of duty drawback and deferral programs would have an adverse effect on the United States. Investment would be diverted from the United States to Mexico and parts from other countries would be assembled in Mexico, imported into and flood the U.S. market.

In some recent FTA negotiations, the Administration has taken a position that balances concerns about distorting investment decisions to the detriment of the United States and creating export platforms with the need to provide a period for companies to adjust to and benefit from the overall effects of the FTA. The U.S.-Chile FTA provides for a phase out of the use of these programs that does not start until the eighth year of the Agreement. Proposals to restrict duty drawback only re-

late to duty drawback among the Parties to Agreement. Use of drawback among non-FTA partners would not be affected by these proposals.

Restrictions on the use of duty drawback were not included in the U.S.-Singapore FTA, because Singapore has already eliminated all tariffs.

Response to a Question From Senator Kyl

Question. The Chile and Singapore FTAs include a so-called yarn-forward rule of origin for apparel trade. This rule requires that clothing eligible for preferential trade treatment must be made with yarn and fabric produced in the FTA zone.

I have heard views expressed that this rule of origin, even if supplemented by tariff preference levels, is too restrictive to generate new trade, is incompatible with the way U.S. businesses in apparel trade actually conduct their sourcing operations, and will add, rather than reduce costs for apparel sourcing in our FTA partner countries relative to the most competitive apparel producing countries in Asia. The end result is that trade may end up being driven away from our FTA partner countries to Asia. It is hard to see how this scenario is a good policy outcome consistent with the Administration's goals for FTAs.

While Singapore and Chile are minor exporters of apparel to the United States and are likely to remain so, we are now negotiating FTAs with countries and regions, such as the Central American and Southern African Customs Union countries for whom textiles and apparel are critical to their economies. Please comment on whether USTR has adopted this yarn-forward rule as the model rule in the negotiation of all future FTAs. Also, please comment on whether you believe that the rules for textiles and apparel will reduce costs, including administrative expenses, so that future agreements provide adequate incentives and attractive sourcing alternatives?

Answer. The basic apparel rule of origin in the Singapore and Chile 1 FTAs is a yarn-forward rule, which requires apparel inputs to come from either the U.S. or our FTA trading partner. The Chile and Singapore FTAs also contain TPLs, or tariff preference levels, which allow for a certain amount of apparel containing third-country fabric to enter the U.S. The entire domestic textile industry advocates a yarn-forward rule, while importers of apparel support the TPLs and advocate as loose a rule of origin as possible.

USTR will continue to consult with all segments of the U.S. industry to create rules of origin that promote trade. The rules can, and often do, change in response to the specific circumstances of our trading partners. In the ongoing CAFTA talks, our opening offer was a yarn-forward rule and our opening proposal in the SACU FTA talks may be a yarn-forward rule. It's worth noting that Mexico has used the yarn-forward rule in the NAFTA to become our largest supplier of apparel in the world. With this in mind, the Administration made a decision to treat Singapore and Chile as we did Mexico and Canada, our NAFTA partners. It may not make sense to subject our close-by trading partners to tougher rules of origin than countries that are on the other side of the world.

Regardless of the rule of origin, it is also important to reduce the administrative burdens associated with sourcing from FTA partner countries. It is important to fight and prevent fraud, but the entire U.S. industry, from cotton growers to retailers, agrees that administrative requirements should not be so great that they discourage utilization of our FTAs.

Responses to Questions From Senator Baucus

Question 1. As I said in my opening statement, I believe the two Free Trade Agreements before us today are solid ones. They will create market opportunities for American farmers, workers, and businesses. They break new ground in a lot of important areas. And they deal with some sensitive issues in a thoughtful way that reflects the state of development, the legal structure, and the market realities in Singapore and in Chile.

A lot of people, including yourself and Ambassador Zoellick, have held these two agreements up and called them "models" or "templates" for future free trade agreements. There are even suggestions that some of the chapters of those agreements can be transferred almost word for word into future agreements.

We all know that the perfect one size fits all free trade agreement text that will work for every country will probably never be written. So how do we use the Singapore and Chile FTAs as models—or perhaps a better term would be "building blocks"—for the next round of FTAs? How do we continue to build on our achievements and also recognize that different countries present different issues that require unique solutions.

Answer. We agree that different FTA provisions may be needed for our FTAs with other countries. At the same time, the FTAs with Singapore and Chile provide a

solid foundation for considering whether the provisions in those agreements might be appropriate for our prospective FTA partner. The United States supports comprehensive FTAs, of which the U.S.-Singapore FTA and U.S.-Chile FTA are excellent models. We are prepared to work with our trading partners, and to consult with Congress, on provisions that are mutually acceptable and that meet U.S. standards for FTAs.

Question 2. One novel feature of the U.S.-Singapore FTA is the Integrated Sourcing Initiative. The ISI currently applies to a limited list of products. But the FTA provides that it can be expanded to other products if the two Governments agree. No U.S. FTA has ever done this before, so there is no precedent on which to base the implementing legislation.

(a) Please clarify what benefits, if any, the ISI confers on Indonesia and other Southeast Asian countries. Could it be used to benefit China? What about a country that is not a WTO member like Vietnam? Are there potential benefits here for Burma?

(b) I know you have made some last minute language changes to the ISI. After those changes, are there still parts that could be made outside Singapore but count toward the required "regional content" in a final product assembled in Singapore? If so, can you provide me with a list or description of what would fall into that category?

(c) How is the Administration proposing to implement the agreement's commitment to meet periodically with Singapore and discuss adding new products to the ISI? Since Congress has no way of knowing—at the time this FTA goes into force—what products might be added to the ISI in the future, would it be appropriate for Congress to reserve the right to approve any future additions to the ISI list? If not, why not?

Answer (a). The U.S.-Singapore Free Trade Agreement (FTA) offers an example of how state-of-the-art free trade agreements can develop win-win innovations that adapt old trade rules to match the new interests of U.S. businesses. The Integrated Sourcing Initiative (ISI) will help companies improve the efficiency and flexibility of their global sourcing networks. In particular, the ISI cuts processing costs—not tariffs—for certain information technology (IT) products and medical devices in Singapore and the United States. The ISI should encourage trade in similar products from Indonesia—helping to foster economic growth in an emerging democracy that is the largest Muslim country in the world.

For U.S. businesses to be competitive in today's world, speed and minimization of paperwork is essential, particularly where the IT industry is concerned. The ISI includes a framework within the FTA for meeting such needs. By further enhancing trade in IT products and enabling manufacturers to purchase components from modern, competitive facilities, the ISI supports IT firms' interests in global sourcing efficiency, reduces unnecessary red tape, and encourages trade among high-technology facilities. This sourcing flexibility helps manufacturers even without providing any tariff preferences under the FTA.

For a list of products that already face zero tariffs in the United States, the ISI eliminates the requirement for products to meet specific "rules of origin" when shipped between the United States and Singapore. Trade agreements include such rules to enable customs authorities to determine whether the product "originated" in the exporting countries. These "rules of origin" are used to ensure that only products that undergo a substantial change in the countries that are covered by such trade agreements receive the benefits of the preferential tariffs and the elimination of a nominal merchandise processing fee.

The United States and Singapore both agree that, when listed ISI products are shipped between the two countries, importers will not be required to prove their products meet detailed "rules of origin" tests and certification paperwork. This list of IT products and medical devices would not be subject to "rules of origin" and the associated "red tape" when exported from either the United States or Singapore, because these goods would enter duty-free no matter what country exported them. Therefore, there is no need to ensure that they originate in Singapore or the United States.

The ISI does not confer new tariff preferences on products of Indonesian origin; it cuts red tape and costs by eliminating certain origin-related import procedures and a nominal fee for a list of products that already enter the United States duty-free. More than 50 WTO Members (including the United States, Singapore and Indonesia), accounting for 95 percent of global trade in IT products, participate in the Information Technology Agreement (ITA). These countries allow IT products to enter free of any tariffs on a Most Favored Nation (MFN) basis. The ISI also includes several headings in the Harmonized Tariff Schedule covering mainly high-end medical devices, which are also duty-free, although not as a result of the ITA.

Since Indonesia is a participant in the ITA, IT products from Indonesia can currently enter the United States free of tariffs. In addition, IT products from any NA70 member can enter Indonesia free of tariffs. Thus, manufacturing facilities in the Indonesian islands of Bintan and Batam, which are very close to Singapore, already ship these same products directly to the United States and enter them duty-free. The ISI simply offers Indonesia another method of exporting their products duty-free.

The ISI will benefit the United States. U.S. high-tech manufacturers and systems providers gain by having additional flexibility to source components for their rapidly changing products based on availability, quality, and cost without concerns about which country supplied what share of the final good. U.S. consumers win by being able to buy the best products at the most competitive price. The U.S. IT industry, which remains among the most dynamic sectors in the U.S. economy, supports the ISI.

The ISI also helps promote better working conditions in the developing world. Plants producing IT products and medical devices require exacting standards with respect to safety, cleanliness and working conditions, including, for example "clean rooms" and air conditioning. Similarly, workers in these plants require greater skills and training than for many other manufacturing jobs. Thus, the ISI can encourage good jobs that pay above prevailing wage rates and improve living conditions in developing countries.

Regarding exports from a country like China or Vietnam, we don't see how the ISI would result in additional benefits to those countries. The ISI provides that a product listed in Annex 3B of the Singapore FTA is an "originating good" for purposes of FTA tariff preferences only if it is shipped from one FTA Party to the other. The analysis is based on the product that is imported. For an imported ISI product, that means looking at whether the product was itself shipped from Singapore to the United States.

Answer (b). The change the United States and Singapore agreed to regarding the ISI resulted from consultations with Congress. A sentence in a previous version of the ISI, which the negotiators intended to clarify the situation regarding material or components, apparently caused some confusion instead. Some Congressional staff thought that the sentence would allow products from a non-FTA country to be sent directly to Singapore (or the United States) and be treated under the ISI as 'FTA-originating' inputs when used in the production of another good that may be exported and subject to the FTA rules of origin. This was not the intention of the sentence, and the United States and Singapore agreed to delete that sentence.

The ISI provides that a product listed in Annex 313, of the Singapore FTA, already MFN duty-free, is an "originating good" for purposes of F17A tariff preferences only if that product itself is shipped from one FTA Party to the other. If such a product is shipped from a non-FTA party (e.g., China or Vietnam) to Singapore, it could not count as FTA-originating toward any required "regional content" in a final product assembled in Singapore.

The only way that the ISI would affect an RVC calculation would be if an ISI product from a non-FTA party were first shipped to the United States, then held without undergoing any processing that would affect its treatment under Chapter 3, then shipped to Singapore, and then manufactured there into a nonISI good without undergoing any intermediate production steps that would affect treatment of the product under Chapter 3. It is difficult to conceive that this type of transaction would be economically rational for any of products on the RVC list.

Finally, Burma to the best of our knowledge produces none of the ISI products. Furthermore, nothing in the U.S.-Singapore FTA, including the ISI provisions, would affect the Administration's ability to impose a ban on trade from that country.

Answer (c). The Administration's intention is to confine any additions to the ISI list to products that are currently MFN duty-free. At this time we have no plans to add additional products to the ISI list. We would, of course, welcome the opportunity to consult with Congress on any such products before proposing additions to the ISI list to Singapore.

Question 3. The Singapore and Chile free trade agreements are the first in a long line of bilateral and regional FTAs that the United States in currently negotiating or may soon begin negotiating. The list includes CAFTA, Australia, SACU, Morocco, Bahrain—and I hear may soon include Egypt as well. And, of course, our negotiators are deeply involved in negotiations at the WTO and for the FTAA.

I commend you, and Ambassador Zoellick for getting right to work after Congress passed TPA last year. But this ambitious level of activity does raise a few questions.

First, we in Congress all sold TPA to our constituents last year on the grounds that it would create commercial opportunities. I think the Singapore and Chile

FTAs do create significant commercial opportunities, and that is one important reason why I support them. Some of the next crop of FTA don't appear to present the same level of commercial opportunities.

Lots of countries are asking for FTAs with the United States. We get requests from embassies to sign letters almost daily. What can you tell me about the criteria that have guided the Administration's choices so far? Are there specific criteria that are considered? Who gets to weigh in on those criteria? And how much weight is given to the size of potential market opportunities?

Second, there are clearly some issues that can only be addressed in the WTO—European agricultural subsidies is an obvious one. And negotiating market access through the WTO covers much more ground than any FTA or group of FTAs. Is the focus on FTAs draining our resources, and taking our attention away from the place where we have the most to gain?

Answer. The Administration pursues bilateral FTAs for a number of reasons. First, it levels the playing field for the United States. The European Union has 30 such agreements. The United States just has NAFTA, the Israel FTA, and the Jordan FTA. With Congressional approval, we would add Chile and Singapore. We have some catching up to do.

Second, it creates a strategy of competitive liberalization—i.e., pursuing trade liberalization initiatives globally, regionally and bilaterally—is the most effective means to expand trade and open markets. We believe we can make substantial progress on multiple fronts using this approach. Our FTA negotiations have contributed to U.S. efforts in the WTO negotiations.

Third, FTAs can help regional integration and investment. Our negotiations with Central America and the Southern African Common Market are good examples.

Fourth, an FTA with us can help cement political and economic reforms. Part of what our FTA strategy is about involves opening societies.

Fifth, our bilateral negotiations can help create allies in the WTO. As we work more closely with countries on a bilateral basis, we learn their interests and develop ways to cooperate.

Of course, USTR could use additional resources to intensify its work in implementing the President's trade strategy. We are at the point that if the United States wants to initiate new FTA negotiations, USTR is going to need more resources.

Because we cannot pursue all of the FTAs we would like, we are proceeding with some FTAs in different regions. As you know, we are moving ahead with Central America, Africa, North Africa and the Arab World, as well as Australia. We are also looking to have developed as well as developing country FTA partners.

We also look at a country's willingness to accept the changes required by an FTA. We need partners that are willing to undertake these obligations.

We also consider how our FTAs will provide U.S. leverage. For example, in the FTAA, part of the signal is that we want to complete the FTAA with all 34 countries, but if some go slowly, we will keep going with others.

In sum, it is a balance of willing partners and resources.

Question 4. What can you tell me about the status of negotiations with Chile and Singapore on labor and environmental cooperation? Where do things stand and why have we in Congress heard so little on this subject?

Answer. Both the Chile and Singapore FTAs include the establishment of a labor cooperation mechanism, setting up mutually beneficial activities in a range of areas including the promotion of fundamental worker rights, labor-management relations, and human resource development. These mechanisms are included as an Annex to the Labor Chapter in each FTA.

The U.S. Department of Labor has already begun an active cooperation program with Chile. The program has two initial components: improving compliance with labor laws (wage and hour, child labor, occupational safety and health, equal employment opportunity); and helping with a major reform of Chile's system for the administration of labor justice. During the course of our work with Chile, we learned that the backlogs in Chile's labor tribunals were slowing the pace of action, so the Department of Labor designed a cooperation program to share our experience with administrative tribunals that can expedite legal decisions.

The United States and Chile signed an Environmental Cooperation Agreement on June 17, 2003 in Santiago. This Agreement establishes a framework and sets priorities for environmental cooperation between the Parties. The text of the Chile FTA also outlines eight environmental cooperation projects, which include efforts to: remediate hazardous waste sites; provide training on safer handling of pesticides and agricultural chemicals; and implement a pollutant release and transfer registry in Chile. Chile and the United States are currently discussing plans to implement these projects.

The United States and Singapore signed a Memorandum of Intent on Cooperation in Environmental Matters on June 13, 2003. While the two countries have not yet identified specific projects, the Memorandum of Intent establishes a framework for cooperation and specific areas of cooperation to explore, such as endangered species conservation.

The Department of State, in consultation with USTR and interested agencies, is in charge of establishing and coordinating these cooperative mechanisms.

Question 5. The environmental NGO Environmental Investigation Agency recently released a report documenting instances of alleged Singaporean CITES violations involving trade in endangered Indonesian timber species which may be transported through Singapore to the United States. Has the U.S. Government looked into these allegations? If they prove to be true, would they be actionable under the dispute settlement provisions of the FTA?

Answer. Both the United States and Singapore are committed to effective implementation of our CITES obligations. We understand that the Justice Department and the U.S. Fish and Wildlife Service have used information from sources such as EIA in their CITES enforcement activities, and may request further information from Singapore to aid efforts to enforce CITES for timber species.

If there proves to be a serious problem involving a persistent failure of CITES enforcement, the FTA provides a number of avenues for addressing it: (1) through enhanced customs cooperation and information exchange with Singapore under the FTA's customs provisions; (2) through cooperation under the recently signed Memorandum of Intent on Cooperation in Environmental Matters associated with the FTA (which specifically notes the desire to cooperate on endangered species conservation); and (3) under certain conditions, through the effective enforcement obligation in the FTA. These are all new avenues that did not specifically exist prior to conclusion of the FTA.

Responses to Questions From Senator Kerry

Question 1. Singapore is known to many as the international hub for laundering illegal timber onto the world market, including the U.S. market. Illegal logging practices are destroying the last tropical forests. Singapore has also been shown to be the weak link in enforcement efforts of wildlife and wildlife products. A recent report by the Environmental Investigation Agency has shown that ivory smuggling is on the rise again. In June 2002 six tons of ivory were seized in Singapore—the largest seizure since the ivory ban went into effect in 1989.

While the U.S.-Singapore FTA recognizes these issues as problems, it has yet to offer any concrete steps to address them. What provisions are in place to ensure that our trade relationship with Singapore will not open U.S. markets to illegal timbers and other environmentally destructive products?

Answer. Although there is evidence to suggest that Singapore has been a significant factor in the illegal trade of wildlife due to its position as a transit country for Asia and as a consumer of wildlife, increasing cooperation between Singapore and the United States has contributed to a declining number of problems and more effective enforcement of the CITES commitments of both countries. A detailed examination of these issues was provided in the Draft Environmental review (released for public comment August 14, 2002) and in the Final Environmental Review. Moreover, the FTA is not expected to result in significant shifts in the pattern of timber trade through Singapore. Tariffs on wood products are already low and market access commitments under the FTA are expected to have little impact on direct U.S.-Singapore trade.

The FTA provides a number of avenues for ensuring that an expanded trade relationship will not open U.S. markets to illegal timber and other environmentally destructive products. First, the FTA commits Singapore not to fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties. Second, the customs and information sharing provisions in Chapter 4 of the FTA are expected to contribute positively to U.S. and Singaporean efforts to improve the tools available for the two nations' authorities to work cooperatively in enforcing their respective laws governing illegal trade in wildlife. Third, the recently signed environmental cooperation framework associated with the FTA provides an opportunity for the United States to explore with Singapore further opportunities for cooperation in addressing illegal trade.

Question 2. The US is intensely concerned over security of imports. Singapore has pledged to increase customs enforcement and implement other measures in line with the Container Security Initiative. Yet, concerns remain over the ease with which Singaporean businesses can "launder" illegal timber from other neighboring coun-

tries—moving it in and out of supposedly secure Free Trade Zones without required documentation after which it ends up on US markets.

How will we ensure that Singapore improves its port procedures and shows commitment to customs enforcement? What sort of security improvements on transshipment has Singapore promised the US in the negotiation of this FTA?

Answer. The FTA includes concrete commitments pertaining to cooperation between enforcement authorities, both in the form of provisions of general applicability and in the form of provisions that are specific to certain areas, such as textiles and intellectual property. The result will be new tools to help both countries ensure compliance with their respective laws governing trade between Singapore and the United States.

The FTA includes ground-breaking provisions in this area that will involve changes from past practices by Singapore authorities, and will result in new types of cooperation at various levels to effectively address the issue of illegal trans-shipments. For example, the FTA includes a specific provision on information-sharing related to trade transactions involving third countries. While the FTA was being negotiated, on a separate track, U.S. Customs and Border Protection engaged Singapore as an early partner in its Container Security Initiative.

Response to a Question From Senator Lincoln

Question. Ambassador Allgeier, it is my understanding that in the U.S./Chile agreement the inspection systems of both countries for red meat products will be granted immediate recognition. However, in regard to poultry there is a two year period in place before our inspection systems are compatible. Can you explain why this two year period exists and give any assurance that at the end of this period our poultry industry will be given complete market access under the agreement?

Answer. On June 6, 2003, Chile issued regulations to accept U.S. beef, lamb and pork products processed in federally certified U.S. plants. Chilean and U.S. regulatory officials are continuing the science-based examination of the Chilean meat inspection system. U.S. regulatory agencies are committed to continue their work with their Chilean counterparts to ensure that Chilean inspection regulations meet U.S. standards for beef, lamb and pork products in the future.

U.S. and Chilean regulatory officials also have initiated examinations of the regulatory systems for poultry. Both sides have agreed to encourage our regulators to continue the technical and scientific work needed to achieving market access on poultry, because access in poultry is desired by the industries in each of our countries. However, the U.S.-Chile Free Trade Agreement (FTA) does not contain a mandate to make our two regulatory systems compatible or a time period for this work to be completed. Progress in this area, as with all regulatory work, must be based on science, as is required by the WTO Agreement on Sanitary and Phytosanitary Measures. The two-year time frame in the F17A relates to the date to begin implementation of the tariff reduction commitments for certain for poultry cuts in the Agreement.

Prepared Statement of Hon. Max Baucus

I am pleased to be here this morning as we kick off the process of formally approving and implementing the Singapore and Chile Free Trade Agreements (FTA). These agreements have been many years in the making. Work began under the Clinton Administration and continued under the Bush Administration.

These are the first agreements to be completed since we passed the Trade Act of 2002. They are the first to be held to the new and progressive standards included in the renewal of Trade Promotion Authority (TPA). And—by and large—I think these two agreements stack up fairly well against the many requirements set by Congress.

I have long been a supporter of trade with Singapore and Chile. I have visited both countries with trade delegations of Montana business people.

Even before we passed the TPA bill last year, I introduced legislation to grant fast-track specifically for a Chile or Singapore agreement. I am glad that my work and that of so many others has brought these agreements before us today. Open trade with Singapore and Chile means opportunities for American farmers, workers, and companies. I know they are eager to compete. These agreements will give them the level playing field they need to succeed.

Just this month, for example, Chile issued a decree granting reciprocal recognition of U.S. meat inspections. With this important development, Montana's world-class ranchers now have the access to Chile's growing market that they deserve. The

agreement will also eliminate the artificial disadvantage American wheat growers now face when competing with Canadian growers for sales in Chile.

These two agreements break new ground on a host of important issues—from intellectual property, services, and e-commerce to labor and environmental standards. They promise to usher in a new era of enhanced economic ties between the United States and each FTA partner.

United States banks will, for the first time, have access to Singapore's extensive ATM network. Starbucks Coffee will soon be opening a store in Santiago, Chile—its first in South America. U.S. automakers will be able to sell cars in Chile without facing a prohibitive luxury tax.

For these and so many reasons, many people have described the U.S.-Singapore and U.S.-Chile FTAs as a "model" or a "template" for what the United States hopes to achieve in future free trade negotiations. I certainly agree that these two agreements set a new standard—one in which I am proud.

That does not mean we should view these agreements as a ceiling—or as a one-size-fits-all solution for every country. There is always room for improvement in trade agreements. We should not hesitate to push for "Chile and Singapore plus" as we pursue FTA negotiations with new partners. And we should always be adapting our agreements to the conditions in different partner countries.

I have done it before, but I want to congratulate again Ambassador Zoellick, Ambassador Allgeier, and all our negotiators who have worked so hard on these agreements. Congratulations to you all and thank you for a job well done.

Now the ball is in our court here in Congress. These agreements will be the first test of the updated fast-track procedure adopted in the Trade Act of 2002. More importantly, they are the first test of the bipartisan consensus that made it possible to renew TPA.

I want to see these two agreements pass both Houses with wide, bipartisan majorities. I see that as an entirely achievable goal. To achieve it, we must work together, in a bipartisan manner, to draft implementing legislation accurately reflecting the agreements. We must also make sure that we have a meaningful and transparent legislative process.

I know Chairman Grassley is committed to an open process, and I commend him for that. Both Members of Congress and the public must be able to see and have confidence in our work. I stand ready to do everything in my power to make the necessary legislative process both meaningful and timely. I look forward to seeing these agreements enter into force at the earliest possible dates.

PREPARED STATEMENT OF JON CASPERS

Mr. Chairman and Members of the Committee:

I am Jon Caspers, President of the National Pork Producers Council (NPPC) and a pork producer from Swaledale, Iowa. I operate a nursery-to-finish operation, marketing 18,000 hogs per year.

Mr. Chairman, I greatly appreciate everything that you and other members of this Committee have done to advance U.S. export interests, particularly for agriculture. I strongly believe that the future of the U.S. pork industry, and the future livelihood of my family's operation, depend in large part on further trade agreements and continued trade expansion.

The National Pork Producers Council is a national association representing pork producers in 44 affiliated states that annually generate approximately $11 billion in farm gate sales. The U.S. pork industry supports an estimated 600,000 domestic jobs and generates more than $64 billion annually in total economic activity. With 10,988,850 litters being fed out annually, U.S. pork production consumes 1.065 billion bushels of corn valued at $2.558 billion. Feed supplements and additives represent another $2.522 billion of purchased inputs from U.S. suppliers which help support U.S. soybean prices, the U.S. soybean processing industry, local elevators and transportation services based in rural areas.

Pork is the world's meat of choice. Pork represents 47 percent of daily meat protein intake in the world. (Beef and poultry each represent less than 30 percent of daily global meat protein intake.) As the world moves from grain based diets to meat based diets, U.S. exports of safe, high-quality and affordable pork will increase because economic and environmental factors dictate that pork be produced largely in grain surplus areas and, for the most part, imported in grain deficit areas. However, the extent of the increase in global pork trade—and the lower consumer prices in importing nations and the higher quality products associated with such trade—will depend substantially on continued agricultural trade liberalization.

Pork Producers are Benefiting from Trade

In 2002, U.S. pork exports set another export record totaling 726,484 metric tons (MT) valued at $1.504 billion. Exports to Japan, the largest market for U.S. pork exports, increased 5 percent to 271,129MT. Exports to Mexico, the second largest destination for U.S. pork, also continued to grow increasing by 7 percent from 2001 levels to 217,909MT.

Much of the growth in U.S. pork exports is directly attributable to new and expanded market access through recent trade agreements. However, as the benefits from the Uruguay Round and the North American Free Trade Agreement (NAFTA) begin to diminish, the negotiation of new trade agreements becomes paramount to the continued growth and profitability of U.S. pork producers. For this reason, NPPC led a coalition of more than 80 U.S. agriculture organizations in working to get Trade Promotion Authority through the U.S. Congress last year. On behalf of U.S. pork producers, NPPC is now deeply involved in many trade initiatives, including the World Trade Organization (WTO) agriculture negotiations. The potential payoff to producers from a new WTO agriculture agreement is high. As good as past trade agreements have been, global pork tariffs still average a whopping 77 percent.

Even in Japan—America's largest pork export market—U.S. pork exports are severely limited due to a gate price system and safeguards designed to protect Japanese producers. Moreover, the U.S. pork industry must compete globally with subsidized pork from the European Union and other countries.

In addition, NPPC continues to be active in bilateral and regional trade negotiations. While the WTO negotiations clearly offer the single largest opportunity to increase exports, bilateral and regional negotiations also offer significant opportunity.

Chile FTA Negotiation Process Was a Great Success

The Free Trade Agreement (FTA) that was recently signed with Chile will bring great opportunities to U.S. pork producers. Mr. Chairman, I want to thank you for your personal involvement in helping pork producers achieve this great result. I also want to thank Senator Baucus and other members of this Committee who have worked to make market access for U.S. meat in Chile a reality. I also want to thank U.S. Trade Representative Robert Zoellick, USTR Chief Agriculture Trade Negotiator Allen Johnson, Secretary of Agriculture Ann Veneman, and their staffs for their tireless efforts on our behalf.

Mr. Chairman, as you and other Members of this Committee recognize, when U.S. pork producers are given fair access to foreign markets it is a win-win situation. Our producers win because we have a new market in which to sell our product. Prices rise in the short term while jobs are created and value is added to the industry in the long term. Consumers in foreign markets win because they have a safe, high-quality, and affordable alternative to the status quo.

We could not have had a better outcome in Chile. All tariffs on pork and pork products will immediately be eliminated upon the implementation of this agreement. Equally, if not more important, the sanitary issues that restricted U.S. pork exports to Chile were resolved. A Sanitary-Phytosanitary (SPS) 'working group' of U.S. and Chilean SPS officials was established to handle the non-tariff issues. As a result of the work of the SPS group, Chile now recognizes USDA's meat inspection system as equivalent to its own. This makes it possible for pork to be exported to Chile from any USDA-approved facility.

This important precedent, of taking great care to ensure that non-tariff measures are discussed and resolved alongside of tariff negotiations, is a precedent that I hope will be followed in all the other ongoing bilateral and regional trade negotiations. Whether the issue is equivalence of the meat inspection system, or non-scientific claims about the transmission of animal disease through meat imports, or problems in the transparency of the import system, or any of a multitude of other measures, these nontariff trade barriers can be just as stifling and restrictive as a high tariff. Put differently, a FTA that lowers tariffs to zero but that does not remove other non-tariff impediments to trade is of no use to U.S. producers. We need real market access and that is what we are getting in the Chile agreement.

Prompt Congressional Action Needed

In Chile, our two top global competitors (Canada and the European Union) already have agreements that provide them with preferential tariff rates on pork. Every day that goes by provides these countries another opportunity to export pork (and hundreds of other products) to Chile with the advantage of a reduced tariff. The sooner the U.S. Congress is able to approve this agreement the better.

Mr. Chairman, I thank you for the opportunity to present this statement.

PREPARED STATEMENT OF HON. CHARLES E. GRASSLEY

Good morning. Today we will hear testimony on implementation of the U.S.-Singapore and U.S.-Chile Free Trade Agreements. The two agreements we are discussing today are the first to be considered under the Trade Promotion Authority (TPA) procedures that Congress implemented last year with the passage of the Trade Act of 2002. The fact that the Senate will be considering these agreements this summer is a testament to the power of TPA. Because of TPA, the United States is truly back in the game. We wouldn't be here today without the leadership provided by Ranking Member Baucus last year. Working together, we forged a strong bipartisan consensus in the Senate in support of TPA. I hope this bipartisan consensus will carry through while we consider these two agreements.

The procedures we put in place under TPA require that the Administration consult closely with Congress throughout the negotiating process. Careful adherence to the principles articulated in the Act are key to achieving strong support for these agreements in Congress. I'm pleased to note that, in my view, the Administration for both of these agreements met that test. Both the Chile and Singapore FTAs are state-of-the-art agreements that provide real economic and strategic benefits to the United States and to my home state of Iowa. Today we have with us Norm Sorensen, representing Principal Financial Group from Des Moines, who will discuss how his company will benefit from the strong services provisions in the U.S.-Singapore FTA. I think some of the insurance provisions of the agreement are particularly good, and hope they will serve as a model for future FTAs. Jon Caspers, a pork producer from Swaledale, Iowa, will discuss how the market access provisions of the U.S.-Chile Free Trade Agreement will affect him and his business.

I want to note how pleased I am about the strong agriculture market access provisions found in the Chile FTA. These provisions are complemented by the removal of unnecessary sanitary and phytosanitary barriers to U.S. agricultural exports. Although not part of the agreement, removal of these barriers allows U.S. agricultural exporters to reap the full benefits of our hard-earned market access negotiations. I think resolution of unwarranted SPS barriers in tandem with our bilateral and plurilateral trade negotiations is a good model which should be followed as we pursue additional free trade negotiations.

I'm confident that today's testimony will show that both the Singapore and Chilean FTAs are solid agreements which deserve the broad support of the Congress. I look forward to working with the Administration and Ranking Member Baucus to get these agreements implemented before the August recess, and to continue our bipartisan efforts to open foreign markets for U.S. goods and services.

I'm disappointed that I will be unable to participate in the remainder of this hearing, but today I am managing the bill on Medicare reform on the Senate floor. However, we need to get this process of implementing these agreements under way, so I appreciate the willingness of International Trade Subcommittee Chair Craig Thomas to chair the remainder of today's hearing.

PREPARED STATEMENT OF JAMES JARRETT

Mr. Chairman, Senator Baucus and the Members of the Committee:

Thank you for the opportunity to appear before you today. My name is Jim Jarrett, Vice President, Worldwide Government Affairs for the Intel Corporation. I am pleased to testify today on behalf of Intel and the Business Software Alliance [1] ("BSA"), an association of leading developers of software, hardware and e-commerce technologies worldwide. I am also here to testify on behalf of the High Tech Trade Coalition (HTTC), a group of leading high-tech trade associations representing America's technology companies.[2]

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[1] The Business Software Alliance (*www.bsa.ore*) is the foremost organization dedicated to promoting a safe and legal digital world. The BSA is the voice of the world's software and Internet industry before governments and with consumers in the international marketplace. Its members represent the fastest growing industry in the world. BSA educates computer users on software copyrights and cyber security; advocates public policy that fosters innovation and expands trade opportunities; and fights software piracy. BSA members include Adobe, Apple, Autodesk, Avid, Bentley Systems, Borland, Cisco Systems, CNC Software/Mastercam, Entrust, HP, IBM, Intel, Intuit, Internet Security Systems, Macromedia, Microsoft, Network Associates, Novell, PeopleSoft, SeeBeyond Technology, Sybase. and Symantec.

[2] High Tech Trade Coalition Include: AeA-Association For Competitive Technology; Business Software Alliance; Computer & Communications Industry Association—Computer Systems Policy Project; Computing Technology Industry Association—Electronic Industries Alliance; Infor-

Continued

Let me begin by thanking the members of this Committee for holding this important hearing about the significance of fully implementing the Singapore and Chile Free Trade Agreements (FTA). We commend you for recognizing the importance of promoting free trade among our trading partners.

As one of the leading contributors to the U.S. balance of trade, U.S. information technology (IT) and software makers have contributed a trade surplus of $24.3 billion in 2002. As a leading engine of global economic growth, the industry contributed more than a trillion dollars to the global economy in 2002, according to a recent study conducted by IDC for the BSA. In fact, in the U.S. alone, the IT industry contributed 2.6 million jobs and more than $400 billion to the U.S. economy, generating $342 billion in tax revenues in 2002.

Over 50 percent of revenues for most of the leading high technology companies in the U.S., including Intel, are generated outside the US. If we are to continue the positive contributions of this industry to the U.S. economy, it is critical that free trade agreements (FTAs) establish the highest standards of intellectual property protection. It is also critical that FTAs provide an open trading environment that promotes tariff-free high-tech products, facilitates barrier-free e-commerce and growth of the information technology services sector.

Mr. Chairman, I am pleased to express the unequivocal support of Intel, BSA and the High Tech Trade Coalition for the Singapore and Chile Free Trade Agreements.

The Singapore and Chile FTAs significantly advance the establishment of strong intellectual property protection, tariff-free and barrier-free e-commerce in Singapore and Chile, and we commend the Administration and Congress for these achievements. Without the leadership provided by Ambassador Zoellick and his team and Congress's thoughtful guidance, these achievements would not have been possible.

The importance to the American high tech industry of Congressional approval of the Trade Promotion Authority (TPA) cannot be overestimated. The TPA legislation set the standard of strong IP protection and trade liberalization among our trading partners in all trade contexts including FTAs, FTAA and the World Trade Organization (WTO).

With the successful conclusion of these FTAs, and continued progress within the WTO Doha Round of negotiations, including important talks on e-commerce and trade in services, we feel confident that the U.S. will achieve its objectives in promoting barrier-free e-commerce and trade liberalization among our trading partners.

Intellectual Property (IP) Provisions in Singapore and Chile FTA:

For the high tech industry, strong intellectual property protection is essential to foster continued innovation and investment. This is particularly important as copyright infringements and software piracy cost the industry $13 billion in lost revenues in 2002.

In Singapore and Chile, the IT industry has contributed significantly to their economic growth—$1.2 billion in Singapore and $340 million in Chile in 2002. However, both countries continue to have high piracy rates—48 percent in Singapore and 51 percent in Chile, costing the industry $32 million in Singapore and $45 million in Chile in lost revenues in 2002.

To promote strong IP protection in a digital world, it is essential that our trading partners establish the level of copyright protection that complies with WTO Agreement on the Trade Related Aspects of Intellectual Property Rights (TRIPS) and the World Intellectual Property Organization (WIPO) Copyright Treaty (WCT). It is also essential that our trading partners fully comply with and enforce these obligations.

The mutual obligations under the U.S.-Singapore and Chile FTAs generally set out among the highest standards of protection and enforcement for copyrights and other intellectual property yet achieved in a bilateral or multilateral agreement, treaty or convention.

Both agreements recognize the importance of strong intellectual property rights protections in a digital trade environment by building on the obligations in the TRIPS Agreement, and ensuring that works made available in digital form receive commensurate protection by incorporating the obligations set out in the WIPO Copyright Treaty.

Some of the highlights in both agreements include:

- Provisions to promote strong intellectual property rights protection and foster electronic commerce by maintaining the balance reflected in the U.S. Digital Millennium Copyright Act. Copyright law is clarified to permit the exploitation

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mation Technology Association Of America—Information Technology Industry Council; National Electrical Manufacturers Association—Semiconductor Industry Association; Semiconductor Equipment & Materials International—Software & Information Industry Association; Telecommunications Industry Association.

of works and effective enforcement of rights in the online environment, while remedies against Internet service providers are limited for infringements they do not control, initiate or direct.

- Requirements to establish prohibitions against the circumvention of effective technological protection measures employed by copyright owners to protect their works against unauthorized access or use, coupled with the ability to fashion appropriate limitations on such prohibitions, again consistent with those set out in the Digital Millennium Copyright Act.
- The application of the reproduction right of a copyright owner to permanent as well as temporary copies.
- Recognition that robust substantive standards for the protection of intellectual property, to be meaningful, must be coupled with obligations providing for the effective enforcement of rights, in both civil and criminal contexts. In this regard, key provisions of the agreements provide for the establishment of statutory damages at levels appropriate to deter further infringement, civil ex-parte measures to preserve evidence of infringement, strong criminal penalties against the most pervasive form of software piracy—corporate and enterprise end user piracy; and strong border measures to combat cross-border trade in infringing goods.
- Obligating governments to lead by example by using only legitimate and licensed software.

As the landscape of international copyright policy continues to evolve, a relatively new issue has emerged on the international scene that could have an impact on American high tech exports. A number of countries, especially in Europe, are imposing levies (or surcharges) on hardware and software products, which by some industry estimates could cost up to one billion dollars per year, hurting both exports and the profitability of the American technology industry. We hope that the use of levies will not be encouraged through future trade agreements.

Trade in Information Technology (IT) Services

During the past decade, a vast array of new e-commerce and information technology services have been developed including data storage and management, web hosting, and software implementation services. Given the increasing trend for technology users to purchase information technology solutions as a combination of goods and services, full liberalization in this area is more important than ever.

It is critical that our trading partners provide full market access and national treatment in information technology services including those that are delivered electronically. It is also important that no barriers are created for evolving information technology services.

In both the Singapore and Chile agreements, parties agreed to provide full market access and national treatment on services. Both agreements adopted a negative list approach, which means that new services will be covered under the agreement unless specific reservations were made in the agreement.

We commend this approach and the achievement in both agreements where liberalization of information technology services was achieved without any commercially significant reservations, leading to the promotion of barrier free trade in services with our trading partners.

E-Commerce in Singapore and Chile FTA

With over 500 million people using the Internet worldwide, the promotion of barrier free cross-border e-commerce is critical in encouraging continued e-commerce growth and development. In fact, the trade treatment of software delivered electronically is one of the most important issues facing the software industry and it is essential that software delivered electronically receive the same treatment under the trade laws as software traded on a physical medium.

We are quickly moving to a world where online distribution is the predominant way software is acquired and used. According to a BSA CEO study, by 2005, 66 percent of all software is expected to be distributed online. This will create enormous efficiencies as the newest, most up-to-date software is delivered across borders at a lower cost and more quickly than when delivered in a physical form, to the benefit of both customers and software developers.

The e-commerce chapters in both the Singapore and Chile FTAs recognize, for the first time, the concept of "digital products" in terms of trade. The chapters also establish requirements that further promote barrier-free e-commerce, essential in promoting growth and development of the IT industry.

- In both agreements, the trading partners agreed not to impose customs duties on digital products. This provision is consistent with the WTO Moratorium on

Customs Duties on Electronic Transmissions. The inclusion of this provision is critical in further promoting the growth of cross border e-commerce.

- Both agreements also introduce the concept of "digital products" as the means to ensure broad national treatment and MFN nondiscriminatory treatment for products acquired on-line. This is critical as it recognizes, for the first time, the evolution and development of digital products during the last twenty years and addresses the need for predictability in how digital products are treated by trade law.
- With respect to the physical delivery of digital products, in both agreements, the parties agreed to apply customs duties on the basis of the value of the carrier medium. This provision is essential as valuation on content results in highly subjective assessments of projected revenues.
- The parties also agreed to cooperate in numerous policy areas related to e-commerce, further advancing the work on e-commerce with our trading partners.

Information Technology: Tariff Measures

The Uruguay Round agreements on tariff reduction, and the subsequent Information Technology Agreement (ITA) within the WTO, has made significant contributions by addressing the issue of barriers to trade created by high tariffs. Tariffs on information technology products are still very high in some countries, creating a substantial impediment to trade.

In order to foster a barrier free trade environment, it is critical that our trading partners sign and implement the ITA or its equivalent. It is essential that our trading partners eliminate or phase out existing tariffs applied to information technology products since tariffs act as a counterproductive burden that raises the cost of the very technology needed to be competitive in the digital economy.

In both FTAs, Singapore and Chile have agreed to liberalize tariff barriers. Singapore is already a signatory to the ITA. Chile, which is not a signatory to the ITA, has agreed to eliminate tariffs on most high-technology products within the next 4 years. The tariff reduction measure in the Chile agreement also sets an important precedent for the Free Trade Area of the Americas (FTAA), which would significantly increase the high tech industry's ability to export its products to Brazil, one of the largest markets for technology products in Latin America.

Finally, both agreements have made important commitments in the areas of customs administration, technical barriers to trade and transparency as well as in the area of telecommunication services. All of these provisions will help facilitate the cross-border flow of high-tech products and services, making our companies more competitive.

In conclusion, the U.S. free trade agreements with Singapore and Chile set new benchmarks in progress toward the promotion of strong intellectual property rights protection, full liberalization of trade in information technology services and barrier free e-commerce as well as tariff elimination among our trading partners. In these agreements, new baselines have been set that should lead to significant market opportunities for the US high-tech industries in the years ahead. We commend the achievements made in both agreements and we strongly support their passage in Congress.

On behalf of Intel, the members of BSA, and the High Tech Trade Coalition, I would like to thank the Committee for the opportunity to testify here today.

PREPARED STATEMENT OF PAUL L. JOFFE

I am Paul Joffe, Senior Director, International Affairs of the National Wildlife Federation, the nation's largest conservation education and advocacy organization.

For over a decade, the National Wildlife Federation has been involved in the development of United States trade policy. Our members are America's mainstream and main street conservation advocates who share a commitment to United States leadership in building a global economy that protects the environment while raising living standards for all people throughout the world.

A NEW CONSENSUS ON TRADE AND ENVIRONMENT

Today, we have an historic opportunity to demonstrate leadership and forge a new consensus on trade policy in the United States and around the world. We can do this by developing trade agreements that reflect the values and interests of all Americans and of people everywhere. A new consensus on trade is achievable and within reach.

As we consider today the results of the first in a series of important trade negotiations that are under way, we can note some progress on the environment but also the even greater challenges that lie ahead.

First, we can note that virtually all parties recognize that environmental issues must be addressed in trade negotiations. I believe we have dispelled the false stereotype that the environmental community wants to "shut down" international trade. Indeed, the greatest risk to the trade agenda has been in attempts to exclude environmental issues, which polarizes debate and undermines public support for trade expansion.

The National Wildlife Federation wants to get to yes on trade. Even more, the National Wildlife Federation wants international trade to achieve its fundamental goal—improving the quality of life for individual citizens in the nations that join international trade agreements. To do this, we need to make progress on development and on the environment at the same time, which of course is the origin of the idea that our goal must be sustainable development. Because the quality of our air, water, land and wildlife is inextricably linked with our quality of life, progress on the environment must be inextricably linked with trade.

The National Wildlife Federation supports further trade liberalization if U.S. and international trade policies and institutions are reformed with common sense measures to integrate economic and environmental priorities.

The debate has progressed to the point where there is beginning to be recognition of the necessity for trade and environment to move forward together. However, we should not rest on our laurels. It is time to move to the next phase in this debate—beyond rhetoric to results.

The U.S.-Chile and U.S.-Singapore Free Trade Agreements (ETA's) make modest progress in addressing environmental issues in trade agreements, but they leave significant gaps between rhetoric and results. We urge the Committee to address these gaps and to reject the use of these agreements as a model for the environment for future trade agreements such as the Central America Free Trade Agreement (CAFTA) and the Free Trade Area of the Americas (FTAA).

We suggest three, common sense principles to guide this effort: Trade liberalization should support rather than undermine environmental protection. Trade negotiations and dispute procedures should be reformed to make them more open, democratic, and accountable. The United States should lead a grand coalition to build a global consensus for sustainable development. As I will explain, the U.S.Chile and U.S.-Singapore agreements have shortcomings on these points so that they should not be a model for future agreements. But they are shortcomings we believe can be remedied. We will be pleased to work with the Committee to address the issues highlighted here as well as other flaws in the agreements.

THE NATIONAL WILDLIFE FEDERATION'S THREE PRINCIPLES

1. Trade Liberalization Should Support, Not Undermine, Environmental Protection.

Expanding trade and protection for the environment can be compatible. The problem is that some have tried to use trade rules to undermine environmental protection, and there is a danger that environmental protection will be weakened in a misguided effort to gain trade advantages.

Congress took a significant step toward recognizing this principle when it provided in fast track trade promotion authority that investment provisions in trade agreements must "ensure[e] that foreign investors are not accorded greater substantive rights with respect to investment protections than United States investors in the United States. . . ."

This language was meant to address a serious problem. NAFTA's Chapter 11 investment provisions have recently been used in major challenges to environmental safeguards in all three NAFTA countries. Chapter 11 creates the potential for challenges to environmental protections using trade agreements when such challenges would be rejected under U.S. law. Trade law and policy should preclude the type of private right of action created under Chapter 11 which has been used by investors to challenge domestic laws such as those relating to water contamination, hazardous waste, and bulk water exports.

We are pleased that the question is no longer whether, but how the defects of Chapter 11 need to be corrected. Unfortunately, the attempted correction in the Chile and Singapore agreements contains a number of gaps, as well as loopholes relating to government action to safeguard the environment and the definitions of "expropriation," "minimum treatment," and the like. The problems with Chapter 11 need to be corrected and must not be replicated in new trade agreements.

More generally, trade agreements must recognize legitimate national and international environmental standards. The Chile and Singapore agreements fall short

on this, containing only weak language about consulting in the future regarding Multilateral Environmental Agreements.

Trade agreements should also provide that nations enforce and strengthen environmental laws and agree not to lower environmental standards to gain trade and investment advantages. While the Chile and Singapore agreements have such language, it is ambiguous, does not put the environment on par with commercial issues, and provides little assurance that the promises will be fulfilled. We recommend below the creation of a new framework to begin to provide such assurance.

2. Trade Negotiation and Dispute Procedures Should Be Reformed to Make Them More Open, Democratic, and Accountable.

The era of international trade negotiations being insulated from public concerns, including respect for the environment, is over. Trade institutions and negotiations must adopt modern, democratic principles of due process, including recognition of the right of the public to review and comment on the written record of a trade dispute, access to the working text of agreements and a permanent role for nongovernmental organizations (NGOs) in trade institution activities. Environmental review of proposed trade agreements should be ensured so that the environmental ramifications are carefully evaluated and taken into account in deciding whether to join in an agreement and on what its terms should be.

Although some progress has been made on these issues, a serious omission in the U.S.-Chile and U.S.-Singapore agreements is the failure to include a "citizen submission process" that allows citizens of both Chile (or Singapore) and the United States to complain about a failure to effectively enforce environmental laws. Modest provisions of this kind are contained in NAFTA and the Canada-Chile environmental side agreements. The omission under the Chile and Singapore agreements is a significant step backward.

3. The United States Should Lead a Grand Coalition to Build a Consensus for Sustainable Development.

The need to build a global consensus for sustainable development presents a great challenge and a great opportunity. The trade promotion authority legislation contains language about assistance to improve environmental performance. The Chile and Singapore agreements mention assistance to improve environmental performance (for Chile there is a partial list of projects) and then each tells us that more details will be forthcoming in another agreement. But it is time to move from rhetoric to results. No trade agreements should go through this Committee without both parts on the table in sufficient detail so the Committee knows what to expect. There can be no progress on trade that will be sustainable without safeguards for the environment.

It is time to recognize that sustainable development is not a luxury for any country on the planet. Developing countries have no interest in poisoning their own citizens and the future of industrialized countries will remain precarious as long as the global tide of environmental degradation and poverty continues to rise.

Nevertheless, developing countries are rightly skeptical of calls from industrialized countries for change when industrialized countries resist needed reforms on subsidy reduction and market access and assistance for sustainable development. For liberalized trade to be widely perceived as part of the solution among the world's disadvantaged, it must promote improvement in the quality of life for all, not just the few. For the sustainability part of the equation to become a reality, industrialized countries must do their part to provide the meaningful levels of capacity building and technical assistance that would make a difference in fueling real sustainable development.

For decades there has been a deadlock on sustainable development, with many in developing countries saying they do not have the resources to invest in sustainability and with many in the industrialized countries saying nothing can be done until someone else takes action.

The responsibility to break this deadlock does not fall exclusively on any one party, but it is equally true that American leadership to overcome it is indispensable. It is time for the United States to lead the world to a new global compact in which progress on development and the environment proceed together.

The remarkable fact is that the tools to the solutions are within reach. This Committee can leave a legacy in keeping with its great constructive accomplishments of the post World War II era if it reaches for these tools in its deliberations on these trade agreements and the ones it will review in the coming months. The National Wildlife Federation proposes the following steps:

THE ROAD TO CONSENSUS

The United States should promote consensus between the global North and South on trade, investment, and the environment through capacity building, environmental cooperation, technology transfer and by addressing developing country concerns regarding market access and subsidy reduction.

Liberalized trade abroad can help in securing the means for less developed nations to implement policies for sustainable development and environmental protection. But these results are not a given. They do not occur automatically. In the context of agreements on international trade, these steps should be taken:

- **Environmental Performance Program:** Trade agreements should be accompanied by a systematic, ultimately multilateral, program with specific goals, timetables, and funding to assess and improve international environmental performance.
- **Environmental Reviews:** Environmental reviews of trade agreements should be used as an element in a systematic work plan for bilateral and multilateral cooperation and capacity building. Gaps identified in reviews should be addressed under the work plan even if the trade agreement proceeds.
- **Cooperative Institutions:** The United States should evaluate the lessons of NAFTA and strengthen and extend institutions for environmental cooperation under bilateral agreements and at the regional, hemisphere, and global levels. The absence of such an institution under the Chile and Singapore agreements is a backward step from NAFTA. Among other things, permanent cooperation institutions can provide ongoing collaboration on the performance program mentioned above.
- **Technology Transfer:** Mechanisms should be established to facilitate transfer of environmental technology to ensure that the consequences of production are not injurious to human health and the environment, especially to the poor. The environmental performance program (above) and the status report (below) should include plans and progress on technology transfer.
- **Adequate Funding:** All of these initiatives should be supported with adequate funding, and not funding taken from other assistance programs. Trade agreements should not be approved without plans and commitments for adequate support for these functions.
- **Monitoring Progress:** Based on the initiatives noted above and others, a status report and recommendations on regional and global progress on trade and environment should be developed by the administration and submitted to Congress annually. The report should explain how the work on trade and environment is integrated with other sustainable development initiatives. It should include recommendations to help fulfill the performance programs referenced above and to help fulfill and strengthen commitments to sustainable development generally.

CONCLUSION

It is in the interest of everyone who wants trade to succeed to establish public confidence in the institutions and policies governing trade. Fortunately, consensus solutions are within reach and we look forward to working with this Committee and all concerned to find common ground.

In this effort, the National Wildlife Federation is engaged and committed to advancing the cause of conservation in the global economy. I can summarize by saying that we need to recognize for the new international economy what we began to recognize about our own national economy as the 20th century opened—that trade is not an end in itself. It is a tool to achieve human aspirations, to improve standards of living and to enhance the quality of life. Our environment, our wild places and wild things are part of humanity's quality of life.

Our laws and policies are beginning to speak a language that recognizes the connection between trade and the environment. It is now time to move from rhetoric to results.

PREPARED STATEMENT OF DAVID JOHNSON

Mr. Chairman and Members of the Committee, on behalf AOL Time Warner, the Warner Music Group and the Entertainment Industry Coalition for Free Trade (EIC), I appreciate the opportunity to testify about the economic benefits that the U.S.-Chile Trade Agreement, along with the U.S.-Singapore Free Trade Agreement, will provide for America's entertainment industries, including the men and women who work in our field. The Entertainment Industry Coalition represents the inter-

ests of those men and women who produce, distribute and exhibit many forms of creative expression, including theatrical motion pictures, television programming, home video entertainment, recorded music, and video games. Our members are multi-channel programmers and cinema owners, producers and distributors, guilds and unions, trade associations and individual companies.

Our members include AFMA; AOL Time Warner; BMG Music; Directors Guild of America; EMI Recorded Music; Interactive Digital Software Association; The International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada, AFL–CIO, CLC (IATSE); Metro-Goldwyn-Mayer Studios Inc.; Motion Picture Association of America; National Association of Theatre Owners; New Line Cinema; the News Corporation Limited; Paramount Pictures; Producers Guild of America; Recording Industry Association of America; Sony Music Entertainment Inc.; Sony Pictures Entertainment Inc.; Television Association of Programmers (TAP) Latin America; Twentieth Century Fox Film Corporation; Universal Music Group; Viacom; Universal Studios; the Walt Disney Company; Warner Bros.; and Warner Music Group; and The Writers Guild of America, west (WGAw). Additional information regarding our membership can be found in the attached document: "**The Entertainment Industry Coalition for Free Trade: WHO WE ARE.**"

The goal of the EIC is to educate policymakers about the importance of free trade for the US economy, the positive economic impact of international trade on the entertainment community, and the role of international trade negotiations in ensuring strong intellectual property protections and improved market access for our products and services.

International markets are vital to our companies and workers. For the record and motion picture industries, for example, exports account for forty to sixty percent of revenues. This strong export base has been significant for sustaining countless US jobs for America's creative talent and workers.

Unfortunately, America's creative industries are under attack. Piracy of copyrighted materials has had a devastating impact. The impact has grown in recent years with the advance of digital technology. While the digital revolution has created new ways for all of us to reach consumers with compelling content, and for consumers in turn to access it from almost anywhere, this same technology has also facilitated the efforts of those who steal the innovation and creativity of others. Market access barriers also plague segments of the entertainment industries.

All of this increases the importance of international trade agreements. In addition to updating traditional copyright protections, our industry needs new agreements that keep pace with changes in technology.

The EIC, therefore, is committed to the passage of the U.S.-Chile, as well as the U.S. Singapore, Free Trade Agreements. These agreements include numerous commitments that are vital to the members of the Coalition such as: (1) providing strong protection of intellectual property in the digital age; (2) strengthening intellectual property rights enforcement; (3) securing market access for the goods and services produced and distributed by our members whether in physical form or over digital networks; and (4) demonstrating that trade agreements can incorporate commitments that open services markets while simultaneously addressing countries' specific socio-cultural concerns. The Coalition firmly believes that these FTAs, once implemented, will promote our economic interests and contribute to a strengthened U.S. economy.

The FTAs Update and Improve Intellectual Property Standards:

The entertainment industries, and the livelihoods of the Americans who work in these industries, are dependent for their success, indeed for their survival, on defending their rights to the intellectual content they have created. Achieving enhanced global standards of copyright protection and enforcement, ensuring meaningful market access, and developing trade disciplines that keep pace with technological development are all central to the Coalition members' ability to remain competitive and to continue to ensure good jobs for America's creative community.

Piracy of our works represents the single largest trade barrier we face in markets outside the United States. Growing levels of physical piracy, online piracy and inadequate enforcement of copyright laws internationally are challenging the competitiveness of our industries worldwide. These two FTAs succeed in addressing these challenges in ways that bode well for high levels of protection in Chile and Singapore and for setting critical, essential precedents for future Free Trade Agreements. Both the Chile and Singapore agreements provide effective standards of copyright protection for the modern digital age, and ensure that protection is meaningful in practice through strong enforcement. Let me quickly highlight as an example a few key areas in the Chile FTA.

The agreement creates clear and binding rules for the protection of intellectual property in the digital economy. It ensures that copyright holders have the *exclusive right* to control the digital transmission of their works, including sound recordings. As you may know, the record industry is undergoing a seismic change in the manner in which recorded music is, and will be, delivered to the consumer. Ensuring that record companies and performers have an adequate legislative basis for the licensing of music services, and that such rights are enforceable in law and practice, will determine whether the digital revolution in communications technologies will advance, or erode, the production and distribution of recorded music. Much is at stake here—for my company, for copyright industries generally, and for all members of society interested in having access to the many products of cultural expression that will only exist if copyright protection is respected and investments in cultural, educational and other creative endeavors rewarded.

The agreement builds upon and improves in significant ways existing international copyright agreements, including the provisions in the WTO TRIPS Agreement. The agreement implements the obligations of the 1996 WIPO Internet Treaties. In addition to ensuring that copyright owners, including record companies, have the exclusive right to control digital transmissions, the agreement includes strong prohibitions against the provision of goods and services that circumvent technological measures used to protect copyrighted works from unauthorized access and copying. In addition, the agreement extends the term of protection for copyrighted works in line with emerging international trends.

Enforcement is essential to meaningful intellectual property protection, and the Chile Agreement contains important new enforcement provisions. It provides strong deterrence against piracy and counterfeiting. It also mandates statutory and actual damages—based on the value of the legitimate goods—for IPR violations under Chilean law. Chile also agreed that its customs and criminal authorities will be able to act "ex officio", without the need for a rightholder complaint. This is a critical element of effective enforcement.

The Government of Chile guaranteed that its authorities will be empowered to seize, forfeit, and destroy both pirated goods *and the equipment* used to produce such goods. Chile, like Singapore, will also enforce these tough laws against goods-in-transit, meaning that these countries will not serve as a conduit for pirated goods produced in other countries.

It is critical that these issues continue to be addressed in each free trade agreement negotiated by the United States.

Creating Market Opportunities for the Entertainment Industry

Services: The US entertainment industry will also benefit from the provisions relating to cross-border trade in services. The Chile FTA ensures that all US audiovisual services will enjoy national treatment and MFN status, with limited reservations. Chile took a minor reservation that limits their obligations for television content broadcast, but its obligations are excellent in other types of audiovisual services where US commercial interests are strongest. For example, recorded music, cinema exhibition, even television and cable transmission services enjoy full market access and national treatment under these agreements. Home video rental and leasing, and the on-demand delivery of all forms of entertainment content are also fully covered. Chile also agreed to grant national treatment to U.S. providers for any cultural cooperation agreements it enters with third countries.

The Chile agreement is a good example of how trade agreements can accommodate cultural concerns, while providing solid market opening commitments. The agreement should serve as a model for future agreements, by proving that cultural interests can be promoted without significant restrictions on international trade. The Chile agreement—just like the Singapore agreement—also ensures continued openness in sectors including advertising, distribution, and computer related services which are all critical for both traditional and as well as digital commerce.

Digital Products: Chile, and Singapore, offer groundbreaking provisions with respect to the treatment of digital products. The Entertainment Industry Coalition is committed to bringing compelling content to consumers both online and through digital downloads; we are pleased, therefore, with both agreements' e-commerce provisions. Chile and Singapore have committed to non-discriminatory treatment of digital products, and have also agreed not to impose customs duties on such products.

Customs Valuation: Both agreements also establish very valuable rules for customs valuation. Specifically, they require that valuation for content-based products (e.g., films or videos or music CDs) be based on the value of the carrier media—not on an artificial projection of the value of the content. Because Chile and Singapore will eliminate their tariffs, the true significance of this provision will be as a

precedent for future negotiations with other trading partners in other bilateral and regional negotiations.

Goods: EIC members are interested in reduction of tariffs on the physical products created by this industry and on zero duties for inputs to our various industries, from sound and projection equipment and state of the art seating for cinemas to promotional materials and the equipment used in the production of films and music. Chile has committed to zero duties on all of the products essential to our industry.

Chile is not a major exporter of entertainment products to the United States. Moreover, the United States already has zero import duties on most entertainment products; elimination of the few remaining low US tariffs on entertainment products are not expected to affect the volume of imports of entertainment products from Chile or cause any harm to any US industries.

Call for Support

On behalf of the Entertainment Industry Coalition, I want to praise the work of Ambassador Zoellick and his staff in concluding both the Chile and Singapore FTAs. Congressional support for these agreements will help promote one of our economy's most vital sectors and largest exporter.

More broadly, we strongly support the Administration's continuing efforts to pursue simultaneous liberalization through bilateral, regional, and multilateral trade negotiations. Each of these avenues offers significant prospects.

In addition, we urge Members to join the newly forming Congressional Antipiracy caucus. Congressmen Goodlatte and Schiff co-chair the House Caucus. Senators Biden and Smith co-chair the Senate Caucus. This caucus will help to reinforce the critical importance of IP protection globally.

For decades, the expansion of trade and the protection of intellectual property have been cornerstones of a bipartisan economic policy. The ability of our country to lead—and the ability of our *companies* to lead—will depend upon our continued success through passage of the Chile and Singapore FTAs and beyond.

EIC

Entertainment Industry Coalition
For Free Trade

WHO WE ARE

AFMA
AFMA is the worldwide trade association of the independent film and television industry. Our Members represent all facets of the independent film and television industry including sales, production, distribution and financing. AFMA also hosts the American Film Market, the world's largest film market, where more than $500 million dollars in film license transactions are concluded annually. International exports of film, television and video/DVD rights are a major aspect of the business of AFMA Members and constitute about $2.6 billion dollars in annual sales.

DGA
The Directors Guild of America (DGA) represents 12,500 directors and members of the directorial team who work in feature film, filmed/taped/and live television, commercials, documentaries, and news. DGA members include Film and Television Directors, Unit Production Managers, Assistant Directors, Associate Directors, Technical Coordinators, Stage Managers and Production Associates. DGA seeks to both protect and advance directors' economic and artistic rights and preserve their creative freedom.

IATSE
The International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada, AFL-CIO, CLC (IATSE) is an International Union that represents over 100,000 members employed in the stage craft, motion picture and television production, and trade show industries throughout the United States, its Territories and Canada.

IDSA
The Interactive Digital Software Association is the U.S. association exclusively dedicated to serving the business and public affairs needs of companies that publish video and computer games for video game consoles, personal computers, handheld devices and the Internet. IDSA members collectively account for more than 90 percent of the $6.9 billion

in entertainment software sales in the United States in 2002, and billions more in export sales of American-made entertainment software.

MPAA

The Motion Picture Association (MPAA) is a trade association representing seven of the largest producers and distributors of theatrical motion pictures, home video entertainment and television programming: Walt Disney Company; Metro-Goldwyn-Mayer Studios Inc.; Paramount Pictures; Sony Pictures Entertainment Inc.; Twentieth Century Fox Corporation; Universal Studios; and Warner Bros.

NATO

The National Association of Theatre Owners (NATO) is the largest trade association in the world for the owners and operators of motion picture theatres. NATO represents over 500 movie cinema companies located in the United States and in 40 countries around the world. These companies range from large national and international circuits with thousands of movie screens, to hundreds of small business operators with only a few movie screens. NATO maintains its main office in North Hollywood, California, and a second office in the Washington, D.C. area.

PGA

The Producers Guild of America represents nearly 2,000 producers and members of the producing team in film, television and new media. Under the leadership of Kathleen Kennedy, the PGA strives to provide employment opportunities for its members, combat credit proliferation within film and television, and represent the interests of the entire producing team. The producing team consists of all those whose interdependency and support are necessary for the creation of motion pictures and television programs. The producing team includes Producers, Executive Producers, Co-Executive Producers, Supervising Producers, Co-Producers, Associate Producers, Segment Producers, Production Managers, Post-Production Supervisors and Production & Post-Production Coordinators.

RIAA

The Recording Industry Association of America is the trade group that represents the U.S. recording industry. Its mission is to foster a business and legal climate that supports and promotes our members' creative and financial vitality. Its members are the record companies that comprise the most vibrant national music industry in the world. RIAA® members create, manufacture and/or distribute approximately 90% of all legitimate sound recordings produced and sold in the United States. In support of this mission, the RIAA works to protect intellectual property rights worldwide and the First Amendment rights of artists; conduct consumer industry and technical research; and monitor and review - - state and federal laws, regulations and policies. The RIAA® also certifies Gold®, Platinum®, Multi-Platinum®, and Diamond sales awards, Los Premios De Oro y Platino®, and award celebrating Latin music sales.

TAP
The Television Association of Programmers (TAP) Latin America is a trade association comprising 35 pan-regional subscription programming suppliers serving Latin America and the Caribbean. The Association, founded in 1995, provides a voice in the region for its members and facilitates the exchange of ideas and information on issues affecting the Latin American marketplace. TAP's headquarters are in Miami, and it maintains a network of legal counsel and industry representatives throughout the region.

WGAw
The Writers Guild of America, west (WGAw) is a labor union that represents writers in the motion picture, broadcast, cable and new technologies industries. Our 8,500 members of the write for news, entertainment, animation, informational, documentary, interactive on-line services, CD-ROM and other new media technologies. We represent writers in a variety of arenas in addition to traditional bargaining. With representatives in Washington D.C. - as well as other countries - the WGAw furthers the interest of writers through legislation, international agreements and public relations efforts.

PREPARED STATEMENT OF LARRY A. LIEBENOW

Mr. Chairman, I am Larry Liebenow, President and CEO of Quaker Fabric Corporation. I am also serving as Chairman of the Executive Committee of the U.S. Chamber of Commerce. Thank you for inviting me to appear before this panel today to present testimony regarding the recently signed U.S. free trade agreements with Chile and Singapore.

Quaker Fabric is a textile manufacturer headquartered in Fall River, Massachusetts. Originally a small family-owned fabric mill that began operations in 1945, Quaker is today one of the largest producers of upholstery fabric in the world and one of the undisputed leaders in the $2billion-plus U.S. upholstery fabric industry.

I am pleased to submit this testimony on behalf of the U.S. Chamber of Commerce, which is the largest business federation in the world. Representing nearly three million companies of every size, sector, and region, the Chamber has supported the economic growth of communities throughout the United States for nearly a century. International trade plays a vital part in the expansion of economic opportunities for our members, and provides increased job opportunities and better consumer alternatives in local communities throughout our country. As such, the U.S. Chamber of Commerce is an active and ardent proponent of the expansion of commercially viable free trade agreements with our trading partners throughout the world.

And the fact is, the U.S.-Chile and the U.S.-Singapore free trade agreements will help America maintain competitiveness and grow business in these countries. The experience of Quaker Fabric in Chile is particularly illustrative of this point. By 2001, Quaker Fabric had made significant inroads into the Chilean market, with just over half a million dollars in exports. Those sales were reduced to almost nothing in 2002, when Quaker was essentially displaced from the Chilean markets amidst lingering doubts about the United States' ability to conclude and implement a free trade agreement with Chile. Coupled with Chile's rapid progress towards free trade agreements with the European Union and other key U.S. competitors, these developments led our customers to reconsider their sourcing strategy, much to our disadvantage.

Conclusion of the U.S.-Chile free trade agreement in December 2002 has enabled Quaker to begin to recapture and grow business in Chile—progress that would likely be lost should Congress now fail to approve the agreement. It would be a similar story in Singapore, where Quaker has been competitive and sees significant growth potential. Passage and implementation of the U.S.-Chile and U.S.-Singapore free trade agreements will allow us to expand our market share in these new and exciting markets more rapidly.

U.S. businesses have the expertise and resources to compete globally—if they are allowed to do so on equal terms with our competitors. Delay in passing and implementing these important trade agreements will hurt American companies and their employees by shutting them out of new markets where there is the most potential

for growth. Ultimately, this is to the detriment of the U.S. economy and American consumers.

In my view, the U.S.-Chile and the U.S.-Singapore Free Trade Agreements are landmark accords that, as part of a comprehensive agenda of worldwide trade liberalization, will help slash trade barriers for U.S. exports, enhance protections for U.S. investment, and strengthen the competitiveness of American companies—both big and small—throughout the world. We believe these agreements are worthy of your support.

The Bracing Tonic of TPA

America's international trade in goods and services accounts for nearly a quarter of our country's GDP. As such, it is difficult to exaggerate the importance of the victory obtained last summer when the Congress renewed Presidential Trade Promotion Authority (IPA). When President George W. Bush signed the Trade Act of 2002 into law on August 6, it was a watershed for international commerce. As we predicted, this action by the Congress has helped reinvigorate the international trade agenda and has given a much-needed shot in the arm to American businesses, workers, and consumers struggling in a worldwide economic slowdown.

When TPA lapsed in 1994, the U.S. was compelled to sit on the sidelines while other countries negotiated numerous preferential trade agreements that put American companies at a competitive disadvantage. As we pointed out to Congress last year during our aggressive advocacy campaign for approval of TPA, the U.S. remains party to just three of the roughly 150 free trade agreements in force between nations today.

The passage of TPA allowed the United States finally to complete negotiations for bilateral free trade agreements with Chile and Singapore, in December and January, respectively. These are the first significant free trade agreements negotiated by the United States since the NAFTA.

The U.S.-Chile and U.S.-Singapore Free Trade Agreements are excellent accords that raise the bar for rules and disciplines covering a host of economic sectors, from services and government procurement to e-commerce, and intellectual property. The fact that no products were excluded from the agreements' market access commitments, shows that the United States remains committed to an aggressive agenda of trade liberalization.

Contrary to comments by some observers, the U.S. Trade Representative does not expect these agreements to be templates to which any country's name can be added. Instead, these agreements strike a crucial balance between raising the bar for future trade agreements—including the Free Trade Area of the Americas (FTAA) and discussions for trade liberalization in the context of the Asia-Pacific Economic Cooperation (APEC) forum—and recognizing the inherent disparities that exist between our trading partners throughout the world in their levels of economic development and preparedness to implement free trade agreements.

Maintaining Competitiveness

The two agreements have much in common, but each has its particular advantages. One factor adding urgency to our request for quick Congressional action on the agreement with Chile is the heightened competition U.S. companies face in the Chilean marketplace. In this sense, Chile is an example of how the world refuses to stand still—and how American business is losing its competitiveness in the absence of an ambitious program of trade expansion.

Let me illustrate. Many of you know that Chile's free trade agreement with the European Union came into force on February 1. On that day, tariffs on nearly 92% of Chilean imports from the EU were eliminated. Consequently, it is not surprising to note that Chilean imports from the EU expanded by 30% in the year ending in February 2003, with Chilean imports from Germany up 47% and those from France up 41%. In the same period, Chilean imports from the United States grew by less than 6%.

The reason is simple: While U.S. exporters wait for a free trade agreement, our exports to Chile continue to face tariffs that begin at 6% and, for some products, range much higher. The upshot is that European companies are seeing their sales in Chile rise five times as quickly as those of U.S. firms.

In a similar fashion, the free trade agreement with Singapore will further anchor U.S. competitiveness in the Asia-Pacific region, where Singapore is already actively engaged in negotiating trade agreements. Singapore has implemented free trade agreements with Australia, Japan, New Zealand, and the European Free Trade Area and is negotiating with Canada, Chile, and Mexico. It is also a participant in the framework agreement between ASEAN and China aimed at reducing tariffs and non-tariff trade barriers.

The comprehensive nature of the free trade agreement with Singapore is a testament that Singapore shares many of our country's views on global trade liberalization. As such, the agreement will contribute to our global and regional trade liberalization objectives and will serve as a barometer for other countries in Asia that are interested in completing free trade agreements with the United States.

Gauging the Benefits

How might these two agreements benefit the United States? There is a strong economic argument to be made for free trade agreements. As U.S. Trade Representative Robert Zoellick has pointed out, the combined effects of the North American Free Trade Agreement (NAFTA) and the Uruguay Round trade agreement that created the World Trade Organization (WTO) have increased U.S. national income by $40 billion to $60 billion a year. This helped lead to the creation of more than 20 million new American jobs in the 1990s. Many of these jobs were created in the export sector where, on average, jobs pay 13 to 18 percent more. In addition to the increased wages, the lower prices generated by NAFTA and the Uruguay Round on imported items, mean that the average American family of four has gained between $1,000 to $1,300 in spending power—an impressive tax cut, indeed.

From a business perspective, the following are a few examples of specific market-opening measures in the two free trade agreements, provided here to give some insight on how U.S. companies stand to benefit:

Tariff Elimination. In the case of Singapore, the free trade agreement will immediately eliminate all Singaporean customs duties on all U.S. products upon entry-into-force, unequivocally meeting one of the principal negotiating objectives set forth in the Trade Act of 2002. The agreement will also remove a number of significant non-tariff barriers, such as Singapore's excise taxes on imported automotive vehicles. The agreement with Chile will eliminate tariffs on more than 90% of all U.S. goods immediately, with the remainder to be phased out in a fairly rapid fashion. Today, most U.S. exports to Chile face a tariff of 6%, which can constitute a significant barrier indeed, but tariffs are substantially higher in some sectors. For instance, Chile continues to impose a luxury tax of 85% on vehicles imported from the United States valued at more than $15,000—a significant barrier to U.S. exports that the free trade agreement will eliminate.

Services. Services accounts for over 80% of GDP and employment in the United States. The services chapters of both agreements provide enhanced market access for U.S. firms across different service sectors using a "negative list" approach (full market access for all service providers except those in sectors specifically named). U.S. service suppliers will also be assured fair and nondiscriminatory treatment in both countries. Banks, insurers, and express delivery providers are among the sectors that will benefit immediately from new opportunities in both markets if the two agreements are approved and implemented.

Electronic Commerce. The landmark e-commerce chapters of the U.S.-Chile and U.S.-Singapore agreements will help ensure the free flow of electronic commerce, champion the applicability of WTO rules to electronic commerce, and promote the development of trade in goods and services by electronic means. Provisions in this chapter guarantee non-discrimination against products delivered electronically and preclude customs duties from being applied on digital products delivered electronically (video and software downloads). For hard media products (DVD and CD), custom duties will be based on the value of the carrier medium (e.g., the disc) rather than on the projected revenues from the sale of content-based products.

Intellectual Property Rights. The agreements with Chile and Singapore provide important new protections for copyrights, patents, trademarks and trade secrets, going well beyond protections offered in earlier free trade agreements. Once again, the two agreements serve as a useful benchmark for future agreements with other countries. Both agreements have important new enforcement provisions. In the case of Chile, the agreement criminalizes end-user piracy and provides strong deterrents against piracy and counterfeiting. The agreement also mandates both statutory and actual damages under Chilean law for violations of established norms for the protection of intellectual property.

Movement of Personnel. Under the two agreements, U.S. professionals will be granted special temporary entry visas into Singapore and Chile for a period of 90 days. The special visa would be based on proof of nationality, purpose of the entry and evidence of professional credentials. The visas would provide for multiple entries and would be renewable. The Chamber welcomes this provision in the free trade agreements, as it will make it easier for U.S. companies to deploy (a) executives to oversee operations of their overseas affiliates ("intra-company transfers") and (b) specialists for training and customer service ("business visitors") while also allowing (c) temporary entry of professionals for business development and other

specific business objectives. In all of these ways, the provisions on movement of personnel will further the advancement of investment and trade in goods and services in those markets.

Provisions on Labor and the Environment. The longstanding policy of the U.S. Chamber is that trade agreements should not hold out trade sanctions as a remedy in response to labor and environmental disputes. Our interpretation of the enforcement mechanism of the labor and environmental provisions of the Chile and Singapore free trade agreements is that monetary compensation is the remedy of first choice and that trade sanctions would be employed only as a last resort.

What the Chamber is Doing

The U.S. Chamber is helping to lead the charge in the effort to win approval of these two agreements. In concert with out partners in the U.S.-Chile and U.S.-Singapore Free Trade Coalitions, the Chamber has met face-to-face with over 120 members of Congress since January to make the case for approval of the two agreements. We have also met with members of Congress in their districts throughout the country as part of our ongoing "TradeRoots" program to educate business people and workers about the benefits of open trade. We have found extremely broad support for the agreements, both in the Congress and in the business community.

As part of this "TradeRoots" effort, the Chamber has published two "Faces of Trade" books to highlight small businesses in the United States that are already benefiting from trade with Chile and Singapore—and that stand to benefit even more from, free trade with these two markets. I invite you to review these success stories and see the face of American trade today. It isn't just about multinationals, which can usually find a way to access foreign markets, even where tariffs are high. It's about hundreds of thousands of small companies that are accessing international markets—and that are meeting their payroll, generating jobs, and growing the American economy.

We've generated a wealth of information about the potential benefits of these agreements and our efforts to make them a reality. In the interest of brevity, I would simply urge you to contact the Chamber if you need more information. A good place to start is our website: *www.uschamber.com*. Another good place for information on the Chamber's broader coalition efforts is the U.S.-Chile Free Trade Coalition website at *www.uschilecoalition.com* or the site for the U.S.-Singapore Free Trade Coalition at *http://www.us-asean.org/ussfta/index.asp*.

Conclusion

Trade expansion is an essential ingredient in any recipe for economic success in the 21st century. If U.S. companies, workers, and consumers are to thrive amidst rising competition, new trade agreements such as these two will be critical. We cannot continue standing by while our competitors shape trade rules to their advantage and our disadvantage. In the end, U.S. business is quite capable of competing and winning against anyone in the world when markets are open and the playing field is level. All we are asking for is the chance to get in the game.

Mr. Chairman, we appreciate your leadership in reviving the U.S. international trade agenda, and we ask you to move expeditiously to bring these agreements to a vote in the Congress.

Thank you.

PREPARED STATEMENT OF SANDRA POLASKI

Mr. Chairman, Senator Baucus, Members of the Committee, nay name is Sandra Polaski. I am a senior associate at the Carnegie Endowment for International Peace, where 1 work on issues of labor, trade and development. Previously I served at the U.S. Department of State as the Secretary's Special Representative for International Labor Affairs. In that capacity I led the team negotiating labor issues in the U.S.-Jordan Free Trade Agreement. I had the pleasure of serving both Secretary Albright and Secretary Powell.

Thank you for the opportunity to address the labor provisions of the U.S.-Singapore Free Trade Agreement. To the extent that the labor provisions are identical to those in the U.S.-Chile Free Trade Agreement, I will be commenting on labor provisions in that agreement as well. I will then briefly discuss a separate provision of the Singapore FTA that has labor ramifications.

I believe that the only appropriate and useful basis for evaluating labor provisions of free trade agreements is whether those provisions are likely to be an effective means of protecting labor rights in the specific countries party to the agreement. That is, labor provisions should not be evaluated in terms of whether they form a

precedent or template for other negotiations. That is too heavy a burden to place on any one trade agreement, and further, the important differences in labor practices between our many trading partners make it unlikely that any single model could possibly be useful and effective in all other situations. When it comes to labor provisions, it is certainly true that "one size does not fit all".

The approach taken to the labor provisions of these two agreements, as you know, is that the countries make a binding commitment to effectively enforce their own labor laws. The agreements then discipline the parties to uphold this commitment by making persistent violations subject to dispute settlement procedures. Where dispute panels find such violations, fines may be imposed, with the fines being used to fund activities and programs to remedy the problem of non-enforcement of labor rights. In extreme cases, where a party refuses to pay such a fine, the other party may collect the amount through reinstated tariffs, on an annual basis, as long as the violation persists. This approach can protect and reinforce labor rights and be a meaningful trade discipline where—and only where—the country's labor laws are adequate. Otherwise we would simply lock in low and unacceptable labor standards through our trade agreements.

Using the standard I stated earlier—whether the labor provisions of a particular trade agreement are likely to be an effective means of protecting labor rights in the specific countries party to the agreement—my evaluation is that, on balance, the labor provisions of both the U.S.-Singapore and U.S.-Chile FTAs constitute an acceptable approach to protecting labor rights in the traded sectors of the economies of these two trading partners. I come to that conclusion based on familiarity with the labor laws and practices of both countries. Both Singapore and Chile have labor laws that, while not perfect by any means, give protection to workers' basic rights that is roughly comparable to the U.S. level of protection. At the same time, both Singapore and Chile enforce their labor laws with reasonable vigor. And finally, both Singapore and Chile are societies that function under the rule of law, with administrative mechanisms and backup judicial enforcement systems that provide a means of redress if primary enforcement fails.

This is critically important in distinguishing between these agreements and the agreement that is currently being negotiated between the US and five Central American countries, and it is why I make the point that the Singapore and Chile labor provisions cannot be seen as a model. In the five Central American countries involved in the CAFTA trade talks, there are serious flaws in the labor laws that deny workers one or more of their basic, internationally recognized labor rights. In the majority of those countries labor law enforcement is weak and irregular, and in several countries the judicial system is so ineffectual or corrupt as to provide no effective redress at all. An approach like that taken in the Singapore or Chile FTAs would not protect labor rights in Central America in any meaningful way.[1] That is why it is important to look at the labor provisions in the Singapore and Chile FTAs only in terms of whether they are appropriate and adequate for trade agreements with these two countries, and not to see them as a precedent or template. Frankly, I urge this Committee to exercise its oversight responsibilities to be sure that the administration makes timely, realistic assessments and reports on the actual labor situation in different countries with which the U.S. negotiates, as required by the Trade Act of 2002, that it makes appropriate distinctions between countries, and then negotiates suitable labor terms that provide meaningful protection of labor rights based on the reality in each country.

Let me turn now to a specific aspect of the labor provisions of the Singapore and Chile FTAs that deserves comment. I think that the decision of U.S. negotiators to limit the availability of dispute settlement solely to the commitment to effectively enforce labor laws was a mistake. In the U.S.Jordan FTA, we intentionally made all aspects of the labor chapter subject to dispute settlement. That included the parties' pledge to "strive to ensure" that the fundamental labor rights recognized by the ILO and the internationally recognized labor rights listed in the agreement are recognized and protected by domestic law. It also included a commitment to "strive to improve" labor laws in light of those international standards, and a commitment to "strive to ensure" not to waive or derogate from labor laws to attract investment. In the U.S.-Jordan FTA, all such labor commitments are subject to dispute settlement. Now, anyone who has practiced dispute settlement under international agreements knows that a commitment to "strive to ensure" would be very difficult to litigate. But it would not be impossible in extreme cases, such as a wholesale repeal of labor rights protections, or a broad waiver of labor rights in export processing

[1] For further comments on this topic, see Sandra Polaski, "Central America and the U.S. Face Challenge—and Chance for Historic Breakthrough—on Worker Rights", Carnegie Endowment for International Peace, February 2003, available at *www.ceip.org/files/publications*.

zones. I think this limitation is unfortunate and a real weakness of the Singapore and Chile agreements. Given that both Singapore and Chile are reasonably democratic societies, where the public is organized through political parties, labor unions and other civil society institutions, the types of egregious actions that could be successfully litigated under the U.S.-Jordan FTA language are not very likely to occur. That political and social context is the only mitigating factor that makes this limitation palatable. But this approach most emphatically is not suitable as a precedent for other U.S. trade agreements, which may be negotiated with countries where civil society is very weak and where governments may operate with severe conflicts of interest or outright corruption and collusion. It is also worth noting that the limitation of access to dispute settlement for labor (and environment) differs from all other issues covered by the agreement. I urge the members of this Committee to make clear to the administration that future agreements, including the CAFTA, should use the Jordan approach, in which all provisions of the labor chapter are subject to dispute settlement.

Finally, I would like to comment on a separate provision of the U.S.-Singapore FTA that has significant labor ramifications. That is the integrated sourcing initiative, or ISI, which allows goods produced in third countries to be treated as if they had been produced in Singapore for the purpose of satisfying rules of origin provisions.[2] Currently a list of electronic and high tech goods is covered, and the agreement explicitly provides for expansion of that list in the future. It is widely noted that the ISI will cover products from the Indonesian islands of Bintan and Batam, but there is no limitation on where such products may originate. What is the labor ramification? Neither Indonesia nor any other country that benefits from this provision is required to effectively enforce its labor laws. The third country beneficiaries take on none of the obligations of the trade agreement, including those—like labor rights—that embody a carefully forged consensus on trade policy in the U.S. This is not a theoretical problem. In the export processing zones of Bintan and Batam there have been widespread violations of basic labor rights. Both the State Department Country Report on Indonesia and recent reports from Indonesian trade unions indicate continuing problems, ranging from failures to pay even the minimum wage to corruption by labor inspectors, to attacks on union supporters by thugs hired by companies or local government. The ISI could extend access to the U.S. market to countries with even worse labor problems. such as Burma. Currently, U.S. investors are banned from new investments there due to severe violations of human and worker rights in that country. But Singaporean investors face no such constraints and if they choose to move production to Burma, products covered by the ISI will gain preferential access to the U.S. market.[3] The ISI is a bad idea that weakens U.S. trade policy by allowing investors, based oil their production and sourcing decisions, to decide which countries will gain trade advantages with the U.S.—without those countries taking on any of the obligations of trade agreements. As written, it also shifts the balance on trade policymaking between the executive and legislative branches by allowing USTR to add products to the ISI without Congressional votes. I urge members of this Committee to use the implementing legislation to close the loophole created by the ISI and to press the administration not to replicate this approach in any other trade agreement.

At the end of the day, Members of this Committee and other Senators must assess and vote on the U.S.-Singapore and U.S.-Chile trade agreements based on their totality. I don't offer an opinion on that overall calculation, but only a fair assessment of the labor provisions and the labor implications of the integrated sourcing initiative. Thank you for that opportunity.

PREPARED STATEMENT OF HON. RICK SANTORUM

Chairman Grassley, thank you for convening this hearing today and for assembling a series of panels that will offer varied perspectives on the Administration's recently negotiated free trade agreements with Chile and Singapore. The comments

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[2] For further comments on this topic, see Sandra Polaski, "Serious Flaw in U.S.-Singapore Trade Agreement Must Be Addressed", Carnegie Endowment for International Peace, April 2003. Available at *www.ceip.org/files/publications*.

[3] The Senate recently passed a bill that Would restrict imports from Burma. If this bill becomes law after the U.S.Singapore FTA enters into force, it arguably would provide a basis for Singapore to claim that benefits expected under the FTA had been impaired. Similar foreign policy actions by the U.S. in the future could be exploited by investors to press claims under the investment chapter. These examples serve to illustrate the unpredictable and unintended consequences that could flow from the unprecedented approach taken in the ISI.

provided by each of today's witnesses will be helpful as we weight the merits of these agreements and decide whether or not to support the new trade agreements.

From initial review, these trade agreements appear to establish market access for goods and services, address many of the needs of 21st Century e-commerce, work to safeguard intellectual property rights, open doors for investment, and promote enhanced competition. If the parties to these agreements abide by the terms negotiated, these agreements should promote economic growth and create higher paying jobs in the U.S. by reducing and eliminating barriers to trade and investment. I am supportive of the efforts made by Ambassador Robert Zoellick and his staff at the Office of the U.S. Trade Representative, and I am inclined to support both agreements negotiated by the Bush administration.

As you and others on the Committee on Finance know, these two agreements are the first trade agreements to be considered by Congress under the procedures defined by the Trade Promotion Authority legislation passed last year. The trade agreements negotiated by the Administration can only be approved or disapproved by Congress. For this reason it is all the more important that we be mindful of the insights of various stakeholders impacted by these free trade agreements.

I, like most of you, am aware of the impact these agreements could have with my constituents, their companies, and their families. In 2000, approximately 115 Pennsylvania companies and firms exported roughly $68 million in goods to Chile. These exports directly impacted 1.3million Pennsylvania workers and involved 169 different products. Among the leading Pennsylvania exporters to Chile in 2000 were Mack Trucks of Allentown; Harbison Walker Refractories of Pittsburgh; Lyondell Petrochemical of Pittsburgh; FMC Corporation of Philadelphia; and Armstrong World Industries of Lancaster.

In addition, Pennsylvania imports a substantial volume of goods exported from Chile. In 2000, significant imports from Chile were undertaken by International Salt of Clarks Summit; Dole Food Company of Lester; Unifruitti of America of Philadelphia; U.S. Produce Exchange of Philadelphia; Robert Wholey & Company of Pittsburgh; and Allselect Produce of Philadelphia. These imports from Chile have helped to create important jobs in the Commonwealth of Pennsylvania.

Also of note are Pennsylvania exports to Singapore. In 2001, Pennsylvania companies exported approximately $474 million in goods to Singapore. Leading Pennsylvania exports were computers and electronic products, chemicals, processed foods, machinery, appliances and parts, and transportation equipment. During the 1997–2000 time period, the Commonwealth of Pennsylvania ranked 10th among U.S. states in exports to Singapore.

As members of this Committee know, the U.S. International Trade Commission (ITC) performed an assessment of the likely impact of these trade agreements on the U.S. economy as a whole, on specific industry sectors, and on the interest of U.S. consumers.

The Commission's report noted that more than 87% of U.S.-Chilean bilateral trade in consumer and industrial products would become duty-free immediately upon entry into force of the Agreement. As leading U.S. exports to Chile are electronic products, transportation equipment, chemical products, and minerals and materials, Pennsylvania companies stand to benefit from approval of this agreement with Chile through lower tariffs.

The ITC also noted that both the U.S. and Singapore have open trade regimes, and therefore the Agreement's most important benefits are not related to the reciprocal tariff elimination as much as the non-tariff provisions. Regarding non-tariff barriers, Singaporean services regulators must now use open and transparent administrative procedures, consult with interested parties before issuing regulations, provide advance notice and comment periods for proposed rules, and publish all regulations.

The Commission also noted that as these free trade agreements provided improved intellectual property rights protection and enforcement mechanisms, increased revenues might well be earned by the U.S. motion picture, music recording, software, and publishing industries—sectors of industry providing good, high-paying jobs.

Mr. Chairman, I appreciate your efforts to assemble a diverse and informed group of witnesses to appear before us today. I also want to extend my support for the Administration and the efforts made to help American companies improve export opportunities and to help expand the purchase options and selections for American consumers.

PREPARED STATEMENT OF KEITH SCHOTT

Mr. Chairman, Members of the Committee, thank you for the opportunity to provide testimony on the Free Trade Agreement with Chile. I farm and ranch near Broadview, Montana, located in the southeastern part of the state. My wife and I operate a diversified operation consisting of approximately 3,000 acres of spring wheat, winter wheat, barley, millet, hay and sunflowers. In addition, we run approximately 150 head of beef cattle in a cow/calf operation. I currently serve as treasurer of the Montana Grain Growers Association (MGGA), the primary commodity organization representing wheat and barley producers in the state. My testimony today is on behalf of that organization, as well as the Montana Stockgrowers Association.

Agriculture is Montana's number one industry, with cattle, wheat and barley representing nearly $2 billion of income to the state's economy. Agricultural producers in our state, and in turn the entire economy, are very dependent upon exports. In the case of wheat, over 80 percent of Montana's crop is exported, traditionally to Pacific Rim countries. That translates into a third of a billion dollars of income to the state. We are always searching to expand our markets, knowing full well that we operate in a world economy with many competitors. Whether or not we agree with the concept of free trade, it's here to stay. What we need is access to expanding markets through a level playing field. Chile offers one of those expanding markets for Montana and U.S. agricultural products.

I would like to touch on several provisions of the Free Trade Agreement with Chile that have particular benefits for producers in my state.

First, both barley and durum wheat tariffs would immediately go to zero once the agreement is ratified by both countries. In the case of durum, Montana is the number two producer in the U.S., with sales valued at over $50 million per year. Canada has traditionally been the primary supplier of North American durum to Chile. This agreement would put U.S. durum in a very strong competitive position versus Canada. In the case of barley, Montana production is number three in the nation and growing quickly. Barley production is worth over $100 million to the state's economy.

Second, duties on other classes of wheat would be phased down to zero over the next twelve years. The elimination of this duty will make U.S. wheat producers very competitive to sell into Chile. In Montana, we raise four of the six classes of wheat grown in the United States—hard red winter, hard red spring, hard white and durum. As I mentioned earlier, our wheat producers are familiar with selling into export markets and we know how to deliver high quality products to our end customers. Montana wheat farmers have a lot to offer our Chilean customers.Keith Schott Testimony, Page Two

The third aspect of the agreement that directly affects wheat is the provision that the U.S. will always be on equal footing with other countries relative to customs duties. If Chile were to sign a free trade agreement with another country, the U.S. customs duties shall be at the same level or less. We obviously feel this is a very important piece of the agreement and represents the "fair playing field" for American agriculture that I have referenced before.

In my opening comments I mentioned that I am also a beef producer. I believe this agreement provides potential benefits for that segment of my operation as well. Chile is the ninth largest importer of beef, purchased almost entirely from its South American neighbors. High quality beef raised in Montana could fill an important niche in the high-end, higher value Chilean beef market.

Perhaps the most important beef provision allows immediate recognition of each other's grading and inspection systems. This reciprocity should greatly reduce the complexity of livestock trade between our two countries. The agreement also calls for a scheduled reduction of beef tariffs over four years, with complete elimination at the end of the period.

Mr. Chairman and Members of the Committee, we need to do everything possible to make U.S. farmers and ranchers competitive in this global economy. One of the most important tools is free and fair access to expanding markets. The Free Trade Agreement with Chile will do just that.

Thank you for allowing me to share my comments. I will be happy to answer questions at the appropriate time.

PREPARED STATEMENT OF JEFFREY R. SHAFER

Thank you for the opportunity to appear today on behalf of both Citigroup and the U.S. Singapore FTA Business Coalition. My name is Jeffrey Shafer and I am

a Managing Director of Citigroup Global Markets. Prior to joining Citigroup, I served for four years as Assistant Treasury Secretary and then Undersecretary of Treasury at the Department of Treasury, where, among other issues, I was responsible for financial services negotiations.

The U.S. Singapore Coalition, which consists of companies and business organizations from across America, is actively working to support the passage of the U.S.-Singapore Free Trade Agreement. The Coalition's broad membership includes the U.S.-ASEAN Business Council, the U.S. Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, the Emergency Committee for American Trade, AmCham Singapore, and the Coalition of Service Industries, among others.

The Coalition views the U.S. bilateral agreement with Singapore as significant for many reasons. Economically, we believe this landmark pact will: (1) open new sectors to American companies in Singapore; (2) spur economic growth in both countries; (3) create higher paying jobs for American workers; and (4) increase investments, trade volumes and economic integration. Moreover, the Coalition believes this FTA will further solidify America's presence and commitment to the Southeast Asian region, which is especially critical during these uncertain times.

While the coalition's focus has been Singapore, I also want to express strong support for the U.S.-Chile Free Trade Agreement, which in most ways mirrors the Singapore FTA. Just as the Singapore agreement will create new opportunities in Asia, the Chile agreement will help us to re-establish momentum in Latin America.

Both Singapore and the Chile agreements incorporate deep and broad commitments that break new, ground in sectors including financial services, telecommunications, intellectual property rights and e-commerce. Both agreements maximize liberalization in goods and services, and should serve as models for future bilateral, regional and multilateral negotiations.

In recent years, the United States has fallen behind the rest of the world, which has experienced a proliferation of free trade agreements and bilateral investment treaties. There are now an estimated 130 FTAs in force, of which the United States is a signatory to only four. The Singapore and Chile Agreements already have stimulated interest from other countries in both regions to work towards their own free trade agreements with the United States.

For American companies, the agreements represents new investment opportunities, increased bilateral trade flows, and the potential for more profitable business activities. With the agreements' emphasis on bilateral customs cooperation, expedited customs clearances and tariff elimination, trade volume levels are expected to increase across the board.

The most powerful arguments in support of the Singapore and Chile Agreements stem from the terms of the agreements themselves. Our skilled and dedicated negotiators at the Office of the US Trade Representative and the Department of Treasury deserve enormous credit for crafting strong provisions which will have an immediate effect in increasing trade. We should also acknowledge their counterparts in Singapore and Chile. No agreement is ever reached without the commitment of both sides.

Because I come from the financial services world, and because our coalition is focused on Singapore—let me use those areas to provide a few detailed example of the new benefits that U.S. companies can gain through increased trade.

In banking, the U.S.-Singapore Agreement requires Singapore to lift its current ban on new licenses for full-service banks within eighteen months. Once licensed, the Agreement allows full service banks to offer their services at up to thirty locations in year one. After two years, the Agreement allows licensed banks to operate an unlimited number of locations.

One of the most significant provisions of the Agreement concerns access to local ATM networks. As you probably know from personal experience, ATMs are now fundamental to consumer banking. When entering a new market, the ability to access local ATM networks is a vital element of market access. Under the U.S.-Singapore FTA, locally incorporated subsidiaries of US banks can apply for access to local ATMs within two and a half years. Branches of US banks will get access to the ATM network in four years. Obviously liberalization can always occur more quickly, but with the right kind of implementation, this is a significant step forward.

Another important area of the Agreement concerns the new ability of US banks to offer asset and portfolio management services in Singapore. US banks are permitted to offer these services either through the establishment of a local office or by the acquisition of a local firm.

The Singapore Agreement's handling of the issue of capital controls is also worth highlighting. This was a contentious area for negotiators and I want to commend both sides for arriving at a balanced solution. On the one hand, foreign investors

need the assurance that they have the freedom to repatriate their capital. At the same time, governments have legitimate concerns about the negative effects of rapid withdrawal of capital in times of crises, concerns which came to the forefront in the financial crisis of 1997.

The Agreement prohibits capital controls and even makes them subject to investor lawsuits. At the same time, however, the Agreement establishes guidelines which have the effect of limiting the specific instances of potential liability. This is a balance that acknowledges concerns on both sides—and could well serve as a model for other ASEAN countries.

In discussing international investments, I should mention the importance of access to international arbitration. Access to arbitration guaranteed by Free Trade Agreements or Bilateral Investment Treaties is critical. Citigroup is strongly opposed to proposals that would limit our access to international arbitration. We are particularly concerned at certain proposals that would exempt from arbitration certain categories of agreements (for example, procurement agreements and licenses) as well as those that would exempt certain developed countries from arbitration over these issues.

The U.S.-Chile Agreement also provides important new opportunities for the U.S. financial services industry. It will ensure the absence of discrimination and provide most-favored nation treatment. It will permit U.S. banks and insurance companies to establish branches and subsidiaries in Chile without restrictions and with very limited exceptions. In addition, foreign companies will have the ability to offer the services of their financial companies (for example, savings/retirement plans, insurance, banking services, etc.) with fewer restrictions. Finally, with respect to insurance companies, they will have a better ability to offer their products through local social securities companies.

Financial services, obviously, is not the only sector to benefit from the new agreements. New and expanded trading opportunities are created for sectors including express delivery, healthcare, telecommunications, information technology, transportation, travel, and tourism.

With regard to intellectual property rights protection, the Singapore and Chile FTAs break new ground and shore up standards that the American high technology industry deems essential for marketing its products abroad. Adequate and effective protection of intellectual property rights remains a foundation for continued U.S. leadership in many industry sectors.

The precedent that these agreements set for future bilateral and multilateral trade agreements in IPR protection warrants our staunch support. Under the agreements, American biotech, chemical, pharmaceutical, entertainment, and multimedia companies will enjoy rights and privileges, including non-discriminatory treatment, governmental involvement in the intervention and prosecution of violators, as well as the active application of anticircumvention rules. These protections will allow American manufacturers and service providers to be more competitive by offering superior technology and services without the threat of trade secrets being stolen or copyrights violated.

Both the Singapore and Chile FTAs also contain an e-commerce chapter that is truly pioneering. Its inclusion addresses the realities of the information age and supports an industry in which the U.S. enjoys a strong competitive advantage. The agreements commit Singapore and Chile to the non-discriminatory treatment of digital products and lower the barriers on the use and development of e-commerce. Both countries have also committed not to apply fees or tariffs on the electronic transmission of digital products and services delivered via the Internet.

One general aspect of the agreements worth highlighting concerns transparency. Under the new bilaterals, regulatory authorities must use open and transparent administrative procedures. Regulations must be published. Regulators must consult with interested parties prior to issuing regulations. Transparency is not the type of issue that typically wins much attention, but it is vital to being able to do business on a level playing field. Businesses and consumers cannot make rational economic decisions without accurate, timely information. Much unfinished work on transparency remains in the WTO, and the new bilaterals provide a good model for moving forward.

As you can see from this brief overview, there are many reasons that both Citigroup and the U.S.-Singapore FTA Business Coalition to support these agreements. Their adoption by Congress will send an important signal to our trading partners that we intend to continue to lead the world in rules-based, comprehensive trade liberalizing agreements.

In a tangible way, the agreements speak to our country's broader confidence in closer economic ties with both Asia and Latin America. And as the first agreements to be brought back to Congress under the new Trade Promotion Authority, we hope

these new agreements also speak to a rededicated commitment to the expansion of trade.

PREPARED STATEMENT OF NORMAN SORENSEN

Mr. Chairman and members of the Committee, thank you for this opportunity to submit this statement on behalf of the Coalition of Service Industries (CSI) on the US Free Trade Agreements with Chile and Singapore. My name is Norman Sorensen, and I am the President of Principal International, Inc., an Iowa-based, wholly-owned subsidiary of Principal Financial Group.

I appear before you today in my current role at Principal, and as a member of the Board of Directors of CSI and as the Chairman of CSI's Financial Services Group. CSI is comprised of US service companies and trade associations seeking to achieve expanded market access in all modes of supply in all trade negotiating forums. CSI's Financial Services Group was established in 1995 specifically to ensure the conclusion of a commercially meaningful financial services agreement in the General Agreement on Trade in Services (GATS) in the WTO, and we have sustained our strong intent in financial services trade liberalization since that time.

In addition to benefiting the services sector as a whole in the US, Singapore and Chile, the trade Agreements with these two countries are commercially significant for the Principal Financial Group. We operate three companies in Chile: Principal Vida Chile is one of the largest annuity providers in Chile. Principal Mortgage originates and services retail mortgages. Principal Tanner provides mutual funds as investment vehicles for voluntary retirement plans. Principal Global Investors (Singapore) Ltd. is the dedicated institutional asset management office for Principal Financial Group in Asia. The firm provides retirement plans and institutions with competitive asset management products with a primary focus on government sponsored pension systems and central banks.

The testimony identifies the provisions of the FTAs that CSI's members believe will benefit their trade and investment with Chile and Singapore. It also emphasizes the importance of services to the US balance of trade, and describes the US global comparative advantage in services, and other important aspects of US services trade.

The United States is very competitive in services trade, even though many barriers to our international operations remain in a large number of key foreign markets. US services firms have thus taken a strong interest in expanding their trade by removing barriers to cross-border trade, to investment, and to the movement of key business personnel.

Removing barriers to services trade is a very important US policy objective. The US has run a surplus in its cross border services trade with the rest of the world for many years. Last year's surplus of $49 billion offset by 10% the $484.4 billion chronic structural US deficit on trade in goods. But the services surplus could be much greater if, through multilateral and bilateral Agreements, we were able to remove all barriers to our services exports. An October 2000 study under the auspices of the University of Michigan estimated a welfare gain to the US of $450 billion each year were all barriers to our services trade to be removed.

The US led the world in cross border services exports in 2002 with exports of $289.3 billion and imports of $240.5 billion. The service sector's contribution to US exports makes it imperative that the United States continue to open services markets abroad through Agreements such as the U.S.-Chile and U.S.-Singapore FTAs, which we believe should be implemented as soon as possible.

Services are income elastic. As incomes increase, consumers spend a larger portion of their salaries on services and demand higher quality services. As economies develop, the demand for services also rises.[1] The combination of Chile and Singapore's expected economic growth and the market opportunities created through the two FTAs will therefore benefit the services firms in the US and those two countries.

Multilateral and Bilateral Paths to Liberalization

Since the Uruguay Round concluded in 1994, the US Government, and industry, have focused on removing services trade barriers through multilateral negotiations within the framework of the General Agreement on Trade in Services (GATS). The Uruguay Round mandated further, separate negotiations on telecommunications and financial services. Negotiations in both these sectors were concluded in 1997

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[1] Mann, Catherine L. 1999. *Is the US Trade Deficit Sustainable?* Washington: Institute for International Economics.

with full support of US industry. The telecommunications agreement was particularly successful because it contained a "Reference Paper" establishing criteria by which WTO Members committed to regulate their telecommunications sectors. Because services are in general so highly regulated, the telecom Reference Paper is considered a forerunner for the negotiation of regulatory "best practices" agreements in other sectors.

In 2000 WTO negotiations covering services, and agriculture, were launched as part of the "built-in agenda" of the Uruguay Round. After two years of desultory work mainly on rules, the U.S. services industry concluded that the best way to energize the services negotiations was to wrap them into the broader WTO agenda that emerged from the "Doha Development Round" of negotiations launched in November 2001, in Qatar. Unfortunately, we have not witnessed the progress we hoped for, and the emphasis on multilateral negotiations in the WTO has now given way to a dual approach.

With the passage of trade promotion authority (TPA) last year the negotiation of the Singapore and Chile Agreements kicked into high gear. The US Trade Representative completed these two FTAs. And USTR also began talks with the Central America Free Trade Area (CAFTA), Morocco, the Southern African Customs Union (SACU), and Australia. Negotiations with Bahrain have just been announced. Many other candidates are in the wings.

The drive to secure bilateral FTAs is a bipartisan policy. President Clinton initiated the U.S.-Singapore Free Trade Agreement late in 2000. And, because the Chileans had long sought an FTA, his Administration also launched negotiations with Chile a few weeks later. Both were to have been negotiated quickly, but neither Agreement was really finished until legal scrubbing was completed a few months ago. This extended effort was necessary to complete complex Agreements that would come as close as possible to meeting our goal of providing substantially free trade in services.

It was very important to industry to get these Agreements right, because our members knew that these Agreements, though with relatively small economies, would be very important as precedents for pacts with other countries. If we could "get it right" with Singapore and Chile it would be easier to negotiate good Agreements with future FTA partners, and in the multilateral WTO negotiations. We therefore devoted substantial time to this effort.

Both Agreements provide meaningful new advantages for US services companies and provide valuable precedents for future FTAs.

US Commitment to the Multilateral WTO Negotiations

The US determination to negotiate meaningful, liberalizing bilateral Agreements does not demonstrate a lack of commitment to the WTO and to the multilateral process. The US government and the services industry are committed to the WTO as an institution and as a forum in which to achieve substantial new liberalization. We simply believe—as does our government—that we can make progress bilaterally and regionally at a time when the WTO services negotiations are held captive to disputes about agriculture. Indeed we intend that our bilateral and regional achievements will help motivate progress in the multilateral negotiations.

Further, we believe that these two FTAs can achieve greater economic and trade impact through replication in their regions. We hope equally strong Agreements can be negotiated with members of ASEAN like Thailand, and with members of the Andean Pact, a number of whom, like Colombia, have already expressed interest in an FTA—and with other countries.

Scope of the Agreements

The two Agreements cover barriers both to cross border trade, and to investment. They embrace strong commitments to transparency in regulation. In insurance they also take steps toward better quality regulation. They contain useful commitments to freedom of movement of key business personnel. Cross-border trade refers to sales and consumption of services from one Party into the territory of the other.[2] The US has consistently run a surplus in its cross border services trade with the rest of the world. This surplus amounted to $4.9 billion in 2002. As noted above, we have positive cross border services trade balances with Singapore and Chile, as Chart I demonstrates.

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[2] In the General Agreement on Trade in Services (GATS), this is "Mode One" of services supply.

The Importance of "Commercial Presence" to Trade in Services

Sales to foreigners by affiliates of US services companies operating abroad are an even more important element of our services trade. These sales totaled $393 billion in 2000. In the same year, total US affiliate sales were $5.4 billion in Singapore, and $3.1 billion in Chile, as shown in Chart II.[3] US foreign investment in services generates the need for extensive support, including substantial new jobs, in home offices in the US. It also results in the repatriation to the US of substantial profits on overseas activities.

Many services must be sold from establishments in foreign markets, or not sold at all. Life insurance policies can't be sold to Singaporeans or Chileans offices in Chicago or New York. To do so requires direct investment in operations in Singapore or Santiago.[4]

This means that trade Agreements must provide rights to establish a business, or a "commercial presence," in foreign markets. Investors should be able to establish a commercial presence and they should also be able to do so in the legal form that best fits their business objectives, whether as a branch or subsidiary,. whether wholly owned or majority owned. The Singapore and Chile FTAs provide these rights.

Commercial Advantages Secured by the Agreements

Audiovisual Services

Both the Singapore and the Chile FTA ensure that all US audiovisual services will enjoy national treatment and MFN status, with some reservations. Singapore took a fairly broad reservation that limits its obligations for television content broadcast to local audiences, but its obligations in all other forms of AV services, where US commercial interests are strongest, are excellent. Moreover, the Singapore FTA avoids the "cultural exceptions" approach that has flawed several prior trade agreements.

The reservations taken by Chile in their FTA were narrow and specific, and they are unlikely to disrupt existing commercial trade in audiovisual services. Chile preserves the right to impose a quota on local content carried on broadcast TV, however, market forces have historically resulted in higher levels of local content than would be required by the quota, so the impact of imposing such a quota would be negligible. Chile also avoided any "cultural exceptions" in its agreement.

Education Services

The largest market for US education services is Asia, and Singapore represents half of the critical education hubs for the region. However, even with this FTA, Singapore continues to restrict degree-granting authority to its national universities, thus neutralizing reasonable liberalization in this sector. It is notable that Singapore has recognized a handful of US law schools, and that the US and Singapore recognized each other's educational credentials for purposes of obtaining professional visas.

South America is another one of the largest markets for US education services. The Chile Agreement provides commitments in higher education services, specifically the provision of degree courses delivered across borders and the mobility of academic staff. With the Agreement and in conjunction with Chile's relatively young population, and its historically very high literacy rate, consumption of education services is expected to grow.

Electronic Commerce

Both Agreements contain groundbreaking electronic commerce chapters, which introduce the concept of "digital products" in trade Agreements. This language reflects digital product development in the last two decades and the need for predictability in how digital products are treated in trade Agreements. The United States is unparalleled in its production of digital products. Although such products make up a small percentage of international trade today, they will certainly become a larger percentage of US exports over the next decade.

The two agreements provide broad national treatment and MFN non-discriminatory provisions. These provisions should provide equity and reciprocity for US e-commerce firms, and the demand for digital products in Singapore and Chile will grow based on their present levels of connectivity. For example, Chile has seven Internet service providers, 3.1 million Internet users (or 20% of the population), and a growing Internet infrastructure. As evidence of Chile's comfort with this medium, the

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[3] These statistics aggregate all sales to Singaporeans and Chileans by US affiliates. Breakdowns by sector are not available.

[4] In the GATS direct investment is known as commercial presence, or "Mode Three" of services supply.

Chilean Government uses the Web to communicate policy positions. Combined with a more liberal telecom environment we expect transactions in digital products between the US and Chile to result in greater demand for U.S.-produced digital products.

Both Chile and Singapore agreed to apply customs duties on the basis of the value of the carrier medium, rather than subjecting them to customs duties on content-based products, as is the case in many other countries. The US also agreed with Singapore and Chile to cooperate in numerous policy areas related to e-commerce. In the Singapore FTA, those cooperation issues are set out in a separate joint statement which will help reinforce a progressive policy environment in Singapore and throughout the region.

In Chile, those policy areas include small and medium-sized enterprises, consumer confidence, cyber security, electronic signatures, IPR, and electronic government. Chile agreed on the importance of maintaining cross-border flows of information, and they also stated a preference for self-regulation in terms of codes of conduct and model contracts. Chile also agreed to work cooperatively in international forums with the US on e-commerce issues.

Energy Services

Both of the FTAs will facilitate the provision of energy services between the US and the trading partners in question. Provisions related to regulatory transparency and investment, in particular, will allow US energy services firms to work under the predictable and consistent rules they need to make the kinds of short, medium and long term commitments often required to fulfill contracts and carry out their duties. Overall, the two Agreements will improve the conditions under which energy services firms operate.

Express Delivery Services

Both FTAs contain provisions that are important to the express delivery industry, including an appropriate definition of express delivery services (EDS.) These are the first two trade agreements to contain such a definition, which in and of itself is an important milestone. Both Agreements also include important provisions to facilitate customs clearance, which is critical to the efficient operation of express carriers. However, they fall short in addressing another key problem in the express delivery sector. This is the cross subsidization of express delivery services operations by postal authorities that use revenues and other privileges they derive from their government-granted monopoly rights to secure advantages in competitive express delivery operations. The FTAs contain valuable cross-subsidization statements. These are unilateral, applying only to Singapore and to Chile. In addition, the commitment only states that Chile and Singapore have "no intention" of using "revenues" from postal services to benefit express delivery. The intention expressed does not fully cover the scope of cross subsidization that could occur. Nonetheless, the US express delivery industry believes the text of these Agreements provides very substantial advantages and supports implementation of the Agreements.

Financial Services

Singapore commits to permit a wide range of cross border financial services offered by US financial institutions including for example financial information, financial data processing and software, leasing, corporate financial advisory services and trading in money market instruments and foreign exchange. Singapore also commits to market access and full foreign ownership of financial institutions including insurance companies.

The U.S.-Chile Financial Services Chapter provides the same essential cross border and market access rights as the Singapore Agreement. Because Chile has substantially liberalized its financial services markets the Agreement locks in Chile's commitments to liberal trade in banking, securities, asset management, and insurance, and provides for freedom of transfers of financial information. In 2001, US sales of unaffiliated financial services to Chile amounted to $69 million, We expect these exports to grow with the Agreement. Chile must change its laws to comply with its commitments for cross-border supply of insurance.

Banking

With the exception of banking, the Singapore financial services market has been substantially an open market thanks to internal reforms. At the outset of the negotiations Singapore officials made clear that they wished to preserve a domestic Singapore banking industry and thus exclude foreign banks from certain lines of activity. This included maintaining a limit of 6 on foreign Qualified Full Banks (QFBs); a rigid limit on the number of customer service locations (including ATMs) a QFB could open, and a prohibition against foreign participation in locally owned

ATM networks or debit services through electronic funds transfer at point of sale (EFTPOS) networks.

The Agreement modifies these restrictions for US banks. Limits on the number of QFBs will be lifted for US banks 18 months after entry into force. United States QFBs will be allowed to establish up to 30 customer service locations upon entry into force, and these limits will be removed altogether after two years. QFBs are permitted to link their proprietary ATM networks to facilitate the creation of a foreign bank network. United States QFBs organized as subsidiaries may participate in local ATM networks two and a half years after entry into force, and QFBs organized as branches may participate in such networks four years after entry into force. Singapore committed to consider applications for access to local bank ATM networks for non-bank issuers of charge and credit cards.

Singapore's limit on 20 new wholesale bank licenses will be removed for US banks 3 years after entry into force of the Agreement.

Asset Management

The Singapore Agreement also provides important benefits for US asset management companies. US firms can compete for asset management mandates from the Government of Singapore Investment Corporation, which manages $100 billion in assets. Also, US firms that establish affiliates in Singapore will be able to use the resources of their US facilities to manage Singapore mutual funds on a cross border basis. Singapore has also liberalized onerous staffing requirements that operated as barriers to entry for US firms.

The Chile Agreement gives US firms the right by March 1, 2005, to compete equally with Chilean firms in managing the voluntary portion of Chile's national pension system. Also, US firms will be provided access to manage the mandatory portion of Chile's pension system without arbitrary differences in the treatment of US and domestic providers. The Agreement also allows US mutual funds established in Chile to provide offshore portfolio management services to Chilean mutual funds on a cross border basis. With the Agreement, we expect US firms to capture a larger percentage of the Asset Management market.

The Financial Services Chapters of both Agreements state that the Agreements do not apply to social security systems or public retirement plans. Thus the US social security system is excluded from the scope of the Agreements. Furthermore the US has taken reservations in the Investment and Financial Services Chapters that give it the right to adopt any future measures applying to its social security system,

Insurance

For both the Chile and Singapore Agreements, industry sought to structure commitments for market access, investment, and regulatory best practices for insurance based on a framework referred to as the Model Insurance Schedule, which industry believes has been substantially accomplished in both Agreements.

The operating environment for US insurers in Singapore has been favorable because of its internal reforms. The Singapore Agreement locks these in, and Singapore liberalized further its regime to include all the types of cross border insurance that we sought. These provisions permit trade in reinsurance, auxiliary services including actuarial, adjustment, and consultancy services, MAT (marine, aviation and transportation) insurance, and brokerage services for reinsurance and MAT. The market access provisions as noted above permit US insurance companies to establish in Singapore without limits on number, and allow full ownership.

The Singapore Agreement contains an important benefit for US insurers. This is the provision permitting insurance companies to offer many products without requiring product filing and approval. In addition, the Agreement provides that when Singapore does require filing and approval, Singapore will allow the product to be introduced in commerce, unless it is disapproved within a reasonable time. This provision is sometimes known as a "deemer" provision, that is, a product is deemed to be approved unless denied. The US sought a similar provision in the Chile Agreement, but obtained a best efforts provision.

The Chile Agreement assures cross border trade in certain insurance products as does the Singapore Agreement. However it does not provide an immediate right for insurance companies to branch, as does the Singapore Agreement. Instead, Chile allows branching within four years of entry into force, with the proviso that Chile may apply certain regulatory requirements to such branches. US insurers will surely follow closely Chile's implementation of this commitment.

Both Agreements also contain provisions that commit the Parties to "recognize the importance of. . .developing regulatory procedures to expedite the offering of insurance services by licensed suppliers."

New Financial Services

Both Agreements contain a presumption that Singaporean and Chilean regulators will use the flexibility allowed under their laws to permit the supply of new financial services in Singapore and Chile, provided they are already offered in the US. The two governments may determine the institutional form in which the new financial service may be supplied and impose other criteria. If a company wishes to offer a service that is new to *both* the US and the other countries, the Agreements assure the right of the company to seek approval to offer the service, consistent with the laws of the country in which it is to be offered. These provisions apply equally to the US.

Healthcare Services

Both Agreements, on the whole, advance a more open, equitable trading environment in health services. The healthcare provisions in the Singapore FTA certainly lay the foundation for improved trade.. Singapore is developing into a regional health services hub, and has strengthened its medical research, medical training and medical services for export throughout the Asia Pacific region. Although American health services providers are seeing Singapore as a growing competitor, it is also viewed as a potential base for investment in clinic development, joint educational programming activities and telemedicine applications. However, significant trade barriers remain.

In the Chile FTA, the e-commerce chapter will advance applications of distance learning in health care, development of continuing medical education programming, Internet medical training programs, and telemedicine and second opinions. The inclusion of language to encourage relevant bodies to establish mutually recognized standards and criteria for licensing and certification holds promise for all professional services. Development of the temporary licensing standard can aid in the development of visiting physician programs, joint research and training programs.

Legal Services

On a matter of importance to large numbers of American lawyers, the Agreements move towards codification of existing widespread custom whereby lawyers from one nation may readily enter another nation temporarily to provide their legal services on specific matters for clients with whom the lawyers have some prior relationship. This movement towards codification is a welcome development.

However, the Agreements fall short of a major goal of our legal profession, which was to achieve the right to include in their offices in the two countries host country lawyers who would practice host country law, so that a single office could handle foreign, domestic, and international law issues that frequently arise in a single business transaction. While the Agreements continue existing regulatory regimes that allow American lawyers to open offices in the two countries, they restrict the practice of those offices to American law and American lawyers.

Maritime Services

CSI strongly supports removal of the 50% ad valorem tariff on repairs to US flag vessels as provided in Article 2.6 of the Singapore Agreement and Article 3.9 of the Chile Agreement. We also support immediate elimination of the tariff after the agreements enter into force. These provisions unequivocally remove the unreasonable duty which restrains the choice of US carriers to obtain necessary ship repairs. The ad valorem tariff was established to encourage job creation in US ship building. However, it has failed to achieve its policy objectives, and now represents an unnecessary tax at a particularly difficult time for US flag ship owners and their customers. Therefore, elimination of the tariff benefits both consumers and US carriers. CSI also supports inclusion of the provision on repairs in future bilateral trade agreements.

Telecommunications

The two Agreements contain separate Telecommunications Chapters that cover access to and use of the public telecommunications network for the provision of services. The elements of the Telecommunications Chapters of the Agreements are consistent with each market's regulatory construct. They contain significant flexibility to embrace changes that may occur through new legislation or new regulatory decisions. These disciplines are the hallmark for successful innovation and development of telecommunications networks; something that is lacking in many markets around the world.

The Singapore Agreement will accord substantial market access across its entire services regime, subject to very few exceptions. US services firms will enjoy fair and non-discriminatory treatment and the right to invest and establish a local services presence in Singapore. Regulatory authorities must use open and transparent ad-

ministrative procedures, consult with interested parties before issuing regulations, provide advance notice and comment periods for proposed rules and publish all regulations.

The FTA with Chile covers all public telecommunications service providers, with a focus on the major supplier of those services. The Agreement also includes groundbreaking provisions with respect to flat-rate, cost-based, nondiscriminatory access for leased lines, which are critical for e-commerce service suppliers. Thus, it combines elements of NAFTA Chapter 13, the GATS Telecommunications Annex, and the WTO Reference Paper to form a comprehensive access to and use of provision.

Crosscutting Issues

Transparency

Both Agreements contain very good transparency provisions. Provisions in the Financial Services chapter build on the general transparency provisions that apply generally throughout the Agreements, and to transparency provisions in their Services and Investment Chapters. They are consistent with US law and therefore require no change in US law.

The transparency provisions in the Services Chapters of the Agreements require to the extent possible the publication of regulations in advance, and provide opportunity to comment. Each Party should allow reasonable time between publication of final regulations and their effective dates, and, at the time they adopt final regulations, governments should address in writing comments received.

In addition there are specific provisions regarding applications for licenses to provide financial services. Essentially these require regulatory authorities to: disclose all the documentation and other requirements for completing applications; inform applicants about the status of applications and any additional information required; make decisions on applications within 120 days where practicable; and promptly notify the applicant. The rules of self-regulatory organizations (SROs) are also to be made publicly available.

CSI is very encouraged by the transparency provisions of the Agreements, because we have strongly encouraged US negotiators to seek strong transparency provisions in the GATS negotiations. In 2000 we prepared and provided to USTR a "Framework for Transparency in Services," which helped inspire a US negotiating proposal on transparency tabled in Geneva in July 2001, and the US transparency request tabled last June 30.

The acceptance by Singapore and Chile of the types of transparency commitments that the US has proposed in the GATS negotiations should influence those negotiations. Many WTO Members question the value of transparent regulatory processes and doubt their own ability to apply them within the framework of their existing governmental institutions.

Temporary Entry (Mode 4)

One of the most important ways in which services are supplied is by the movement of people for temporary assignments abroad. These can be employees of a company needed for temporary assignment in a foreign operation of that company, or to service the foreign clients of that company. Or they can be experts contracted to solve clients' problems in any part of the world. These services are required in the financial services industry just as they are in professional services such as accounting or consultancy. But lengthy and complicated visa processes materially impede these transfers.

Both Singapore and Chile commit to allowing freer movement of US persons to supply financial and other services in their countries. Both will provide for multiple entries of business visitors, traders and investors, intracompany transferees, and professionals. For the first three categories of visitors, the only change required in US law will be for Congress to declare that the FTAs qualify under US law so that Singaporeans and Chileans may obtain treaty trader and treaty investor visas. For the last category, professionals, a new visa will need to be created.

The Agreements offer substantial advantages for the U.S. U.S. financial services and other professionals can enter Singapore and Chile freely and without limit. Singapore and Chile addressed US concerns by agreeing to strict numerical caps on the numbers of Singaporean and Chilean professionals that can enter the US: 5,400 for Singapore, and 1,400 for Chile. These caps cannot be increased. Singaporean and Chilean professionals seeking entry to the United States must comply with US labor and immigration laws. The US will require the completion of an attestation certifying compliance.

Proximity to the customer is very important to the delivery of services and a defining characteristic of services trade. If you imagine your own purchase of legal,

education, and even health services, it would be difficult to eliminate the human interaction necessary for such transactions. Moving professional people in and out of foreign countries therefore, is a critical aspect of services trade.

Freedom of Capital Transfers and Related Provisions

In the organization of the major multinational institutions and Agreements following on the Bretton Woods Conference in 1944, the motivating principle was to create an open world trade and payments system. The United States led this effort, in the belief that such a system would prevent a recurrence of the protectionist policies that led to world wide depression and World War II.

The principle of free capital transfers is embedded in the Bilateral Investment Treaties we have negotiated with 45 countries. Thus it is consistent and appropriate that the US should have sought, and secured, such provisions in the Singapore and Chile Agreements. On the other hand, these Agreements also provide that, should the Parties determine to impose capital controls, they must employ measures to compensate private investors. From the standpoint of foreign investors either in portfolio or in direct investments, however, restrictions on movement of funds can chill the investment climate. They may warn investors that a government may choose to impose regulatory solutions to try to cure instability, rather than adopt sound, market-based provisions that fundamentally determine the value of currencies and the stability of economies. In addition, the imposition of even short-term repatriation restrictions raises regulatory compliance issues for US mutual funds that may affect the willingness of investors such as US mutual funds, for example, to purchase securities in the country. Thus, insistence on the right to control capital flows will likely discourage investments that can contribute to the growth of capital markets.

The ability to seek investor-state arbitration of disputes is extremely important for US companies investing abroad. This right, provided in US bilateral investment treaties (BITS), in the NAFTA, and in the Singapore and Chile Agreements, allows companies the option to seek resolution of disputes through arbitration rather than through recourse to foreign courts and legal systems, which may be more costly and time consuming and in some instances might not provide a fair hearing. We are deeply concerned that the Administration is considering proposals to weaken this critically important right in some of the FTAs currently being negotiated. We believe that US investors' ability to seek arbitration of disputes must not be weakened by proposals that would exempt certain countries or investment-related contracts from arbitration.

The Negative List and Acquired Rights

It is one of the strengths of these Agreements that they were negotiated on the basis of the "negative list" approach. One of Ambassador Zoellick's first—and welcome—decisions related to services was to convert the Singapore Agreement from a positive to a negative list approach, and USTR has subsequently sought to base new FTAs on the negative list. Under this approach, also used in NAFTA, only those services not liberalized are reserved or excepted. This allows the negotiation to focus on narrowing the other Parties' reservations. By contrast the positive list approach used in GATS requires countries to list all the services that will be liberalized. This often leads countries to hold back offers, requiring other negotiators to laboriously extract concessions.

It can be considered a disadvantage of the negative list approach that existing rights, or acquired rights, are not specifically stated. In its reports to Congress on the Agreements, the Industry Sector Advisory Committee on Services, ISAC 13, asked that in order for commercial interests to realize the full benefits of the rights provided by the Agreements, a definitive explanation of those rights should be provided as part of the legislative history of the Agreements.

Conclusion

CSI members wholeheartedly believe that these Agreements provide substantial, meaningful new commercial opportunities that will provide economic benefits to the United States. We have both secured bindings of liberalization taken by Singapore and Chile autonomously in years prior to the Agreements, and we have achieved new commitments to additional liberalization. This is because of the efforts of dedicated USTR and Treasury negotiators. They sought industry advice on the barriers that should be removed and other provisions, such as transparency, that should be obtained, and we are grateful for their efforts.

The Agreements will consolidate a regime of open finance, national treatment, and nondiscrimination of foreign investment and strengthen the juridical certainty for foreign and domestic investment. The Agreement will also benefit the Chilean and Singaporean services sectors in the long-term by locking in domestic regulatory

reforms in transparency, procedures for government procurement, and maintenance of a competition law that prohibits anticompetitive business conduct. The United States has much to gain from these Free Trade Agreements through expanded services trade, as a precedent for other FTAs, and as a stimulant to commercially meaningful liberalization in the WTO.

CHART I
US Crossborder Trade in Private Unaffiliated Financial Services with Chile and Singapore, 2001

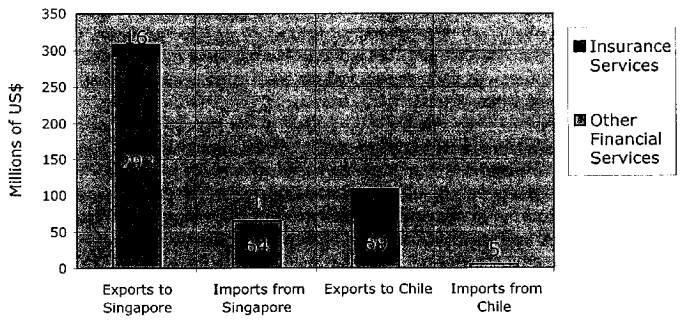
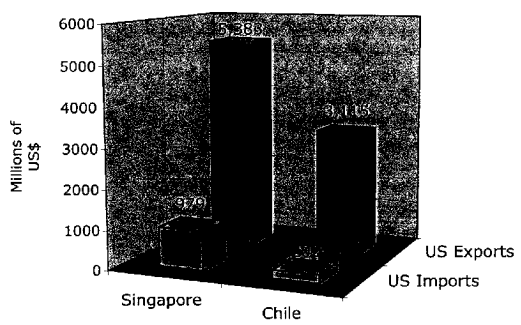


CHART II
US Sales of Foreign Affiliates in Singapore and Chile, 2000*



* This chart shows sales of foreign non-bank affiliates of US firms to Singaporeans and Chileans in 2000, and vice versa. Data on sales of bank affiliates in 2000 are not available. Data on trade through financial services affiliates in Singapore and Chile are unavailable.

COMMUNICATIONS

STATEMENT OF THE AMERICAN CHAMBER OF COMMERCE IN SINGAPORE

[SUBMITTED BY KRISTIN E. PAULSON, CHAIR]

Introduction

Mr. Chairman: My name is Kristin Paulson, and I am chair of the American Chamber of Commerce in Singapore, known as "AmCham" or "AmCham Singapore," and I am President of the South Asia Pacific region for United Technologies International Operations.

AmCham represents the interests of the 1500 U.S. companies operating in the country, and more than 18,000 Americans living and working in Singapore. AmCham strongly supports the U.S.Singapore Free Trade Agreement (USSFTA), and the roles which the current U.S. Administration and Congress will play in signing the Agreement and implementing related legislation. We also wish to congratulate the Singaporean and United States governments for negotiating a very comprehensive agreement that will further both nations' trade objectives, while contributing to their respective, future economic growth.

Singapore is an important economic and strategic partner for the United States in Southeast Asia. As the gateway to more than 500 million consumers, Singapore is well positioned to provide open markets and better opportunities for American companies and workers. Featuring a world-class infrastructure, well-educated workforce, and a pro-business environment, Singapore is the United States 12th largest trading partner and export market. Total commerce between the two nations in 2002 was close to $31 billion, with the U.S. having a trade surplus of $1.4 billion.

Singapore has also been one of America's key partners in Asia, providing access and logistical support for the U.S. Navy and U.S. Air Force. The nation and its government have played a vital role in the war against terrorism, and have actively worked to ensure the security of American interests and of U.S. citizens and their families living in Singapore.

The USSFTA presents an opportunity for the United States and Singapore to further cement the friendship and strategic partnership which exists between the two nations. It is an historic step, one that will be the first free trade agreement (FTA) that the United States has signed with any Asian nation. This FTA will offer American companies significant benefits, including: increased access to the Singapore market, landmark intellectual property JP) protection, removal of barriers in the financial services sector, and reduced restrictions on professional services.

Additionally, the Agreement will give U.S. businesses a gateway from which they can expand into the larger ASEAN and North Asia markets. The USSFTA will also serve as a model for other nations who are considering establishing future free trade agreements with the United States. In short, this opportunity will represent significant short- and long-term benefits for American companies, as it will enable them to open new markets in Asia, and to create higher consumer demand for U.S. products. This will translate into higher U.S. exports and greater employment opportunities for American workers.

USSFTA Analysis & Comments

AmCham Singapore and our members strongly support passage of the U.S.-Singapore Free Trade Agreement. We would like to highlight several key areas of the FTA and how these will affect U.S. businesses and their respective sectors.

- **Exports:** Singapore guarantees zero tariffs immediately on all American products. The FTA will also eliminate or reduce certain significant non-tariff barriers. For example, it will result in a change in the way Singapore calculates excise taxes on imported automotive vehicles. The Agreement's rules of origin

will create new opportunities for American exporters of fiber, yarn, and fabric. Additionally, regulations will be relaxed in other areas.

- **Competition:** The Agreement includes provisions (Chapter 12) that address potential anticompetitive business practices by state-owned enterprises in Singapore and call for the creation of a competition law in Singapore by 2005. We believe that a competition law will best serve the interests of both nations and their respective business communities. AmCham believes that the Agreement will help ensure that U.S. companies can compete fairly for the procurement of government contracts (Chapter 13), and for the buying and selling of goods and services.
- **Express Delivery Services:** The FTA's provisions concerning express delivery services (EDS) provide American EDS companies with greater access to the Singapore marketplace. We are pleased that the Agreement contains a commitment precluding the cross-subsidization of EDS operations by Singaporean postal authorities, the first time such a commitment has been contained in a trade agreement.
- **Financial Services & Insurance:** The FTA will level the playing field for U.S. financial service providers in Singapore's banking and securities sectors. American banks will have access to the Singapore Automated Teller Machine (ATM) network. Restrictions will also be lifted on the number of qualifying full banks permitted to engage in retail business. Additionally, restrictions will also be eased on the number of branches which U.S. banks already licensed in Singapore can operate. With respect to asset management, it will now be easier for U.S. asset managers to qualify to provide approved products under the Central Provident Fund (CPF), Singapore's multi-billion dollar retirement savings/investment program.

In the area of insurance and insurance-related services, AmCham lauds the improved access to Singapore's insurance industry, which was gained through these negotiations.

- **Intellectual Property Rights (IPR):** The FTA will provide substantial enhancements to IPR protection in four main areas: (1) trademarks (and stronger protection for well-established trademarks); (2) copyrights (new protection for digital works, measures to prevent circumvention of copying prevention measures, measures to monitor the production of optical discs); (3) patents (measures that will help pharmaceutical companies address the problem of parallel imports); and (4) trade secrets. Singapore also agreed to cooperate in preventing pirated and counterfeit goods from entering the United States

The IPR provisions of this Agreement are one of the most significant aspects of the USSFTA, and something which AmCham believes is an important model on which future FTAs with other nations should be based. The Agreement will protect the work of U.S. companies and individuals in Singapore, thereby fostering greater trade and investment opportunities in the future.

- **Professional Services:** American professional services firms, specifically in the areas of legal, architectural, engineering, and land surveying services, will have improved market access to Singapore. For U.S. law firms, Singapore will make it easier for them to enter into joint-law ventures with local companies. It will also recognize law degrees granted by a limited number of American law schools, for purposes of qualifying for the Singapore bar.

With respect to U.S. architectural and engineering firms, the FTA has relaxed local ownership restrictions. AmCham supports these provisions and believes that the additional discussions (outside of the FTA context) pertaining to mutual-recognition of U.S. and Singaporean architectural and engineering professional qualifications will only further serve the best interest of both nations, affording increased opportunities for Americans and Singaporeans to work in each other's countries. This could indirectly encourage more Americans to consider getting their professional degrees in Singapore, which would allow them to practice architecture and engineering in both countries.

- **Telecommunications:** Chapter 9 of the FTA will ensure greater transparency and nondiscriminatory access to the telecom network, leased lines, and related areas. The Agreement also contains important clauses which will prevent anticompetitive practices, thereby ensuring that American firms will be able to compete more effectively with local companies. AmCham Singapore welcomes the progress that has been made to enable U.S. telecom companies to interconnect with Singapore's networks and to have increased opportunities for doing business in the country.

Summary

AmCham Singapore strongly supports approval of legislation to implement the U.S.-Singapore Free Trade Agreement by the Congress. Our members have benefited from a very pro-business environment, supported through an active partnership with the Singaporean government. As outlined above, we believe that this Agreement helps to further cement that relationship with a key strategic partner and will serve as a model for pending negotiations with other ASEAN member countries. This in turn will serve to foster increased business and employment opportunities for American companies and U.S. citizens both at home and throughout the Asia Pacific region.

STATEMENT OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

[SUBMITTED BY THEA M. LEE, CHIEF INTERNATIONAL ECONOMIST]

Mr. Chairman, Senator Baucus, and Members of the Committee, I thank you for the opportunity to submit testimony on behalf of the thirteen million working men and women of the AFL–CIO on the recently signed free trade agreements with Chile and Singapore.

These agreements will have an important economic impact on working people in all three countries. The immediate impact will be the reduction of tariff and non-tariff barriers on the movement of goods and services between the signatories, but far-reaching rules in other areas such as investment, intellectual property rights, government procurement, e-commerce, and the movement of natural persons will also affect the regulatory scope of participating governments, binding their ability to legislate in certain areas for the foreseeable future.

Perhaps even more important, however, is the precedent set by these agreements. As the first agreements negotiated by this Administration under the 2002 Trade Promotion Authority legislation, these agreements are likely to serve as templates for future bilateral and regional FTAs. Since FTA negotiations are currently under way with the five Central American countries, the Southern African Customs Union, Morocco, and Australia, in addition to a hemispheric agreement scheduled to reach completion in 2005 (the proposed Free Trade Area of the Americas or FTAA), the economic importance and policy significance of these agreements with Chile and Singapore is magnified many times.

Overall assessment

The AFL–CIO believes that increased international trade and investment can yield broad and substantial benefits, both to American working families, and to our brothers and sisters around the world—if done right. Trade agreements must include enforceable protections for core workers' rights and must preserve our ability to use our domestic trade laws effectively. They must protect our government's ability to regulate in the public interest, to use procurement dollars to promote economic development and other legitimate social goals, and to provide high quality public services. Finally, it is essential that workers, their unions, and other civil society organizations be able to participate meaningfully in our government's trade policy process, on an equal footing with corporate interests.

Unfortunately, we believe the Singapore and Chile FTAs fall short of this standard on several important counts, and we urge Congress to reject these agreements and to ask the U.S. Trade Representative's office not to use them as a "template" for future FTAs.

I have attached to my testimony the summary of a detailed report prepared by the Labor Advisory Committee on Trade Negotiations and Trade Policy (LAC). The LAC is the official labor advisory committee to the United States Trade Representative and the Labor Department. It includes national and local union representatives from nearly every sector of the U.S. economy, including manufacturing, high technology, services, and the public sector, together representing more than 13 million American working men and women.

The LAC report details our concerns over the agreements' inadequate and backsliding protections for workers' rights and the environment, as well as problems in the areas of investment rules, temporary immigration provisions, trade in services, government procurement, and intellectual property rights. The full report can be downloaded from the AFL–CIO website, at *www.aflcio.org/mediacenter/prsptm/pr02282003.cfm.*

I would also like to point out that, contrary to several recent Administration statements and testimonies, the LAC was not the only advisory committee to raise

significant concerns about the Chile and Singapore FTAs. Ralph Ives testified on May 8th, that "thirty of the thirty-one advisory committees reported that the U.S.-Singapore FTA advanced and achieved each of the relevant objectives, purposes, policies and priorities set out in the trade act."

In fact, several other advisory committees declined to explicitly endorse the Chile and Singapore agreements and made negative findings or no findings at all about the agreements' achievement of congressional negotiating objectives. The chemicals committee was unable to gauge whether the agreement had met negotiating objectives or whether it would serve US economic interests because it felt it had not been adequately consulted regarding the agreement. The fruits and vegetables committee was "greatly disappointed" in the failure of the Chile FTA to resolve sanitary and phytosanitary issues that present market impediments and concluded that the agreement was "far better for the Chilean specialty crop industry than it is for the U.S. fruit and vegetable industry." The Intergovernmental committee made no findings on the specific agreement, and only remarked on the committee's support for trade in general and its concerns about the impact of FTA rules on state and local regulatory authority. The footwear committee said many of its members were neutral on the Singapore FTA, and they would oppose it if Singapore were more significant economically. The footwear committee doubted that the Chile FIFA would "significantly promote U.S. economic interests." The apparel and textiles committee was split and said "it is unlikely that U.S. producers will experience much economic gain" from the Chile and Singapore FTAs, with the apparel sector "largely express[ing] disappointment." The standards committee said it would not recommend the Singapore FTA as a model for future FTAs.

Reports from those few industry committees that include non-business representatives—ACTPN, the trade and environment committee, the paper committee and the lumber committee—included dissents from those non-business representatives criticizing the agreement.

Workers' Rights

The workers' rights provisions in the Chile and Singapore FTAs are unacceptably weak. While they will be problematic in the context of Chile and Singapore, they will be disastrous if applied to future FTAs with countries and regions where labor laws are much weaker to begin with and where abuse of workers' rights has been egregiously bad.

USTR has characterized the workers' rights provisions of the Chile and Singapore agreements as "innovative." In fact, these provisions represent a giant step backwards from provisions in current law. They are substantially weaker than those included in the Jordan FTA, which passed the U.S. Congress on a unanimous voice vote in 2001. Perhaps even more noteworthy, the Chile and Singapore workers' rights provisions also represent a step backward from current U.S. trade policy that applies to Chile (and most other developing countries)—the Generalized System of Preferences. GSP is a unilateral preference program offering trade benefits to developing countries that meet certain criteria, including adherence to internationally recognized workers' rights.

Both the Jordan FTA and GSP require compliance with internationally recognized core workers' rights. A GSP beneficiary can lose all or some of its trade benefits if it is not at least "taking steps" to observe internationally recognized workers' rights. This includes enforcing its own laws in these areas, as well as ensuring that its labor laws provide internationally acceptable protections for core workers' rights.

Under the Jordan FTA, both parties reiterate their 11–0 commitments to "respect, promote, and realize" the core workers' rights under the International Labor Organization (ILO)'s Declaration on Fundamental Principles and Rights at Work (these include freedom of association and the right to bargain collectively, and prohibitions on child labor, forced labor, and discrimination in employment). The Jordan FTA also commits both parties to effective enforcement of domestic labor laws and non-derogation from labor laws in order to increase trade. All of these provisions are fully covered by the same dispute settlement provisions as the commercial elements of the agreement.

In contrast, the Chile and Singapore agreements contain only one enforceable provision on workers' rights, that is, an agreement to enforce domestic labor laws. While the labor chapter also contains a commitment to uphold the ILO core workers' rights and not to weaken labor laws, these provisions are explicitly excluded from coverage under the dispute settlement chapter, rendering them essentially useless from a practical standpoint.

In other words, while the Chile and Singapore agreements commit the signatories to enforce their domestic labor laws, they don't actually commit the signatories to *have* labor laws in place, or to ensure that their labor laws meet any international

standard or floor. Under these agreements, a country could ban unions, set the minimum age for employment at ten years old, and reinstate slave labor. The country's only enforceable commitment at that point would be to continue to enforce those new "laws."

Of course, this is entirely unacceptable, both with respect to these agreements and as it might play out in future trade agreements, particularly in Central America, where labor laws are both weak and poorly enforced. These weak provisions will also be problematic in any trade agreement negotiated with the Southern African Customs Union (SACU) or Morocco.

Employers in many of the Central American and Southern African countries covered by ongoing FTA negotiations intimidate, harass, fire and blacklist workers for attempting to exercise their right to join an independent union, especially in sectors and export processing zones producing goods for the U.S. market. Labor laws fall far short of ILO standards, and those labor laws that exist are violated frequently and freely, with few negative consequences for the violators. The AFL–CIO has petitioned for the removal of four of these countries—Costa Rica, El Salvador, Guatemala, and Swaziland—from GSP eligibility for their repeated failure to meet international labor standards. Unions in all four countries are supporting these petitions.

Unlike the Jordan agreement, the Chile and Singapore agreements include a separate dispute resolution process for labor and environment, distinct from that available for the commercial provisions of the agreement. This new and separate dispute resolution process, in our view, does not meet a key objective of the Trade Promotion Authority legislation, to ensure that trade agreements shall "treat United States principal negotiating objectives equally with respect to (i) the ability to resort to dispute settlement under the applicable agreement; (ii) the availability of equivalent dispute settlement procedures; and (iii) the availability of equivalent remedies."

Unlike the commercial dispute resolution process, the first binding step in resolving labor and environment disputes is a "monetary assessment," a fine which is essentially paid back to the offending government, with the vague direction that it be used for "appropriate labor or environmental initiatives." Also unlike the commercial dispute resolution process, the monetary fine for labor and environment disputes is capped at a fairly low level—$15 million. It is unlikely that these low fines, paid back to the offending government, will constitute a meaningful deterrent in the case of determined or egregious violations.

It is crucial to bear in mind that these free trade agreements are being put in place, not with respect only to the current governments, but for all future governments and labor law regimes. Therefore, the adequacy of current labor laws in Chile or Singapore is not the only factor to consider in evaluating the adequacy of the workers' rights provisions included in these agreements. Failing to ensure that labor laws meet international standards is an enormous flaw in these agreements.

Integrated Sourcing Initiative

The Singapore FTA includes an open-ended provision, called the Integrated Sourcing Initiative (ISI), that allows certain goods made outside of Singapore to be treated as of Singaporean origin for the purposes of the agreement. We believe there is no justification for the inclusion of this provision in this agreement, and that it alone constitutes sufficient reason to reject the agreement.

None of the workers' rights or environmental provisions of the Singapore FTA will apply to products entering under the ISI provision, nor will there be any reciprocal market access for U.S. goods. The U.S. ambassador to Singapore told *Inside US Trade* that the main point of this provision was to allow American companies to take advantage of low-wage production on two neighboring Indonesian islands and export the products to the U.S. duty free. However, nowhere in the agreement are these provisions actually limited to the Indonesian islands, so apparently goods from anywhere in the world will be eligible to enter the United States via Singapore under the ISI provision.

At present the ISI provision applies only to a specified list of goods (detailed in Annex 3B) that enter the United States duty-free under the Information Technology Agreement, as well as a few other products, so the immediate economic impact of the provision will simply be to waive customs duties for these products.

However, Article 3.2, paragraph 2, clearly states that the product coverage of these provisions can be expanded within six months after the Agreement enters into force, after consultation between the Parties. The ISI provision lists no limitations on the products that might be added to the product coverage list and makes no mention whatsoever of consultation with Congress prior to expanding product coverage.

This provision defeats the entire purpose of negotiating a free trade agreement, as it extends the benefits of the agreement without ensuring any reciprocal market access benefits for U.S. products or preserving any of the negotiated conditions of

the FTA itself. It undermines Congress's role, by allowing USTR to add trade-sensitive products, from anywhere in the world, to the list of goods eligible to enter the U.S. under the Singapore FTA. Without any workers' rights protections, the development benefits of such a provision are likely to be minimal, while the U.S. job costs could be quite significant. This provision has no place in the Singapore FTA and should certainly not be included in any future FTAs.

Temporary Entry

The Chile and Singapore agreements contain far-reaching and troubling provisions on the "temporary entry" of professional workers. The Singapore and Chile FTAs create entire new visa categories for the temporary entry of professionals. These visa programs are in addition to our existing H–1B system, and will constitute a permanent new part of our immigration law if the agreements are implemented by Congress.

These new professional visas will give U.S. employers substantial new freedom to employ temporary guest workers with little oversight from the Department of Labor and with few real guarantees for workers. This is to the detriment not only of the temporary workers themselves, but of the domestic labor market and American workers now facing a lagging economy and high unemployment in many sectors.

Immigration policy is properly the domain of Congress, not of executive agencies negotiating trade agreements that will be subject to a "fast-tracked" up or down vote. The Singapore and Chile FTAs require permanent changes to our immigration policies, and USTR has indicated that future free trade agreements will routinely include the same kinds of new visa categories created in these FTAs. This strategy is entirely unacceptable to the AFL–CIO.

Congress may in the future wish to strengthen, improve, or otherwise change our immigration policies. It makes no sense to bind these policies in free trade agreements, which makes it essentially impossible (or very costly) to change them without actually exiting the entire agreements. For these reasons, we believe trade agreements should refrain from including immigration provisions (beyond those necessary to conduct the trade and investment which are the subject of the agreement), and we urge Congress to convey this view to the Administration.

Investment

We are concerned that the Chile and Singapore FTAs contain many of the controversial investment provisions contained in NAFTA, including the right for individual investors to sue governments when they believe that domestic regulation has violated their rights under the agreement. This provision, known as "investor-to-state" dispute resolution, has proved very problematic under NAFTA, giving investors greatly enhanced powers to challenge legitimate government regulations on public health, the environment, or even "Buy American" rules. Workers and environmental advocates have no similar individual right of action under these agreements.

The Chile and Singapore agreements also constrain the ability of governments to employ capital controls to protect their economies from the destabilizing impact of speculative capital flows and financial crises. Capital controls have been used quite effectively by many governments, including the Chilean government. Even the IMF has conceded that these tools can be legitimate and beneficial.

It therefore does not make sense for the Chile and Singapore FTAs to constrain the use of capital controls. Decisions over whether, how, and for how long to use capital controls should be made by democratically elected domestic policy makers, not bound by trade agreements.

Conclusion

In general, the experience of our unions and our members with past trade agreements has led us to question critically the extravagant claims often made on their behalf. While these agreements are inevitably touted as market-opening agreements that will significantly expand U.S. export opportunities (and therefore create export-related U.S. jobs), the impact has more often been to facilitate the shift of U.S. investment offshore. (As these agreements contain far-reaching protections for foreign investors, it is clear that facilitating the shift of investment is an integral goal of these "trade" agreements.) Much, although not all, of this investment has gone into production for export back to the United States, boosting U.S. imports and displacing rather than creating U.S. jobs.

The net impact has been a negative swing in our trade balance with every single country with which we have negotiated a free trade agreement to date. While we understand that many other factors influence bilateral trade balances (including most notably growth trends and exchange rate movements), it is nonetheless strik-

ing that none of the FTAs we have signed to date has yielded an improved bilateral trade balance (including Israel, Canada, Mexico, and Jordan).

The case of the North American Free Trade Agreement (NAFTA) is both the most prominent and the most striking. Advocates of NAFTA promised better access to 90 million consumers on our southern border and prosperity for Mexico, yielding a "win-win" outcome. Yet in nine years of NAFTA, our combined trade deficit with Mexico and Canada has ballooned from $9 billion to $87 billion. The Labor Department has certified that more than half a million U.S. workers have lost their jobs due to NAFTA, while the Economic Policy Institute puts the trade-related job losses at over 700,000. Meanwhile, in Mexico real wages are actually lower than before NAFTA was put in place, and the number of people in poverty has grown.

We believe it is essential for Congress to question how these new FTAs will yield a different and better result for working families in the United States, Chile, and Singapore—especially as the new agreements appear to be modeled to a large extent on NAFTA.

If the goal of these bilateral trade agreements is truly to open foreign markets to American exports (and not to reward and encourage companies that shift more jobs overseas), it is pretty clear the strategy is not working. Before Congress approves new bilateral free trade agreements based on an outdated model, it is imperative that we take some time to figure out how and why the current policy has failed. In the meantime, we urge you to reject the Chile and Singapore FTAs and send our negotiators back to the drawing board.

Addendum:

LABOR ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS AND TRADE POLICY REPORT TO THE PRESIDENT, THE CONGRESS AND THE UNITED STATES TRADE REPRESENTATIVE ON THE U.S.-CHILE AND U.S.-SINGAPORE FREE TRADE AGREEMENTS

FEBRUARY 28, 2003

I. PURPOSE OF THE COMMITTEE REPORT

Section 2104(e) of the Trade Act of 2002 (TPA) requires that advisory committees provide the President, the U.S. Trade Representative (USTR), and Congress with reports required under Section 135(e)(1) of the Trade Act of 1974, as amended, not later than 30 days after the President notifies Congress of his intent to enter into an agreement.

Under Section 135(e) of the Trade Act of 1974, as amended, the report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee must include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principle negotiating objectives set forth in the Trade Act of 2002.

The committee report must also include an advisory opinion as to whether the agreement provides for equity and reciprocity within the relevant sectoral or functional area of the committee.

Pursuant to these requirements, the Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC) hereby submits the following report.

II. EXECUTIVE SUMMARY OF THE COMMITTEE REPORT

This report reviews the mandate and priorities of the Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC), and presents the advisory opinion of the Committee regarding the U.S.-Chile and U.S.-Singapore Free Trade Agreements (FTAs). It is the opinion of the LAC that the Singapore and Chile FTAs neither fully meet the negotiating objectives laid out by Congress in TPA, nor promote the economic interest of the United States. The agreements clearly fail to meet some congressional negotiating objectives, barely comply with others, and include certain provisions that are not based on any congressional negotiating objectives at all. These agreements repeat the same mistakes of the North American Free Trade Agreement (NAFTA), and are likely to lead to the same deteriorating trade balances, lost jobs, trampled rights, and inadequate economic development that NAFTA has created.

The labor provisions of the Chile and Singapore FTAs will not protect the core rights of workers in any of the countries involved, and represent a big step backwards from the Jordan FTA and our unilateral trade preference programs. The agreements' enforcement procedures completely exclude obligations for governments to meet international standards on workers' rights. The FTAs' provisions on the temporary entry of professionals erode basic protections for guest workers and the domestic labor market.

Provisions on investment, procurement, and services constrain our ability to regulate in the public interest, pursue responsible procurement policies, and provide public services. Intellectual property rules reduce the flexibility available under WTO rules for governments to address public health crises. Rules of origin and safeguards provisions invite producers to circumvent the intended beneficiaries of the trade agreements and fail to protect workers from the import surges that may result.

III. BRIEF DESCRIPTION OF THE MANDATE OF THE LABOR ADVISORY COMMITTEE

The LAC charter lays out broad objectives and scope for the committee's activity. It states that the mandate of the LAC is:

> To provide information and advice with respect to negotiating objectives and bargaining positions before the U.S. enters into a trade agreement with a foreign country or countries, with respect to the operation of any trade agreement once entered into, and with respect to other matters arising in connection with the development, implementation, and administration of the trade policy of the United States.

The LAC is one of the most representative committees established by Congress to advise the administration on U.S. trade policy. Only three of the 33 trade advisory committees include any labor representatives, and the LAC is the only advisory committee with more than one labor representative as a member. The LAC includes unions from nearly every sector of the U.S. economy, including manufacturing, high technology, services, and the public sector. It includes representatives from unions at the local and national level, together representing more than 13 million American working men and women.

IV. NEGOTIATING OBJECTIVES AND PRIORITIES OF THE LABOR ADVISORY COMMITTEE

As workers' representatives, the members of the LAC judge U.S. trade policy based on its real life outcomes for working people in America.

Our trade policy must be formulated to improve economic growth, create jobs, raise wages and benefits, and allow all workers to exercise their rights in the workplace. Too many trade agreements have had exactly the opposite effect. Since NAFTA went into effect, for example, our combined trade deficit with Canada and Mexico has grown from $9 billion to $87 billion, leading to the loss of hundreds of thousands of jobs in the United States. Under NAFTA, U.S. employers took advantage of their new mobility and the lack of protections for workers' rights in Mexico to shift production, hold down domestic wages and benefits, and successfully intimidate workers trying to organize unions in the U.S. with threats to move to Mexico.

In order to create rather than destroy jobs, trade agreements must be designed to reduce our historic trade deficit by providing fair and transparent market access, preserving our ability to use domestic trade laws, and addressing the negative impacts of currency manipulation, non-tariff trade barriers, financial instability, and high debt burdens on our trade relationships. In order to protect workers' rights, trade agreements must include enforceable obligations to respect the International Labor Organization's core labor standards—freedom of association, the right to organize and bargain collectively, and prohibitions on child labor, forced labor, and discrimination—in their core text and on parity with other provisions in the agreement.

The LAC is also concerned with the impact that U.S. trade policy has on other matters of interest to our members. Under NAFTA, private investors have challenged a variety of domestic laws in all three NAFTA countries protecting public services, the environment, public health and safety, consumers and workers. Trade policy must protect our government's ability to regulate in the public interest, to use procurement dollars to promote economic development and other legitimate social goals, and to provide high-quality public services. Finally, we believe that American workers must be able to participate meaningfully in the decisions our government makes on trade, based on a process that is open, democratic, and fair.

STATEMENT OF THE BOEING COMPANY

On behalf of its more than 160,000 employees and the nearly 26,000 small and medium-size companies and their employees across the United States manufacturing and supplying materials and components for our products, The Boeing Company expresses its deepest thanks to the committee for the opportunity to convey its strong endorsement of the U.S.-Singapore Free Trade Agreement.

These extensive government-to-government negotiations resulted in a substantive agreement that will expand two-way trade. The workers, businesses, and consumers of the United States will be the beneficiaries of this agreement. The Administration and, in particular, the United States Trade Representative and his staff, should be congratulated on reaching this historic agreement. It is the first such agreement to be negotiated and signed since President Bush received Trade Promotion Authority from the Congress.

As Boeing's Chief Executive Officer, Mr. Phil Condit, stated in his letter of support for these negotiations over two years ago:

> "I wish to convey my strong support for the proposed Free Trade Agreement ("FTA") with the Republic of Singapore with which the company has engaged in a productive relationship over many years. It is vitally important that these negotiations yield a comprehensive agreement that truly benefits American firms and workers. It should also complement ongoing regional and multilateral trade and investment liberalization efforts."

As noted above, the negotiations did, in fact, yield the positive results expressed in that letter and will enhance trade between the two nations. Furthermore, as Mr. Condit also indicated, The Boeing Company has benefited for decades from a strong relationship with the Government of Singapore and with its carrier, Singapore Airlines. The airline is a long-time operator of Boeing commercial aircraft and is widely regarded by the traveling public as the "leader" in the field of air transportation. We have enjoyed a very special relationship with the airline and its management over the years. We look forward to the continuation of that very positive relationship, as well as with the Government of Singapore in its acquisition of military equipment.

The Boeing Company is truly a global business. We are the nation's largest single exporter of manufactured goods, with customers in 145 countries. As many as seven out of every ten commercial airplanes Boeing delivers go to overseas customers. Boeing's international business base also includes satellites, launch services, military aircraft and equipment, weapons systems, and aerospace support services.

As a general matter, an open, rules-based trading system advances The Boeing Company's competitiveness by contributing to global economic growth, reducing tensions between the United States and key trading partners through multilateral dispute settlement, and by providing rules to improve market access and address unfair trade practices. Open trade means that our customers around the world can export products to the United States and other countries and earn the foreign exchange needed to purchase Boeing products and services. This U.S.Singapore Free Trade Agreement will facilitate these trade flows.

As another indication of the level of interest and support for this agreement, The Boeing Company chaired, along with Exxon-Mobil and United Parcel Service, a coalition of companies in active and strong support for the agreement. The coalition consists of companies and business organizations from across America and includes, among others, the U.S. Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, and the Emergency Committee for American Trade, the U.S.-ASEAN Business Council, AmCham Singapore, and the Coalition of Service Industries.

The Boeing Company and the coalition view the U.S. bilateral agreement with Singapore as significant for many reasons. We believe this landmark pact will: (1) open new sectors to American companies in Singapore; (2) spur economic growth in both countries; (3) create higher paying jobs for American workers; and 4) increase investments, trade volumes and economic integration. Moreover, Boeing and the coalition believe that this free trade agreement will further solidify America's presence and commitment to the Southeast Asian region.

Among other important provisions, this agreement contains a chapter continuing the liberalization of e-commerce. The agreement commits Singapore to the nondiscriminatory treatment of digital products and lowers the barriers on the use and development of e-commerce, something that The Boeing Company, with its emerging "Connexion-by-Boeing" broadband service onboard commercial aircraft, wholeheartedly endorses. Moreover, Singapore has also committed to not apply fees or tariffs on the electronic transmission of digital products and services delivered via the Internet. Boeing strongly endorses this approach as well, and knows that the Congress will appreciate the significance of this provision to the e-commerce industry.

The positive impact of the U.S.-Singapore Free Trade Agreement for the United States is substantial and worthy of Congressional support. Its adoption will send an important signal to our trading partners that we intend to continue to lead the

world in rules-based, comprehensive trade liberalizing agreements. As a result, The Boeing Company strongly supports the U.S.-Singapore Free Trade Agreement.

STATEMENT OF THE DISTILLED SPIRITS COUNCIL OF THE UNITED STATES, INC.

[SUBMITTED BY PETER H. CRESSY, PRESIDENT/CEO]

The following statement is submitted on behalf of the Distilled Spirits Council of the United States, Inc. (Distilled Spirits Council) for inclusion in the printed record of the Committee's hearing on the implementation of U.S. bilateral free trade agreements (FTAs) with Chile and Singapore. The Distilled Spirits Council is a national trade association representing U.S. producers, marketers and exporters of distilled spirits products. Its member companies export spirits products to more than 130 countries worldwide, including to Chile and Singapore.

I. OVERVIEW

The Distilled Spirits Council and its member companies enthusiastically support Congressional approval and prompt entry-into-force of the free trade agreements with Chile and Singapore, which will bring about significant and measurable benefits for U.S. spirits exporters. Over the past decade, the export market for U.S. distilled spirits products has become increasingly more important to the U.S. distilled spirits industry. In fact, since 1990, U.S. exports of distilled spirits worldwide have doubled, growing to over $550 million in 2002. While the Uruguay Round negotiations produced significant benefits for U.S. distilled spirits exporters, including substantial reductions in import tariffs and non-tariff barriers, numerous barriers still remain. The U.S. distilled spirits industry actively supports the U.S. government's efforts to seek the elimination or reduction of these remaining barriers within the context of the ongoing World Trade Organization negotiations, and in other multilateral and bilateral negotiations.

The recently-concluded Chile and Singapore agreements eliminate several of the barriers that U.S. spirits exporters currently face in these markets. Prompt Congressional approval and implementation of the FTAs will permit U.S. spirits exporters to benefit from improved market access to Chile and Singapore, thus ensuring the continued growth of the U.S. distilled spirits industry.

II. BENEFITS OF THE U.S.-CHILE AGREEMENT TO U.S. DISTILLED SPIRITS EXPORTERS

The U.S.-Chile Free Trade Agreement (FTA) will provide three significant benefits for the U.S. distilled spirits industry. First, the U.S.-Chile FTA will ensure that U.S. spirits entering Chile are accorded the same tariff treatment as Chilean spirits entering the United States. As a result of the "zero-for-zero" initiative, which began in the Uruguay Round, the United States has eliminated almost all tariffs on imported spirits products, including *pisco*, Chile's most important spirits export. In contrast, U.S. spirits currently face a tariff of six percent *ad valorem* in Chile. Under the terms of the U.S.-Chile FTA, Chile will eliminate its tariff on all spirits (with the exception of brandy and gin) imported from the United States two years after entry-into-force of the agreement. The tariff on brandy will be eliminated immediately upon the agreement's entry-into-force, and the tariff on gin will be reduced in twelve equal annual stages until the tariff is zero.

Second, the U.S.-Chile FTA will place U.S. spirits exports on a level playing field with our competitors. Chile currently has free trade agreements with Canada, Mexico and the European Union. In both the Canada-Chile and Mexico-Chile agreements, Chile agreed to eliminate immediately its tariffs on all spirits products, including tequila and Canadian Whisky. In the EU-Chile agreement, Chile agreed to a ten-year phase-out of the tariffs on Cognac, Armagnac, Grappa, and Brandy de Jerez and a five-year phase-out of the tariffs on all other EU-origin spirits. The U.S.-Chile FTA ensures, therefore, that U.S. spirits ultimately will be able to compete on an equal footing with spirits from Mexico, Canada and the European Union.

Finally, the U.S.-Chile FTA provides essential protections for Bourbon and Tennessee Whiskey, two distinctly American spirits. Under the U.S.-Chile FTA, Chile has agreed to provide explicit protection in the Chilean market for Bourbon and Tennessee Whiskey as distinctive products of the United States. Such recognition ensures that only spirits produced in the United States, in accordance with the laws and regulations of the United States, may be marketed in Chile as Bourbon and Tennessee Whiskey.

III. BENEFITS OF THE U.S.-SINGAPORE AGREEMENT TO U.S. DISTILLED SPIRITS EXPORTERS

Similarly, the U.S. spirits industry stands to gain significantly as a result of the U.S.-Singapore FTA. First, Singapore will eliminate its discriminatory excise tax policy on distilled spirits. Currently, Singapore assesses significantly lower excise taxes on domestically-produced spirits (samsoo, arrack and pineapple spirits) than on other types of distilled spirits in violation of the General Agreement on Tariffs and Trade (GATT) 1999 Article III, paragraph 2. This discriminatory excise tax policy has placed U.S. distilled spirits at a competitive disadvantage vis-á-vis domestically-produced spirits. Under the terms of the U.S.-Singapore FTA, Singapore will eliminate this discriminatory practice by harmonizing its excise taxes on imported and domestically-produced distilled spirits.

The U.S.-Singapore FTA also guarantees that Singapore will *not* be able, at a future date, to impose tariffs on distilled spirits imported from the United States. Singapore does not currently assess tariffs on most imported distilled spirits products. However, Singapore's WTO bound tariff rates are high and, consistent with its Uruguay Round commitments, Singapore may impose at any time tariffs ranging from S$30 per liter to S$70 per liter of alcohol on most categories of distilled spirits. Under the U.S.-Singapore FTA, Singapore has committed to bind *all* tariffs at zero immediately upon entry-into-force of the agreement, thereby ensuring that U.S. spirits exports will continue to enter the Singapore market duty-free.

Finally, provisions in both the U.S.-Singapore FTA and the U.S.-Chile FTA include commitments that those countries will not adopt or maintain a merchandise processing fee for originating goods. This provision will ensure that U.S. spirits exporters will not be subject to additional administrative costs in Singapore and Chile.

IV. CONCLUSION

In summary, the U.S.-Chile and U.S.-Singapore free trade agreements successfully address the principal trade barriers currently impeding U.S. exports of distilled spirits to Chile and Singapore. The Distilled Spirits Council, therefore, strongly supports these agreements, which, once implemented, will provide considerable benefits to U.S. spirits exporters. We stand ready to work closely with the Congress in seeking the swift approval of these agreements, so that U.S. spirits exporters may begin soon to enjoy improved access to the Chilean and Singapore markets.

Thank you very much for your consideration.

STATEMENT OF ENVIRONMENTAL INVESTIGATION AGENCY

[SUBMITTED BY ALEXANDER JAMES VON BISMARCK, SENIOR INVESTIGATOR]

1. SUMMARY AND RECOMMENDATIONS

Mr. Chairman and Members of the Subcommittee, the Environmental Investigation Agency (EIA) is grateful for this opportunity to present recent findings relating to the U.S.-Singapore Free Trade Agreement. EIA has investigated international trade and its environmental consequences for 19, years, and is globally recognized for its expertise in the problems of illegal logging and trade in illegal timber, wildlife, and ozone depleting substances. EIA has conducted a number of recent investigations that describe Singapore's role in these matters, and has recently published the report *"Singapore's Illegal Timber Trade and The U.S.-Singapore Free Trade Agreement."*

Timber Smuggling

EIA fears that the U.S.-Singapore FTA, as it stands, will trigger a significant increase in Singaporean controlled exports of illegally produced timber products into the US. The Office of the US Trade Representative, which led the US negotiations, points out that "international trade can play a role in stimulating, enabling or rewarding illegal activities in a number of Asia-Pacific countries where illegal logging (is) a significant cause of deforestation."[i] Our information suggests that this concern is currently dramatically underestimated.

While a FTA could offer excellent opportunities to cooperate and address problems of illegal trade, particularly amidst current concerns over port security, such opportunities have so far remained unexploited. The FTA will reduce tariffs, which for some wood products are significant, and define the customs policies that are currently allowing Singaporean companies to export a variety of illegal shipments into the US in a dangerously efficient way. Implementing legislation should make an effort to address these concerns.

Undercover investigations by EIA and Telapak, our Indonesian partner organization, in April 2003 confirmed Singapore to be a central hub for laundering illegal shipments of Ramin, a highly valuable and endangered tree species found only in Indonesia and Malaysia. Singaporean companies play the key role in paying bribes and falsifying paperwork to allow illegal shipments of wood to enter the world market, including the US. Further analysis of trade data reveals that over US$ 3 million of Ramin was imported illegally into the US—without the required permits—from or through Singapore between September 2001 and July 2002. Fifty-two percent of all Ramin shipments into the US during these ten months passed through or originated in Singapore.

Other Illegal Trade and Security Concerns

Singapore has also maintained a well deserved reputation as a major center of illegal international trade in endangered wildlife, including poached elephant ivory, tiger bone, parrots and other species. An EIA report published last year documented the current resurgence in elephant ivory smuggling. In June 2002, a foreign tip-off led to the seizure of six tons of ivory in Singapore—the largest seizure since the international ivory trade ban went into effect in 1989.

Singapore is also central to the regional Asian black market trade in chlorofluorocarbons (CFCs), with much of this material transiting through the city-state. EIA investigations reveal that Singapore shipped large amounts of CFCs to Nepal, itself a staging post for CFC smuggling into India. International trade in CFCs is strictly limited by the Montreal Protocol on Ozone Depleting Substances to which both the US and Singapore are signatories. The US EPA has recently refused entry for a variety of suspicious CFC shipments from Singapore.

A variety of factors make Singapore a haven for smugglers and unscrupulous international trade. First, Singapore's loose and porous customs system offers unique opportunities to bypass inspectors, manipulate cargo and paperwork. Secondly, Singapore systematically withholds trade data to shelter evidence that could quantify the scope of illegal activities occurring in and throughout its territory. Finally, Singapore's commitment to multilateral environmental agreements is superficial and its enforcement passive at best.

Remedies

Singapore has been particularly hostile to recent U.S.-led international efforts to take action against illegal logging. President Bush has recognized the global security threat posed by illegal logging and has committed $50 million in new funding over the next five years. The State Department has played a key role in launching the most promising international framework to combat illegal logging, the Forest Law Enforcement and Governance initiative (FLEG). In September 2001, ten East Asian nations with the US and the UK issued the Bali Ministerial Declaration, a historic agreement in which producing and consuming nations agreed to take far reaching actions to suppress illegal logging. Singapore has been noticeably absent from all FLEG negotiations.

Concerns over Singapore's trade in illicit goods and the impact of this FTA must be addressed now. The US-S FTA has been heralded as a template for future agreements and thus must benefit from a thorough and sober analysis of its implications. Singapore's role as a hub for Asian trade is set to expand as free trade agreements between Singapore and other Asian nations, including China and Japan, are under negotiation. Japan and China are the second and third largest timber importers respectively.

The U.S.-Singapore FTA offers an opportunity to enter into serious bilateral discussions with Singapore to tackle the problem of illegal trade of timber, wildlife, and dangerous chemicals. Implementing legislation should be considered as a means to support regional, bilateral and domestic enforcement initiatives.

Singapore's example as a gateway of illegal timber into the US must also focus our attention on desperately needed legislation to stop the import of illegally sourced timber. In April the 'Clean Diamond Trade Act' was passed to stop the conflict diamond trade. The trade in illegal and conflict timber is equally destructive to the global security and the environment and must be tackled next.

RECOMMENDATIONS

Deliberations of the implementing legislation for the U.S.-Singapore Free Trade Agreement should consider the following measures to counter an increase in illegal shipments of timber and other environmentally sensitive goods.

1. The US should enter into a bilateral agreement with Singapore as an annex to the Free Trade Agreement to establish a licensing system for legally pro-

duced timber and to eliminate trade in illegally produced timber and timber products. As part of this,

2. The US should establish an enforcement task force to work in close cooperation with a new parallel Singapore government enforcement body to share information, promote coordination and proactively target environmental crimes involving trade in illegal timber, wildlife products and ozone depleting chemicals linked with import, export and transshipment though Singaporean territory.

3. The US should facilitate the establishment of a regional enforcement body with Singapore and other important timber producing, consuming and processing countries in the Asia Pacific region to target trade in illegally produced timber and offer to provide technical and training assistance to the member states of the new body.

4. The US should use the provisions of the U.S.-Singapore Free Trade Agreement to ensure that Singapore upgrades its Customs laws and regulations to close loopholes that allow easy movement of goods into Customs ports, warehouses and airports without proper scrutiny and to prohibit the repackaging and processing of goods in transshipment or under Customs control in Singapore. The US should ensure that citizens also have the ability to bring complaints to the dispute resolution mechanism.

5. The US should encourage Singapore to

- **Formally endorse the Bali Ministerial Declaration of the Forest Law Enforcement** and Governance (FLEG) and an action plan to adhere to FLEG commitments.
- **Adopt a policy of transparency concerning its trade in environmentally sensitive** goods and ensure transparent access to key data concerning trade with Indonesia, timber trade, wildlife products and data concerning companies authorized to trade in ozone depleting chemicals.

6. The US should ban all trade in Ramin and encourage all other consuming countries to suspend trade in Ramin indefinitely. The US should actively prosecute the companies, especially the repeat offenders, that have been documented to be importing Ramin into the US without proper permits.

7. Finally, the United States must develop new legislation to stop the import, export, transshipment, purchase, or sale of illegally produced timber. Ongoing initiatives, such as those in the EU, offer templates. The US should commission a study on the implementation of such legislation in the US.

2. BACKGROUND AND EVIDENCE

The US and the Global Illegal Logging Problem

Illegal logging takes place when timber is harvested, transported, bought or sold in violation of national laws and is widespread in most of the major timber producing and exporting countries of the world. In some cases illegal logging represents more than half of production, and large quantities of illegally sourced wood find their way to the major markets of the US, Europe, Japan and China in the form of timber, furniture or other products.

Illegal logging has major economic implications. It is estimated that illegal logging on public lands worldwide causes annual losses in revenues and assets in excess of $10 billion.[ii] All too often money which should be going to fund schools, hospitals and clean drinking water in developing countries is instead finding its way into the pockets of illegal timber barons, corrupt enforcement personnel and politicians. The wood furniture, blinds, or flooring made from illegal tropical logs can then be sold in the US at a discount price, undercutting the US timber industry.

Overall, the US has demonstrated a major commitment to promoting international measures to counter illegal logging. Despite the variety of positive initiatives by the US administration to address illegal logging, no policies or programs have emerged that will close or even restrict its massive domestic market to imports of illegally produced timber. The US has not concluded any bilateral or multiparty agreements with any of the major timber producers in Asia, while the UK and China have reached separate bilateral agreements with Indonesia to facilitate action programs against illegal logging and trade in illegally cut timber. Japan is also currently negotiating a similar agreement with Indonesia.

The US is the world's largest importer and consumer of timber and wood products.[iii] In 2001, the US imported wood and wood products valued at around $25 billion a year.

Case Study: Ramin

Many tropical forests in East Asia are under threat from human induced causes, but certain high value species are specifically targeted for the international timber

trade. One such species is Ramin (*Gonystylus spp.*), imported to the US for picture and futon frames, moldings, pool cues and other products.

In 2001, the Indonesian government identified Ramin as being so threatened by the illegal practices of powerful timber barons that it turned to the international community for help and banned all export of the species through the Convention on International Trade in Endangered Species (CITES) effective on August 6th, 2001. Selective illegal logging of high value export species like Ramin is often the first step leading to forest clearance, as the tracks and roads built to access and remove the timber become entryways for further illegal cutting, hunting and burning.

Other than for a small amount of wood originating with a company in Sumatra which has been certified as sustainable, no Ramin has been granted an export permit by the Indonesian government since December 31, 2001. Ramin is also found in lesser amounts in Malaysia, but all shipments of Ramin entering the US now require CITES permits and Certificates of Origin.

In January, 2002, more than five months after Indonesia banned the export of Ramin, Singapore added Ramin to Schedule II of its Endangered Species (Import and Export) Act, which implements CITES commitments in Singapore. The extent of continued smuggling in the species shows that Singapore has failed to enforce its own environmental legislation, as required by the U.S.-Singapore Free Trade Agreement, allowing Singaporean companies to reap significant profits in the process.

Singapore's $3 million of Illegal Ramin Exports to the US

EIA compared data on US Ramin imports obtained from the US Department of Commerce commercial "Port Import Export Reporting Service" (PIERS) and CITES permits for Ramin obtained under the US Freedom of Information Act on US for a ten month period between September 2001 and July, 2002.[vi]

The data revealed that the US imported at least 324 shipments containing products made of Ramin between September 2001–July 2002 with a total declared value of approximately $11,388,746.[vii] This can be expected to be a fraction of total Ramin imports to the US since it only includes shipments labeled as 'Ramin', while many are labeled only by their product name.

167 of these 324 shipments, (51.5 percent of the total) either originated in Singapore, or used Singapore as a transshipment point. Of the 167 Singaporean shipments, 80 percent (or 134 shipments) valued at just over $3 million did not have any CITES permits or documentation.

PIERS data records over 600 cubic meters of Ramin products arriving in US ports that originated in Singapore between August 2001 to June 2002.[viii] US Customs, however, did not have a single Singaporean CITES permit on file for Ramin imports occurring between September 2001 and July 2002.[ix] PIERS data further recorded 30 Ramin shipments from Indonesia worth US$ 700,000, that entered the US after passing through Singapore—all without CITES permits.

The Role of Singaporean Timber Companies in Illegal Trade

EIA and Telapak have undertaken numerous investigations in Singapore, Malaysia and Indonesia over the past five years and have gathered extensive information which demonstrates the central role Singapore plays in the illegal timber trade throughout Southeast Asia and globally. The most recent investigation in April 2003 detailed some of the particular smuggling mechanisms.

Timber processors, traders and agents located in Singapore act as the key enablers of the region's illegal timber trade. More than 150 companies are registered on the Singapore Yellow pages as timber importers and/or exporters. The majority are based in Kranji and the industrial estate of Sungei Kadut in the north of the island.

In April 2003, EIA undercover investigators conducted telephone surveys and visited import/export companies in the Sungei Kadut area. During a visit to one such company, two managers explained their smuggling methods on hidden camera. They called themselves 'mafia' and 'smugglers' and one proclaimed that 'drug smuggling (is) no good, but timber (is) okay'. He was counting upwards of US $10,000 in cash at the time. They explained the following smuggling strategies:

- 'Illegal payments' (in their words) are made to obtain permits that are accepted by Singaporean Customs.
- Permits for 100 tons are used to smuggle in up to 500 tons of Ramin per shipment into Singapore.
- The Ramin is moved out of Free Trade Zones and kept in storage in containers.
- He exports three to five containers per month to China under a false species name, where it is processed and about one third shipped to the United States.

Singapore's Porous Free Trade Zones

EIA and Telapak have identified the most common entry points of smuggled Ramin to be small landing sites within Singapore's Free Trade Zones (FTZs). Traditional vessels, mostly from Indonesia, dock at certain locations amidst supertankers and industrial cargo ships, and unload their cargo onto trucks using mobile cranes. It is then driven out of the Free Trade Zone to mills or agents who then arrange to ship it to the world market.[x]

The intent of the five FTZs in Singapore is to allow for trade with a minimum of regulation. The rationale is that they are secure and distinct from Singapore proper and therefore can be excused from national regulations without negative consequences. Evidence, however, suggests otherwise.

In October 2002, a tip-off alerted Singaporean CITES Management Authority that a large shipment of Ramin had been collected in a warehouse on the same street as the company described above. Authorities found 120 tons of Ramin without CITES permits, the result of six separate shipments, each having avoided Customs on different occasions. The known entry point of these shipments is in Jurong Port, one of Singapore's 5 Free Trade Zones. Somehow the six illegal shipments, each of approximately 20 tons, avoided Customs in this area and reached the heart of the sawmill district in the North of the Island. This seizure is the only Ramin seizure made to date by Singaporean authorities.

EIA and Telapak visited this site in April 2003 and immediately encountered a shipment of approximately 20 tons of sawn ramin timber being unloaded from a wooden ship flying an Indonesian flag and manned by Indonesian sailors. When Singaporean CITES officials present asked for a permit, the captain produced a document that purported to show the timber was from Malaysia, and the shipment was allowed to continue. The Indonesian flag and crew and the low quality of wood, however, are strong indicators that this was also an illegal shipment from Indonesia.

The US requires CITES listed species or products in transshipment to be accompanied by CITES permits. In contrast, Singapore Customs policy does not require any Customs permit for goods which are "discharged along wharves directly into a Free Trade Zones (sic)."[xi] Recent EIA investigations have shown such FTZs to be porous at best. Lax transshipment regulations and insecure FTZs allow protected species like Ramin, African elephant ivory, tiger bone, and endangered parrots to be shipped through Singapore without regulation, control or enforcement by the Singaporean authorities and questions

Batam and Bintam

The Integrated Sourcing Initiative (ISI) of the U.S.-Singapore Free Trade Agreement allows another country to benefit from what should be a bilateral agreement. In the case of the US-S FTA, some 100 items of information technology products produced on the Indonesian islands of Batam and Bintam will be allowed to benefit from the provisions of the FTA. Products produced on these Indonesian islands will be considered as originating in Singapore.

Other countries have already seen the potential advantages that the FTA confers upon products produced on Bintam and Batam. Chairman of the Batam Industrial Development Authority (BIDA), Ismeth Abdullah, has stated that following the US-S FTA signing on May 6th, companies from other countries like South Korea, Japan, and Taiwan had also expressed interest in investing in Batam and Bintam.[xii]

Currently the FTA leaves open the possibility of other products and countries being included under ISI provisions. This comes at a time when customs enforcement capacity is overwhelmed by smugglers obfuscating the origin of their products, and ships have been seized leaving Batam with large shipments of illegal wood (see timeline below).

Transparency

Singapore distinguishes itself regionally by refusing to release data that may point to the questionable trading practices of Singaporean companies. Singapore recently drew the ire of Indonesia when it refused to fully release trade statistics between the two nations. Although Indonesia is estimated to be the sixth largest trading partner with Singapore, it is omitted from the list of 149 trade partners in the Singapore Trade Statistics. The trade data that had previously been released point to a great discrepancy between Indonesian and Singaporean records. Singaporean statistics estimated non-oil imports from Indonesia to be $7.41 billion, while Indonesian numbers put the value at $4.6 billion.[xiii]

Analysts in the Indonesian press have said that the Singaporean government is purposely keeping the real trade data a secret to protect "certain vested interest groups" that have continued contraband trade with the country, including Indonesian military figures."[xiv]

"Conflict Timber"

The province of Aceh, Indonesia has been beset by violent and bloody conflict for the last twenty some years. An Aceh independence/sepratist movement led by the Free Aceh Movement (GAM) has clashed with the Indonesian military (TNI) in increasingly bloody battles, the most recent during the military state imposed by President Megawati a little over a month ago. Both GAM and TNI have, in the past, funded their efforts against each other through illegal logging, drug running and prostitution.[xv]

Past EIA investigations have documented the damage caused by illegal logging in the Leuser ecosystem and National Park, in Aceh and parts of Northern Sumatra. Indications are that trade of illegal timber may be continuing despite the current battles raging in Aceh, as the Jakarta post reported that ships going to and from Singapore and Malaysia (just over the straits of Malacca) are allowed to continue their lucrative trade with Aceh.[xvi] Ships carrying illegal logs from the Leuser ecosystem have already been intercepted several times after leaving Acehnese ports (see timeline below).

Currently, Singapore offers excellent conditions for 'cleansing' such timber of its origins and shipping it to the US. A free trade agreement without provisions to address illegal and conflict timber will make these conditions even more enticing to the criminal elements trading in these products.

Recent Examples of Singaporean Involvement in Illegal Timber Trade

The following are some recent examples of Singapore's role in the international smuggling of illegally cut timber. This is only a partial list of available information in the public domain from a vast array of published sources.

- **April, 2003:** Singaporean company offers EIA and Telapak undercover investigators smuggled Ramin from Indonesia and explains how illegally obtained permits for small amounts of the wood are used as cover to smuggle in as much as five times the amount. The wood is then shipped to China under false names, where it is processed and a portion is shipped to the US.[xvii]
- **February, 2003:** Singapore flagged and owned vessel Qing Ann was detained off Aceh carrying 4,500m3 of illegal logs.[xviii]
- **Early 2003:** Singapore flagged and owned vessel, Asean Premier, detained near Sorong, West Papua, with illegal merbau logs. Still under detention.[xix]
- **December 2002:** Indonesian navy seizes 44 containers of illegal wood from a barge in the waters off Belakang Padang in Batam island, Riau province—twenty kilometers across the water from Singapore.[xx]
- **December 2002:** Indonesian armed forces seize three ships in waters off Karimun island in Riau carrying 225 tons of illegal processed wood including Kempas. The ships, the KM Sinar Belaras, KM Fendi Indah, and KM Kayu Lestari II, had come from the Sumatran mainland and were carrying the wood to Singapore. A fourth ship evaded capture and escaped to Singapore.[xxi]
- **October 2002:** Indonesian Navy seizes tugboats carrying 85 containers of illegal processed bengkirai timber in Riau. The wood was estimated to be worth more than US $9 million. The ships were on their way to Singapore.[xxii]
- **October 2002:** Singaporean authorities seize 120 tons of Ramin from a Singaporean timber importer which had been imported without CITES permits.[xxiii]
- **October 2002:** Two Singaporean timber companies openly admit to smuggling Ramin from Indonesia to Singapore and re-exporting it to the US and Europe without CITES permits.[xxiv]
- **June, 2002:** Customs agents in Batam, an Indonesian island to be included in the FTA under the ISI, seize two more ships carrying illegal sawn Ramin and destined for Singapore. The two ships were carrying a total of 105m3 of sawn Ramin.[xxv]
- **June 2002:** 75 tons of Ramin and 130 tons of other wood is seized by the Indonesian navy from three ships in waters off Batam island, near Singapore.[xxvi]
- **January, 2002:** The Singapore owned vessel Ever Wise escaped detention off Sorong, Indonesia and was subsequently arrested in China. Fake documents were found for illegal shipment of Ramin.[xxvii]
- **January, 2002:** The Singapore owned vessel Sukaria was detained off Sorong carrying a shipment of merbau. It was subsequently released without explanation.[xxviii]
- **December 2001:** A Kompas news article quotes Djoko (Chairman of East Kalimantan MPI—a timber industry association) saying that "the wood industry in Jakarta is importing Ramin from Singapore which has no Ramin forest". He states illegal Indonesian Ramin is being smuggled to Singapore, legalized and shipped back to wood product factories in Indonesia.[xxix]

- **November 2001:** Singapore flagged and owned vessel Mandarin Sea was detained off Central Kalimantan, carrying 12,OOOm3 of illegal logs. Linked to Tanja Lingga, implicated in illegal logging in Tanjung Puting National Park.[xxx]
- **March 2001:** 100 tons of processed illegal Ramin intended for Singapore was seized by Riau police aboard two boats. Two boat captains were arrested. One of the captains states 45 boats go back and forth to Singapore each day carrying processed timber, which would suggest traffic of 100,000 cubic meters a month.[xxxii]
- **August 2000:** A cargo ship was stopped by Indonesian authorities off the coast of Riau province in Indonesia, on its way to Singapore, with illegally sourced Meranti.[xxxiii]
- **August 2000:** An NGO investigation discovered barges being loaded with illegal Ramin in Kuala Gaung in Riau province, where there were no legal concessions. The barges bear the logo of a Singaporean company.[xxxiv]
- **May 2000:** Indonesian port officials forced by local activists to order a cargo ship bound for Singapore back to Pontianak, Indonesia. Only seven out of the 42 containers of timber onboard had proper documentation.[xxxv]

ENDNOTES

[i] Office of the USTR. Draft Environmental Review. (p.23)
[ii] Ibid.
[iii] (FAO, State of the World's Forests, 2001)
[vi] PIERS imports data and FOIAed CITES permits from USMA.
[vii] Ibid.
[viii] Ibid.
[ix] Ibid.
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[xi] Customs PM 001.74.08. Circular No. 4/98. Issued February 28, 1998. Available online at: *www.gov.sq/customs*. (See also: "Singapore Customs Policy Overview" available online at: *www.gov.sg/customs*.)
[xii] "U.S.-Singapore Trade Pact Good News for Indonesia." The Jakarta Post. May 12, 2003.
[xiii] "Discrepancies in RI-Singapore Trade Figures Seen as a Result of Smuggling." The Jakarta Post. June 12, 2003.
[xiv] Ibid.
[xv] "Black Economy Threatens Aceh Peace." The Jakarta Post. March 25, 2003.
[xvi] "Sea Traffic Unaffected by Closure of Aceh Waters." The Jakarta Post. June 5, 2003.
[xvii] EIA and Telapak Internal Reports. 2002, 2003.
[xviii] Ministry of Forestry official, pers.comm., 2003.
[xix] Ministry of Forestry, 2003.
[xx] Antara, 14th Dee 2002
[xxi] Riau Post, 31st Dec 2002
[xxii] Jakarta Post, October 2002
[xxiii] Pers.Comm—AVA CITES Management Authority, Singapore, April, 2003
[xxiv] EIA internal investigation
[xxv] Ibid.
[xxvi] Ibid.
[xxvii] Indonesian Ministry of Forestry, 2002.
[xxviii] Indonesian Ministry of Forestry, 2002.
[xxix] Kompas, December 2001.
[xxx] "Above the Law." EIA Report.
[xxxii] Gamma, May 1, 2002; Riau Pos 31st Dec 2002
[xxxiii] Jakarta Post, August 19, 2000
[xxxiv] Pers. comm. Hakiki, February 2001; KEA website
[xxxv] Jakarta Post, May 23, 2000

STATEMENT OF THE NATIONAL ASSOCIATION OF MANUFACTURERS

The National Association of Manufacturers (NAM) strongly supports rapid approval by the House and Senate of the recently signed free trade agreements (FTAs) with Chile and Singapore. Both agreements provide concrete market-opening benefits for U.S. manufacturers, establish world-class precedents for promoting U.S. investment, intellectual property rights and other key disciplines, and boost momentum for further progress in other bilateral, regional and multilateral trade negotiations.

The NAM represents 14,000 U.S.-based manufacturing companies, including 10,000 small and medium enterprises. The NAM views the pursuit of trade-liberalizing agreements under Trade Promotion Authority to be in the national interest of the United States and in the economic interest of its members. Given the general openness of the U.S. market, trade negotiations should be pursued aggressively to level the playing field by knocking down tariffs and other non-tariff barriers that help keep U.S. manufactured exports out of foreign markets.

The U.S.-Singapore FTA

Singapore's applied tariffs on the vast majority of industrial goods are already at zero. However, Singapore's legally bound VVTO tariff rates for some sectors are greater than zero. The FTA binds Singapore's bound rates at zero, a measure that the NAM views as highly desirable because it ensures that Singapore's tariffs on U.S. exports cannot be raised in the future.

Most U.S.-Singapore trade is in high technology sectors, and almost two-thirds of the trade is intra-company trade. U.S. companies have over $24 billion invested in Singapore, and U.S. firms in Singapore account for 60 percent of total U.S. manufacturing investment in all of Southeast Asia. Furthermore, U.S. investors purchase over 40 percent of all U.S. exports to Singapore. The heavy presence and critical role of U.S. manufacturing investment in Singapore are two significant reasons why the U.S.Singapore Free Trade Agreement, with its strong investment protections, merits approval.

Another reason is that the Singapore agreement will be seen by all as a precedent for future FTAs in Asia. As Singapore is the most free-trade-oriented country in the region, the agreement's provisions are excellent, and provide a robust template for futureagreements in the region. This includes the investment chapter, which can be put forward as a template in future negotiations with other Asian countries that demonstrate much less respect for investors' rights in their laws and practice than does Singapore.

The NAM also applauds the very high standards the Singapore FTA sets with regards to competition policy. Singapore is committed to enact laws regulating anticompetitive conduct and to create a competition commission by January 2005. Because Government-Linked-Corporations (GLCs) carry out about half of Singapore's economic activities, the incorporation of an enforceable requirement ensuring that the GLCs willoperate on a commercial, nondiscriminatory basis represents a tremendous advance. This is so, not because Singapore GLCs have abused their authority in the past, but because of the need to ensure openness into the future and to set a strong precedent for FTAs withother countries.

The U.S.-Chile FTA

Unlike Singapore, Chile currently maintains a six-percent across-the-board uniform tariff on imports. A principal reason the NAM strongly backs the Chile FrA is that it will remove that tariff on 85 percent of U.S. industrial and consumer goods upon the first day of the agreement's implementation. Other tariffs on industrial goods are removed within four years.

The NAM views the front-loading of industrial tariff cuts as critical to restoring a level playing field in the competition for the Chilean import market. This is because we strongly believe that U.S. exports are currently being displaced in Chile, as Chilean buyers switch away from U.S.-made products and increasingly buy goods from suppliers in countries with which Chile has free trade agreements. The proposed U.S. free trade agreement with Chile could reverse this troubling trend.

The United States has lost more than seven percentage points of the Chilean import market since 1997—nearly one third of America's share of the Chilean market. Until 1997, U.S. products were highly competitive in Chile and captured a growing share of Chile's import market. After 1997, though, the U.S. share of Chile's imports went into a sudden and sharp decline—dropping from 24 percent of the market to less than 17 percent in 2002. The United States did not suffer a similar loss in the rest of South America.

This drop resulted in the loss of over one billion dollars in exports to Chile in 2002, at an annual rate. Countries entering into or implementing trade agreements with Chile in 1997 showed a sharp nine-plus percentage point gain in market share that more than offset the U.S. loss. In the case of Chile, its agreements with countries such as Argentina, Brazil, Canada, and Mexico have diverted major purchases away from U.S. producers.

Using methodology developed by the U.S. Department of Commerce for determining the labor content of U.S. exports, the more than one billion dollar decline in U.S. annual sales to Chile represents the loss of over 12,500 American job opportunities. With the Chile-European Union free trade agreement's entry into effect on

Feb. 1, 2003, both the figures mentioned above are sure to rise dramatically—unless the U.S. Congress quickly approves the U.S.-Chile free trade pact.

Positive Aspects of Both Accords

In addition to the areas highlighted above, both the Chile and Singapore FTAs contain cutting-edge, 21st century disciplines with respect to customs facilitation, government procurement, intellectual property, electronic commerce, transparency and dispute settlement procedures. The NAM endorses the way these provisions comport with the congressionally mandated TPA negotiating objectives.

The message is clear: America needs to accelerate greatly its efforts to enter into and successfully conclude trade agreements that will reduce barriers to U.S. exports and level the playing field for American firms. The prospective gains in this win-win situation are huge all around, and the first step in the right direction is congressional approval of the U.S.-Singapore and U.S.-Chile free trade agreements.

INTERNATIONAL ECONOMIC AFFAIRS DEPARTMENT NATIONAL ASSOCIATION OF MANUFACTURERS

Contact:

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The NAM gratefully acknowledges the support for its analyses on U.S.-Chile trade provided by Global Trade Information Systems, Inc. (GTIS), whose "Global Trade AtIasTM" (GTA) provides unprecedented access to the official merchandise trade data for more than thirty-five of the world's major economies. This tool allows viewing more than ninety percent of the world's trade in any commodity classified by the Harmonized System, and provides an entirely new way of examining trends in world markets.

Software & Information
Industry Association
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June 30, 2003

The Honorable Charles E. Grassley, Chairman
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Max Baucus, Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

RE: Singapore and Chile Free Trade Agreements

Dear Chairman Grassley and Ranking Member Baucus:

On behalf of the members of the Software & Information Industry Association (SIIA), I am writing to express our strong support for the Singapore and Chile Free Trade Agreements.

With over 600 member companies, SIIA is the principal trade association of the software code and information content industry. Our members are industry leaders in the development and marketing of software and electronic content for business, education, consumers and the Internet. SIIA's members -- software companies, ebusinesses, and information service companies, as well as many electronic commerce companies -- consists of some of the largest and oldest technology enterprises in the world as well as many smaller and newer companies. All of them – from the largest to the SMEs – depend on access to and confidence in global markets where they are treated in a non-discriminatory manner and their investment in digital products and distribution is protected.

SIIA is also an active member of the High-Tech Trade Coalition, a group of the leading high-tech trade associations representing America's technology companies.[1] We applaud the

[1] AeA , Association for Competitive Technology, Business Software Alliance, Computer Systems Policy Project, Computing Technology Industry Association, Electronic Industries Alliance, Information Technology Association of America, Information Technology Industry Council, National Electrical Manufacturers Association, Semiconductor Industry Association, Semiconductor Equipment & Materials International, Software & Information Industry Association, and the Telecommunications Industry Association

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Administration for its work in reaching these Agreements. The high-tech sector is the largest merchandise exporter in the United States and is the U.S. industry with the most cumulative investment abroad. The HTTC strongly supports these FTAs and urges their approval by Congress.

As detailed below, the Singapore and Chile Agreements offer many potential benefits to the US and chart a unique approach to preventing barriers in international digital trade. We urge implementation of these Agreements as soon as possible, and we hope that the results can serve as a model for WTO multilateral and other regional and bilateral trade negotiations.

eCommerce Goals for Trade Negotiations

Global eCommerce is fundamental to the success of our industry and our members and more broadly to other sectors of our economy. It is an increasingly dominant means of delivering software and digital content to a wide variety of users around the world. At the same time, the Internet has had a profound and positive impact on trade. The Internet has altered the way goods and services are located, ordered, produced, delivered and consumed, while increasing efficiencies, reducing time to market, reducing costs and improving productivity. These developments have implications for virtually all existing and future multilateral, regional and bilateral obligations.

Taking these developments into account, a number of leaders in the high tech community and other key industry sectors began over a year ago to work closely to develop four core principles for trade negotiations that should guide US trade negotiators in all negotiations:

- Promote the development of a domestic and global infrastructure that is necessary to conduct eCommerce while avoiding barriers that would hinder such development;
- Promote full implementation of existing commitments and seek increased liberalisation for all basic telecommunications, value-added and computer and related services;
- Promote the development of trade in goods and services via eCommerce; and
- Promote strong protection for intellectual property made available over digital networks.

In a trade environment in which commerce is increasingly characterized by rapid and often surprising technological advancements, as well as evolving forms of delivery, international trade law can make a substantial contribution to promoting these very positive developments by providing meaningful rules and disciplines that apply to digital trade; ensuring that trade barriers do not retard the evolution and growth of digital trade; eliminating barriers where they exist; and developing rules to ensure that new barriers will not be imposed.

To achieve these stated goals, a number of complex, and at times, competing factors are in play. There are, first and foremost, the existing WTO agreements (GATT, GATS and TRIPs) each of which is relevant to digital commerce transactions. In some instances, the rules and obligations established by all of these agreements may be implicated. In particular, the level of meaningful commitments in each is different, with more complete commitments found in the GATT (trade in goods) and TRIPS (intellectual property protection) than is currently found in the GATS (relating to services).

Unfortunately, much of the discussion internationally, as well as domestically, has focused on how to classify electronically delivered products that have a physical counterpart. The challenge of promoting confidence in digital trade, nevertheless, involves much more. Thus, while the classification issue is important and relevant, it is only one, and in some instances not the most important, of the issues that must be examined and addressed.

The cross-sector industry effort, working with USTR and others in the Executive Branch, as well as with colleagues multilaterally, has sought to make sure that the classification issue, important as it is, does not act as a "spoiler" to achieving meaningful trade commitments. A productive step toward this end result has been to focus on liberalization at the highest level and equivalent trade commitments regardless of the mode of delivery. These efforts have made classification a less contentious issue and highlighted the need for a flexible and creative examination of these issues that rests on a key assumption that whether or not the product (be it a good or service) that is delivered electronically has a physical counterpart, the following basic objectives should be sought, in all negotiating groups: (i) transparency; (ii) predictability; (iii) ensuring that all methods of delivery by all technological means are available, such that the determination of the most efficient delivery mechanism is not dictated by trade rules; and (iv) ensuring that digital trade is treated in a manner no less liberally than conventional trade.[2]

As described below, these FTAs are major milestones in turning these discussions into practical policy.

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[2] Practically speaking, each negotiating group that has applicability for digital trade is urged, as appropriate, to be guided by a number of specific objectives: full Market access commitments across a broad range of relevant goods and services; full national treatment and MFN rules shall apply to all transactions; no quantitative restrictions should be permitted; duties on all technology products should be eliminated by taking WTO commitments at the broadest level possible, and duties on all digitized products delivered on a physical medium should be eliminated; no new duties shall be applied to digital trade, either to the transmission or its content; trade formalities shall be transparent, fully notified, shall not constitute a disguised restriction on trade, and shall not impose requirements on how the devices and software used to consummate the transactions are designed or deployed; subsidies, where applied, shall be consistent with existing disciplines; government procurement procedures and practices shall be transparent and non-discriminatory; domestic regulations affecting digital trade shall be transparent and non-discriminatory; and parties shall select the least trade restrictive measure available to address valid public policy objectives.

The Chapters on Electronic Commerce

We are pleased that U.S. trade negotiators seized the opportunity in their efforts with Singapore and Chile to translate these goals and objectives into concrete results that recognize the importance of the removal of barriers to electronic commerce, the applicability of WTO rules to electronic commerce and the development of trade in goods and services via eCommerce.

We commend USTR and the entire Administration team in working constructively with the private sector to achieve this result, taking into serious consideration the goals and objectives identified by a cross section of industry, including leaders in high tech.

I also call to your attention that the Electronic Commerce Chapters of the Singapore and Chile FTAs are consistent with and implement a *primary objective* laid out in section 2102(b)(9) of the Trade Act of 2002 which provides the principal negotiating objectives of the United States with respect to electronic commerce.

What are the elements of this result and what are the specific benefits?

Central to the Singapore and Chile Agreements is a strategic definition of "digital product" that is not inherently tied to either a goods or services trade law framework and does not prejudice a product's classification. By broadly defining "digital product" to include computer programs, text, video, images, sound recordings and other products that are digitally encoded, regardless of whether they are fixed on a carrier medium or transmitted electronically, [3] the FTAs seek a flexible, but practical approach to ensuring that goods and services that combine elements of any of these items are not discriminated against. In other words, no matter how a product may be classified, both Agreements provide for non-discriminatory treatment and promote broader free trade in such products.

I want to note that this construction of the definition of "digital product" is a significant step toward avoiding the pitfalls of the classification debate. It accommodates new technologies and delivery mechanisms without calling into question the applicability of current GATT\GATS trade law regimes to these new developments. This is important, as there are some proponents in international discussions who believe that electronic commerce should be treated differently, arguing for a third category that isolates electronic commerce for treatment. While attractive

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[3] This definition is found in the Singapore Agreement. In the Chile FTA, a similar definition of digital products is found and means computer programs, text, video, images, sound recordings, and other products that are digitally encoded and transmitted electronically, regardless of whether a Party treats such products as a good or a service under its domestic law. Footnote 3 of the Chile FTA provides that "for greater certainty, digital products do not include digitized representations of financial instruments, including money. The definition of digital products is without prejudice to the on-going WTO discussions on whether trade in digital products transmitted electronically is a good or a service."

conceptually to some, this approach is fraught with unintended negative consequences; e.g., some countries could claim under this approach that existing commitments no longer apply leading to greater uncertainty and/or calls for new and potentially counterproductive new rounds of trade negotiations.

As to substantive commitments, the Singapore and Chile Agreements specifically affirm that the supply of a service using electronic means falls within the scope of the obligations contained in current relevant commitments.[4] This is a concrete step to ensure that electronic commerce is not discriminated against vis-à-vis traditional delivery of goods and services under international trade law.

Among the other specific benefits found in the Agreements, Singapore and Chile commit to:

- not impede electronic transmission from the US by applying customs duties or other duties, fees, or charges on or in connection with the importation or exportation of digital products, and the US commits to the same from Singapore and Chile.

- not discriminate against digital products from the US by giving them less favorable treatment than it gives to other similar digital products from either Singapore\Chile, as the case may be, or other countries just because (i) the products were created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms outside its territory or (ii) the author, performer, producer, developer, or distributor of such digital products is a foreign person; and the U.S. commits to the same from Singapore and Chile.

- publish or otherwise make available to the public its laws, regulations, and measures of general application which pertain to electronic commerce, and the U.S. commits to the same.

- determine the customs value according to the cost or value of the carrier medium alone, without regard to the cost or value of the digital products stored on the carrier medium, consistent with the long-standing U.S. policy, where digital products are still delivered on disk or other physical medium.[5]

[4] See, in the case of the Singapore Agreement, Chapters 8 (Cross Border Trade in Services), 10 (Financial Services) and 15 (Investment), subject to any reservations or exceptions applicable to such obligations.

[5] In the case of the Chile FTA, this commitment is found in the provisions on market access.

The Chapters on Intellectual Property

The Singapore and Chile FTAs recognize that our trading partners must adhere to the effective level of copyright protection that is found in the WTO Agreement on the Trade Related Aspects of Intellectual Property Rights (TRIPS) and the World Intellectual Property Organization (WIPO) Copyright Treaty (WCT). The full implementation of the WCT and WPPT in Singapore, Chile and on a global basis at the earliest possible date is a critical goal of our members and others who depend on effective global intellectual property protection. These treaties are essential for developers of software code and digital content in their efforts to safeguard the transmission of valuable copyrighted works over the Internet and by providing higher standards of protection for digital products generally.

The Agreements also recognize that effective enforcement of national laws is essential to the implementation of strong global trading rules. Thus, we are pleased to see that these FTAs include key provisions establishing statutory damages that are important tools to deter further infringement; strong criminal penalties targeted toward corporate and enterprise end user piracy; civil ex-parte procedures to preserve evidence of infringement; and strong border measures to combat cross-border trade in infringing goods.

The Singapore FTA, in particular, sets out a very high standard of protection and enforcement for copyrights and other intellectual property, perhaps the highest yet achieved in a bilateral or multilateral agreement, treaty or convention.[6] Thus, it is an especially important model for future negotiations. It builds on the standards currently in force in the WTO TRIPs Agreement and in NAFTA. Moreover, the Agreement lays out the goal to update and clarify those standards to take into account the experiences gained since those agreements entered into force and the significant technological and legal developments that have occurred since that time. For example, this FTA incorporates the obligations set out in the WCT and the WPPT and requires that Singapore ratify and fully implement these obligations within one year from "entry into force" of the FTA.[7] We are also pleased that the Singapore FTA provides two provisions regarding domain names, including requiring each Party to implement (1) the Uniform Domain Name Dispute Resolution procedures for each Party's country-code top level domain (ccTLDs) and (2) public access to a "reliable and accurate" Whois database of domain name registrants that is an important tool to combat the problems related to copyright and trademark piracy.

The Chile Agreement also represents progress in building on the standards already in force in TRIPS and NAFTA. Among its important achievements, as found in the Singapore FTA, the Chile FTA incorporates the obligations set out in the WCT and the WPPT and provides

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[6] *See* "The U.S.-Singapore Free Trade Agreement (FTA), The Intellectual Property Provisions", Report of the Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters (IFAC-3), February 28, 2003.

[7] Effectively, this means that Singapore must act within one year after both governments have completed their respective formal approval mechanisms

the important provisions regarding domain names. While the Chile FTA establishes some key precedents to be included in other FTAs now being negotiated, including the Central America FTA and the Free Trade Agreement of the Americans, there are elements of the Agreement that could have been stronger. For example, the transition period before requiring adherence to the WCT and WPPT, as well as other treaties, is far too long.

The Chapters on Cross Border Trade in Services

Consistent with the other Chapters discussed above, the Chapters on Cross Border Trade in Services found in the Singapore and Chile FTAs establish important precedents by adopting the so-called "negative list" approach where *exceptions* to liberalization must be specified. This is an approach that is strategically positive and forwarding looking for the future. It will be more liberalizing and promote greater free trade than an approach where countries must specify their commitments as is currently done in the WTO. The FTAs expand market access commitments in Computer and Related Services and ensure that establishment in either country is explicitly not required for the provision of services. The FTAs also explicitly include access to distribution, transport, and telecom services.[8]

Conclusion

The Singapore and Chile FTAs represent one of those rare moments in trade negotiations when improvements in international trade law can prevent future barriers rather than merely focus on removal of existing impediments.

By any measure, the Chapters on Electronic Commerce represent groundbreaking commitments to non-discriminatory treatment of digital products that promote confidence in the global digital trade of such products.

We also support the results achieved by USTR in the Chapters on Intellectual Property that represent significant improvement in the level of protection provided in both countries and will serve as an important baseline to build on in future negotiations.

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[8] The Chile and Singapore FTAs' telecommunications services chapters include several key provisions to open those markets to U.S. businesses. Non-discriminatory access to and use of public telecom networks and services are ensured. Additional obligations are placed on major suppliers of public telecom services - including providing treatment no less favorable than they accord themselves in terms of availability, provisioning, rates and quality of service - ensuring that market entrants may truly compete. Cost-based access to leased lines, key to network and Internet services providers, is guaranteed. The FTAs also ensure high levels of transparency in telecom services, and they include non-binding language calling for technology neutrality in the mobile telecommunications sector, which provides a useful starting point, though should be strengthened in future agreements.

We also support the results in the Chapters on Cross Border Trade in Services that establish important precedents by adopting the so-called "negative list" approach where *exceptions* to liberalization must be specified. This is an approach that is strategically positive and forwarding looking for the future.

As you know, we are at the beginning stages of seeking a new round of multilateral negotiations that are focused more broadly on services. We commend, in many respects, the offer put forward by USTR at the end of March that reflects a strong negotiation position in continuing to achieve the broader goals outlined at the start of my testimony. There is little doubt that the issues that will have to be addressed in order to achieve real and meaningful commitments in services will be complex and difficult.

The efforts by our trade negotiators to think creatively about how to remove barriers to electronic commerce, however, are an important milestone in developing a global consensus about how to possibly proceed in other bilateral, regional and multilateral negotiations. For all of these reasons, we urge implementation of both the Singapore and Chile Free Trade Agreements as soon as possible.

Sincerely,

Mark Bohannon
General Counsel &
Senior Vice President, Public Policy

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